



**Compendium of
School Discipline
Laws and
Regulations for the 50
States, District of
Columbia and the
U.S. Territories**

Compiled March 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

List of states/jurisdictions in order of appearance in this volume

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* A Spanish version of the Puerto Rico compilation is available via the online [Discipline Laws and Regulations Compendium](#).



Alabama Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

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

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

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

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

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

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

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

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

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

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

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

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

a. The name of the school concerned.

b. The number of students expelled.

c. The types of weapons concerned.

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

16-6B-1. Student achievement.

(a) The Legislature finds that the people of Alabama desire two basic things from their public schools:

(1) High achievement for students.

(2) A safe and orderly environment in which to learn.

(b) The Legislature encourages the State Board of Education to assist local boards of education in the development of a strong disciplinary policy and directs the State Board of Education to develop a program to closely monitor student achievement.

(1) The State Board of Education shall require implementation of an assessment program for the public schools of Alabama. The assessment program may include nationally normed tests or criterion referenced tests, or both. These tests may be used to assist in the assessment of student achievement. The State Board of Education may also require the use of other tests and assessments as the board may deem necessary.

(2) In grades 11 and 12, the State Board of Education shall implement an assessment and remediation program to monitor and promote the academic achievement of students in those grades and prepare them for successfully completing the graduation examination.

(c) There is no legislative intent to interfere with the provisions of Section 16-3-18.3 [repealed], and it is the intent of the Legislature that the development of the total assessment program for student performance, exclusive of the requirements of student performance herein, shall be the function of the State Board of Education. The State Board of Education is instructed to develop courses of study to provide Alabama students with the content and information to enter the workforce, to compete nationally and internationally with other students, and to successfully compete at the postsecondary level. This shall include the content necessary to successfully achieve on nationally normed tests and any other tests that may be required by the State Board of Education.

16-6B-5. School safety and discipline accountability.

In addition to providing quality instruction in classrooms and fiscal soundness, all local boards of education shall be accountable for compliance with statutes and regulations regarding school safety and

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

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

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

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

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

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

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the

school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-28A-1. Legislative findings.

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

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

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

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the bullying of students. It is the further intent of the Legislature that this chapter apply only to student against student bullying, intimidation, violence, and threats of violence in the public schools of Alabama, and between students while not on school property, in grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

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

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

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

(a) Safety precautions must be implemented and adequate facilities must be provided for implementations of programs prescribed by SDE Bulletin(s).

(b) Effective with the 1995-96 school year and thereafter, local boards of education must:

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

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

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

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

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

Scope

LAWS

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

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

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

a. On school property; or

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

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

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

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be

reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

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

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

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

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

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

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

- (1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.
- (2) A description of the circumstances surrounding an expulsion imposed under this section including:
 - a. The name of the school concerned.
 - b. The number of students expelled.
 - c. The types of weapons concerned.

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

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

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

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

(c) Any student, or parent or guardian of the student, who is the object of bullying may file a complaint outlining the details of the bullying, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school. A copy of the form shall be prominently posted and accessible on the website of each local board of education and school, shall be available at each school office, and shall be included in the student handbook that is distributed to each student at the beginning of each school year.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of bullying, violence, or threats of violence. At the beginning of each school year, each school shall programmatically address the issue of bullying and school violence with faculty and students. The program shall include a discussion of available resources and shall encourage the reporting of incidents of bullying. Each school shall also periodically convene a committee of faculty and students to review and discuss the issue of bullying and make recommendations to school administrators regarding school climate, safety, and bullying. The local superintendent of education may report any recommendations to the local board for its consideration.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

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

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

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

- a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.
- b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.
- c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual

distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

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

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

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

16-28B-5. Model policy.

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

(10) A procedure for publicizing local board policy through publication in the student handbook,, including providing notice that the policy applies to behavior occurring off of school property and to participation in school-sponsored functions, whether the conduct occurs on or off school property, online, or electronically.

16-28B-8. Suicide prevention programs, training, and policies; advisory committee; liability.

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

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

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

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

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

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

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

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

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

- (2) All discipline plans of school systems shall include, but not be limited to, all of the following:
- a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.
 - b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.
 - c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

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

16-28B-5. Model policy.

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

- (1) A statement prohibiting bullying, violence, and threats of violence.
- (2) Definitions of the terms bullying, as provided in subdivision (1) of Section 16-28B-3, intimidation, and threats of violence.
- (3) A description of the behavior expected of each student.
- (4) A series of graduated consequences for any student who commits an act of intimidation, bullying, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.
- (5) A procedure for reporting an act of intimidation, threat of suicide, bullying, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.
- (6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.
- (7) A response procedure for a school to follow upon confirmation of an incident of intimidation, bullying, violence, or threats of violence.
- (8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or bullying, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.
- (9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.
- (10) A procedure for publicizing local board policy through publication in the student handbook, including providing notice that the policy applies to behavior occurring off of school property and to

participation in school-sponsored functions, whether the conduct occurs on or off school property, online, or electronically.

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

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

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

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

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

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

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

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

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

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

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

a. The operation of alternative schools as defined below:

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

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

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

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

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

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

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

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

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

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

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

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

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

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

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

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

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

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

16-28A-1. Legislative findings.

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

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

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

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

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

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

(1)(f) Seclusion and Restraint for ALL Students.

1. Definitions.

(i) Chemical Restraint - Any medication that is used to control violent physical behavior or restrict the student's freedom of movement that is not a prescribed treatment for the student's medical or psychiatric condition. Use of chemical restraint is prohibited in Alabama public schools and educational programs.

(ii) Mechanical Restraint - The use of any device or material attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student. The term does not include an adaptive or protective device recommended by a physician or therapist when used as recommended by the physician or therapist to promote normative body positioning and physical functioning, and/or to prevent self injurious behavior. The term also does not include seatbelts and other safety equipment when used to secure students during transportation. Use of mechanical restraint is prohibited in Alabama public schools and educational programs.

(iii) Physical Restraint - Direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include mechanical restraint or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety or prevent self-injurious behavior, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, providing comfort, or providing limited physical contact as reasonably needed to prevent imminent destruction to school or another person's property.

(iv) Physical Restraint that restricts the flow of air to the student's lungs- Any method (face-down, face-up, or on your side) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs. Use of this type of restraint is prohibited in Alabama public schools and educational programs.

(v) Seclusion - a procedure that isolates and confines the student in a separate, locked area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1.)(vi) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Alabama public schools and educational programs.

(vi) Time-out - A behavioral intervention in which the student is temporarily removed from the learning activity. Time-out is appropriately used when:

(I) The non-locking setting used for time-out is appropriately lighted, ventilated, and heated or cooled.

(II) The duration of the time-out is reasonable in light of the purpose of the time-out and the age of the child; however, each time-out should not exceed 45 minutes.

(III) The student is reasonably monitored by an attending adult who is in reasonable physical proximity of the student and has sight of the student while in time-out.

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

2. Requirements.

(i) The use of seclusion is prohibited in Alabama public schools and educational programs.

(ii) The use of any method of physical restraint that restricts the flow of air to a student's lungs is prohibited in Alabama public schools and educational programs.

(iii) The use of mechanical restraint is prohibited in Alabama public schools and educational programs.

(iv) The use of chemical restraint is prohibited in Alabama public schools and educational programs.

(v) The use of physical restraint is prohibited in Alabama public schools and educational programs except in those situations in which the student is an immediate danger to himself or others and the student is not responsive to less intensive behavioral interventions including verbal directives or other de-escalation techniques. Notwithstanding the foregoing, physical restraint is prohibited in Alabama public schools and educational programs when used as a form of discipline or punishment.

(vi) All physical restraint must be immediately terminated when the student is no longer an immediate danger to himself or others or if the student is observed to be in severe distress.

(vii) Schools and programs that use physical restraint in accordance with paragraph (2.)(v-xiv) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

(I) Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,

(II) Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,

(III) The use of physical restraint to be documented and a debriefing session held by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained,

- (IV) Procedures for the periodic review of the use of restraint and the documentation described in paragraph (2.)(vii)(III),
- (V) Procedures for reporting the use of restraint and the documentation described in paragraph (2.)(vii)(III) and any prohibited use of seclusion and chemical, mechanical, or physical restraint to the local board of education annually,
- (VI) The documentation described in paragraph (2.)(vii)(III)(monthly summary reports) and any prohibited use of seclusion and chemical, mechanical, or physical restraint is to be submitted to the Alabama Department of Education annually, and
- (VII) The written policies described in paragraph (2.)(vii)(I and II) are to be included in each local education agencies' code of conduct and/or the student handbook.
- (viii) Schools and programs that use physical restraints in accordance with paragraph (2.)(v-xiv) of this rule, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses prevention and de-escalation techniques as well as positive behavioral intervention strategies. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Alabama Department of Education or any member of the public upon request.
- (ix) Nothing in this rule shall be construed to interfere with a school system, school or program, or school or program employee's authority to utilize time-out as defined in paragraph (1.)(vi) of this rule or any other classroom management technique or approach, including a student's removal from the classroom, that is not specifically addressed in this rule.
- (x) Nothing in this rule modifies the rights of school personnel to use reasonable force as permitted under the Code of Ala. 1975, § 16-1-14 or modifies the rules and procedures governing discipline under the Code of Ala. 1975, § 16-28-12.
- (xi) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to diffuse or break up a student fight or altercation.
- (xii) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to obtain possession of a weapon or other dangerous objects on a student or within the control of a student.
- (xiii) Nothing in this rule shall be construed to eliminate or restrict the ability of an employee of a school system, school or program to use his or her discretion in the use of physical restraint to protect students or others from imminent harm or bodily injury. Nothing in this rule shall be construed to create a criminal offense or a private cause of action against any local board of education or program or its agents or employees.
- (xiv) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel. Parents must be promptly informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The name of the school concerned.
- b. The number of students expelled.
- c. The types of weapons concerned.

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

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

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

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

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

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

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be

instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

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

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

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

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

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

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

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

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

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

16-10-5. Dismissal of pupils.

- (a) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence, misdemeanor offense of domestic violence, violent offense as listed in Section 12-25-32(15), anyone who is subject to a valid protection order for domestic abuse, or anyone of unsound mind shall own a firearm or have one in his or her possession or under his or her control.
- (b) No person who is a minor, except under the circumstances provided in this section, a drug addict, or an habitual drunkard shall own a pistol or have one in his or her possession or under his or her control.
- (c) Subject to the exceptions provided by Section 13A-11-74, no person shall knowingly with intent to do bodily harm carry or possess a deadly weapon on the premises of a public school.
- (d) Possession of a deadly weapon with the intent to do bodily harm on the premises of a public school in violation of subsection (c) of this section is a Class C felony.
- (e) School security personnel and school resource officers qualified under subsection (a) of Section 16-1-44.1, employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (c) of this section. Law enforcement officers are exempt from this section, and persons with pistol permits issued pursuant to Section 13A-11-75, are exempt from subsection (c) of this section. [...]
- (h) The term "school resource officer" as used in this section means an Alabama Peace Officers' Standards and Training Commissioner-certified law enforcement officer employed by a law enforcement agency who is specifically selected and specially trained for the school setting.

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

- (a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.
- (b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

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

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

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

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

- a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.
- b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.
- c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

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

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

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

- (1) Specific grounds for disciplinary action.
- (2) Procedures to be followed for acts requiring discipline.
- (3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

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

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

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

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

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

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

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

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

- (1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.
- (2) A description of the circumstances surrounding an expulsion imposed under this section including:
 - a. The name of the school concerned.
 - b. The number of students expelled.
 - c. The types of weapons concerned.

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

REGULATIONS

No relevant regulations found.

Due Process

LAWS

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

(7) Student Personnel - Admission.

(b) The local board of education, is responsible for adopting policies of admission and attendance within the framework of state law and State Board of Education policies. These policies should be clearly stated, followed implicitly and given publicity in the area to be served in the spring and fall before schools officially open.

(1) Regulations Governing School Attendance Standards and the Operation of Motor Vehicles.

(i) Local Education Agency (LEA) Responsibilities

(VI) The school system shall implement an appeals policy following guidelines adopted by the SDE. [...]

(ii) State Department of Education (SDE) Responsibilities. The SDE shall:

(I) Develop the form for documenting enrollment status;

(II) Adopt an appeals procedure; and

(III) Distribute written guidelines to each school system for developing a written policy that:

I. Includes the definition of "circumstances beyond the control" of the student,

II. Informs students regarding provisions of the Act, and

III. Requires an appeals process.

(iii) Appeals Process. The appeal of a decision under Part I: Enrollment Status shall be submitted to the local school system.

(I) To appeal, the student shall submit written notification of intent to appeal within 15 days of the issuance of enrollment status, including a statement of reasons for the appeal to the appropriate school principal.

(II) Except as otherwise provided herein, the appeals process shall follow the procedures adopted by the local board of education for a long-term suspension or expulsion. The local board of education may adopt a different appeals process so long as it provides minimal due process.

Return to School Following Removal

LAWS

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

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

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

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

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

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

16-6B-3. Assistance programs.

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

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

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

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

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

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

a. The operation of alternative schools as defined below:

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

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

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

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

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

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

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

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

13A-11-72. Certain persons forbidden to possess pistol.

(d) Possession of a deadly weapon with the intent to do bodily harm on the premises of a public school in violation of subsection (c) of this section is a Class C felony.

(e) School security personnel and school resource officers qualified under subsection (a) of Section 16-1-44.1, employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (c) of this section. Law enforcement officers are exempt from this section, and persons with pistol permits issued pursuant to Section 13A-11-75, are exempt from subsection (c) of this section. [...]

(h) The term "school resource officer" as used in this section means an Alabama Peace Officers' Standards and Training Commissioner-certified law enforcement officer employed by a law enforcement agency who is specifically selected and specially trained for the school setting.

(i) The term "public school" as used in this section applies only to a school composed of grades K-12 and shall include a school bus used for grades K-12.

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

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

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

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the

conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

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

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

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

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

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

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

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

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

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

- a. The name of the school concerned.
- b. The number of students expelled.
- c. The types of weapons concerned.

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

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

(a) Safety precautions must be implemented and adequate facilities must be provided for implementations of programs prescribed by SDE Bulletin(s).

(b) Effective with the 1995-96 school year and thereafter, local boards of education must:

1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.
2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violating this policy.
3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may also be imposed.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

16-6B-3. Assistance programs.

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

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

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

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

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual

distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

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

16-28-15. Absence must be explained.

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

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

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

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

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

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

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

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

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

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

(7) Student Personnel - Admission.

(b) The local board of education, is responsible for adopting policies of admission and attendance within the framework of state law and State Board of Education policies. These policies should be clearly stated, followed implicitly and given publicity in the area to be served in the spring and fall before schools officially open.

(1) Regulations Governing School Attendance Standards and the Operation of Motor Vehicles.

(i) Local Education Agency (LEA) Responsibilities

(I) The school system shall provide adequate information to each student concerning the rights, penalties, and guidelines provided in this act. [...]

(iv) Suspension and Expulsion Definition. For purposes of implementing Code of Ala. 1995, § 16-28-40 regarding Governing School Attendance Standards and the Operation of Motor Vehicles, suspension and expulsion shall mean a disciplinary action taken by a local school system against a student that requires the student to be removed and absent for a day or more from the instructional program.

(c) Truancy Definition. A parent, guardian, or other person having charge of any child officially enrolled in Alabama public schools (K-12) shall explain in writing the cause of any and every absence of the child no later than three (3) school days following return to school. A failure to furnish such explanation shall be evidence of the child being truant each day he is absent. The child shall also be deemed truant for any absence determined by the principal to be unexcused based upon the State Department of Education's current School Attendance Manual. Seven unexcused absences within a school year constitute a student being truant for the purpose of filing a petition with the Court. The Interagency Committee on Youth Truancy Task Force recommendations known as the Early Warning Truancy Prevention Program timeline for reporting truancy shall define the truancy status of any student as follows:

1. First truancy/unexcused absence (warning)

(i) Parent/guardian shall be notified by the school principal or his/her designee that the student was truant and the date of the truancy.

(ii) Parent/guardian shall also be provided with a copy of Alabama's compulsory school attendance laws and advised of the penalties that can be applied and the procedures that shall be followed in the event that other unexcused absences occur.

2. No earlier than the fifth unexcused absence (conference)
 - (i) The parent, guardian, or person having control of the child shall (1) attend a conference with the attendance officer and principal or his/her designee and/or (2) participate in the early warning program provided by the juvenile court.
 - (ii) Attendance at one of these conferences shall be mandatory except where prior arrangements have been made or an emergency exists.
 - (iii) Failure to appear at the school conference and/or to appear at the early warning program shall result in the filing of a complaint/petition against the parent under Code of Ala. 1975, § 16-28-12(c)(failure to cooperate), or a truancy against the child, whichever is appropriate.
3. No earlier than seventh unexcused absence, but within ten (10) school days (court)
 - (i) File complaint/petition against the child and/or parent/guardian, if appropriate.
4. Child under probation
 - (i) The school attendance officer should be notified by the juvenile probation officer of all children in the school system under probation supervision by the juvenile court as consistent with state statute, Code of Ala. 1975, § 12-15-100 and 105.
 - (ii) Where a child under probation is truant, the school attendance officer should immediately notify the juvenile probation officer.
5. Any local education agency may adopt a policy more rigorous than the State policy.

Substance Use

LAWS

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

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

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

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

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

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

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

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

(a) The Legislature finds that:

(1) Pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing school; a greater likelihood that an adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency.

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

(b) The purposes of this chapter are:

(1) To find effective means, within the context of the school environment, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from teachers, parents, and other family members, and to promote self discipline and other prudent approaches to the problem of premarital sexual relations of adolescents, including adolescent pregnancy.

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

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

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

(1) Age-appropriate, developmentally-based drug and alcohol education and prevention programs that address the legal, social, and health consequences of drug and alcohol use and that provide

information about effective techniques for resisting peer pressure to use illicit drugs or alcohol for students in all grades of the public schools from early childhood level through grade 12.

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

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

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

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

Conduct that is illegal under state or federal law, including but not limited to, illegal use or distribution of controlled substances, under-age alcohol use or distribution, sexual intercourse imposed by means of force, or sexual actions which are otherwise illegal, shall not be encouraged or proposed to public school children in such a manner as to indicate that they have a legitimate right to decide or choose illegal conduct.

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

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

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

(1) Ten percent of the fund shall be allocated to the Department of Public Health for distribution to one or more of the following:

b. Programs for tobacco control among children with the purpose being to reduce the consumption of all tobacco products by children. To be eligible to initially receive a portion of these funds, any county health department, school, local civic club, charity, or not-for-profit corporation shall submit a grant application pursuant to the guidelines promulgated by the State Department of Public Health, with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness, number of children served, and financial accountability shall be included in the guidelines. The Department of Public Health may employ personnel to carry out the purposes of this section and may not expend these funds for any purpose other than those set out in this section.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

16-1-23. Hazing prohibited; penalty.

(a) Hazing is defined as follows:

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

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

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

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

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

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

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

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

16-28B-1. Short title.

This chapter shall be known and may be cited as the Jamari Terrell Williams Student Bullying Prevention Act.

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the bullying of students. It is the further intent of the Legislature that this chapter apply only to student against student bullying, intimidation, violence, and threats of violence in the public schools of Alabama, and between students while not on school property, in grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

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

16-28B-3. Definitions.

The following terms have the following meanings:

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

- a. Place a student in reasonable fear of harm to his or her person or damage to his or her property.
- b. Have the effect of substantially interfering with the educational performance, opportunities, or benefits of a student.
- c. Have the effect of substantially disrupting or interfering with the orderly operation of the school, whether the conduct occurs on or off school property, online, or electronically.
- d. Have the effect of creating a hostile environment in the school, on school property, on a school bus, or at a school-sponsored function.
- e. Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student.

(2) **Department.** The State Department of Education.

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

(4) **Local Board.** A city or county board of education.

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

(6) **School System.** The schools under the jurisdiction of a local board.

(7) **Threat.** A statement of an intention to inflict pain, injury, damage, or other hostile action to cause fear of harm. The intention may be communicated through an electronic, written, verbal, or physical act to cause fear, mental distress, or interference in the school environment. The intention may be expressly stated or implied and the person communicating the threat has the ability to carry out the threat.

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

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

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

(c) Any student, or parent or guardian of the student, who is the object of bullying may file a complaint outlining the details of the bullying, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school. A copy of the form shall be prominently posted and accessible on the website of each local board of education and school, shall be

available at each school office, and shall be included in the student handbook that is distributed to each student at the beginning of each school year.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of bullying, violence, or threats of violence. At the beginning of each school year, each school shall programmatically address the issue of bullying and school violence with faculty and students. The program shall include a discussion of available resources and shall encourage the reporting of incidents of bullying. Each school shall also periodically convene a committee of faculty and students to review and discuss the issue of bullying and make recommendations to school administrators regarding school climate, safety, and bullying. The local superintendent of education may report any recommendations to the local board for its consideration.

16-28B-5. Model policy.

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

- (1) A statement prohibiting bullying, violence, and threats of violence.
- (2) Definitions of the terms bullying, as provided in subdivision (1) of Section 16-28B-3, intimidation, and threats of violence.
- (3) A description of the behavior expected of each student.
- (4) A series of graduated consequences for any student who commits an act of intimidation, bullying, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.
- (5) A procedure for reporting an act of intimidation, threat of suicide, bullying, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.
- (6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.
- (7) A response procedure for a school to follow upon confirmation of an incident of intimidation, bullying, violence, or threats of violence.
- (8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or bullying, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.
- (9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.
- (10) A procedure for publicizing local board policy through publication in the student handbook,, including providing notice that the policy applies to behavior occurring off of school property and to participation in school-sponsored functions, whether the conduct occurs on or off school property, online, or electronically.
- (11) A clearly defined procedure for students to use in reporting bullying, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of bullying, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of bullying to the principal, or his or her designee.

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

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

16-28B-6. Duties of schools.

Each school shall do all of the following:

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

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

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

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

16-28B-8. Suicide prevention programs, training, and policies; advisory committee; liability.

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

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

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

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

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

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

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

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

16-6B-3. Assistance programs.

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

- (1) Programs to encourage at-risk five-year olds to attend an approved preschool program.
- (2) Programs to identify at-risk students in the first grade.
- (3) Programs to ensure strict enforcement of truancy laws.
- (4) Programs to create alternative or disciplinary schools in which children who consistently exhibit behaviors or patterns of behaviors that interfere with the learning environment of other students would be placed and would be provided counseling and instruction in basic skills.
- (5) Programs to encourage parental involvement of parents of at-risk children.
- (6) Programs to encourage literacy of parents of at-risk children.

(b) School strategy. - The State Board of Education shall develop an assistance program for a school in need of assistance. A school in need of assistance shall mean any school which has a majority of its

students scoring one or more grade levels below the prescribed norm on the state adopted student assessments. Local superintendents and local boards of education will be expected to make the effort and commit the resources necessary to improve the instructional program for a school in need of assistance and shall be required to budget all funds earned by that school in the cost calculations of the foundation program. Local superintendents and local boards of education are encouraged to use assistance from the State Department of Education, colleges of education, accrediting agencies and other sources.

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

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

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

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

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

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

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

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

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

(d) It is the intent of the Legislature that intervention is not to occur when a school or school system scores below the prescribed average. Intervention by the State Board of Education is to occur only after

the three-year period provided in this chapter during which a school or school system fails to show improvement. So long as improvement is being shown, the State Board of Education shall not intervene but shall continue to encourage the school to improve.

16-28B-5. Model policy.

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

- (1) A statement prohibiting bullying, violence, and threats of violence.
- (2) Definitions of the terms bullying, as provided in subdivision (1) of Section 16-28B-3, intimidation, and threats of violence.
- (3) A description of the behavior expected of each student.
- (4) A series of graduated consequences for any student who commits an act of intimidation, bullying, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.
- (5) A procedure for reporting an act of intimidation, threat of suicide, bullying, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.
- (6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.
- (7) A response procedure for a school to follow upon confirmation of an incident of intimidation, bullying, violence, or threats of violence.
- (8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or bullying, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.
- (9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.
- (10) A procedure for publicizing local board policy through publication in the student handbook,, including providing notice that the policy applies to behavior occurring off of school property and to participation in school-sponsored functions, whether the conduct occurs on or off school property, online, or electronically.
- (11) A clearly defined procedure for students to use in reporting bullying, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of bullying, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of bullying to the principal, or his or her designee.
- (12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.
- (13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to bullying. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause bullying shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board and included in the student handbook.

16-28B-8. Suicide prevention programs, training, and policies; advisory committee; liability.

(b)(1) The State Department of Education shall create an advisory committee consisting of practitioners and representatives from all of the following organizations:

- a. The School Superintendents of Alabama.
- b. The Council for Leaders in Alabama Schools.
- c. The Alabama Education Association.
- d. The Alabama Association of School Boards.
- e. The Jennifer Claire Moore Foundation.
- f. Other pertinent mental health and suicide prevention organizations as determined by the department.

(2) The advisory committee shall assist the department in developing and adopting rules to provide for the training of certificated school employees in suicide awareness and prevention pursuant to subdivision (13) of subsection (a).

(3) The department and the advisory committee may develop a list of approved training materials to fulfill the requirements of subdivision (13) of subsection (a). Approved training materials may include, but not be limited to, any of the following:

- a. Training materials that are currently being used by a local school system.
- b. Training materials that provide instruction on identifying appropriate mental health services, both within the school system and within the larger community.
- c. Training materials that may be completed through self-review.

REGULATIONS

290-4-1-.01. Education accountability.

(1) The State Superintendent of Education is authorized to carry out the review, examination and supervisory responsibilities as prescribed in the Code of Ala. 1975, and to require reasonable and appropriate reports and to conduct hearings for the purpose of ensuring that due process requirements are met.

(2) Academic Assistance Program. Detailed policies and procedures for the Academic Assistance Program are found in the Alabama Consolidated Application Accountability Workbook for State Grants under Title IX, Part C, Section 9302 of the Elementary and Secondary Education Act (Public Law 107-110) and Rewards And Sanctions Plan, Alabama Accountability System. [...]

(4) School Safety and Discipline Accountability. The State Board of Education will utilize one or both of the following criteria to determine if intervention by the State Superintendent is necessary as required by the Code of Ala. 1975, § 16-6B-5:

(a) Failure of a school or school system to develop and implement the policies, rules, laws, and regulations relative to school safety and discipline as published and disseminated annually by the State Superintendent.

(b) Failure of a school or school system to respond to legitimate and documented school safety and discipline concerns/ incidents as determined by the State Superintendent after investigating the concerns/incidents. The State Superintendent will investigate the following requests/incidents to determine if assignment of SDE personnel to a school or school system for school safety and discipline assistance is warranted:

- 1. A written request by official action of a local parent/professional/community organization (e.g., PTA/PTO; ACSAS; civic club), or by a majority of the employees of a school or school system to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to

specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

2. A written request by official action of a school sanctioned student organization to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

3. A written request by a local school principal with evidence that a request was first submitted to the local school superintendent and next, to the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

4. An official request by a local superintendent of education.

5. An official request by a majority vote of a local board of education.

6. A person is killed or seriously injured at school or a school related activity as a result of a violent act.

(5) Release from Financial or School Safety & Discipline Intervention. Intervention for financial and/or school safety and discipline reasons shall remain in place until such time as either condition improves to an acceptable standard as determined by the State Superintendent. A local board may petition the State Board of Education for release from the state intervention by showing acceptable improvement on financial stability, safety and discipline, or for other just cause. The State Board, following a hearing, shall have final determination on the matter of release from state intervention.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

290-3-1-.02. Regulations governing public schools.

(19) Problem Solving Teams (PST). By August 15, 2011, all public schools in Alabama will be required to implement the PST model.

(a) Definitions.

(1) The Problem Solving Teams (PST) is a model to guide general education intervention services for all students who have academic and /or behavioral difficulties. The PST is central to the school's successful implementation of the Response to Instruction (Rtl) framework.

(2) Response to instruction (Rtl). Response to instruction (Rtl) refers to an instructional framework that promotes a well-integrated system connecting general, gifted, supplemental, and special education services in providing high-quality, standards-based instruction and intervention that is matched to students' academic, social-emotional, and behavioral needs. Rtl combines core instruction, assessment, and intervention with a multi-tiered system to increase student achievement and reduce behavior problems.

(b) Decisions regarding the number of PSTs needed by a school should be determined at the school level; however, a minimum of one PST per school is required to review data-based documentation regarding students' progress regularly, advise teachers on specific interventions matched to student needs, and communicate with parents regarding student intervention needs being provided.

(c) The Problem Solving Teams will analyze screening and progress-monitoring data to assist teachers in planning and implementing appropriate instruction and evidence-based interventions for all students with academic and/or behavioral difficulties, including those students who exhibit the characteristics of dyslexia.

(d) The documentation requirements for a referral to special education found in the Alabama Administrative Code, Chapter 290-8-9.01(2) and (4)(Child Identification) and Chapter 290-8-9.03(10)(b)1, (10)(c)2.(ii), (10)(d)2.(I)(II)(ii) and (10)(d)4 (Disability Definitions, Criteria, and Minimum Required Evaluative Components) must be collected and provided by the PST to rule out the lack of appropriate instruction in reading or math including the essential components of reading instruction or Limited English Proficiency (LEP), as the determining factor in the eligibility decision.

(e) Any student who is reevaluated and determined not eligible for special education services must be referred to the PST to determine the appropriate supplemental services to facilitate successful transition in the general education program.

Prevention

LAWS

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

(a) For purposes of this section, the following words and terms shall have the following meanings:

(1) Guidance counseling procedures. - Procedures providing planned, sequential activities and services designed to help all students develop skills in the areas of personal and social growth, educational planning, and career and vocational development.

(2) Law-related education. - Education which provides children and youth with the knowledge and skills pertaining to the law, the legal process, school safety, and citizenship responsibilities to promote law-abiding behavior with the purpose to prevent children and youth from engaging in delinquency or violence and enable them to become productive citizens.

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

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

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

16-6B-2. Core curriculum.

Every Alabama student shall be given instruction in grades kindergarten through twelve to prepare him or her to enter the world of work and/or to complete course work at the postsecondary level. In addition

to a comprehensive core curriculum of academics, each local board of education shall offer a program of vocational/technical education.

(h) The State Board of Education and all local boards shall develop and implement within ninety (90) days of July 7, 1995, a comprehensive character education program for all grades to consist of not less than ten minutes instruction per day focusing upon the students' development of the following character traits: Courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, patience, creativity, sportsmanship, loyalty, and perseverance. Each plan of instruction shall include the Pledge of Allegiance to the American flag.

16-28B-6. Duties of schools.

Each school shall do all of the following:

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

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

16-28B-8. Suicide prevention programs, training, and policies; advisory committee; liability.

(b)(3) The department and the advisory committee may develop a list of approved training materials to fulfill the requirements of subdivision (13) of subsection (a). Approved training materials may include, but not be limited to, any of the following:

- a. Training materials that are currently being used by a local school system.
- b. Training materials that provide instruction on identifying appropriate mental health services, both within the school system and within the larger community.
- c. Training materials that may be completed through self-review.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

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

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

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

a. On school property; or

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

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

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

(2) Principal. - The principal or top administrator of any public elementary, junior or senior high school at which the incident occurred.

(3) Superintendent of education. - The superintendent of the county or city board of education in the county in which the school is located.

(4) Report. - A written narrative report of an incident, the number and names and addresses of persons involved in the incident, the type of any weapon involved and a description of any injury or damage resulting from the incident. Said report shall contain the names and addresses of all known persons present at the time of said incident.

(5) Teacher and other school employee. - An employee of any public elementary, junior or senior high school at which the incident occurred.

(6) School board. - The board of education.

(7) County sheriff. - The sheriff of the county in which the public school is located.

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

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

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

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

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

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

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

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

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

- a. The name of the school concerned.
- b. The number of students expelled.
- c. The types of weapons concerned.

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

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

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the

suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

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

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

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

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of bullying, violence, or threats of violence. At the beginning of each school year, each school shall programmatically address the issue of bullying and school violence with faculty and students. The program shall include a discussion of available resources and shall encourage the reporting of incidents of bullying. Each school shall also periodically convene a committee of faculty and students to review and discuss the issue of bullying and make recommendations to school administrators regarding school climate, safety, and bullying. The local superintendent of education may report any recommendations to the local board for its consideration.

16-28B-5. Model policy.

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

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

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

16-28B-6. Duties of schools.

Each school shall do all of the following:

- (1) Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.
- (2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.
- (3) Incorporate into civility, citizenship, and character education curricula awareness of and sensitivity to the prohibitions of this chapter and local board policy against harassment, intimidation, violence, and threats of violence.
- (4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

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

- (a) It shall be the duty of the county superintendent of education or the city superintendent of education, as the case may be, to require the attendance officer to investigate all cases of nonenrollment and of nonattendance. In all cases investigated where no valid reason for nonenrollment or nonattendance is found, the attendance officer shall give written notice to the parent, guardian, or other person having control of the child. In the event of the absence of the parent, guardian, or other person having control of the child from his or her usual place of residence, the attendance officer shall leave a copy of the notice with some person over 12 years of age residing at the usual place of residence, with instructions to hand the notice to the parent, guardian, or other person having control of the child, which notice shall require the attendance of the child at the school within three days from the date of the notice. In the event the investigation discloses that the nonenrollment or nonattendance was without valid excuse or good reason and intentional, the attendance officer shall be required to bring criminal prosecution against the parent, guardian, or other person having control of the child.
- (b) Each child who is enrolled in a public school shall be subject to the attendance and truancy provisions of this article except that any parent or parents, guardian or guardians who voluntarily enrolls their child in public school, who feels that it is in the best interest of that child shall have the right to withdraw the child at anytime prior to the current minimum compulsory attendance age.

REGULATIONS

290-3-1-.02. Regulations governing public schools.

- (f) Seclusion and Restraint for ALL Students.

2. Requirements.

(vii) Schools and programs that use physical restraint in accordance with paragraph (2.)(v-xiv) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

- (I) Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,

(II) Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint. [...]

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

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

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

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

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

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

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

- (1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.
- (2) A description of the circumstances surrounding an expulsion imposed under this section including:
 - a. The name of the school concerned.
 - b. The number of students expelled.
 - c. The types of weapons concerned.

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

16-6B-7. Accountability reports to the public.

(a) The local board of education shall prepare an annual accountability report for each school and area vocational/technical center under its jurisdiction, and for itself, to be provided to the public under regulations promulgated by the State Board of Education. Such accountability reports shall include, but not be limited to, all of the following:

- (3) A School Safety and Discipline Report which shall include statistical information relating to student safety and discipline in each school and any other data deemed necessary by the local board of

education or the State Board of Education to inform the public about safety and discipline in each school.

(b) These reports shall be released to the media, presented to parent organizations, members of the Legislature who represent the schools covered in each report, and the State Superintendent of Education. These reports shall be made available to the public upon request on or before ninety (90) days after the end of the fiscal year.

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

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

- (1) Early intervention for students who fail Algebra I, or any ninth grade reading or math class, and have insufficient credits to be promoted.
- (2) Alternative education programs designed to reengage dropouts including, but not limited to, dual enrollment courses at the community college level.
- (3) Increased availability of advanced placement courses.
- (4) Offering full course fee waivers for students who are eligible for free or reduced lunches, when enrolled in dual credit courses.
- (5) Flexible programs for older students who are currently not enrolled.
- (6) Comprehensive coaching for middle school and high school students who are below grade level in reading and math or who are at risk due to poor attendance, behavior, or safety issues including, but not limited to, harassment and bullying.
- (7) Teacher advisories and other supports that are designed to specifically address the needs of those students who are most at risk of dropping out of school by providing opportunities to build positive connections with peers and teachers and providing assistance with course selection, school performance, and completion of graduation requirements. Students who are most at risk of dropping out of school include, but are not limited to, those students who move often, have poor attendance, or have multiple suspensions or discipline issues.
- (8) Strategies that are specifically designed to improve high school graduation rates for those teenagers who are at the highest risk of dropping out, including, but not limited to, students in the foster care system, pregnant students, student parents, English as second language students, and students with special educational needs.

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

- (1) The total number of high school suspensions related to truancy.
- (2) The total number of students enrolled in alternative education programs.
- (3) The total number of students who have been reenrolled in programs with flexible schedules or community college programs.
- (4) The total number of students who have failed Algebra I or ninth grade reading or math.
- (5) The total number of students who are repeating the ninth grade.
- (6) The total number of students receiving remedial assistance in the ninth grade.

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

- (1) The outcomes of the dropout prevention strategies to date, at the local school system level.
- (2) Any planned modification of school system dropout prevention strategies and activities, based on the data compiled.

16-28-18. Record kept by attendance officer.

The attendance officer whose appointment is by this article provided for shall keep an accurate record of all notices served, all cases prosecuted and all other services performed and shall make an annual report of the same to the county board of education or to the city board of education by whom he is employed.

16-28B-6. Duties of schools.

Each school shall do all of the following:

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

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

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

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

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

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

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

a. On school property; or

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

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

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

(2) Principal. - The principal or top administrator of any public elementary, junior or senior high school at which the incident occurred.

(3) Superintendent of education. - The superintendent of the county or city board of education in the county in which the school is located.

(4) Report. - A written narrative report of an incident, the number and names and addresses of persons involved in the incident, the type of any weapon involved and a description of any injury or damage resulting from the incident. Said report shall contain the names and addresses of all known persons present at the time of said incident.

(5) Teacher and other school employee. - An employee of any public elementary, junior or senior high school at which the incident occurred.

(6) School board. - The board of education.

(7) County sheriff. - The sheriff of the county in which the public school is located.

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The name of the school concerned.
- b. The number of students expelled.
- c. The types of weapons concerned.

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

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

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

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

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

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

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

REGULATIONS

290-3-1-.02. Regulations governing public schools.

(f) Seclusion and Restraint for ALL Students.

(xiv) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel. Parents must be promptly informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

13A-11-72. Certain persons forbidden to possess pistol.

(e) School security personnel and school resource officers qualified under subsection (a) of Section 16-1-44.1, employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (c) of this section. Law enforcement officers are exempt from this section, and persons with pistol permits issued pursuant to Section 13A-11-75, are exempt from subsection (c) of this section. [...]

(h) The term "school resource officer" as used in this section means an Alabama Peace Officers' Standards and Training Commissioner-certified law enforcement officer employed by a law enforcement agency who is specifically selected and specially trained for the school setting.

16-1-44.1. School security personnel and school resource officers.

(a) As used in this section, the following terms have the following meanings:

(1) Retired law enforcement officer. A person who was a law enforcement officer and retired in good standing from a federal, state, or local law enforcement agency with at least 20 years of law enforcement experience.

(2) School resource officer. A person who is certified by the Alabama Peace Officers' Standards and Training Commission as a law enforcement officer, whose certification is in good standing, and who has the power of arrest.

(b) A local board of education may employ persons as school security personnel or contract with a local chief of police or sheriff to employ school resource officers. A local board of education may allow any person employed by the board as school security personnel or as a school resource officer to carry a firearm while on duty if the employee satisfies all of the following qualifications:

(1) He or she is certified by the Alabama Peace Officers' Standards and Training Commission as a law enforcement officer whose certification is in good standing or he or she is a retired law enforcement officer.

(2) He or she has successfully completed active shooter training approved by the Alabama State Law Enforcement Agency.

(3) He or she annually completes and passes the firearm requalification required of law enforcement officers by the Alabama Peace Officers' Standards and Training Commission.

(4) While on duty, he or she carries a non-lethal weapon and is trained in the appropriate use of that non-lethal weapon.

(c) Nothing in this section confers upon any individual the power of arrest.

(d) The State Department of Education shall promulgate any necessary rules to provide for the implementation of this section including, but not limited to, rules providing additional qualifications for employment as school security personnel or school resource officers.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

13A-11-72. Certain persons forbidden to possess pistol.

(a) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence, misdemeanor offense of domestic violence, violent offense as listed in Section 12-25-32(15), anyone who is subject to a valid protection order for domestic abuse, or anyone of unsound mind shall own a firearm or have one in his or her possession or under his or her control.

(b) No person who is a minor, except under the circumstances provided in this section, a drug addict, or an habitual drunkard shall own a pistol or have one in his or her possession or under his or her control.

(c) Subject to the exceptions provided by Section 13A-11-74, no person shall knowingly with intent to do bodily harm carry or possess a deadly weapon on the premises of a public school.

(d) Possession of a deadly weapon with the intent to do bodily harm on the premises of a public school in violation of subsection (c) of this section is a Class C felony.

(e) School security personnel and school resource officers qualified under subsection (a) of Section 16-1-44.1, employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (c) of this section. Law enforcement

officers are exempt from this section, and persons with pistol permits issued pursuant to Section 13A-11-75, are exempt from subsection (c) of this section. [...]

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(1) He or she is certified by the Alabama Peace Officers' Standards and Training Commission as a law enforcement officer whose certification is in good standing or he or she is a retired law enforcement officer.

(2) He or she has successfully completed active shooter training approved by the Alabama State Law Enforcement Agency.

(3) He or she annually completes and passes the firearm requalification required of law enforcement officers by the Alabama Peace Officers' Standards and Training Commission.

(4) While on duty, he or she carries a non-lethal weapon and is trained in the appropriate use of that non-lethal weapon.

(c) Nothing in this section confers upon any individual the power of arrest.

(d) The State Department of Education shall promulgate any necessary rules to provide for the implementation of this section including, but not limited to, rules providing additional qualifications for employment as school security personnel or school resource officers.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Alabama provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
PBIS Guidebook (ALSDE)	The PBIS guidebook addresses the PBIS framework, code of conduct, mental health, classroom management, juvenile justice, and the importance of extracurricular activities	https://www.alabamaachieves.org/wp-content/uploads/2021/04/PBIS-Guidebook.pdf
Prevention and Support Services, ALSDE	Provides links to information and resources to assist school systems and schools with alcohol and drug prevention, attendance, bullying prevention, character education, positive behavior supports, discipline, seclusion and restraint, school safety and related issues.	Alabama Support Services - Alabama State Department of Education (alabamaachieves.org)
Documents		
Alabama Attendance Manual (2021-2022), ALSDE	Presents updated guidance for school systems to ensure clear expectations for student attendance and reporting and supporting services and interventions that positively impact attendance.	https://www.alabamaachieves.org/wp-content/uploads/2022/02/PS_202224_AmendedAlabamaAttendanceManual2422_V1.0.pdf
Jamari Terrell Williams Student Bullying Model Policy (2018), ALSDE	Model district policy addressing bullying, intimidation, violence, and threats of violence.	https://www.alabamaachieves.org/wp-content/uploads/2021/03/Jamari-T.-Williams-Student-Bullying-Model-Policy-all-attachments.pdf
Bullying Prevention Resource	Provides definitions and available bullying prevention resources	https://www.alabamaachieves.org/wp-content/uploads/2021/06/Bullying-for-PSS-web-page-11-9-17-003.pdf
FY22-2051 Seclusion and Restraint for ALL students, ALSDE	Guidance document to assist school staff, families and other stakeholders in implementing Rule 290-3-1-.02(1)(f) to prohibit the use of seclusion and limit the use of restraint to those situations in which students are a danger to themselves or other and provide support to school districts, schools, school employees, and the general public.	https://www.alabamaachieves.org/wp-content/uploads/2022/06/StateSuperInMemos202269FY222051SeclusionandRestraintforALLStudents_V1.0.pdf

Title	Description	Website address (if applicable)
Whole Child Education: Meeting the Demands Associated with Students' Health, Wellness, and Success (2020), ALSDE	Resource document providing information and resources in the areas of social and emotional behaviors and learning supports to foster a sense of "connectedness" with the school, peers, the individual student, and the community to promote success.	https://www.alabamaachieves.org/wp-content/uploads/2021/02/Whole-Child-Education.pdf
<i>Other Resources</i>		
Addressing Disproportionality in Alabama Schools Professional Development Guidelines, Alabama State Personnel Development Grant (ALSPDG)	Professional development resources covering three required training components that must be conducted annually for all newly hired teachers, administrators, evaluators and others, as appropriate. <ol style="list-style-type: none"> 1. Addressing Disproportionality in Alabama Public Schools Presentation 2. Positive Behavior Support (PBS) 3. Makes Sense Strategies (MSS) Training 	https://www.alabamaachieves.org/wp-content/uploads/2021/06/Addressing-Disproportionality-in-Alabama-Schools-Readers-Notes.pdf
Discipline Reports, ALSDE	Annual report compiling discipline incident data by school system, school building, incident type, student grade, victim or participant status, and referrals to law enforcement.	https://www.alabamaachieves.org/reports-data/school-data/



Alaska Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Alaska Revised Laws

Title 11. Criminal Law

Chapter 11.61. Offenses against Public Order

Article 01. Offenses related to Riot, Disorderly Conduct, Pornography, Indecency, Gangs, Corpses, or Animals

[11.61.210.](#) Misconduct involving weapons in the fourth degree

Article 2. Weapons and Explosives

[11.61.195.](#) Misconduct involving weapons in the second degree

Chapter 11.81. General Provisions

Article 04. General Principles of Justification

[11.81.430.](#) Justification: Use of force, special relationships

Title 14. Education, Libraries, and Museums

Chapter 14.03. Public Schools Generally

Article 01. General Provisions

[14.03.105.](#) Search of school lockers

[14.03.160.](#) Suspension or expulsion of students for possessing weapons

Chapter 14.07. Administration of Public Schools

Article 1. Department of Education and Early Development

[14.07.020.](#) Duties of the department

Chapter 14.30. Pupils and Educational Programs for Pupils

Article 01. Compulsory Education

[14.30.030.](#) Prevention and reduction of truancy

[14.30.045.](#) Grounds for suspension or denial of admission

[14.30.047.](#) Admission or readmission when cause no longer exists

Article 04. Psychiatric and Behavioral Evaluations and Treatments

[14.30.172.](#) Communication not prohibited

[14.30.176.](#) List of community resources

Article 7. Sexual Abuse and Sexual Assault Awareness and Prevention

[14.30.356.](#) Teen dating violence and abuse awareness and prevention program; training and notices

Chapter 14.33. School Safety and Discipline

Article 02. Required School Crisis Response Planning

[14.33.100.](#) Required school crisis response planning

Article 03. Required School Disciplinary and Safety Program

- [14.33.110.](#) Purpose of school disciplinary and safety program
- [14.33.120.](#) School disciplinary and safety program
- [14.33.125.](#) Student restraint or seclusion; limitations
- [14.33.127.](#) Crisis intervention training
- [14.33.130.](#) Enforcement of approved program; additional safety obligations

Article 04. Harassment, Intimidation, and Bullying

- [14.33.200.](#) Harassment, intimidation, and bullying policy
- [14.33.210.](#) Reporting of incidents of harassment, intimidation, or bullying
- [14.33.220.](#) Reporting; no reprisals
- [14.33.230.](#) Immunity from suit
- [14.33.250.](#) Definitions

Chapter 14.45. Private and Denominational Schools

- [14.45.150.](#) Interscholastic activities; eligibility

Title 44. State Government

Chapter 44.45. Holidays, Agency, Office Hours, and Official Language

- [44.12.160.](#) Teen dating violence awareness and prevention month

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Title 4. Education and Early Development

Chapter 06. Government of Schools

Article 1. General Administration

- [4 AAC 06.060.](#) Suspension or denial of admission
- [4 AAC 06.172.](#) Reporting of school disciplinary and safety programs
- [4 AAC 06.175.](#) Reporting restraint and seclusion incidents
- [4 AAC 06.177.](#) Crisis intervention training programs

Article 2. Safe Schools

- [4 AAC 06.250.](#) Reporting

Article 5. School and District Accountability

- [4 AAC 06.845.](#) School improvement plan
- [4 AAC 06.895.](#) Report card to the public
- [4 AAC 06.899.](#) Definitions

Chapter 07. Student Rights and Responsibilities

- [4 AAC 07.010.](#) Establishment of district guidelines and procedures; prohibited discipline
- [4 AAC 07.030.](#) Distribution of district policies
- [4 AAC 07.050.](#) Review of policies
- [4 AAC 07.900.](#) Definition

Chapter 12. Certification of Professional Teachers

- [4 AAC 12.397.](#) Mandatory training requirements

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

14.30.030. Prevention and reduction of truancy.

The governing body of a school district, including a regional educational attendance area, shall establish procedures to prevent and reduce truancy.

14.33.100. Required school crisis response planning.

(a) Each district shall develop a model school crisis response plan for use by each school in the district. Each school in a district shall develop a school specific crisis response plan. Each school shall form a crisis response team consisting of the principal, one certified and one classified member of the school staff, and one parent whose child attends the school. The crisis response team may include one member of the governing board or advisory school board, a school counselor, a member from local law enforcement authorities, and one student in grade 10 or higher if the school has those grades. The district and each school within the district shall consult with local social services agencies and local law enforcement authorities when developing the school crisis response plan.

(b) A school specific crisis response plan must meet standards as determined by the department by regulation. A school specific crisis response plan must include

- (1) the person in charge and a designated substitute;
- (2) the names of the crisis response team members and their specific job functions relating to a crisis;
- (3) a communication plan;
- (4) protocols for responding to immediate physical harm of students, faculty, or staff and to traumatic events, including the period after the events have concluded;
- (5) disaster and emergency procedures to respond to earthquakes, fire, flood, explosions, or other events or conditions in which death or serious injury is likely;
- (6) crisis procedures for safe entrance to and exit from the school by students, parents, and employees, including an evacuation and lockdown plan; and
- (7) policies for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

(c) Each district shall annually review and update as appropriate each school's crisis response plan. A copy of each school's crisis response plan, as annually updated, shall be retained by the district and a copy provided to each local agency that has a role in the plan. Notice of completion of the annual review and update and the location of a school's crisis response plan shall be posted at each school in the district. A school crisis response plan shall be printed and available for inspection by the public.

(d) Each district shall provide to each district employee training in crisis response, including evacuation and lockdown drills. New district employees who have not previously received the training required under this subsection shall receive the required training within two years after the first day of employment and, thereafter, according to the schedule adopted by the governing body of a school district.

(e) In this section,

- (1) "crisis" includes a traumatic event or emergency condition that creates distress, hardship, fear, or grief;
- (2) "district" has the meaning given in AS 14.17.990.

14.33.110. Purpose of school disciplinary and safety program.

The purpose of AS 14.33.110 - 14.33.140 is to

- (1) implement and maintain community-based standards of school behavior that are developed by students, parents, teachers, school administrators, and the community;
- (2) facilitate the creation of a standard of school behavior and safety by local communities for the schools in those communities;
- (3) protect and support teachers who enforce standards of student behavior and safety in the classroom established under AS 14.33.120; and
- (4) ensure that all schools and school districts receiving state funds, that may not have already done so, implement and maintain an effective school disciplinary and safety program.

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

- (1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, legal guardians, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;
- (2) standards relating to when a teacher is authorized to remove a student from the classroom for
 - (A) failure to follow student behavior and safety standards; or
 - (B) behavior described under AS 14.30.045(1) or (2);
- (3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);
- (4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);
- (5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);
- (6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;
- (7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;
- (8) procedures for periodic review and revision of the school disciplinary and safety program;
- (9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

REGULATIONS

No relevant regulations found.

Scope

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

No relevant laws found.

REGULATIONS

4 AAC 07.030. Distribution of district policies.

Each district shall make available to students, parents, and all staff persons who deal with students, up-to-date copies of the adopted district student rights and responsibilities policies at the start of each school year. Additionally, throughout the school year, copies of these policies must be posted in accessible locations within school facilities (e.g., bulletin board, teachers' lounges, office, etc.).

In-School Discipline

Discipline Frameworks

LAWS

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

- (1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, legal guardians, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;
- (2) standards relating to when a teacher is authorized to remove a student from the classroom for
 - (A) failure to follow student behavior and safety standards; or
 - (B) behavior described under AS 14.30.045(1) or (2);
- (3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);
- (4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);
- (5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);
- (6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;
- (7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;
- (8) procedures for periodic review and revision of the school disciplinary and safety program;
- (9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

11.81.430. Justification: Use of force, special relationships.

(a) The use of force on another person that would otherwise constitute an offense is justified under any of the following circumstances:

- (1) When and to the extent reasonably necessary and appropriate to promote the welfare of the child or incompetent person, a parent, guardian, or other person entrusted with the care and supervision of a

child under 18 years of age or an incompetent person may use reasonable and appropriate nondeadly force on that child or incompetent person.

(2) When and to the extent reasonably necessary and appropriate to maintain order and when the use of force is consistent with the welfare of the students, a teacher may, if authorized by school regulations and the principal of the school, use reasonable and appropriate nondeadly force on a student. If authorized by school regulations and the principal of the school, a teacher may use nondeadly force under this paragraph in any situation in which the teacher is responsible for the supervision of students. A teacher employed by a school board, including a regional educational attendance area school board, may use nondeadly force under this paragraph only if the school regulations authorizing the use of force have been adopted by the school board.

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, legal guardians, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program;

(9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

4 AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(c) The use of corporal punishment in Alaska public schools is prohibited.

4 AAC 07.900. Definition.

As used in this chapter, "corporal punishment" means the application of physical force to the body of a student for disciplinary purposes. It does not include the use of reasonable and necessary physical restraint of a student to protect the student, or others, from physical injury, to obtain possession of a weapon or other dangerous object from a student, to maintain reasonable order in the classroom, or on school grounds, or to protect property from serious damage or destruction.

Search and Seizure

LAWS

14.03.105. Search of school lockers.

(a) Subject to (b) of this section, a locker or other container provided in a school by the school or the school district may be searched and examined with the permission of the chief administrative officer of the school or the school district or the designee of the chief administrative officer to determine compliance with school regulations, school district regulations, and local, state, and federal laws. A search or examination under this section may not be more intrusive than reasonably necessary to meet the objectives of the search.

(b) Notices in letters at least two inches high stating the right and the intention of school and school district officers to permit searches and examinations under (a) of this section shall be posted in prominent locations throughout a school.

(c) Nothing in this section limits the ability of a peace officer, chief administrative officer, or other appropriate person, acting in compliance with local, state, or federal laws, to search a locker or other container provided in a public or private school by the school district.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, legal guardians, teachers, and other persons responsible for the students at a school; a governing body

may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program;

(9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

14.33.125. Student restraint or seclusion; limitations.

(a) A public school disciplinary and safety program must

(1) prohibit restraint or seclusion of a student except as provided in (b) of this section;

(2) be annually reviewed with school personnel;

(3) include a written report of each incident that is maintained in the student's record as described in (d) of this section; and

(4) include a review of each incident in which restraint or seclusion is used as provided in (e) of this section.

(b) A teacher, teacher's assistant, or other person responsible for students may physically restrain or seclude a student only if

(1) the student's behavior poses an imminent danger of physical injury to the student or another person;

(2) less restrictive interventions would be ineffective to stop the imminent danger to the student or another person;

(3) the person continuously monitors the student in face-to-face contact or, if face-to-face contact is unsafe, by continuous direct visual contact with the student;

(4) the person has received training in crisis intervention and de-escalation and restraint techniques that has been approved by the department under AS 14.33.127, unless a trained person is not immediately available and the circumstances are rare and present an unavoidable and unforeseen emergency; and

(5) the restraint or seclusion is discontinued immediately when the student no longer poses an imminent danger of physical injury to the student or another person or when a less restrictive intervention is effective to stop the danger of physical injury.

(c) A teacher, teacher's assistant, or other person responsible for students may not

(1) use chemical restraint;

- (2) use mechanical restraint; or
 - (3) physically restrain a student by placing the student on the student's back or stomach or in a manner that restricts the student's breathing.
- (d) School personnel who restrain or seclude a student shall provide a written report of the incident to the school administrator. A school shall provide a copy of the report to the student's parents or legal guardians. The report must include
- (1) the date and time of the incident;
 - (2) the names and job titles of school personnel who participated in or supervised the incident;
 - (3) a description of the activity that preceded the incident, including efforts and strategies used with the student before the incident;
 - (4) a description of the incident, including the type and duration of the intervention used;
 - (5) a description of how the incident ended, including any further action taken.
- (e) A school district shall ensure that a review process is established and conducted for each incident that involves restraint or seclusion of a student. The review must be conducted as soon as practicable after the event and include
- (1) staff review of the incident;
 - (2) follow-up communication with the student and the student's parent or legal guardian;
 - (3) review of and recommendations for adjusting or amending procedures, strategies, accommodations, individualized education plans, or other student behavior plans, or for additional staff training.
- (f) Each school district shall annually report to the department, on a form acceptable to the department, the total number of incidents involving the restraint or seclusion of a student. The report must specify
- (1) the number of incidents that resulted in injury or death of students or personnel;
 - (2) the number of incidents in which school personnel involved in the restraint or seclusion were not trained in an approved crisis intervention training program as described in AS 14.33.127(b); and
 - (3) the number of incidents involving the restraint or seclusion of a child with a disability under AS 14.30.350; the report must also include the category of the disability of the child involved in each incident.
- (g) In this section,
- (1) "chemical restraint" means a psychopharmacologic drug that is used on a student for discipline or convenience and that is not required to treat a medical symptom;
 - (2) "mechanical restraint" means the use of a device that is not a medical device or protective equipment prescribed by a qualified health care professional to restrict a student's freedom of movement;
 - (3) "physically restrain" or "physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's arms, legs, or head freely;
 - (4) "restraint" means physical restraint, chemical restraint, mechanical restraint, or other aversive behavioral interventions that compromise health and safety;
 - (5) "seclusion" means the involuntary confinement of a student alone in a room or area that the student is physically prevented from leaving; "seclusion" does not include a classroom time-out, supervised detention, or suspension from school under AS 14.30.045.

14.33.127. Crisis intervention training.

- (a) The department shall approve crisis intervention training programs for schools, which shall include training in
- (1) evidence-based techniques that have been shown to be effective in the prevention of restraint and seclusion of students;

- (2) evidence-based techniques shown to be effective in keeping school personnel and students safe when imposing physical restraint or seclusion of students;
 - (3) evidence-based skills related to positive behavior supports, conflict prevention, understanding antecedents, de-escalation, and conflict management;
 - (4) first aid and cardiopulmonary resuscitation; and
 - (5) applicable policies and procedures.
- (b) The governing body of a school shall ensure that a sufficient number of school employees receives periodic training in an approved crisis intervention program to meet the needs of the school population.
- (c) In this section,
- (1) "restraint" has the meaning given in AS 14.33.125;
 - (2) "seclusion" has the meaning given in AS 14.33.125.

REGULATIONS

4 AAC 06.175. Reporting restraint and seclusion incidents.

Annually, not later than June 30, a governing body shall provide a report to the department that includes all data required under AS 14.33.125(f). The governing body shall file the required report electronically in a format prescribed by the department, unless the governing body determines that the district does not have the capability of filing the report electronically in that format.

4 AAC 06.177. Crisis intervention training programs.

- (a) The department will maintain a list of approved crisis intervention training programs. An approved program must
- (1) include training in all areas required under AS 14.33.127(a);
 - (2) have a clear record of success in the prevention and safe use of physical restraint and seclusion;
 - (3) have undergone a peer-review process or have otherwise been the subject of scholarly research; and
 - (4) adequately address AS 14.33.127(a)(1) - (3).
- (b) In determining whether a crisis intervention training program meets the requirement under (a)(4) of this section, the department will consider whether the program
- (1) cautions against the use of mechanical or chemical restraint except as authorized by licensed and qualified medical personnel;
 - (2) limits the use of restraint and seclusion to situations where the student's behavior poses imminent danger of serious physical harm to self or others;
 - (3) requires discontinuation of restraint and seclusion as soon as the risk of serious harm dissipates;
 - (4) includes policies restricting the use of restraint and seclusion for all students, regardless of whether a student has a disability;
 - (5) emphasizes students' rights to be treated with dignity and be free from abuse;
 - (6) forbids the use of restraint or seclusion as a punishment or disciplinary technique;
 - (7) forbids the use of restraint or seclusion that restricts a student's breathing or otherwise harms the student;
 - (8) requires that the repeated use of restraint and seclusion by one individual or in a particular classroom will trigger an automatic review;
 - (9) requires the use of behavioral strategies that address the underlying cause or purpose of dangerous behavior;
 - (10) requires that instances of restraint and seclusion be visually monitored to ensure the appropriateness of the intervention and the safety of the student and school staff;

(11) requires notification of a student's parent or legal guardian regarding the governing body's restraint and seclusion policy and applicable federal, state, and local laws, and also requires that a student's parent or legal guardian be notified as soon as possible following each instance in which restraint or seclusion was used with the student; and

(12) provides for the regular review of the governing body's restraint and seclusion policies and requires written documentation.

(c) Annually, the department will review the list of crisis intervention training programs approved under (a) of this section. The department will review whether currently approved programs continue to meet the requirements under (a) of this section and the availability of other training programs that warrant approval by the department.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

14.03.160. Suspension or expulsion of students for possessing weapons.

- (a) Notwithstanding any other provision of law, a school district shall
- (1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;
 - (2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.
- (b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.
- (c) A prior conviction, or adjudication of delinquency or child in need of aid, for violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or expel a student under this section.
- (d) Each school district shall adopt a policy providing for the
- (1) referral to law enforcement authorities of students who violate AS 11.61.210(a)(8);
 - (2) identification of procedures and conditions for early reinstatement of students suspended or expelled under this section.
- (e) Annually on a date set by the department, each school district shall report to the department the number of students expelled under this section and the types of weapons involved.
- (f) In this section,
- (1) "deadly weapon" has the meaning given in AS 11.81.900;
 - (2) "district" has the meaning given in AS 14.17.990.

14.30.045. Grounds for suspension or denial of admission.

A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

- (1) continued wilful disobedience or open and persistent defiance of reasonable school authority;
- (2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school;
- (3) a physical or mental condition that in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;
- (4) a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;
- (5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

14.33.200. Harassment, intimidation, and bullying policy.

- (a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

REGULATIONS

4 AAC 06.060. Suspension or denial of admission.

(a) In a public school, the superintendent or principal may suspend a pupil under the provisions of AS 14.30.045, and the pupil may be reinstated by the superintendent or principal or by the school board. A child who is diagnosed as having acquired immune deficiency syndrome (AIDS) or the human immunodeficiency virus (HIV) does not have a condition which "will cause the attendance of the child to be inimical of the welfare of other pupils," within the meaning of AS 14.30.045(4), unless the child has uncoverable oozing lesions or other symptoms, or displays behavior, such as biting, which in the opinion of a team made up of the child's physician, public health personnel, the child's parent or guardian, and school personnel associated with the child's educational placement, substantially increases the risk of transmission of HIV to other pupils.

(b) Expulsion or denial of admission of a pupil shall be only upon the action of the governing school board in a district school.

(c) A pupil suspended or expelled under this section may appeal to the district board.

Limitations or Conditions on Exclusionary Discipline

LAWS

14.30.045. Grounds for suspension or denial of admission.

A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

- (1) continued wilful disobedience or open and persistent defiance of reasonable school authority;
- (2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school;
- (3) a physical or mental condition that in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;
- (4) a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;
- (5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

REGULATIONS

4 AAC 06.060. Suspension or denial of admission.

(a) In a public school, the superintendent or principal may suspend a pupil under the provisions of AS 14.30.045, and the pupil may be reinstated by the superintendent or principal or by the school board. A child who is diagnosed as having acquired immune deficiency syndrome (AIDS) or the human immunodeficiency virus (HIV) does not have a condition which "will cause the attendance of the child to be inimical of the welfare of other pupils," within the meaning of AS 14.30.045(4), unless the child has uncoverable oozing lesions or other symptoms, or displays behavior, such as biting, which in the opinion of a team made up of the child's physician, public health personnel, the child's parent or guardian, and school personnel associated with the child's educational placement, substantially increases the risk of transmission of HIV to other pupils.

(b) Expulsion or denial of admission of a pupil shall be only upon the action of the governing school board in a district school.

(c) A pupil suspended or expelled under this section may appeal to the district board.

Due Process

LAWS

No relevant laws found.

REGULATIONS

4 AAC 06.060. Suspension or denial of admission.

(a) In a public school, the superintendent or principal may suspend a pupil under the provisions of AS 14.30.045, and the pupil may be reinstated by the superintendent or principal or by the school board. A child who is diagnosed as having acquired immune deficiency syndrome (AIDS) or the human immunodeficiency virus (HIV) does not have a condition which "will cause the attendance of the child to be inimical of the welfare of other pupils," within the meaning of AS 14.30.045(4), unless the child has uncoverable oozing lesions or other symptoms, or displays behavior, such as biting, which in the opinion of a team made up of the child's physician, public health personnel, the child's parent or guardian, and school personnel associated with the child's educational placement, substantially increases the risk of transmission of HIV to other pupils.

(b) Expulsion or denial of admission of a pupil shall be only upon the action of the governing school board in a district school.

(c) A pupil suspended or expelled under this section may appeal to the district board.

4 AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

- (1) routine discipline case procedure; and
- (2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

Return to School Following Removal

LAWS

14.30.047. Admission or readmission when cause no longer exists.

(a) A child who has been suspended from or denied admittance to a school under AS 14.30.045(3) or (4) shall be permitted to attend school when the child is obviously recovered or presents to the governing body a statement in writing from a competent medical authority that the child is no longer afflicted with, or suffering from, the physical or mental condition to the extent that it is a cause for suspension or denial of admission under AS 14.30.045(3) or (4).

(b) A child who has been suspended from or denied admittance to a school for any other cause provided by AS 14.30.045 shall be permitted to attend school when it reasonably appears that the cause has been remedied.

14.30.172. Communication not prohibited.

(a) Nothing in AS 14.30.171 may be construed to prohibit school personnel from

(2) exercising their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of a school disciplinary and safety program adopted under AS 14.03.160, AS 14.30.045, or AS 14.33.110 - 14.33.140.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

14.45.150. Interscholastic activities; eligibility.

(a) A full-time student who is eligible under (b) of this section who is enrolled in grades nine through 12 in an alternative education program that is located in the state and that does not offer interscholastic activities is eligible to participate in any interscholastic activities program available in a religious or other private school regulated under this chapter

(1) that the student would be eligible to attend were the student not enrolled in an alternative education program; and

(2) at which the student requests to participate, if the administrator of the school approves. [...]

(c) In this section,

(1) "alternative education program" means a public secondary school that provides a nontraditional education program, including the Alaska Military Youth Academy; a public vocational, remedial, or theme-based program; a home school program that is accredited by a recognized accrediting body; a charter school authorized under AS 14.03.250 - 14.03.290; and a statewide correspondence school that enrolls students who reside outside of a district in which the student resides and provides less than three hours a week of scheduled face-to-face student interactions in the same location with a teacher who is certified under AS 14.20.020.

REGULATIONS

4 AAC 06.845. School improvement plan.

(c) The department may approve an alternative school improvement planning process under (b) of this section only if

(1) the school demonstrates that it is implementing an effective school improvement plan through the accreditation process under 4 AAC 04.300; or

(2) the district in which the school is located can establish by a preponderance of the evidence that the school has an alternative school improvement planning process that will address as or more effectively than the program selected by the department

(A) each of the domains listed in (b) of this section; and

(B) each specific deficiency at the school identified by an audit or other process.

4 AAC 06.899. Definitions.

In 4 AAC 06.800 - 4 AAC 06.899, unless the context requires otherwise, (24) "alternative school" means a school that is specifically designed to exclusively serve secondary-school students who are at high risk of failing to graduate because of credit deficiencies, below-proficient academic performance, a history of low attendance, a history or high risk of dropping out, or other barriers to graduation; in this paragraph, "below-proficient academic performance" means obtaining an achievement level on a standards-based assessment under 4 AAC 06.739 that does not meet standards.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

11.61.195. Misconduct involving weapons in the second degree.

- (a) A person commits the crime of misconduct involving weapons in the second degree if the person knowingly
- (1) possesses a firearm during the commission of an offense under AS 11.71.010 - 11.71.040;
 - (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a parking lot immediately adjacent to
 - (A) a public or private preschool, elementary, junior high, or secondary school without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer; or
 - (B) an entity, other than a private residence, licensed as a child care facility under AS 47.32 or recognized by the federal government for the care of children; or
 - (3) discharges a firearm at or in the direction of
 - (A) a building with reckless disregard for a risk of physical injury to a person; or
 - (B) a dwelling.
- (b) Misconduct involving weapons in the second degree is a class B felony.

11.61.210. Misconduct involving weapons in the fourth degree.

- (a) A person commits the crime of misconduct involving weapons in the fourth degree if the person
- (7) other than a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school, on a school bus while being transported to or from school or a school-sponsored event, or while participating in a school-sponsored event, except that a person 21 years of age or older may possess
 - (A) a deadly weapon, other than a loaded firearm, in the trunk of a motor vehicle or encased in a closed container in a motor vehicle;
 - (B) a defensive weapon;
 - (C) an unloaded firearm if the person is traversing school premises in a rural area for the purpose of entering public or private land that is open to hunting and the school board with jurisdiction over the school premises has elected to have this exemption apply to the school premises; in this subparagraph, "rural" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks; or
 - (8) being a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school, on a school bus while being transported to or from school or a school-sponsored event, or while participating in a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student has obtained the prior permission of the chief administrative officer of the school or district or the designee of the chief administrative officer for the possession.

14.03.160. Suspension or expulsion of students for possessing weapons.

(a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;

(2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.

(c) A prior conviction, or adjudication of delinquency or child in need of aid, for violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or expel a student under this section.

(d) Each school district shall adopt a policy providing for the

(1) referral to law enforcement authorities of students who violate AS 11.61.210(a)(8);

(2) identification of procedures and conditions for early reinstatement of students suspended or expelled under this section.

(e) Annually on a date set by the department, each school district shall report to the department the number of students expelled under this section and the types of weapons involved.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900;

(2) "district" has the meaning given in AS 14.17.990.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

4 AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

(1) routine discipline case procedure; and

(2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

Chronic Absenteeism and Truancy

LAWS

14.30.030. Prevention and reduction of truancy.

The governing body of a school district, including a regional educational attendance area, shall establish procedures to prevent and reduce truancy.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program; [...]

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

14.33.210. Reporting of incidents of harassment, intimidation, or bullying.

Beginning with the 2007 - 2008 school year, each school district shall report to the department by November 30 all incidents resulting in suspension or expulsion for harassment, intimidation, or bullying on school premises or on transportation systems used by schools in the school year preceding the report. The department shall compile the data and report it to the appropriate committees of the Alaska House of Representatives and the Senate.

14.33.220. Reporting; no reprisals.

- (a) A school employee, student, or volunteer may not engage in reprisal, retaliation, or false accusation against a victim, witness, or person with reliable information about an act of harassment, intimidation, or bullying.
- (b) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, shall report the incident to an appropriate school official.
- (c) This section does not prohibit discipline or other adverse action taken in compliance with school district policies against a person who falsely and in bad faith accuses a person of engaging in harassment, intimidation, or bullying or who intentionally provides false information in connection with an investigation of an alleged incident of harassment, intimidation, or bullying.

14.33.230. Immunity from suit.

A school employee, student, or volunteer who reports an incident of harassment, intimidation, or bullying to a school official and who makes this report in good faith is immune from a cause of action for damages arising from a failure to remedy the reported incident or for making the report.

14.33.250. Definitions.

In AS 14.33.200 - 14.33.250,

- (2) "harassment, intimidation, or bullying" means an intentional written, oral, or physical act, when the act is undertaken with the intent of threatening, intimidating, harassing, or frightening the student, and
 - (A) physically harms the student or damages the student's property;
 - (B) has the effect of substantially interfering with the student's education;
 - (C) is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
 - (D) has the effect of substantially disrupting the orderly operation of the school.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

14.30.356. Teen dating violence and abuse awareness and prevention program; training and notices.

- (a) The department, in consultation with school districts, shall develop and approve a program relating to teen dating violence and abuse awareness and prevention for grades seven through 12. The program must
 - (1) include training for employees and students;
 - (2) provide parent notices; and
 - (3) be reviewed periodically by a qualified individual or committee for consistency with generally accepted standards for a teen dating violence and abuse awareness and prevention program.

- (b) The training, notices, and instruction adopted under this section must include
- (1) age-appropriate information;
 - (2) the warning signs of dating violence and abusive behavior;
 - (3) characteristics of healthy relationships;
 - (4) measures to prevent and stop dating violence and abuse;
 - (5) community resources available to victims of dating violence and abuse; and
 - (6) a procedure allowing a student to be excused from participating in training or from receiving notices under this section at the written request of a parent or guardian of the student, or of the student if the student is emancipated or 18 years of age or older.
- (c) The training required for teachers under this section may be provided as a part of the continuing education required under AS 18.66.310.
- (d) In this section,
- (1) "dating violence and abuse" means a pattern of behavior in which one person threatens to use, or actually uses, physical, sexual, verbal, emotional, or psychological abuse to control the person's dating partner;
 - (2) "school district" has the meaning given in AS 14.30.350.

44.12.160. Teen dating violence awareness and prevention month.

The month of February each year is established as Teen Dating Violence Awareness and Prevention Month. Teen Dating Violence Awareness and Prevention Month may be observed by schools, community groups, and other public and private agencies and individuals with appropriate activities that increase the public's awareness of teen dating violence in the state, encourage Alaskans to pursue healthy relationships and learn the signs of teen dating violence, and promote prevention of and action to end teen dating violence.

REGULATIONS

4 AAC 12.397. Mandatory training requirements.

- (a) On or after June 30, 2017, to qualify for a certificate issued under 14.20.020 or to renew or reinstate a certificate, an applicant must provide evidence of training regarding
- (3) dating violence awareness and prevention and satisfying the requirements of AS 14.30.356, as that section is to appear on June 30, 2017.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

14.33.127. Crisis intervention training.

(a) The department shall approve crisis intervention training programs for schools, which shall include training in

(3) evidence-based skills related to positive behavior supports, conflict prevention, understanding antecedents, de-escalation, and conflict management.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts; [...]

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

14.33.125. Student restraint or seclusion; limitations.

(a) A public school disciplinary and safety program must

(1) prohibit restraint or seclusion of a student except as provided in (b) of this section;

(2) be annually reviewed with school personnel;

(3) include a written report of each incident that is maintained in the student's record as described in (d) of this section; and

(4) include a review of each incident in which restraint or seclusion is used as provided in (e) of this section. [...]

(d) School personnel who restrain or seclude a student shall provide a written report of the incident to the school administrator. A school shall provide a copy of the report to the student's parents or legal guardians. The report must include

(1) the date and time of the incident;

(2) the names and job titles of school personnel who participated in or supervised the incident;

(3) a description of the activity that preceded the incident, including efforts and strategies used with the student before the incident;

(4) a description of the incident, including the type and duration of the intervention used;

(5) a description of how the incident ended, including any further action taken.

(e) A school district shall ensure that a review process is established and conducted for each incident that involves restraint or seclusion of a student. The review must be conducted as soon as practicable after the event and include

(1) staff review of the incident;

(2) follow-up communication with the student and the student's parent or legal guardian;

(3) review of and recommendations for adjusting or amending procedures, strategies, accommodations, individualized education plans, or other student behavior plans, or for additional staff training.

(f) Each school district shall annually report to the department, on a form acceptable to the department, the total number of incidents involving the restraint or seclusion of a student. The report must specify

(1) the number of incidents that resulted in injury or death of students or personnel;

(2) the number of incidents in which school personnel involved in the restraint or seclusion were not trained in an approved crisis intervention training program as described in AS 14.33.127(b); and

(3) the number of incidents involving the restraint or seclusion of a child with a disability under AS 14.30.350; the report must also include the category of the disability of the child involved in each incident.

14.33.210. Reporting of incidents of harassment, intimidation, or bullying.

Beginning with the 2007 - 2008 school year, each school district shall report to the department by November 30 all incidents resulting in suspension or expulsion for harassment, intimidation, or bullying on school premises or on transportation systems used by schools in the school year preceding the report. The department shall compile the data and report it to the appropriate committees of the Alaska House of Representatives and the Senate.

14.33.220. Reporting; no reprisals.

(a) A school employee, student, or volunteer may not engage in reprisal, retaliation, or false accusation against a victim, witness, or person with reliable information about an act of harassment, intimidation, or bullying.

(b) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, shall report the incident to an appropriate school official.

(c) This section does not prohibit discipline or other adverse action taken in compliance with school district policies against a person who falsely and in bad faith accuses a person of engaging in harassment, intimidation, or bullying or who intentionally provides false information in connection with an investigation of an alleged incident of harassment, intimidation, or bullying.

REGULATIONS

4 AAC 06.172. Reporting of school disciplinary and safety programs.

(a) A governing body of a school board shall report to the department information relating to the school district disciplinary and safety program required by AS 14.33.120. The report shall be submitted annually with the school report required by AS 14.03.120(a).

(b) To meet the requirements of AS 14.33.120(a)(1) for collaboration at each school in development and review of the standards, the report must provide a description of the procedures used to develop the community-based standards of school behavior and safety contained in the school safety and discipline program, including

- (1) the persons who were involved in developing the standards;
- (2) the parameters for evaluation to assess the effectiveness of the standards; and
- (3) the period of review and evaluation of the standards.

(c) The report must also include a description of the annual number of incidents by school of disruptive or violent student behavior, including the number of students suspended or expelled for

- (1) under AS 14.03.160, possession of deadly weapons; and
- (2) discipline violations not specified in (1) of this subsection.

Parental Notification

LAWS

No relevant laws found.

REGULATIONS

4 AAC 06.177. Crisis intervention training programs.

(a) The department will maintain a list of approved crisis intervention training programs. An approved program must

- (1) include training in all areas required under AS 14.33.127(a);
 - (2) have a clear record of success in the prevention and safe use of physical restraint and seclusion;
 - (3) have undergone a peer-review process or have otherwise been the subject of scholarly research; and
 - (4) adequately address AS 14.33.127(a)(1) - (3).
- (b) In determining whether a crisis intervention training program meets the requirement under (a)(4) of this section, the department will consider whether the program
- (11) requires notification of a student's parent or legal guardian regarding the governing body's restraint and seclusion policy and applicable federal, state, and local laws, and also requires that a student's parent or legal guardian be notified as soon as possible following each instance in which restraint or seclusion was used with the student; and [...]
- (c) Annually, the department will review the list of crisis intervention training programs approved under (a) of this section. The department will review whether currently approved programs continue to meet the requirements under (a) of this section and the availability of other training programs that warrant approval by the department.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

14.07.020. Duties of the department.

- (a) The department shall
- (15) require the reporting of information relating to school disciplinary and safety programs under AS 14.33.120 and of incidents of disruptive or violent behavior.

14.33.120. School disciplinary and safety program.

- (a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must be made available to students, parents, legal guardians, and the public and include written
- (1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, legal guardians, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;
 - (2) standards relating to when a teacher is authorized to remove a student from the classroom for
 - (A) failure to follow student behavior and safety standards; or
 - (B) behavior described under AS 14.30.045(1) or (2);
 - (3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);
 - (4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);
 - (5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);
 - (6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

- (7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;
- (8) procedures for periodic review and revision of the school disciplinary and safety program;
- (9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

(b) A school shall, on the same day as the incident, provide to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by the student that resulted in restraint or seclusion of the student by school personnel.

14.33.125. Student restraint or seclusion; limitations.

(a) A public school disciplinary and safety program must

- (1) prohibit restraint or seclusion of a student except as provided in (b) of this section;
- (2) be annually reviewed with school personnel;
- (3) include a written report of each incident that is maintained in the student's record as described in (d) of this section; and
- (4) include a review of each incident in which restraint or seclusion is used as provided in (e) of this section. [...]

(f) Each school district shall annually report to the department, on a form acceptable to the department, the total number of incidents involving the restraint or seclusion of a student. The report must specify

- (1) the number of incidents that resulted in injury or death of students or personnel;
- (2) the number of incidents in which school personnel involved in the restraint or seclusion were not trained in an approved crisis intervention training program as described in AS 14.33.127(b); and
- (3) the number of incidents involving the restraint or seclusion of a child with a disability under AS 14.30.350; the report must also include the category of the disability of the child involved in each incident.

REGULATIONS

4 AAC 06.175. Reporting restraint and seclusion incidents.

Annually, not later than June 30, a governing body shall provide a report to the department that includes all data required under AS 14.33.125(f). The governing body shall file the required report electronically in a format prescribed by the department, unless the governing body determines that the district does not have the capability of filing the report electronically in that format.

4 AAC 06.177. Crisis intervention training programs.

(a) The department will maintain a list of approved crisis intervention training programs. An approved program must

- (1) include training in all areas required under AS 14.33.127(a);
- (2) have a clear record of success in the prevention and safe use of physical restraint and seclusion;
- (3) have undergone a peer-review process or have otherwise been the subject of scholarly research; and
- (4) adequately address AS 14.33.127(a)(1) - (3).

(b) In determining whether a crisis intervention training program meets the requirement under (a)(4) of this section, the department will consider whether the program

- (1) cautions against the use of mechanical or chemical restraint except as authorized by licensed and qualified medical personnel;
- (2) limits the use of restraint and seclusion to situations where the student's behavior poses imminent danger of serious physical harm to self or others;

- (3) requires discontinuation of restraint and seclusion as soon as the risk of serious harm dissipates;
 - (4) includes policies restricting the use of restraint and seclusion for all students, regardless of whether a student has a disability;
 - (5) emphasizes students' rights to be treated with dignity and be free from abuse;
 - (6) forbids the use of restraint or seclusion as a punishment or disciplinary technique;
 - (7) forbids the use of restraint or seclusion that restricts a student's breathing or otherwise harms the student;
 - (8) requires that the repeated use of restraint and seclusion by one individual or in a particular classroom will trigger an automatic review;
 - (9) requires the use of behavioral strategies that address the underlying cause or purpose of dangerous behavior;
 - (10) requires that instances of restraint and seclusion be visually monitored to ensure the appropriateness of the intervention and the safety of the student and school staff;
 - (11) requires notification of a student's parent or legal guardian regarding the governing body's restraint and seclusion policy and applicable federal, state, and local laws, and also requires that a student's parent or legal guardian be notified as soon as possible following each instance in which restraint or seclusion was used with the student; and
 - (12) provides for the regular review of the governing body's restraint and seclusion policies and requires written documentation.
- (c) Annually, the department will review the list of crisis intervention training programs approved under (a) of this section. The department will review whether currently approved programs continue to meet the requirements under (a) of this section and the availability of other training programs that warrant approval by the department.

4 AAC 06.250. Reporting.

- (a) A district shall provide to the department a report on or before June 30 of each year that describes for each school in the district during the school year the number of
- (1) infractions involving violence against a person at the school;
 - (2) infractions involving a weapon at the school;
 - (3) days students were suspended for infractions involving violence against a person or infractions involving a weapon at each school;
 - (4) expulsions for infractions involving violence against a person or infractions involving a weapon at a school;
 - (5) transfers requested and provided under 4 AAC 06.210 or 4 AAC 06.240;
 - (6) victims of violent criminal offenses as determined under 4 AAC 06.230; and
 - (7) trancies at schools in the district, as determined by the district under its procedures established under AS 14.30.030.
- (b) A district shall file the report required in (a) of this section electronically in a format required by the department, unless the department determines in writing that the district does not have the capability of filing the report electronically in that format.

4 AAC 06.895. Report card to the public.

- (a) Each public school and district in the state shall comply with the reporting requirements of AS 14.03.120 and the requirements of this section. Each school shall prepare a school report, to be entitled School Report Card to the Public, following requirements provided by the department. Each district shall prepare a district report, to be entitled School District Report Card to the Public, following requirements provided by the department.

(b) A school shall disseminate its School Report Card to the Public as required under AS 14.03.120(d). A district shall disseminate its School District Report Card to the Public and the School Report Card to the Public for each school in the district by providing required data to the department, posting the report cards on the Internet if the district maintains a website, and any other means of distribution the district chooses, not later than 30 days after the department has made all necessary data available to districts. Each district shall ensure that parents of the students in each school in the district are notified of the location and availability of the School Report Card to the Public and the District Report Card to the Public. The report required under this section shall be written in a uniform and understandable manner, and, to the extent practicable, be in a language that the parent can understand.

(c) The School Report Card to the Public must contain the number of students enrolled in the school, the Title I status of the school, and must provide the following information on accreditation:

(11) information submitted by the department and each district in the state, in accordance with the Office for Civil Rights data collection conducted pursuant to 20 U.S.C. 3413(c)(1)(section 203(c)(1) of Department of Education Organization Act), on

(A) rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, incidences of violence, including bullying and harassment.

4 AAC 07.050. Review of policies.

Since student rights and responsibilities in the public schools are recognized as an ever changing and constantly developing area, each district shall review its policies and make such revisions as statutes, regulations or court decisions make necessary. District reviews shall be accomplished at least once every three years.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

14.03.160. Suspension or expulsion of students for possessing weapons.

- (a) Notwithstanding any other provision of law, a school district shall
- (1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;
 - (2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.
- (b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.
- (c) A prior conviction, or adjudication of delinquency or child in need of aid, for violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or expel a student under this section.
- (d) Each school district shall adopt a policy providing for the
- (1) referral to law enforcement authorities of students who violate AS 11.61.210(a)(8);
 - (2) identification of procedures and conditions for early reinstatement of students suspended or expelled under this section.
- (e) Annually on a date set by the department, each school district shall report to the department the number of students expelled under this section and the types of weapons involved.
- (f) In this section,
- (1) "deadly weapon" has the meaning given in AS 11.81.900;
 - (2) "district" has the meaning given in AS 14.17.990.

14.33.100. Required school crisis response planning.

- (a) Each district shall develop a model school crisis response plan for use by each school in the district. Each school in a district shall develop a school specific crisis response plan. Each school shall form a crisis response team consisting of the principal, one certified and one classified member of the school staff, and one parent whose child attends the school. The crisis response team may include one member of the governing board or advisory school board, a school counselor, a member from local law enforcement authorities, and one student in grade 10 or higher if the school has those grades. The district and each school within the district shall consult with local social services agencies and local law enforcement authorities when developing the school crisis response plan.
- (b) A school specific crisis response plan must meet standards as determined by the department by regulation. A school specific crisis response plan must include
- (1) the person in charge and a designated substitute;
 - (2) the names of the crisis response team members and their specific job functions relating to a crisis;
 - (3) a communication plan;
 - (4) protocols for responding to immediate physical harm of students, faculty, or staff and to traumatic events, including the period after the events have concluded;
 - (5) disaster and emergency procedures to respond to earthquakes, fire, flood, explosions, or other events or conditions in which death or serious injury is likely;

(6) crisis procedures for safe entrance to and exit from the school by students, parents, and employees, including an evacuation and lockdown plan; and

(7) policies for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

(c) Each district shall annually review and update as appropriate each school's crisis response plan. A copy of each school's crisis response plan, as annually updated, shall be retained by the district and a copy provided to each local agency that has a role in the plan. Notice of completion of the annual review and update and the location of a school's crisis response plan shall be posted at each school in the district. A school crisis response plan shall be printed and available for inspection by the public.

(d) Each district shall provide to each district employee training in crisis response, including evacuation and lockdown drills. New district employees who have not previously received the training required under this subsection shall receive the required training within two years after the first day of employment and, thereafter, according to the schedule adopted by the governing body of a school district.

(e) In this section,

(1) "crisis" includes a traumatic event or emergency condition that creates distress, hardship, fear, or grief;

(2) "district" has the meaning given in AS 14.17.990.

14.33.130. Enforcement of approved program; additional safety obligations.

(a) A teacher, a teacher's assistant, a principal, or another person responsible for students may not be terminated or otherwise subjected to formal disciplinary action for lawful enforcement of an approved school disciplinary and safety program, including behavior standards, adopted under AS 14.33.120.

(b) A teacher, a teacher's assistant, a principal, or another person responsible for students who

(1) receives information about a student under AS 47.12.310(b) or receives information that may affect the safety of students or staff shall notify the student's teacher or a school administrator; and

(2) in the course of employment, observes a student committing a crime shall report the crime to the local law enforcement agency; in this paragraph, "crime" has the meaning given in AS 11.81.900.

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Alaska provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Alaska Schoolwide Positive Behavior Supports, Alaska Department of Education & Early Development (DEED)	Provides schools and districts with resources to implement Schoolwide Positive Behavior Supports.	https://education.alaska.gov/swpbs
Bullying, DEED	Provides links to bullying information and resources, including state statutes addressing harassment, intimidation, and bullying, the state model bullying policy, Youth Risk Behavior Survey (YRBS) data measuring exposure to bullying in schools, and eLearning modules and national resources.	https://education.alaska.gov/safeschools/bullying
Restraint and Seclusion, DEED	Includes links to evidence-based crisis intervention training programs for school personnel to complete Restraint and Seclusion training requirements in compliance with state statute.	http://www.eed.state.ak.us/tls/schoolsafety/restraint.html
School Counseling/Behavioral Health, DEED	Compiles counseling and behavioral health resources supporting implementation of comprehensive and integrated systems of school-based and school-linked mental health services based on best practices.	https://education.alaska.gov/schoolcounselbhth
School Health, Safety, and Alternative Education, DEED	Provides links to information and resources related to school climate, school health and wellness, and alternative education.	https://education.alaska.gov/SafeSchools
Transforming Schools: Trauma-Engaged Toolkit	A toolkit designed to help Alaska schools and communities integrate trauma-engaged practices and policies into their everyday activities in order to	https://education.alaska.gov/apps/traumawebtoolkit/landing.html

Title	Description	Website address (if applicable)
	improve academic outcomes and well-being for all students.	
<i>Documents</i>		
Adverse Childhood Experiences – Overcoming ACES in Alaska (June 2017), DEED	Report summarizing medical research and comparing Alaska with other states. Report discusses social and economic impacts of ACES, and details strategies to reduce harm.	https://education.alaska.gov/elearning/overcoming_aces
Sample Bullying Policy, Association of Alaska School Boards (AASB)	Model policy and administrative regulation addressing harassment, intimidation, and bullying in schools.	https://education.alaska.gov/tls/safeschools/pdf/bullying-sample-policy-aasb.pdf
Transforming Schools: A Framework for Trauma-Engaged Practice in Alaska	Framework of best practices, research, and stories for school/community teams to integrate trauma-engaged approaches and practices in schools.	https://education.alaska.gov/tls/safeschools/pdf/transforming-schools.pdf
Reducing Early Childhood Exclusionary Practices (RECEP), DEED	Report that describes an initiative to increase equity and inclusion in Alaska early education settings.	https://education.alaska.gov/tls/EarlyLearning/docs/RECEP%20white%20paper.pdf
<i>Other Resources</i>		
Transforming Schools Framework Professional Development Series	Online professional development series featuring modules addressing family partnerships, self-care, and trauma-sensitive schools, etc.	https://education.alaska.gov/apps/traumawebtoolkit/new-framework-page.html



Arizona Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Arizona Revised Statutes

Title 8. Child Safety

Chapter 3. Juvenile Offenders

Article 6. Educational Rehabilitation

[8-371.](#) Educational rehabilitation; definition

Title 13. Criminal Code

Chapter 31. Weapons and Explosives

[13-3111.](#) Minors prohibited from carrying or possessing firearms; exceptions; seizure and forfeiture; penalties; classification

Chapter 34. Drug Offenses

[13-3411.](#) Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions

Title 15. Education

Chapter 1. General Provisions

Article 1. General Provisions

[15-102.](#) Parental involvement in the school; definition

[15-104.](#) Mental health screening; consent; form; exemption

[15-105.](#) Use of restraint and seclusion techniques; requirements; definitions

Article 5. Safety Requirements

[15-153.](#) Crime reporting; policies and procedures; notification; discipline

[15-154.](#) School safety program; purpose; program proposals; requirements; annual report;

[15-154.01.](#) program termination; definitions

Character education matching grant program

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Chapter 3. Local Governance of Schools

Article 3. Powers and Duties of School District Governing Boards

[15-341.](#) General powers and duties; immunity; delegation

[15-342.](#) Discretionary powers

[15-342.02.](#) Dating abuse policies

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Chapter 5. School Employees

Article 1. General Provisions

[15-515.](#) Duty to report violations occurring on school premises

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Article 1. Curriculum

- [15-701.03](#) Health education instruction; mental health instruction
[15-712.](#) Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions
[15-712.01.](#) Instruction on dating abuse; definitions
[15-719.](#) Character education program instruction; fund

Article 3. Assessment and Accountability

- [15-746.](#) School report cards

Article 7. Alternative Education Programs

- [15-796.](#) Alternative education programs; contract with public body or private persons; definition

Chapter 8. School Attendance

Article 1. School Year and Attendance Requirements

- [15-803.](#) School attendance; exemptions; definitions
[15-807.](#) Absence from school; notification of parent or person having custody of pupil; immunity

Article 3. Suspension and Expulsion of Pupils

- [15-840.](#) Definitions
[15-841.](#) Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee
[15-842.](#) Damage to school property; suspension or expulsion of pupil; liability of parent
[15-843.](#) Pupil disciplinary proceedings; definition

Chapter 18. Hazing Prevention Policies

Article 1. General Provisions

- [15-2301.](#) Hazing prevention policies; definitions

[Title 36. Public Health and Safety](#)

Chapter 34. Behavioral Health Services

Article 3. Comprehensive Behavioral Health Service System for Children

- [36-3436.](#) Children's behavioral health services fund; exemption; use of monies
[36-3436.01.](#) School-based behavioral health services; referrals; requirements; annual report

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

15-153. Crime reporting; policies and procedures; notification; discipline.

A. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures for school personnel to report any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to an employee, student or other person on the school property. The policies shall dictate a process for employees to document and report the conduct, including specifying the employees responsible for making a report to the local law enforcement agency pursuant to section 15-341, subsection A, paragraph 30. Conduct that is considered to be bullying, harassment or intimidation shall be addressed according to policies adopted pursuant to section 15-341, subsection A, paragraph 36.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

13. Discipline students for disorderly conduct on the way to and from school.

15-342. Discretionary powers.

The governing board may:

1. Expel pupils for misconduct.

15-348. Dress code policies; traditional tribal regalia; objects of cultural significance; graduation ceremonies; definitions

A. A school district governing board, a charter school governing body or any public school may not prohibit a student who is a member of a federally recognized Indian tribe or who is eligible to be enrolled as a member of a federally recognized Indian tribe from wearing traditional tribal regalia or objects of cultural significance at a graduation ceremony.

B. For the purposes of this section, "objects of cultural significance" and "traditional tribal regalia" include an eagle feather or eagle plume.

15-843. Pupil disciplinary proceedings; definition.

C. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.
2. Procedures for using corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.
5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures and conditions for readmitting a pupil who has been expelled or suspended for more than ten days.
7. Procedures to appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.

8. Procedures to appeal the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation.
9. Disciplinary policies for confining pupils left alone in an enclosed space. These policies shall include the following:
 - (a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.
 - (b) A process for prior written parental consent before confinement is allowed for any pupil in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil poses imminent physical harm to self or others. The school principal or teacher shall make reasonable attempts to notify the pupil's parent or guardian in writing by the end of the same day that confinement was used.
10. Procedures that require the school district to annually report to the department of education in a manner prescribed by the department the number of suspensions and expulsions that involve the possession, use or sale of an illegal substance under title 13, chapter 34 and the type of illegal substance involved in each suspension or expulsion. The department of education shall compile this information and annually post the information on its website. The information shall comply with the family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat. 57; 20 United States Code section 1232g) shall not include personally identifiable information and shall show the number of suspensions and expulsions associated with each illegal substance aggregated statewide and by county.

REGULATIONS

No relevant regulations found.

Scope

LAWS

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

- (a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

15-348. Dress code policies; traditional tribal regalia; objects of cultural significance; graduation ceremonies; definitions

A. A school district governing board, a charter school governing body or any public school may not prohibit a student who is a member of a federally recognized Indian tribe or who is eligible to be enrolled as a member of a federally recognized Indian tribe from wearing traditional tribal regalia or objects of cultural significance at a graduation ceremony.

B. For the purposes of this section, "objects of cultural significance" and "traditional tribal regalia" include an eagle feather or eagle plume.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

15-153. Crime reporting; policies and procedures; notification; discipline.

C. On or before January 1, 2020, each school district or charter school shall post the policies and procedures prescribed by this section on its website. If the school district or charter school maintains an online manual of policies and procedures, the school district or charter school may post a link to that manual with a reference to the appropriate policies and procedures.

15-843. Pupil disciplinary proceedings; definition.

N. The principal of each school shall ensure that a copy of all rules pertaining to discipline, suspension and expulsion of pupils is distributed to the parents of each pupil at the time the pupil is enrolled in school.

O. The principal of each school shall ensure that all rules pertaining to the discipline, suspension and expulsion of pupils are communicated to students at the beginning of each school year, and to transfer students at the time of their enrollment in the school.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

15-843. Pupil disciplinary proceedings; definition.

A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1,1 except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to § 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.
2. Procedures for using corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.
5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures and conditions for readmitting a pupil who has been expelled or suspended for more than ten days.
7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.
8. Procedures for appeal of the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation.
9. Disciplinary policies for confining pupils left alone in an enclosed space. These policies shall include the following:
 - (a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.
 - (b) A process for prior written parental consent before confinement is allowed for any pupil in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil poses imminent physical harm to self or others. The school principal or teacher shall make reasonable attempts to notify the pupil's parent or guardian in writing by the end of the same day that confinement was used.
10. Procedures that require the school district to annually report to the department of education in a manner prescribed by the department the number of suspensions and expulsions that involve the possession, use or sale of an illegal substance under title 13, chapter 342 and the type of illegal substance involved in each suspension or expulsion. The department of education shall compile this information and annually post the information on its website. The information shall comply with the family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat. 57; 20 United States Code § 1232g) shall not include personally identifiable information and shall show the number of suspensions and expulsions associated with each illegal substance aggregated statewide and by county.

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, 15 or 17.3.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

A. Pupils shall comply with the rules, pursue the required course of study and submit to the authority of the teachers, the administrators and the governing board. A teacher may send a pupil to the principal's office in order to maintain effective discipline in the classroom. If a pupil is sent to the principal's office pursuant to this subsection, the principal shall employ appropriate discipline management techniques that are consistent with rules adopted by the school district governing board. A teacher may remove a pupil from the classroom if either of the following conditions exists:

1. The teacher has documented that the pupil has repeatedly interfered with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.
2. The teacher has determined that the pupil's behavior is so unruly, disruptive or abusive that it seriously interferes with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.

15-843. Pupil disciplinary proceedings; definition.

D. The governing board shall:

3. Develop procedures allowing teachers and principals to temporarily remove disruptive pupils from a class.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

E. As an alternative to suspension or expulsion, the school district may reassign any pupil to an alternative education program if the pupil does not meet the requirements for participation in the alternative to suspension program prescribed in subsection H of this section and if good cause exists for expulsion or for a long-term suspension. [...]

I. Each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers. The school district governing board shall adopt policies to determine the requirements for participation in the alternative to suspension program. Pupils who would otherwise be subject to suspension pursuant to this article and who meet the school district's requirements for participation in the alternative to suspension program shall be transferred to a location on school premises that is isolated from other pupils or transferred to a location that is not on school premises. The alternative to suspension program shall be discipline intensive and require academic work, and may require community service, groundskeeping and litter control, parent supervision, and evaluation or other appropriate activities. The community service, groundskeeping and litter control, and other appropriate activities may be performed on school grounds or at any other designated area.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

15-843. Pupil disciplinary proceedings; definition.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

2. Procedures for using corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

15-105. Use of restraint and seclusion techniques; requirements; definitions.

A. A school may permit the use of restraint or seclusion techniques on any pupil if both of the following apply:

1. The pupil's behavior presents an imminent danger of bodily harm to the pupil or others.
2. Less restrictive interventions appear insufficient to mitigate the imminent danger of bodily harm.

B. If a restraint or seclusion technique is used on a pupil:

1. School personnel shall maintain continuous visual observation and monitoring of the pupil while the restraint or seclusion technique is in use.
2. The restraint or seclusion technique shall end when the pupil's behavior no longer presents an imminent danger to the pupil or others.
3. The restraint or seclusion technique shall be used only by school personnel who are trained in the safe and effective use of restraint and seclusion techniques unless an emergency situation does not allow sufficient time to summon trained personnel.
4. The restraint technique employed may not impede the pupil's ability to breathe.
5. The restraint technique may not be out of proportion to the pupil's age or physical condition.

C. Schools may establish policies and procedures for the use of restraint or seclusion techniques in a school safety or crisis intervention plan if the plan is not specific to any individual pupil.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a pupil. The procedures shall include the following requirements:

1. School personnel shall provide the pupil's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident.

2. Within a reasonable time following the incident, school personnel shall provide the pupil's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.

3. Schools shall review strategies used to address a pupil's dangerous behavior if there has been repeated use of restraint or seclusion techniques for the pupil during a school year. The review shall include a review of the incidents in which restraint or seclusion technique were used and an analysis of how future incidents may be avoided, including whether the pupil requires a functional behavioral assessment.

E. If a school district or charter school summons law enforcement instead of using a restraint or seclusion technique on a pupil, the school shall comply with the reporting, documentation and review procedures established under subsection D of this section. Notwithstanding this section, school resource officers are authorized to respond to situations that present the imminent danger of bodily harm according to protocols established by their law enforcement agency.

F. This section does not prohibit schools from adopting policies pursuant to section 15-843, subsection B, paragraph 3.

G. For the purposes of this section:

1. "Restraint" means any method or device that immobilizes or reduces the ability of a pupil to move the pupil's torso, arms, legs or head freely, including physical force or mechanical devices. Restraint does not include any of the following:

(a) Methods or devices implemented by trained school personnel or used by a pupil for the specific and approved therapeutic or safety purposes for which the method or device is designed and, if applicable, prescribed.

(b) The temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a pupil to comply with a reasonable request or to go to a safe location.

(c) The brief holding of a pupil by one adult for the purpose of calming or comforting the pupil.

(d) Physical force used to take a weapon away from a pupil or to separate and remove a pupil from another person when the pupil is engaged in a physical assault on another person.

2. "School" means a school district, a charter school, a public or private special education school that provides services to pupils placed by a public school, the Arizona state schools for the deaf and the blind and a private school.

3. "Seclusion" means the involuntary confinement of a pupil alone in a room from which egress is prevented. Seclusion does not include the use of a voluntary behavior management technique, including a timeout location, as part of a pupil's education plan, individual safety plan, behavioral plan or individualized education program that involves the pupil's separation from a larger group for purposes of calming.

15-843. Pupil disciplinary proceedings; definition.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

9. Disciplinary policies for confining pupils left alone in an enclosed space. These policies shall include the following:

(a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.

(b) A process for prior written parental consent before confinement is allowed for any pupil in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil poses imminent physical harm to self or others. The school principal or teacher shall make reasonable attempts to notify the pupil's parent or guardian in writing by the end of the same day that confinement was used.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

15-342. Discretionary powers.

The governing board may:

1. Expel pupils for misconduct.

15-840. Definitions.

In this article, unless the context otherwise requires:

1. "Expulsion" means the permanent withdrawal of the privilege of attending a school unless the governing board reinstates the privilege of attending the school.
2. "Suspension" means the temporary withdrawal of the privilege of attending a school for a specified period of time.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate. Any expulsions of pupils in a kindergarten program and grades one through four must comply with Section 15-843, Subsection K.

15-842. Damage to school property; suspension or expulsion of pupil; liability of parent.

- A. Except as provided in section 15-843, Subsection K, A pupil who cuts, defaces or otherwise injures any school property may be suspended or expelled.
- B. On complaint of the governing board, the parents or guardians of minors who have injured school property are liable for all damages caused by their children or wards.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

G. A school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school within the jurisdiction of the school district or the charter school, except that the school district or charter school may modify this expulsion requirement for a pupil on a case-by-case basis. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). For the purposes of this subsection:

1. "Expel" may include removing a pupil from a regular school setting and providing educational services in an alternative setting.
2. "Firearm" means a firearm as defined in 18 United States Code section 921.

H. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution, except that the school district or charter school may modify this expulsion requirement for a pupil on a case-by-case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). A school district may reassign a pupil who is subject to expulsion pursuant to this subsection to an alternative education program pursuant to subsection E of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat. For the purposes of this subsection, "threatened an educational institution" means to interfere with or disrupt an educational institution as defined in section 13-2911 by doing any of the following:

1. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.
2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.
3. Going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.
4. Refusing to obey a lawful order to leave the property of an educational institution.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

D. A school district annually or on the request of any pupil or the parent or guardian, may review the reasons for the pupil's expulsion and consider readmission.

15-843. Pupil disciplinary proceedings.

A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1, except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days. [...]

7. Procedures to appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.

8. Procedures to appeal the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation. [...]

F. In all actions concerning the expulsion of a pupil, the governing board of a school district shall:

1. Be notified of the intended action.

2. Either:

(a) Decide, in executive session, whether to hold a hearing or to designate one or more hearing officers to hold a hearing to hear the evidence, prepare a record and bring a recommendation to the board for action and whether the hearing shall be held in executive session.

(b) Provide by policy or vote at its annual organizational meeting that all hearings concerning the expulsion of a pupil conducted pursuant to this section will be conducted before a hearing officer selected from a list of hearing officers approved by the governing board.

3. Give written notice, at least five working days before the hearing by the governing board or the hearing officer or officers designated by the governing board, to all pupils subject to expulsion and their parents or guardians of the date, time and place of the hearing. If the governing board decides that the hearing is to be held in executive session, the written notice shall include a statement of the right of the parents or guardians or an emancipated pupil who is subject to expulsion to object to the governing board's decision to have the hearing held in executive session. Objections shall be made in writing to the governing board.

G. If a parent or guardian or an emancipated pupil who is subject to expulsion disagrees that the hearing should be held in executive session, the hearing shall be held in an open meeting unless:

1. If only one pupil is subject to expulsion and disagreement exists between that pupil's parents or guardians, the governing board, after consultations with the pupil's parents or guardians or the emancipated pupil, shall decide in executive session whether the hearing will be in executive session.

2. If more than one pupil is subject to expulsion and disagreement exists between the parents or guardians of different pupils, separate hearings shall be held subject to this section.

H. This section does not prevent the pupil who is subject to expulsion or suspension, and the pupil's parents or guardians and legal counsel, from attending any executive session pertaining to the proposed disciplinary action, from having access to the minutes and testimony of the executive session or from recording the session at the parent's or guardian's expense.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:

10. A description of appropriate penalties, sanctions and appeals mechanisms for persons and organizations that violate the hazing prevention policy. The sanctions shall include the revocation or suspension of an organization's permission to conduct operations at the educational institution if the organization knowingly permitted, authorized or condoned the hazing activity. Any teacher or staff who knowingly permitted, authorized or condoned the hazing activity is subject to disciplinary action by the educational institution.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

8-371. Educational rehabilitation; definition.

A. Juveniles who are subject to the supervision of a probation officer pursuant to an order of the juvenile court, or who are otherwise eligible for absolute discharge or conditional liberty from the department of juvenile corrections in accordance with section 41-2816, shall, as a condition of probation or liberty, be required to do one of the following:

1. Attend school in order to obtain vocational training or to achieve an appropriate educational level as prescribed in consultation with the school the juvenile attends by the juvenile's probation officer or by the department of juvenile corrections. If the juvenile fails to attend school regularly, maintain appropriate school behavior, or make satisfactory progress as determined in consultation with the school by the probation officer or department of juvenile corrections as specified in subsection C of this section and the juvenile does not meet the requirements of paragraph 2 of this subsection:

- (a) If the juvenile court retains jurisdiction, the juvenile court shall take appropriate action to enforce, modify or revoke its order granting probation.

- (b) If the department of juvenile corrections retains jurisdiction, the department shall act to enforce, modify or revoke its order granting conditional liberty.

2. Attend an on-the-job training program or secure and maintain employment. If the juvenile fails to attend the program or maintain employment and does not meet the requirements of paragraph 1 of this subsection:

- (a) If the juvenile court retains jurisdiction, the juvenile court shall take appropriate action to enforce, modify or revoke its order granting probation.

- (b) If the department of juvenile corrections retains jurisdiction, the department shall act to enforce, modify or revoke its order granting conditional liberty.

B. Subsection A of this section does not apply to juveniles who pass the general educational development test or earn a high school diploma. Subsection A, paragraph 2 of this section does not apply to a juvenile required to attend school under section 15-802.

C. If the juvenile chooses to meet the requirements of subsection A of this section by attending a public school:

1. If the juvenile had previously been expelled from school, prior to readmission of that juvenile to the school, school officials shall meet with the appropriate juvenile court probation officer or department of juvenile corrections case manager and assist in developing conditions of probation or conditional liberty that will provide specific guidelines for behavior and consequences for misbehavior at school as well as educational objectives that must be achieved. If the juvenile is under the jurisdiction of the juvenile court, the court shall review the conditions of probation for the juvenile and may continue the expulsion or return the child to school under the agreed conditions. If the juvenile is under the jurisdiction of the department of juvenile corrections, the department shall review the terms of conditional liberty for the juvenile and may continue the expulsion or return the child to school under the agreed conditions. The governing board may expel the juvenile for subsequent actions as provided in title 15, chapter 8, article 3.

2. The juvenile shall on release be screened by the school to which the juvenile is admitted for possible disabilities as provided in section 15-761, paragraph 2 and, if the screening so indicates, be referred for evaluation for possible placement in a special education program.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

D. A school district annually or on the request of any pupil or the parent or guardian, may review the reasons for the pupil's expulsion and consider readmission. [...]

J. Each school shall establish a placement review committee to determine the placement of a pupil if a teacher refuses to readmit the pupil to the teacher's class and to make recommendations to the governing board regarding the readmission of expelled pupils. The process for determining the placement of a pupil in a new class or replacement in the existing class shall not exceed three business days after the date the pupil was first removed from the existing class. The principal shall not return a pupil to the classroom from which the pupil was removed without the teacher's consent unless the committee determines that the return of the pupil to that classroom is the best or only practicable alternative. The committee shall be composed of two teachers who are employed at the school and who are selected by the faculty members of the school and one administrator who is employed by the school and who is selected by the principal. The faculty members of the school shall select a third teacher to serve as an alternate member of the committee. If the teacher who refuses to readmit the pupil is a member of the committee, that teacher shall be excused from participating in the determination of the pupil's readmission and the alternate teacher member shall replace that teacher on the committee until the conclusion of all matters relating to that pupil's readmission.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

6. Procedures and conditions for readmitting a pupil who has been expelled or suspended for more than ten days.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

15-342. Discretionary powers.

The governing board may:

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

15-796. Alternative education programs; contract with public body or private persons; definition.

A. The governing board of a school district may contract with any public body or private person for the purpose of providing alternative education programs or alternative schools.

B. On the approval of the parent or guardian of a student or of a student who is an emancipated person, the superintendent of a school district may recommend to the governing board the placement of the student in an alternative education program or alternative school as provided in this article.

C. An alternative education program or alternative school may deliver the annual required instructional time or instructional hours prescribed in section 15-797, subsection d or any other section to students on any day of the week.

D. An alternative education program or alternative school may enroll and begin to receive funding for a student without a withdrawal form from the student's previous school if the withdrawal has been verified in the student accountability information system and the alternative education program or alternative school retains electronic documentation validating the withdrawal.

E. Notwithstanding any other law, if the previous school of a student who is enrolled in an alternative education program or alternative school incorrectly codes the student as a graduate in the student accountability information system, the alternative education program or alternative school in which the student is currently enrolled may continue to enroll the student. On notification that a student who has

been incorrectly coded as a graduate is enrolled in an alternative education program or alternative school, the department of education shall allocate funding for the student beginning on the date of the student's enrollment in the alternative education program or alternative school.

F. For the purposes of this section:

1. "Alternative education" means the modification of the school course of study and adoption of teaching methods, materials and techniques, including using any instructional time models pursuant to section 15-901.08, to provide educationally for S in grades six through twelve who are unable to profit from the regular school course of study and environment.

2. "Student accountability information system" means the student accountability information system established by section 15-1041.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

E. As an alternative to suspension or expulsion, the school district may reassign any pupil to an alternative education program if the pupil does not meet the requirements for participation in the alternative to suspension program prescribed in subsection I of this section and if good cause exists for expulsion or for a long-term suspension.

F. A school district may reassign a pupil to an alternative education program if the pupil refuses to comply with rules, refuses to pursue the required course of study or refuses to submit to the authority of teachers, administrators or the governing board. [...]

H. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution as defined in section 13-2911, except that the school district or charter school may modify this expulsion requirement for a pupil on a case-by-case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). A school district may reassign a pupil who is subject to expulsion pursuant to this subsection to an alternative education program pursuant to subsection E of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat. For the purposes of this subsection, "threatened an educational institution" means to interfere with or disrupt an educational institution as defined in section 13-2911 by doing any of the following:

1. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.

2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.

3. Going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.

4. Refusing to obey a lawful order to leave the property of an educational institution.

15-843. Pupil disciplinary proceedings; definition.

P. School districts may refer a pupil who has been subject to discipline, suspension or expulsion pursuant to this section to a career and college readiness program for at-risk students established pursuant to section 15-707

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

13-3111. Minors prohibited from carrying or possessing firearms; exceptions; seizure and forfeiture; penalties; classification.

A. Except as provided in subsection B, an unemancipated person who is under eighteen years of age and who is unaccompanied by a parent, grandparent or guardian, or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the unemancipated person's parent or guardian, shall not knowingly carry or possess on his person, within his immediate control, or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property owned or leased by the minor or the minor's parent, grandparent or guardian.

B. This section does not apply to a person who is fourteen, fifteen, sixteen or seventeen years of age and who is any of the following:

1. Engaged in lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.
2. Engaged in lawful transportation of an unloaded firearm for the purpose of lawful hunting.
3. Engaged in lawful transportation of an unloaded firearm between the hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.
4. Engaged in activities requiring the use of a firearm that are related to the production of crops, livestock, poultry, livestock products, poultry products, or ratites or in the production or storage of agricultural commodities.

C. If the minor is not exempt under subsection B and is in possession of a firearm, a peace officer shall seize the firearm at the time the violation occurs.

D. In addition to any other penalty provided by law, a person who violates subsection A shall be subject to the following penalties:

1. If adjudicated a delinquent juvenile for an offense involving an unloaded firearm, a fine of not more than two hundred fifty dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.
2. If adjudicated a delinquent juvenile for an offense involving a loaded firearm, a fine of not more than five hundred dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.
3. If adjudicated a delinquent juvenile for an offense involving a loaded or unloaded firearm, if the person possessed the firearm while the person was the driver or an occupant of a motor vehicle, a fine of not more than five hundred dollars and the court shall order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of adjudication, the court shall direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age. If the court finds that

no other means of transportation is available, the driving privileges of the child may be restricted to travel between the child's home, school and place of employment during specified periods of time according to the child's school and employment schedule.

E. Firearms seized pursuant to subsection C shall be held by the law enforcement agency responsible for the seizure until the charges have been adjudicated or disposed of otherwise or the person is convicted. Upon adjudication or conviction of a person for a violation of this section, the court shall order the firearm forfeited. However, the law enforcement agency shall return the firearm to the lawful owner if the identity of that person is known.

F. If the court finds that the parent or guardian of a minor found responsible for violating this section knew or reasonably should have known of the minor's unlawful conduct and made no effort to prohibit it, the parent or guardian is jointly and severally responsible for any fine imposed pursuant to this section or for any civil actual damages resulting from the unlawful use of the firearm by the minor.

G. This section is supplemental to any other law imposing a criminal penalty for the use or exhibition of a deadly weapon. A minor who violates this section may be prosecuted and adjudicated delinquent for any other criminal conduct involving the use or exhibition of the deadly weapon.

H. A person who violates subsection A is guilty of a class 6 felony.

15-153. Crime reporting; policies and procedures; notification; discipline.

A. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures for school personnel to report any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to an employee, student or other person on the school property. The policies shall dictate a process for employees to document and report the conduct, including specifying the employees responsible for making a report to the local law enforcement agency pursuant to section 15-341, subsection A, paragraph 30. Conduct that is considered to be bullying, harassment or intimidation shall be addressed according to policies adopted pursuant to section 15-341, subsection A, paragraph 36.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator. [...]

30. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

15-515. Duty to report violations occurring on school premises.

All school personnel who observe a violation of section 13-3102, subsection A, paragraph 12 or section 13-3111 on school premises shall immediately report the violation to the school administrator. The administrator shall immediately report the violation to a peace officer. The peace officer shall report this violation to the department of public safety for inclusion in the statewide and federal uniform crime reports prescribed in section 41-1750, subsection A, paragraph 2.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate. Any expulsions of pupils in a kindergarten program and grades one through four must comply with section 15-843, subsection k.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

15-803. School attendance; exemptions; definitions.

A. It is unlawful for any child who is between six and sixteen years of age to fail to attend school during the hours school is in session, unless either:

1. The child is excused pursuant to section 15-802, subsection D or section 15-901, subsection A, paragraph 5, subdivision (c).
2. The child is accompanied by a parent or a person authorized by a parent.
3. The child is provided with instruction in a homeschool.

B. A child who is habitually truant or who has excessive absences may be adjudicated an incorrigible child as defined in section 8-201. Absences may be considered excessive when the number of absent days exceeds ten per cent of the number of required attendance days prescribed in section 15-802, subsection B, paragraph 1.

C. For the purposes of this section:

1. "Habitually truant" means a truant child who is truant for at least five school days within a school year.
2. "Truant" means an unexcused absence for at least one class period during the day.
3. "Truant child" means a child who is between six and sixteen years of age and who is not in attendance at a public or private school during the hours that school is in session, unless excused as provided by this section.

15-807. Absence from school; notification of parent or person having custody of pupil; immunity.

A. If a pupil in a kindergarten program or grades one through eight is absent from school without excuse as provided in this article or without notice to the school in which the pupil is enrolled of authorization of the absence by the parent or other person who has custody of the pupil, the school in which the pupil is

enrolled shall make a reasonable effort to promptly telephone and notify the parent or other person who has custody of the pupil of the pupil's absence from school:

1. Within two hours after the first class in which the pupil is absent for a pupil in kindergarten or grades one through six.
2. Within two hours after the first class in which the pupil is absent for a pupil in grade seven or eight if the first class in which the pupil is absent is the pupil's first class of the school day.
3. Within five hours after the first class in which the pupil is absent for a pupil in grade seven or eight if the first class in which the pupil is absent is after the pupil's first class of the school day.

B. On or before the enrollment of a pupil in a kindergarten program or grades one through eight, the school district shall notify parents or other persons who have custody of a pupil of their responsibility to authorize any absence of the pupil from school and to notify the school in which the pupil is enrolled in advance or at the time of any absence and that the school district requires that at least one telephone number, if available, be given for purposes of this section. The school district shall require that the telephone number, if available, be given at the time of enrollment of the pupil in school and that the school of enrollment be promptly notified of any change in the telephone number.

C. A school district, governing board members of a school district and employees or agents of a school district are not liable for failure to notify the parent or other person who has custody of a pupil of the pupil's absence from school as provided in this section.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate. Any expulsions of pupils in a kindergarten program and grades one through four must comply with section 15-843, subsection k.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion. [...]

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, 14, 15 or 17.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone. [...]

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

15-345. Chemical abuse prevention policies and procedures.

The school district governing board may adopt chemical abuse prevention policies and procedures in consultation with pupils, school district personnel and members of the community, including parents and local law enforcement agencies.

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions.

B. At the request of a school district, the department of education shall provide technical assistance to school districts that choose to implement programs to prevent chemical abuse.

C. The department of education and the department of health services, in consultation with the committee established pursuant to section 41-617, shall establish an interagency committee to coordinate their assistance to school districts.

D. The state board of education may accept gifts and grants and shall distribute them and monies appropriated for chemical abuse prevention programs to school districts to assist with the costs of programs designed to prevent chemical abuse by pupils in kindergarten programs and grades one through twelve. School districts which have approved chemical abuse prevention policies and procedures as prescribed in section 15-345 are eligible for a maximum of one dollar for each pupil or one thousand dollars, whichever is more. If sufficient monies are not available to meet all requests, the state board shall determine which school districts to fund based on need, availability of other programs or sources of revenue and the likelihood of the school district's proposed program successfully meeting needs identified by the school district. A school district shall include the monies it receives for chemical abuse prevention programs under this section in the special projects section of the budget as provided in section 15-903, subsection F.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

15-153. Crime reporting; policies and procedures; notification; discipline.

A. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures for school personnel to report any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to an employee, student or other person on the school property. The policies shall dictate a process for employees to document and report the conduct, including specifying the employees responsible for making a report to the local law enforcement agency pursuant to section 15-341, subsection A, paragraph 30. Conduct that is considered to be bullying, harassment or intimidation shall be addressed according to policies adopted pursuant to section 15-341, subsection A, paragraph 36.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons

other than school officials or law enforcement, all individually identifiable information shall be redacted.

(f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim and the alleged victim's parent or guardian when a school official or employee becomes aware of the suspected incident of harassment, intimidation or bullying.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying. [...]

44. In addition to the notification requirements prescribed in paragraph 36 of this subsection, prescribe and enforce reasonable and appropriate policies to notify a pupil's parent or guardian if any person engages in harassing, threatening or intimidating conduct against that pupil. A school district and its officials and employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of gross negligence or wanton or wilful neglect. A person engages in threatening or intimidating if the person threatens or intimidates by word or conduct to cause physical injury to another person or serious damage to the property of another on school grounds. A person engages in harassment if, with intent to harass or with knowledge that the person is harassing another person, the person anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telephonic or written means in a manner that harasses on school grounds or substantially disrupts the school environment.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:

1. A definition of hazing pursuant to subsection C, paragraph 2 of this section.
2. A statement that hazing is prohibited.
3. A statement that any solicitation to engage in hazing is prohibited.
4. A statement that aiding and abetting another person who is engaged in hazing is prohibited.
5. A statement that it is not a defense to a violation of the hazing prevention policy if the hazing victim consented to or acquiesced in the hazing activity.
6. A statement that all students, teachers and staff shall take reasonable measures within the scope of their individual authority to prevent violations of the hazing prevention policy.
7. A description of the procedures for students, teachers and staff to report violations of the hazing prevention policy and the procedures to file a complaint for a violation of the hazing prevention policy.
8. Procedures to investigate reports of violations of the hazing prevention policy and to investigate complaints for a violation of the hazing prevention policy.
9. A description of the circumstances under which a violation of the hazing prevention policy shall be reported to the appropriate law enforcement agency.
10. A description of appropriate penalties, sanctions and appeals mechanisms for persons and organizations that violate the hazing prevention policy. The sanctions shall include the revocation or

suspension of an organization's permission to conduct operations at the educational institution if the organization knowingly permitted, authorized or condoned the hazing activity. Any teacher or staff who knowingly permitted, authorized or condoned the hazing activity is subject to disciplinary action by the educational institution.

B. Violations of hazing prevention policies adopted pursuant to this section do not include either of the following:

1. Customary athletic events, contests or competitions that are sponsored by an educational institution.
2. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program.

C. For purposes of this section:

2. "Hazing" means any intentional, knowing or reckless act committed by a student, whether individually or in concert with other persons, against another student, and in which both of the following apply:
 - (a) The act was committed in connection with an initiation into, an affiliation with or the maintenance of membership in any organization that is affiliated with an educational institution.
 - (b) The act contributes to a substantial risk of potential physical injury, mental harm or degradation or causes physical injury, mental harm or personal degradation.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

15-342.02. Dating abuse policies.

A school district governing board may prescribe and enforce policies and procedures to address incidents of dating abuse involving students at school that may be based on a model dating abuse policy.

15-712.01. Instruction on dating abuse; definitions.

A. A school district that provides instruction in grades seven through twelve may incorporate dating abuse information that is age appropriate into the school district's existing health curriculum for pupils in grades seven through twelve that includes the following components:

1. A definition of dating abuse.
2. The recognition of dating abuse warning signs.
3. The characteristics of healthy relationships.

B. On written request to the principal of the school where a child is enrolled, the parent or guardian of a pupil who is under eighteen years of age shall be permitted to review the dating abuse information instructional materials within a reasonable time after submitting the written request.

C. For the purposes of this section:

1. "Dating abuse" means a pattern of behavior in which one person uses or threatens to use physical, sexual, verbal or emotional abuse to control the person's dating partner.
2. "Dating partner" means any person who is involved in an intimate association with another person that is primarily characterized by the expectation of affectionate involvement and that includes casual, serious and long-term dating partners.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

15-154. School safety program; purpose; program proposals; requirements; annual report; program termination; definitions.

D. The department of education shall review and administer the school resource officers and juvenile probation officers program proposals in cooperation with the courts, law enforcement agencies and law-related education providers awarded a contract pursuant to section 41-2534, subject to review and approval by the state board of education. The department of education shall use relevant crime statistics to assess the needs of each program proposal and shall visit school districts and charter schools that submit program proposals in order to verify the information contained in the program proposals. The department of education shall contract to provide guidelines, curricula and support resources for school resource officers and juvenile probation officers to use in implementing a law-related education program.

15-154.01. Character education matching grant program.

A. Any public or charter school that teaches a character education curriculum pursuant to section 15-719 is eligible for a state matching grant. The school shall provide matching monies from any lawful source, except that the school shall not use resources obtained from a federal character education grant as matching monies to obtain a second state character education grant.

B. The character education program shall be an age-specific, stand-alone character education curriculum with the following elements:

1. Applicable definitions for character qualities that include at least five of the following attributes:

- (a) Attentiveness.
- (b) Caring.
- (c) Citizenship.
- (d) Compassion.
- (e) Diligence.
- (f) Discernment.
- (g) Forgiveness.
- (h) Generosity.
- (i) Gratefulness.
- (j) Initiative.
- (k) Orderliness.
- (l) Respect.
- (m) Responsibility.
- (n) Sincerity.
- (o) Trustworthiness.
- (p) Virtue.
- (q) Wisdom.

2. Activities that provide a forum for practical application and an environment in which character-related behavior is identified, recognized and reinforced, such as literature or visual media presentations or discussion of character values as they relate to a specific story.

3. Stories from the lives of our nation's leaders in which character qualities are demonstrated.

4. Mentors or teachers who demonstrate the character qualities defined in the lessons presented.
5. Mentor and teacher training for praising students who demonstrate specific character qualities.
6. A precourse and postcourse survey of parents, teachers and students on their assessment of the program.

C. The department of education shall administer the program and distribute the state matching grant monies. The department may annually retain up to seven per cent of the state matching grant monies for the cost of administering the program. Programs must demonstrate proven and effective curriculum and training to receive matching grant funds.

D. The department of education shall distribute the state matching grant monies under this section for services provided by organizations that have been previously preapproved as providers of proven and effective programs. Grant applications submitted by schools:

1. Shall be submitted to the department of education and shall list a selected preapproved program provider.
2. Shall be fairly and objectively reviewed and approved by a technical evaluation team that is appointed by the procurement division of the department of education and that is composed of representatives from the department of education, the education community, the business community and nonprofit organizations.
3. Are subject to the procurement laws of this state.

E. The department of education shall apply for all applicable character education grants from the federal government.

F. The department of education shall evaluate the effectiveness of all character education programs funded by state and federal resources.

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions.

B. At the request of a school district, the department of education shall provide technical assistance to school districts that choose to implement programs to prevent chemical abuse.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

15-154.01. Character education matching grant program.

A. Any public or charter school that teaches a character education curriculum pursuant to section 15-719 is eligible for a state matching grant. The school shall provide matching monies from any lawful source, except that the school shall not use resources obtained from a federal character education grant as matching monies to obtain a second state character education grant.

B. The character education program shall be an age-specific, stand-alone character education curriculum with the following elements:

1. Applicable definitions for character qualities that include at least five of the following attributes:

- (a) Attentiveness.
- (b) Caring.
- (c) Citizenship.
- (d) Compassion.
- (e) Diligence.
- (f) Discernment.
- (g) Forgiveness.
- (h) Generosity.
- (i) Gratefulness.
- (j) Initiative.
- (k) Orderliness.
- (l) Respect.
- (m) Responsibility.
- (n) Sincerity.
- (o) Trustworthiness.
- (p) Virtue.
- (q) Wisdom.

2. Activities that provide a forum for practical application and an environment in which character-related behavior is identified, recognized and reinforced, such as literature or visual media presentations or discussion of character values as they relate to a specific story.

3. Stories from the lives of our nation's leaders in which character qualities are demonstrated.

4. Mentors or teachers who demonstrate the character qualities defined in the lessons presented.

5. Mentor and teacher training for praising students who demonstrate specific character qualities.

6. A precourse and postcourse survey of parents, teachers and students on their assessment of the program.

C. The department of education shall administer the program and distribute the state matching grant monies. The department may annually retain up to seven per cent of the state matching grant monies for the cost of administering the program. Programs must demonstrate proven and effective curriculum and training to receive matching grant funds.

D. The department of education shall distribute the state matching grant monies under this section for services provided by organizations that have been previously preapproved as providers of proven and effective programs. Grant applications submitted by schools:

- 1. Shall be submitted to the department of education and shall list a selected preapproved program provider.
- 2. Shall be fairly and objectively reviewed and approved by a technical evaluation team that is appointed by the procurement division of the department of education and that is composed of

representatives from the department of education, the education community, the business community and nonprofit organizations.

3. Are subject to the procurement laws of this state.

E. The department of education shall apply for all applicable character education grants from the federal government.

F. The department of education shall evaluate the effectiveness of all character education programs funded by state and federal resources.

15-719. Character education program instruction; fund.

A. Each common, high and unified school district and charter school may provide instruction to kindergarten programs through the twelfth grade on character development.

B. Each district may develop its own course of study for each grade. At a minimum, the character education program must include:

1. Instruction in the definition and application of at least six of the following character traits: truthfulness, responsibility, compassion, diligence, sincerity, trustworthiness, respect, attentiveness, obedience, orderliness, forgiveness, virtue, fairness, caring, citizenship and integrity.

2. The use of activities, discussions and visual media and literacy presentations to illustrate and reinforce the application of the character traits.

3. Presentations by teachers or mentors who demonstrate the character traits.

C. At the request of the school district or charter school, the department of education may certify that the school district or charter school has a character development instruction program that meets all of the requirements in subsection B of this section.

D. Parents may elect for their child not to participate in the program.

E. The school district or charter school may accept donations or charge fees for the program if the program is not offered during regular school hours.

F. A character education special plate fund is established consisting of monies received pursuant to section 28-2421. The department of education shall administer the fund. Not more than ten per cent of monies deposited in the fund annually shall be used for the cost of administering the fund. Monies in the fund are continuously appropriated. Monies from the fund shall be annually distributed by the department by July 1.

G. The character education and development division at the department of education shall allocate monies through at least two but no more than four private character education foundations that are incorporated nonprofit corporations in this state and that are qualified under section 501(c)(3) of the United States internal revenue code for federal income tax purposes. The director of the character education and development division at the department of education shall select private character education foundations that provide character education programs that demonstrate proven and effective research based curriculum and training to receive monies from the character education special plate fund.

H. On notice from the department of education, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

I. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

15-701.03. Health education instruction; mental health instruction

In adopting the course of study and competency requirements pursuant to sections 15-701 and 15-701.01, the state board of education shall require that all health education instruction include mental health instruction. Mental health instruction may be included in a health course or another existing course and shall incorporate the multiple dimensions of health by including mental health and the relationship of physical and mental health to enhance student understanding, social and emotional learning, attitudes and behavior that promote health and well-being. In adopting the mental health instruction requirement, the state board of education shall consult with the following:

1. Mental health experts, including representatives from the department of health services.
2. Mental health advocacy organizations that are based in this state.
3. The department of education.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

15-104. Mental health screening; consent; form; exemption.

A. Before it conducts a mental health screening on any pupil, defined as a survey, analysis or evaluation created by a governmental or private third party pursuant to the protection of pupil rights amendment (20 United States Code section 1232h; 34 Code of Federal Regulations part 98), a school district or charter school must have obtained the written consent of the pupil's parent or legal guardian. The written consent must satisfy all of the following requirements:

1. Contain language that clearly explains the nature of the screening program and when and where the screening will take place.
2. Be signed by the pupil's parent or legal guardian.
3. Provide notice that a copy of the actual survey, analysis or evaluation questions to be asked of the student is available for inspection upon request by the parent or legal guardian.

B. The chemical abuse and related gang activity survey conducted by the Arizona criminal justice commission pursuant to section 41-2416 is exempt from the provisions of this section if the survey does not include questions related to depression or religiosity.

15-154. School safety program; purpose; program proposals; requirements; annual report; program termination; definitions.

A. The school safety program is established within the department of education to support, promote and enhance safe and effective learning environments for all students by supporting the costs of placing school resource officers, juvenile probation officers, school counselors and school social workers on

school campuses. A school district or charter school may apply to participate in the school safety program as provided in this section for up to three fiscal years by submitting by April 15 a program proposal to the department of education. A school district or charter school that receives approval for a three-year program under this subsection may annually submit a modified spending plan for its approved program. [...]

E. The department of education shall review and administer the school counselors and school social workers program proposals in cooperation with school administrators, principals, teachers, parents and community mental health professionals. The department of education shall use relevant school-level academic, social and emotional statistics to assess the needs of each program proposal and shall visit school districts and charter schools that submit program proposals in order to verify the information contained in the program proposals.

36-3436. Children's behavioral health services fund; exemption; use of monies.

C. The administration shall enter into an agreement with one or more contractors for children's behavioral health services using monies from the children's behavioral health services fund to pay for behavioral health services for children. To be eligible to receive behavioral health services paid by the fund, an individual must meet all of the following conditions:

3. Be referred for behavioral health services by an educational institution.
4. Have written parental consent to obtain the behavioral health services.
6. Receive the behavioral health services on or off school grounds.

36-3436.01. School-based behavioral health services; referrals; requirements; annual report.

A. Before a school provides school-based referrals for behavioral health services to a contracted behavioral health services provider either pursuant to the children's behavioral health services fund established by section 36-3436 or for services provided through the Arizona health care cost containment system, the school district governing board or charter school governing body shall adopt policies relating to school-based referrals. These policies shall be vetted at a public meeting in which the school district governing board or charter school governing body considers any comments submitted by the public before the governing board or governing body adopts the policies. The school district governing board or charter school governing body shall post the policies adopted pursuant to this section on each applicable school website. The policies shall include the following:

1. A process to allow a parent to annually opt into the school-based referrals.
2. A process to conduct a survey of parents whose children were referred to and received behavioral health services pursuant to this section. The survey may be completed online. The survey shall include at least the following:
 - (a) Whether the parent opted into the program.
 - (b) Whether the parent was notified before the referral took place.
 - (c) Whether the behavioral health services referred were appropriate to meet the student's need.
 - (d) Whether the parent is satisfied with the choice of behavioral health services providers.
 - (e) Whether the parent intends to opt into a program again in the following school year.
3. A requirement that each school's website contain a list of behavioral health services providers with whom the school contracts.

B. At the end of each school year, each participating school district and charter school shall report to the administration the school survey results.

C. The administration shall compile a report based on the surveys received from participating school districts and charter schools as well as utilization data for behavioral health services received pursuant to the children's behavioral health services fund established by section 36-3436. On or before December 31 each year, the administration shall provide the report to the governor, the president of the senate and the

speaker of the house of representatives and provide a copy of the report to the secretary of state. The report shall include at least all of the following information:

1. The number of students served.
2. The types of behavioral health services provided.
3. The costs of the behavior health services provided.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone. [...]

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

15-105. Use of restraint and seclusion techniques; requirements; definitions.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a pupil. The procedures shall include the following requirements:

1. School personnel shall provide the pupil's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident.
2. Within a reasonable time following the incident, school personnel shall provide the pupil's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.
3. Schools shall review strategies used to address a pupil's dangerous behavior if there has been repeated use of restraint or seclusion techniques for the pupil during a school year. The review shall include a review of the incidents in which restraint or seclusion technique were used and an analysis of how future incidents may be avoided, including whether the pupil requires a functional behavioral assessment.

15-153. Crime reporting; policies and procedures; notification; discipline.

A. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures for school personnel to report any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to an employee, student or other person on the school property. The policies shall dictate a process for

employees to document and report the conduct, including specifying the employees responsible for making a report to the local law enforcement agency pursuant to section 15-341, subsection A, paragraph 30. Conduct that is considered to be bullying, harassment or intimidation shall be addressed according to policies adopted pursuant to section 15-341, subsection A, paragraph 36.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

- (a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.
- (b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.
- (c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.
- (d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.
- (e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.
- (f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim and the alleged victim's parent or guardian when a school official or employee becomes aware of the suspected incident of harassment, intimidation or bullying.

15-843. Pupil disciplinary proceedings; definition.

K. Unless required by section 15-841, subsection g, a school district or charter school may suspend or expel a pupil who is enrolled in a kindergarten program, first grade, second grade, third grade or fourth grade only if all of the following apply:

1. The pupil is seven years of age or older.
2. The pupil engaged in conduct on school grounds that meets one of the following criteria:
 - (a) involves the possession of a dangerous weapon without authorization from the school.
 - (b) involves the possession, use or sale of a dangerous drug as defined in section 13-3401 or a narcotic drug as defined in section 13-3401 or a violation of section 13-3411.
 - (c) immediately endangers the health or safety of others.

(d) the pupil's behavior is determined by the school district governing board or charter school governing body to qualify as aggravating circumstances and that all of the following apply:

(i) the pupil is engaged in persistent behavior that has been documented by the school and that prevents other pupils from learning or prevents the teacher from maintaining control of the classroom environment.

(ii) the pupil's ongoing behavior is unresponsive to targeted interventions as documented through an established intervention process that includes consultation with a school counselor, school psychologist or other mental health professional or social worker if available within the school district or charter school or through a state sponsored program.

(iii) the pupil's parent or guardian was notified and consulted about the ongoing behavior.

(iv) before a long-term suspension or expulsion, the school provides the pupil with a disability screening and the screening finds that the behavioral issues were not the result of a disability.

3. Failing to remove the pupil from the school building would create a safety threat that cannot otherwise reasonably be addressed or qualifies as aggravating circumstances as specified in paragraph 2 of this subsection.

4. Before suspending or expelling the pupil, the school district or charter school considers and, if feasible while maintaining the health and safety of others, in consultation with the pupil's parent or guardian to the extent possible, employs alternative behavioral and disciplinary interventions that are available to the school district or charter school, that are appropriate to the circumstances and that are considerate of health and safety. The school district or charter school shall document the alternative behavioral and disciplinary interventions it considers and employs.

5. The school district or charter school, by policy, provides for both:

(a) a readmission procedure for pupils who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who have served at least five school days of a suspension from the school that exceeds ten school days to be considered for readmission on appeal of the pupil's parent or guardian.

(b) a readmission procedure for pupils who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who are expelled from or subject to alternative reassignment at the school to be considered for readmission on appeal of the pupil's parent or guardian at least twenty school days after the effective date of the expulsion or alternative reassignment.

L. In all cases of suspension, it shall be for good cause and shall be reported within five days to the governing board by the superintendent or the person imposing the suspension.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:

7. A description of the procedures for students, teachers and staff to report violations of the hazing prevention policy and the procedures to file a complaint for a violation of the hazing prevention policy.

8. Procedures to investigate reports of violations of the hazing prevention policy and to investigate complaints for a violation of the hazing prevention policy.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

15-102. Parental involvement in the school; definition.

A. Each school district governing board, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district, including:

1. A plan for parent participation in the schools that is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline. The plan shall provide for the administration of a parent-teacher satisfaction survey.

15-105. Use of restraint and seclusion techniques; requirements; definitions.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a pupil. The procedures shall include the following requirements:

1. School personnel shall provide the pupil's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident.
2. Within a reasonable time following the incident, school personnel shall provide the pupil's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.

15-153. Crime reporting; policies and procedures; notification; discipline.

B. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures that require the school district or charter school to notify the parent or guardian of each student who is involved in a suspected crime or any conduct that is described in subsection A of this section, subject to the requirements of federal law.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

44. In addition to the notification requirements prescribed in paragraph 36 of this subsection, prescribe and enforce reasonable and appropriate policies to notify a pupil's parent or guardian if any person engages in harassing, threatening or intimidating conduct against that pupil. A school district and its officials and employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of gross negligence or wanton or wilful neglect. A person engages in threatening or intimidating if the person threatens or intimidates by word or conduct to cause physical injury to another person or serious damage to the property of another on school grounds. A person engages in harassment if, with intent to harass or with knowledge that the person is harassing another person, the person anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telephonic or written means in a manner that harasses on school grounds or substantially disrupts the school environment.

15-342. Discretionary powers.

The governing board may:

32. Adopt policies that require parental notification when a law enforcement officer interviews a pupil on school grounds. Policies adopted pursuant to this paragraph shall not impede a peace officer from the performance of the peace officer's duties. If the school district governing board adopts a policy that requires parental notification:

- (a) The policy may provide reasonable exceptions to the parental notification requirement.
- (b) The policy shall set forth whether and under what circumstances a parent may be present when a law enforcement officer interviews the pupil, including reasonable exceptions to the circumstances under which a parent may be present when a law enforcement officer interviews the pupil, and shall specify a reasonable maximum time after a parent is notified that an interview of a pupil by a law enforcement officer may be delayed to allow the parent to be present.

15-807. Absence from school; notification of parent or person having custody of pupil; immunity.

A. If a pupil in a kindergarten program or grades one through eight is absent from school without excuse as provided in this article or without notice to the school in which the pupil is enrolled of authorization of the absence by the parent or other person who has custody of the pupil, the school in which the pupil is enrolled shall make a reasonable effort to promptly telephone and notify the parent or other person who has custody of the pupil of the pupil's absence from school:

- 1. Within two hours after the first class in which the pupil is absent for a pupil in kindergarten or grades one through six.
- 2. Within two hours after the first class in which the pupil is absent for a pupil in grade seven or eight if the first class in which the pupil is absent is the pupil's first class of the school day.
- 3. Within five hours after the first class in which the pupil is absent for a pupil in grade seven or eight if the first class in which the pupil is absent is after the pupil's first class of the school day.

B. On or before the enrollment of a pupil in a kindergarten program or grades one through eight, the school district shall notify parents or other persons who have custody of a pupil of their responsibility to authorize any absence of the pupil from school and to notify the school in which the pupil is enrolled in advance or at the time of any absence and that the school district requires that at least one telephone number, if available, be given for purposes of this section. The school district shall require that the telephone number, if available, be given at the time of enrollment of the pupil in school and that the school of enrollment be promptly notified of any change in the telephone number.

C. A school district, governing board members of a school district and employees or agents of a school district are not liable for failure to notify the parent or other person who has custody of a pupil of the pupil's absence from school as provided in this section.

15-843. Pupil disciplinary proceedings; definition.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

- 9. Disciplinary policies for confining pupils left alone in an enclosed space. These policies shall include the following:
 - (a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.
 - (b) A process for prior written parental consent before confinement is allowed for any pupil in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil poses imminent physical harm to self or others. The school principal or teacher shall make reasonable attempts to notify the pupil's parent or guardian in writing by the end of the same day that confinement was used. [...]

F. In all actions concerning the expulsion of a pupil, the governing board of a school district shall:

- 3. Give written notice, at least five working days before the hearing by the governing board or the hearing officer or officers designated by the governing board, to all pupils subject to expulsion and their parents or guardians of the date, time and place of the hearing. If the governing board decides that the hearing is to be held in executive session, the written notice shall include a statement of the right of the parents or guardians or an emancipated pupil who is subject to expulsion to object to the governing

board's decision to have the hearing held in executive session. Objections shall be made in writing to the governing board.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

15-746. School report cards.

A. Each school shall distribute an annual report card that contains at least the following information:

5. The total number of incidents that occurred on the school grounds, at school bus stops, on school buses and at school-sponsored events and that required the contact of a local, county, tribal, state or federal law enforcement officer pursuant to section 13-3411, subsection F, section 13-3620, section 15-341, subsection A, paragraph 30 or section 15-515. The total number of incidents reported shall only include reports that law enforcement officers report to the school are supported by probable cause. For the purposes of this paragraph, a certified peace officer who serves as a school resource officer is a law enforcement officer. A school may provide clarifying information if the school has a school resource officer on campus.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

10. Procedures that require the school district to annually report to the department of education in a manner prescribed by the department the number of suspensions and expulsions that involve the possession, use or sale of an illegal substance under title 13, chapter 34 and the type of illegal substance involved in each suspension or expulsion. The department of education shall compile this information and annually post the information on its website. The information shall comply with the family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat. 57; 20 United States Code section 1232g) shall not include personally identifiable information and shall show the number of suspensions and expulsions associated with each illegal substance aggregated statewide and by county.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone. [...]

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

15-105. Use of restraint and seclusion techniques; requirements; definitions.

E. If a school district or charter school summons law enforcement instead of using a restraint or seclusion technique on a pupil, the school shall comply with the reporting, documentation and review procedures established under subsection D of this section. Notwithstanding this section, school resource officers are authorized to respond to situations that present the imminent danger of bodily harm according to protocols established by their law enforcement agency.

15-153. Crime reporting; policies and procedures; notification; discipline.

A. Each school district governing board and charter school governing body shall prescribe and enforce policies and procedures for school personnel to report any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to an employee, student or other person on the school property. The policies shall dictate a process for employees to document and report the conduct, including specifying the employees responsible for making a report to the local law enforcement agency pursuant to section 15-341, subsection A, paragraph 30. Conduct that is considered to be bullying, harassment or intimidation shall be addressed according to policies adopted pursuant to section 15-341, subsection A, paragraph 36.

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

30. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other

than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105. [...]

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

- (i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

15-342. Discretionary powers.

The governing board may:

32. Adopt policies that require parental notification when a law enforcement officer interviews a pupil on school grounds. Policies adopted pursuant to this paragraph shall not impede a peace officer from the performance of the peace officer's duties. If the school district governing board adopts a policy that requires parental notification:

- (a) The policy may provide reasonable exceptions to the parental notification requirement.
- (b) The policy shall set forth whether and under what circumstances a parent may be present when a law enforcement officer interviews the pupil, including reasonable exceptions to the circumstances under which a parent may be present when a law enforcement officer interviews the pupil, and shall specify a reasonable maximum time after a parent is notified that an interview of a pupil by a law enforcement officer may be delayed to allow the parent to be present.

15-515. Duty to report violations occurring on school premises.

All school personnel who observe a violation of section 13-3102, subsection A, paragraph 12 or section 13-3111 on school premises shall immediately report the violation to the school administrator. The administrator shall immediately report the violation to a peace officer. The peace officer shall report this violation to the department of public safety for inclusion in the statewide and federal uniform crime reports prescribed in section 41-1750, subsection A, paragraph 2.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:

- 9. A description of the circumstances under which a violation of the hazing prevention policy shall be reported to the appropriate law enforcement agency.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

15-154. School safety program; purpose; program proposals; requirements; annual report; program termination; definitions.

A. The school safety program is established within the department of education to support, promote and enhance safe and effective learning environments for all students by supporting the costs of placing

school resource officers, juvenile probation officers, school counselors and school social workers on school campuses. A school district or charter school may apply to participate in the school safety program as provided in this section for up to three fiscal years by submitting by April 15 a program proposal to the department of education. A school district or charter school that receives approval for a three-year program under this subsection may annually submit a modified spending plan for its approved program.

B. A program proposal submitted by a school district or charter school for supporting the costs of placing school resource officers or juvenile probation officers, or both, on a school campus shall contain:

1. A detailed description of the school safety needs of the charter school or school district.
2. A plan for implementing a law-related education program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.
3. A plan to use trained school resource officers or juvenile probation officers in the school, or both. [...]
5. "School resource officer" means a peace officer or a full-authority reserve peace officer who is certified by the Arizona peace officer standards and training board.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

15-154. School safety program; purpose; program proposals; requirements; annual report; program termination; definitions.

A. The school safety program is established within the department of education to support, promote and enhance safe and effective learning environments for all students by supporting the costs of placing school resource officers, juvenile probation officers, school counselors and school social workers on school campuses. A school district or charter school may apply to participate in the school safety program as provided in this section for up to three fiscal years by submitting by April 15 a program proposal to the department of education. A school district or charter school that receives approval for a three-year program under this subsection may annually submit a modified spending plan for its approved program.

B. A program proposal submitted by a school district or charter school for supporting the costs of placing school resource officers or juvenile probation officers, or both, on a school campus shall contain:

1. A detailed description of the school safety needs of the charter school or school district.
2. A plan for implementing a law-related education program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.
3. A plan to use trained school resource officers or juvenile probation officers in the school, or both.
4. If the school district or charter school has already participated in the school safety program, information on the success, compliance and implementation of the most recent grant. [...]

D. The department of education shall review and administer the school resource officers and juvenile probation officers program proposals in cooperation with the courts, law enforcement agencies and law-related education providers awarded a contract pursuant to section 41-2534, subject to review and approval by the state board of education. The department of education shall use relevant crime statistics to assess the needs of each program proposal and shall visit school districts and charter schools that submit program proposals in order to verify the information contained in the program proposals. The department of education shall contract to provide guidelines, curricula and support resources for school resource officers and juvenile probation officers to use in implementing a law-related education program. [...]

G. The department of education shall review program proposals submitted by school districts and charter schools for participation in the school safety program and shall select school sites that are eligible to

receive funding based on school safety needs pursuant to this section. The department of education may prioritize program proposals for school resource officer and juvenile probation officer grants to school districts and charter schools that have agreements to share the cost of the school resource officer or juvenile probation officer with a law enforcement agency or the courts. [...]

I. The school safety program established by this section shall include a school safety program guidance manual adopted by the department of education that requires a dispute resolution process to be included in the service agreement between a school district or charter school that submitted a program proposal and received a school resource officer grant from the school safety program and the law enforcement agency that provides services to the school district or charter school. [...]

M. For the purposes of this section:

5. "School resource officer" means a peace officer or a full-authority reserve peace officer who is certified by the Arizona peace officer standards and training board.

15-155. School safety program; funding.

A. The department of education shall cooperate with the county school superintendent, the county sheriff and the local chief of police to allow a law enforcement agency, with the consent of the school, to assign a peace officer or a full authority Arizona peace officer standards and training board certified reserve peace officer to participate in the school safety program in each school in the county. The cost of the peace officer is a state charge that is funded by the department of education, except for agreements to share the cost of the school resource officer pursuant to section 15-154, subsection G.

B. In cooperation with the department of education and the county school superintendent and with the consent of the school, the presiding judge of the juvenile court may assign juvenile probation officers to participate in the school safety program in each school in the county. The cost of juvenile probation officers is a state charge that is funded by the department of education, except for agreements to share the cost of the juvenile probation officer pursuant to section 15-154, subsection G.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Arizona provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Comprehensive Threat Assessment Guidelines (CSTAG), Arizona Department of Education	Provides training, threat assessment forms, and links to an online educational program to assist schools in implementing threat assessment guidelines.	https://www.azed.gov/wellness/schoolthreatassessment
Mental Health & Wellness, Arizona Department of Education	Compiles resources on mental health and wellness in AZ schools including information on how to access mental health supports in educational settings, mental health crisis, threat assessment resources, and creating safe and supportive learning environments.	https://www.azed.gov/wellness/mental-health
Multi-Tier Behavior Supports (MTSS) Training Series, Arizona Department of Education	A three-year training series designed to assist district, charter, or school teams with the development of a school-wide approach for positive behavior management practices.	https://www.azed.gov/specialeducation/internal-pd-info-multi-tier-behavior-supports-mtbs-training-series
MTSS Resources, Arizona Department of Education	Provides an overview of AZ MTSS, and links to resources for MTSS planning and implementation.	https://www.azed.gov/improvement/mtss-resources
Bullying Prevention, Arizona Department of Education	Provides links to resources families and youth to addressing bullying in schools.	https://www.azed.gov/wellness/bullying
School Safety & Social Wellness, Arizona Department of Education	Provides information and resources addressing school safety, school preparedness, comprehensive school wellness, mental health, and other related programs.	http://www.azed.gov/shs/

Title	Description	Website address (if applicable)
School Safety Task Force, Arizona Department of Education	Provides information and resources related to the work of the School Safety Task Force, a multi-disciplinary group convened to reframe school safety as a multi-pronged approach to safety, health and violence.	https://www.azed.gov/ssp/school-safety-task-force
Social Emotional Learning and Trauma-Sensitive School Connection, Arizona Department of Education	Provides training and resources for schools including the building resilience professional development series and information on social emotional learning, equity, and trauma sensitive schools.	https://www.azed.gov/SEL
Title IV-A Safe & Healthy Students, Arizona Department of Education	Provides an overview of the Office of Safe and Healthy students and links to guidance documents addressing safety and wellness.	https://www.azed.gov/safeandhealthy/
Documents		
Arizona Social Emotional Learning Competencies and Resources	Integrated framework detailing a set of desired social, emotional, behavioral, and character competencies that can be used to implement social-emotional learning within schools and classrooms and intentionally integrate within K-12 content areas.	https://files.constantcontact.com/cbebfe4e101/a4409e5b-d8d4-4cfe-afaa-7b4154ac77af.pdf
Mental Health Considerations & Guidance to Referral Process for Schools in Arizona, NTTAAC and CARES	Provides step-by-step instructions for educators that have already identified a student that needs mental health support, including how to connect students and their caregivers to services, how those services might be funded, and how to proceed with a referral.	Behavioral Health Considerations & Guidance to Referral Process for Schools in Arizona Feedback incorporated.docx (nttamentalhealth.org)
Model school safety plan, Arizona Department of Education	A guide for establishing a safe, supportive learning environment by encouraging school leaders to examine all three domains of safe schools: Engagement, Safety, and Environment	https://www.azed.gov/sites/default/files/2020/11/ModelSchoolSafetyPlan%20%28final%29.pdf
School and Behavioral Health Partnerships: A Resource Guide (2021), ADE & AHCCCS	Provides information and tools to help connect educators and behavioral health providers, defined expectations and roles for each, guidance for handling a behavioral health crisis.	https://www.azed.gov/sites/default/files/2022/01/School%20Behavioral%20Health%20Resource%20Guide%2012_06_2021.pdf

Title	Description	Website address (if applicable)
Trauma-Responsive Social and Emotional Learning Crosswalk, Arizona Department of Education	A tool designed to support educators in their effort to implement and align their practices within proactive frameworks of support at the classroom instructional, classroom climate, and schoolwide practices and policies levels.	https://www.azed.gov/sites/default/files/2022/05/NM%20SEL%20Crosswalk%20Final%20Copy_1.pdf
<i>Other Resources</i>		
Accessing Behavioral Health System for Students, Arizona Health Care Cost Containment System	Provides guidance on how to access and pay for behavioral health services for students.	Accessing BH System for Students-2019-5-30.pdf (azed.gov)
School Safety Program, Arizona Department of Education	Provides links to information and resources related to the School Safety Program, a state-funded grant that places School Resource Officers, Juvenile Probation Officers, school counselors, and school social workers in selected schools. Includes tools and resources, references to laws, training materials, FAQs, and contact information.	https://www.azed.gov/ssp



Arkansas Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Arkansas State Codes Cited

Arkansas Revised Statutes

The State of Arkansas contracts with LexisNexis to provide free public access to the Arkansas Code (<http://www.lexisnexis.com/hottopics/arcodes/>). Users must agree to terms and conditions prior to use of the site. All listed statutes are searchable by title and chapter number or by using key search terms.

Title 5. Criminal Offenses

Subtitle 6. Offenses Against Public Health, Safety, Or Welfare

Chapter 71. Riots, Disorderly Conduct, Etc.

Subchapter 2. Offenses Generally

A.C.A. § 5-71-217. Cyberbullying

Title 6. Education

Subtitle 1. General Provisions

Chapter 5. Miscellaneous Provisions Relating to Elementary, Secondary, and Higher Education

Subchapter 2. Hazing

A.C.A. § 6-5-201. Definition

A.C.A. § 6-5-202. Prohibitions

A.C.A. § 6-5-204. Construction

Subtitle 2. Elementary and Secondary Education Generally Chapter 10. General Provisions

A.C.A. § 6-10-128. School resource officers

Chapter 11. Education

Subchapter 2. Career Education and Workforce Development Board

A.C.A. § 6-11-209. Additional truancy officers - Definition

Chapter 13. School Districts

Subchapter 13. Site-Based Decision Making

A.C.A. § 6-13-1306. School council powers and duties

Chapter 15. Educational Standards and Quality Generally

Subchapter 10. Arkansas Public Education Act of 1997

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools

Subchapter 13. Safe Schools Committee

A.C.A. § 6-15-1303. Safe schools initiative act

Subchapter 14. School Performance Report Act

A.C.A. § 6-15-1402. Purpose - Report - Confidentiality - Rules

Chapter 16. Curriculum

Subchapter 10. Health Education

A.C.A. § 6-16-1004. Dating violence awareness

Subchapter 14. Digital Learning Act of 2013

A.C.A. § 6-16-1406. Digital learning courses

Chapter 17. Personnel

Subchapter 1. General Provisions

A.C.A. § 6-17-112. Corporal punishment - Immunity from liability - Definition

A.C.A. § 6-17-113. Duty to report and investigate student criminal acts - Definitions

Subchapter 7. Professional Development

A.C.A. § 6-17-708. Mental health awareness and teen suicide awareness and prevention professional development

A.C.A. § 6-17-711. Bullying prevention - Professional development

Subchapter 11. Insurance

A.C.A. § 6-17-1113. School worker defense program

Subchapter 28. Teacher Excellence and Support System

A.C.A. § 6-17-2809. System of administrator leadership support and evaluations

Chapter 18. Students

Subchapter 1. General Provisions

A.C.A. § 6-18-110. Reports by mandated reporters - Failure to notify by mandated reporter - Making a false report

A.C.A. § 6-18-111. School safety and crisis line

Subchapter 2. Attendance

A.C.A. § 6-18-209. Adoption of student attendance policies - Effect of unexcused absences

A.C.A. § 6-18-221. Cooperation of law enforcement agencies

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition

A.C.A. § 6-18-226. Community truancy boards - Members - Duties

Subchapter 5. Discipline

A.C.A. § 6-18-501. Duty of teachers, classified school employees, and volunteers

A.C.A. § 6-18-502. Rules for development of school district student discipline policies

A.C.A. § 6-18-503. Written student discipline policies required - Definition

A.C.A. § 6-18-504. Compliance with §§ 6-18-502 and 6-18-503

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions

A.C.A. § 6-18-510. Enrollment during expulsion - School policy

A.C.A. § 6-18-511. Removal by teacher

A.C.A. § 6-18-513. Parental notification

A.C.A. § 6-18-514. Antibullying policies - Definitions

A.C.A. § 6-18-516. Effective school discipline - Definition

Subchapter 20. School Counseling Improvement Act of 2019

A.C.A. § 6-18-2002. Definitions

A.C.A. § 6-18-2003. Comprehensive school counseling program and plan framework
A.C.A. § 6-18-2004. Comprehensive student services

Subchapter 24. Student Restraints in Public Schools or Educational Settings

A.C.A. § 6-18-2401. Legislative findings.
A.C.A. § 6-18-2402. Applicability — Relation to other laws.
A.C.A. § 6-18-2403. Definitions
A.C.A. § 6-18-2404. Prevention
A.C.A. § 6-18-2405. Physical Restraint
A.C.A. § 6-18-2406. Responsibilities of school districts
A.C.A. § 6-18-2407. Documentation — Notification — Debriefing
A.C.A. § 6-18-2408. Training — School personnel.
A.C.A. § 6-18-2409. Crisis Intervention Training Program — Criteria.

Chapter 21. School Property and Supplies Subchapter 6. Miscellaneous Offenses

A.C.A. § 6-21-608. Concealment of guns and drugs - Definitions
A.C.A. § 6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes – Definition

Subtitle 3. Special Educational Programs Chapter 48. Alternative Learning Environments

A.C.A. § 6-48-101. Definitions
A.C.A. § 6-48-102. Alternative learning environment required - Reporting
A.C.A. § 6-48-103. Assessment and intervention services
A.C.A. § 6-48-104. Division of Elementary and Secondary Education responsibilities

Title 12. Law Enforcement, Emergency Management, and Military Affairs Subtitle

2. Law Enforcement Agencies and Programs

Chapter 9. Law Enforcement Officer Training and Standards

Subchapter 5. Management Training and Education

A.C.A. § 12-9-501. Legislative determination

Title 16. Practice, Procedure, And Courts

Subtitle 6. Criminal Procedure Generally

Chapter 81. Citation and Arrest Subchapter

1. General Provisions

A.C.A. § 16-81-118. Citation and arrest by a school resource officer — Definition

Title 17. Professions, Occupations, and Businesses

Subtitle 2. Nonmedical Professions

Chapter 40. Private Investigators and Private Security Agencies

Subchapter 2. Administration by the Division of Arkansas State Police

A.C.A. § 17-40-208. Training of personnel.

Title 19. Public Finance

Chapter 12. Tobacco Settlement Proceeds Act

Subchapter 1. Tobacco Settlement Proceeds Act

A.C.A. § 19-12-113. Establishment and administration of prevention and cessation programs

Arkansas Regulations

Arkansas Administrative Rules

Department of Education Division of Learning Services

[005.15.12-008.](#) ADE 096: Rules governing public school student services

Arkansas Division of Elementary and Secondary Education

Current Rules

[005.01.020.](#) Rules governing documents posted to school district and education service cooperative websites

[005.15.022.](#) ADE guidelines for development, review, and revision of school district student discipline and school safety policies

[005.19.007.](#) Rules governing standards for accreditation of Arkansas public schools and school districts

[005.22.017.](#) Rules governing professional development

[005.23.001.](#) Rules and regulations governing duty to report student criminal acts

Procedural Requirements and Program Standards

Section 1 to 30 of Procedural Requirements and Program Standards

20.00 Time-Out Seclusion Room

20.01. General

20.02. Definition

20.03. Restrictions on the use of a time-out seclusion room

20.04. Guidelines for appropriate use of a time-out seclusion room

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

A.C.A. § 6-13-1306. School council powers and duties.

The school council established under this subchapter may implement policies in the following areas:

- (2) Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal.

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

(B) These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

(3) Every school and school district will enforce a code of behavior for students that respects the rights of others and maintains a safe and orderly environment.

(4) Every school and school district will have in place a policy on addressing disruptive students.

A.C.A. § 6-18-501. Duty of teachers, classified school employees, and volunteers.

(a) Every teacher shall seek to exercise wholesome discipline in his or her school and endeavor by precept and otherwise to instill and cultivate in the pupils good morals and gentle manners.

(b) Classified school employees and volunteers shall have as a minimum the responsibility to appropriately assist and support teachers in these efforts.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(a) The Division of Elementary and Secondary Education shall establish rules for the development of school district student discipline policies.

(b) Such rules shall include without limitation the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies. [...]

(h) In developing the state rules for school district discipline policies, the division shall involve parents, students, teachers, and administrators.

A.C.A. § 6-18-503. Written student discipline policies required - Definition.

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the rules established by the Division of Elementary and Secondary Education and shall file the policies with the division.

A.C.A. § 6-18-514. Antibullying policies - Definitions.

(f)(1) Each public school district board of directors shall adopt policies to prevent bullying.

A.C.A. § 6-18-2406. Responsibilities of school districts.

A school district shall develop policies and procedures:

(1) To ensure that school personnel are aware of how to access state and local policies and procedures regarding the use of physical restraint on a student;

(2) To ensure that parents are notified of how to access state and local policies and procedures regarding the use of physical restraint on a student;

(3) To ensure the safety of all school personnel, visitors, and students, including without limitation students with complex and intensive behavioral needs;

- (4) To require appropriate school personnel to be trained in accordance with the provisions of this subchapter;
- (5)(A) That shall be implemented during and after an incident involving the use of physical restraint on a student.
- (B) The policies and procedures under this section shall include without limitation a requirement:
- (i) That a parent of student shall be notified in writing of an incident involving the use of physical restraint on the student;
 - (ii) To document an incident involving the use of physical restraint on a student; and
 - (iii) To conduct a debriefing as provided under § 6- 18-2407 when an incident involving the use of physical restraint on a student occurs;
- (6)(A) For the acceptance and disposition of a complaint from a parent of a student regarding an incident involving the use of physical restraint on the student.
- (B)(i) A complaint received by a school district concerning the use of physical restraint on a student shall be referred to the appropriate school personnel and the student's Individualized Education Program team or the student's 504 Plan team for review.
- (ii) If a student has an Individualized Education Program or a 504 Plan, the student's Individualized Education Program team or 504 Plan team shall consider whether:
 - (a) A Functional Behavior Assessment should be performed;
 - (b) A Behavior Intervention Plan should be developed or revised; and
 - (c) Additional behavioral goals and interventions should be included in the student's existing Individualized Education Program or 504 Plan; and
- (7) To require the regular review of data on incidents involving the use of physical restraint on a student and the adjustment of procedures, as needed, concerning the use of physical restraint on a student.

REGULATIONS

005.15.022-1.00. Title.

1.01 These rules shall be known as the Arkansas Division of Elementary and Secondary Education (Division) Rules Governing Student Discipline and School Safety.

005.15.022-3.00. Purpose.

3.01 These rules are designed to assist local school districts with the development, review and revision of student discipline and school safety policies.

005.15.022-5.00. Student discipline.

5.01 Each school district in this state shall develop written student discipline policies in compliance with these rules and shall file the policies with the Division by posting the policies on the school district's website no later than August 1 each year.

5.02 Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies.

5.02.1 School districts should attempt to ensure that those involved with the development of school district student discipline policies come from diverse racial, gender, and socioeconomic backgrounds and that the group consist of a sufficient number of individuals to provide broad representation within the district.

005.19.007-Appendix. Rules governing standards for accreditation of Arkansas public schools and school districts.

Standard 1-B Academic Policies

1-B.1 Each public school district shall engage parents, staff, and students in the adoption or review of the written discipline policies, including a code of student behavior, in accordance with the laws of the State of Arkansas and the rules of the Division. The public school district shall notify the parent(s) or guardian and students of the rules and procedures by which the school is governed and require a

signed acknowledgement from the parent(s) or guardian that they have received the school's discipline policies.

Scope

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

A.C.A. § 6-18-514. Antibullying policies - Definitions.

(f)(2) The policies shall:

(B) Prohibit:

(i) Bullying while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events; or

(ii)(a) Cyberbullying that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section applies to cyberbullying whether or not the cyberbullying originated on school property or with school equipment if the cyberbullying is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose.

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(a) As used in this section:

(1) "School official" means any public school employee receiving compensation for services from any public school system in the State of Arkansas;

(2) "School-owned property" means any property located among premises owned in whole or in part by the state or any city, district, or county within the state, including but not limited to any desk, locker, file, or other tangible property assigned to, for the use of, or on loan to any student or other person using the property for his or her own use;

(3) "School premises" means any locale upon which is situated any school building.

(b) It shall be unlawful for any student or any other person using school-owned property to conceal any gun, drug, or any other contraband in any desk, locker, or other school-owned property in this state.

REGULATIONS

005.15.022-6.00. Anti-bullying.

6.02 Each public school district board of directors shall adopt policies to prevent bullying. The policies shall:

6.02.2 Prohibit bullying while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events.

Communication of Policy

LAWS

005.01.020-4.00. Policy, data, and informational documents to be accessible on website.

4.01 By August 1 of each year, the following data and information are required to be posted to the school district's website:

4.01.2 The written discipline policies [...]

4.01.5 The written bullying policies adopted in accordance with Ark. Code Ann. § 6-18-514., unless the policies are contained in the student handbook.

A.C.A. § 6-15-1402. Purpose - Report - Confidentiality - Rules.

(2) The school performance report for elementary schools shall:

(B) Indicate separately whether:

(i) The school distributed the school's student discipline policy to parents.

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition.

(3) A copy of the school district's student attendance policy or the Career Education and Workforce Development Board's student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

A.C.A. § 6-18-514. Antibullying policies - Definitions.

(f)(2) The policies shall:

(F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;

(G)(i) Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually.

(ii) Each policy shall require that a full copy of the policy be made available upon request. [...]

(3) A notice of the public school district's policies shall appear in any:

(A) Publication of the public school district that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district; and

(B) Student handbook. [...]

(j) The public school district shall provide the Division of Elementary and Secondary Education with the website address at which a copy of the policies adopted in compliance with this section may be found.

A.C.A. § 6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes - Definition.

(c) A copy of this statute shall be posted in a conspicuous location at every entrance to each building owned or leased by a public school district and every school bus used to transport public school students.

REGULATIONS

005.15.022-5.00. Student discipline.

5.01 Each school district in this state shall develop written student discipline policies in compliance with these rules and shall file the policies with the Division by posting the policies on the school district's website no later than August 1 each year.

005.15.022-6.00. Anti-bullying.

6.02 Each public school district board of directors shall adopt policies to prevent bullying. The policies shall:

6.02.7 Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;

6.02.8 Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually;

6.02.9 Require that a full copy of the policy be made available upon request. [...]

6.03 A notice of the public school district's policies shall appear in any publication of the public school district that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district, and the student handbook.

005.19.007-Appendix. Rules governing standards for accreditation of Arkansas public schools and school districts.

Standard 1-B Academic Policies

1-B.2 Annually by August 1, each public school district shall post its written discipline policies on the district website under State - Required Information.

In-School Discipline

Discipline Frameworks

LAWS

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

- (a) The Division of Elementary and Secondary Education shall establish rules for the development of school district student discipline policies.
- (b) Such rules shall include without limitation the following requirements:
- (1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;
 - (2)(A) The school district's committee on personnel policies shall review annually:
 - (i) The school district's student discipline policies; and
 - (ii) State and district discipline data.

(B) The committee may recommend changes in the policies to the board of directors of the local school district based on the committee's review under subdivision (b)(2)(A) of this section; and
 - (3) Student discipline policies shall include without limitation the following offenses:
 - (A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;
 - (B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school district board of directors;
 - (C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property; and
 - (D) Willfully or intentionally damaging, destroying, or stealing school property by students.
- (c) The school discipline policies shall:
- (1)(A) Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school, for violations of any of the offenses described in subdivision (b)(3) of this section and for violations of other practices prohibited by school discipline policies.

(B) However, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis;
 - (2)(A) Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;
 - (3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school district board of directors;
 - (4) Include prevention, intervention, and conflict resolution provisions;
 - (5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter;
 - (6) Include programs, measures, or alternative means and methods to continue student engagement and access to education during periods of suspension or expulsion; and
 - (7) Establish procedures for responding to reports received through the school safety and crisis line under § 6-18-111.
- (d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline, behavioral intervention, and classroom management training and support.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state rules for school district discipline policies, the division shall involve parents, students, teachers, and administrators.

A.C.A. § 6-18-503. Written student discipline policies required - Definition.

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the rules established by the Division of Elementary and Secondary Education and shall file the policies with the division.

(B) The rules required under subdivision (a)(1)(A) of this section may include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy required under subdivision (a)(1)(A) of this section shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a physical or mental impairment or disability in an alternative learning environment provided by the district; and

(ii) Procedures for responding to reports received through the school safety and crisis line under § 6-18-111.

(2) Behavioral problems include being at risk of not satisfactorily completing a high school education.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

A.C.A. § 6-18-511. Removal by teacher.

(a) Consistent with state and federal law, a teacher may remove a student from class and send him or her to the principal's or principal's designee's office in order to maintain effective discipline in the classroom.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, , so long as the placement is consistent with the school district's written student discipline policy;

(2) Return the student to the class; or

(3) Take other appropriate action consistent with the school district's discipline policy, state law, and federal law.

(d)(1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the Division of Elementary and Secondary Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

- (A) The principal or the principal's designee;
- (B) The teacher;
- (C) The school counselor;
- (D) The parents, guardians, or persons in loco parentis; and
- (E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

REGULATIONS

005.15.022-5.00. Student discipline.

5.11 Consistent with state and federal law, in order to maintain effective discipline in the classroom, a teacher may remove from class and send to the principal's or principal's designee's office, a student:

5.11.1 Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

5.11.2 Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

5.11.3 If a teacher removes a student from class in accordance with 5.11, the principal or his or her designee may:

5.11.3.1 Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment, so long as such placement is consistent with the school district's written policies, and state and federal law and rules;

5.11.3.2 Return the student to the class; or

5.11.3.3 Take other appropriate action consistent with the school district's discipline policy, state law, and federal law.

Alternatives to Suspension

LAWS

A.C.A. § 6-18-209. Adoption of student attendance policies - Effect of unexcused absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include unexcused absences as a mandatory basis for denial of promotion or graduation.

REGULATIONS

005.15.022-5.00. Student discipline.

5.11.3.1 Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment, so long as such placement is consistent with the school district's written policies, and state and federal law and rules.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

A.C.A. § 6-17-112. Corporal punishment - Immunity from liability - Definition.

(a)(1) Except as provided under subdivision (a)(2) of this section, teachers and administrators in a school district that authorizes use of corporal punishment in the school district's written student discipline policy shall be immune from any civil liability for administering corporal punishment to students, provided only that the corporal punishment is administered in substantial compliance with the school district's written student discipline policy.

(2) A teacher or administrator in a school district that authorizes use of corporal punishment in the school district's written student discipline policy is not immune from civil liability under subdivision (a)(1) of this section if the teacher or administrator uses corporal punishment on a child who is intellectually disabled, nonambulatory, nonverbal, or autistic.

(b) As used in subsection (a) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued license as a condition of their employment.

A.C.A. § 6-17-1113. School worker defense program.

(a)(2)(B) An employee or volunteer who administers corporal punishment to a child who is intellectually disabled, nonambulatory, nonverbal, or autistic is not subject to the protection against civil liability, attorney's fees, and costs of defense under subdivision (a)(2)(A) of this section.

A.C.A. § 6-18-503. Written student discipline policies required - Definition.

(b)(1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or school administrator employed by the school district. [...]

(3) A school district that authorizes use of corporal punishment under subdivision (b)(1) of this section shall not:

(A) Use corporal punishment on a child who is intellectually disabled, nonambulatory, nonverbal, or autistic; or

(B) Include in its written student discipline policy a provision to allow the use of corporal punishment on a child who is intellectually disabled, nonambulatory, nonverbal, or autistic.

A.C.A. § 6-18-516. Effective school discipline - Definition.

(a) As used in this section, "exclusionary disciplinary actions" means out-of-school suspension and expulsion.

(b)(1) Annually, the Division of Elementary and Secondary Education shall report at the school, school district, and state level the following data concerning exclusionary disciplinary actions, in-school suspensions, and corporal punishment:

(A) Number per one hundred (100) students for the entire population;

(B) Number per one hundred (100) students for any racial or ethnic subgroup required for accountability by the Every Student Succeeds Act, Pub. L. No. 114-95;

(C) Number per one hundred (100) students for economically disadvantaged students; and

(D) Number per one hundred (100) students for students with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

REGULATIONS

005.15.022-5.00. Student discipline.

5.21 A school district that authorizes the use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

5.21.1 A school district that authorizes use of corporal punishment, shall not:

5.21.1.1 Use corporal punishment on a child who is intellectually disabled, non-ambulatory, non-verbal, or autistic; or

5.21.1.2 Include in its written student discipline policy, a provision to allow the use of corporal punishment on a child who is intellectually disabled, non-ambulatory, non-verbal, or autistic.

Search and Seizure

LAWS

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(c)(1) Any school official employed in a supervisory capacity over students or other persons on school premises, upon receipt of information that guns, drugs, or other contraband are concealed in school-owned property, shall have the authority to investigate and search any school-owned property for any drugs, guns, or other contraband that may be concealed in the school-owned property, without the necessity of obtaining a search warrant from local authorities.

(2) In the event that contraband is discovered, it shall be seized and held by the supervisor of the school premises until appropriate action, as described in subsection (d) of this section, is taken.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04.6 Include a provision for the seizure by school personnel of hand-held laser pointers in the possession of students.

Restraint and Seclusion

LAWS

A.C.A. § 6-18-2401. Legislative findings.

The General Assembly finds that:

- (1) It is the responsibility of each school district in Arkansas to ensure the safety of all students and school personnel;
- (2) It is the responsibility of each school district in Arkansas to ensure that every student in Arkansas is safe and protected from being unnecessarily or inappropriately restrained;
- (3) Safe, effective, evidence-based strategies should be the basis for protocols in public schools and educational settings to support every student who displays challenging behavior in a public school or educational setting;
- (4) Providing school personnel with training that is focused on evidence-based positive behavioral support, de-escalation techniques, and physical restraint prevention can reduce the incidence of injury, trauma, and death;
- (5) The effective implementation of school-wide positive behavioral support is linked to greater academic achievement, significantly fewer disciplinary problems, increased instruction time, and the perception of a safer teaching environment by school personnel;

- (6) Positive behavioral support involves school-wide approaches that result in:
 - (A) Positive classroom and school climates;
 - (B) Prosocial student and school personnel interactions;
 - (C) Teaching a student academic, social, emotional, behavioral engagement, and achievement skills; and
 - (D) Reinforcing the academic, social, emotional, behavioral engagement, and achievement skills of a student;
- (7) The use of effective positive behavioral support in public schools and educational settings can prevent an emergency situation that requires the use of physical restraint on a student; and
- (8) Every effort should be made to:
 - (A) Prevent the need for secluding a student or using a physical restraint on a student;
 - (B) Ensure that behavioral intervention is consistent with the right of a student to be free from abuse and treated with dignity;
 - (C) Avoid the use of physical restraint on a student to the greatest extent possible without endangering the safety of other students and school personnel;
 - (D) Avoid the use of a physical restraint on a student except in a situation where the behavior of the student poses an imminent danger of serious physical harm to the student or others;
 - (E) Discontinue the use of a physical restraint on a student as soon as the imminent danger of serious physical harm to the student or others dissipates; and
 - (F) Refrain from using chemical restraint or mechanical restraint in a public school or educational setting.

A.C.A. § 6-18-2402. Applicability-Relation to other laws.

a) This subchapter applies to any school-aged and enrolled student regardless of whether the student has an identified disability.

(b)(1) This subchapter does not supersede federal or state law.

(2) A school district shall follow all relevant federal and state law, including without limitation the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq., when a student with a disability is restrained or secluded or whenever restraining or secluding a student with a disability is contemplated.

(c) Each school district shall:

- (1) Adopt policies and procedures that are consistent with the provisions of this subchapter;
- (2) Review the Department of Education Special Education and Related Services Guidelines, § 20.00 Time-Out Seclusion Room; and
- (3) Provide its school personnel with the training, tools, and support needed to ensure the safety of all students and school personnel.

A.C.A. § 6-18-2403. Definitions.

As used in this subchapter:

(4)(A) "Chemical restraint" means the use of a drug or medication to control the behavior of a student or restrict the free movement of the student.

(B) "Chemical restraint" does not include the use of medication that is:

- (i) Prescribed by a licensed physician, or other qualified health professional acting within the scope of his or her professional authority under state law, for the standard treatment of a medical or psychiatric condition of a student; and
- (ii) Administered as prescribed by the licensed physician or other qualified health professional acting within the scope of his or her professional authority under state law;

(17)(A) "Mechanical restraint" means the use of a device or equipment to restrict the free movement of a student.

- (B) "Mechanical restraint" does not include a:
 - (i) Device that is used by trained school personnel or a student for a specific and approved therapeutic purpose or safety purpose for which the device was designed or prescribed; or
 - (ii) Vehicle safety restraint that is appropriately used in the manner for which it was designed during the transport of a student in a moving vehicle;
- (21)(A) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arm, leg, or head freely.
 - (B) "Physical restraint" does not include a physical escort;
- (23) "Prone restraint" means restraining a student in a face- down position on the floor or another surface and applying physical pressure to the body of the student to keep the student in the prone position;
- (24) "Punishment" means an action that:
 - (A) May follow an inappropriate behavior of a student;
 - (B) Is taken with the goal of decreasing, stopping, or eliminating the future reoccurrence of the inappropriate behavior of the student; and
 - (C) Is not taken with the goal of replacing the inappropriate behavior of the student with future appropriate behavior by the student;
- (26) "Serious physical harm" means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;
- (29) "Supine restraint" means the restraint of a student in a face-up position on his or her back on the floor or another surface and with physical pressure applied to the body of the student to keep the student in the supine position.

A.C.A. § 6-18-2405. Physical restraint.

- (a)(1) Physical restraint of a student shall be used only by a member of school personnel who is appropriately trained to administer physical restraint except in the case of a clearly unavoidable emergency situation in which a trained member of school personnel is not immediately available due to the unforeseeable nature of the emergency situation.
- (2) If an incident occurs in which a trained member of school personnel is not immediately available due to the unforeseeable nature of the emergency situation, a school district shall:
 - (A) Reevaluate the training needs of school personnel in the school district;
 - (B) Reevaluate the physical restraint policy and practices of the school district; and
 - (C) Develop a plan to prevent a future incident.
- (3) School personnel who administer physical restraint may be trained:
 - (A) By a person who is certified by a training program that meets the criteria specified in § 6-18-2209; and
 - (B) In-state guidelines and the policies and procedures of the school district concerning the physical restraint of a student.
- (b)(1) School personnel shall use the least restrictive technique necessary to end imminent danger or serious physical harm to a student and others.
 - (2) The ability of a student to communicate shall not be restricted unless the use of a less restrictive technique by school personnel will not prevent imminent danger of serious physical harm to the student or others.
- (c) When using a crisis intervention procedure or technique, school personnel shall consider the health and safety of a student, including without limitation whether the student has an existing medical condition that makes the use of physical restraint inadvisable.
- (d) Supine restraint shall not be used unless:
 - (1) The school personnel administering the supine restraint has been trained by a person who is certified by a training program that meets the criteria specified in § 6-18-2209; and
 - (2) A person who is certified by a training program that meets the criteria specified in § 6-18-2209 determines that supine restraint is required to provide safety for the student and others.
- (e) If physical restraint is used on a student, the student shall be continuously and visually observed and monitored while he or she is under physical restraint.

- (f) When using physical restraint on a student, school personnel shall:
 - (1) Use the safest method available and appropriate to the situation;
 - (2) Use the amount of force that is reasonably necessary to protect a student or others from imminent danger of serious physical harm to the student or others; and
 - (3) Not verbally abuse, ridicule, humiliate, taunt, or engage in any other similar action towards the student.
- (g) Physical restraint of a student shall:
 - (1) Be used for a limited period of time; and
 - (2) Not be used:
 - (A) When imminent danger or serious physical harm to the student or others dissipates or a medical condition occurs that puts the student at risk of harm;
 - (B) Unless the behavior of the student poses an imminent danger of serious physical harm to the student or others;
 - (C) After the threat of imminent danger of serious physical harm to the student or others dissipates; or
 - (D) In the following manner:
 - (i) To punish or discipline the student;
 - (ii) To coerce the student;
 - (iii) To force the student to comply;
 - (iv) To retaliate against the student;
 - (v) To replace the use of an appropriate educational or behavioral support;
 - (vi) As a routine safety measure;
 - (vii) As a planned behavioral intervention in response to behavior of the student that does not pose an imminent danger of serious physical harm to the student or others;
 - (viii) As a convenience for school personnel; or
 - (ix) To prevent property damage unless the act of damaging property committed by the student poses an imminent danger or serious physical harm to the student and others.
- (h) School personnel shall not use the following on a student:
 - (1) Mechanical restraint;
 - (2) Chemical restraint;
 - (3) Aversive behavioral interventions that compromise health and safety;
 - (4) Physical restraint that is:
 - (A) Life-threatening; or
 - (B) Medically contraindicated unless the behavior of the student poses an imminent danger of serious physical harm to the student or others; or
 - (5) Prone restraint or other restraint that restricts the breathing of a student.
- (i)(1) The use of physical restraint on a student as a planned behavioral intervention shall not be included in a student's Individualized Education Program, 504 Plan, Behavior Intervention Plan, individual safety plan, or other individual planning document.
 - (2) However, if appropriate, physical restraint of a student may be considered as a crisis intervention for the student.
- (j) A Functional Behavior Assessment shall be conducted following the first incident of physical restraint used on a student unless a previous Functional Behavior Assessment was conducted for the same behavior that was at issue when the physical restraint was used.
- (k) The use of a technique that is abusive shall be reported to the Child Abuse Hotline and law enforcement.

REGULATIONS

005.18.020-20.01. General.

20.01.1 The time-out seclusion room is an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.

20.01.2 Time-out is only effective if the classroom environment from which the student is removed is more reinforcing than the isolation area in which he is placed.

005.18.020-20.02. Definition.

20.02.1 Time-out

As used in these regulations, time-out is defined as the removal of the opportunity to engage in reinforced behavior.

005.18.020-20.03. Restrictions on the use of a time-out seclusion room.

20.03.1 Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment. General noncompliance, self-stimulation, academic refusal, etc., can be responded to with less stringent and restrictive techniques.

20.03.2 The time-out seclusion room should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.

20.03.3 The necessity of using physical force to place a student in a time-out seclusion room is inappropriate beyond that reasonably managed by the classroom teacher.

20.03.3.1 Involuntary time-out must not be used with such students and, in general, time-out is not an appropriate intervention for classroom use with any students older than 12 unless they have made a contractual agreement for its use.

20.03.3.2 It is important that teachers realistically evaluate their ability to physically remove a student to the time-out room.

20.03.3.3 If there is a reasonable doubt concerning the capability of the teacher to physically remove the resistant student, the teacher should not begin to attempt the time-out procedure. In such a case, an alternative strategy should be implemented.

20.03.4 Time-out seclusion rooms must meet structural guidelines and provide for continuous monitoring, visually and auditorily, of the student's behavior by an adult. (Refer to § 20.04.9 of this part for structural guidelines.)

005.18.020-20.04. Guidelines for appropriate use of a time-out seclusion room.

20.04.1 The teacher or behavioral specialist should have documentation that milder forms of time-out or other reduction techniques have proven ineffective in suppressing the inappropriate behavior.

20.04.2 The use of seclusion time-out and the behaviors which will result in its use must be explicitly stated in the student's IEP. Parent consent for the use of a time-out seclusion procedure should be documented.

20.04.3 Time-out must be paired with a behavioral plan to provide positive reinforcement for appropriate behaviors. This must also be included in the student's IEP.

20.04.4 Written procedures must be developed and followed for each student whose IEP includes the use of time-out.

20.04.5 The following guidelines should be adhered to for effective use of the timeout seclusion room.

20.04.5.1 Avoid lengthy verbal explanations. Behaviors resulting in time-out should be clearly explained prior to implementing the time-out program. Explanations provided during use of time-out should be brief, but should adequately inform the student of his/her misbehavior, such as, "Because you _____, you must go to time-out for _____ minutes." All other verbal interaction should be avoided.

20.04.5.2 To maximize opportunities to exercise self-control, students should be given the opportunity to take their own time-out after receiving instructions from the teacher. However, if students refuse to take their own time-out, or if they fail to respond to the teacher's instructions within a reasonable time interval (5 to 10 seconds), the teacher should physically remove them to the time-out area. (Refer to §

20.03.3 of these regulations regarding physically removing the child to the time-out area.)

20.04.5.3 For high intensity behavior (e.g., kicking, screaming), the student should immediately be escorted to the time-out room.

20.04.6 Time Spent In Time-Out Seclusion Room

20.04.6.1 Length of time spent in the time-out seclusion room must be documented and kept within the specified time limits

A. Preschool -no more than 5 minutes for each exclusion.

B. Lower elementary -no more than 15 minutes for each exclusion.

C. Middle/upper elementary -no more than 20 minutes for each exclusion.

20.04.6.2 At the end of the prescribed time, the student should be offered the opportunity to rejoin the class. If the student chooses to stay in time-out, the door must be left open at this time. When a student consistently chooses to stay in the time-out seclusion room beyond the prescribed time limit, the use of this procedure must be reviewed. The time-out room may be providing more reinforcement than the environment from which the student was removed.

20.04.6.3 Should there be a need for a time-out period to extend past the prescribed time limits, the appropriateness of continuing the time-out procedure should be evaluated immediately by knowledgeable professionals (i.e., principal, counselor, special education staff).

20.04.6.4 Careful consideration must be taken in extending the prescribed length of the time-out seclusion. The effectiveness of the time-out procedure is the result of its consistent use, rather than the length of stay in the timeout seclusion room.

20.04.7 Records Must Be Kept Of Each Occasion When Time-Out Seclusion Is Used. The Records Should Include

20.04.7.1 The student's name;

20.04.7.2 The behavior for which time-out is being used, as specified in the IEP; and

20.04.7.3 The time of day the student was placed in and released from time-out.

20.04.8 When the use of time-out seclusion is included in a student's IEP, it is recommended that the use of time-out to address specific student behaviors be reviewed by a knowledgeable professional(s) twice monthly.

20.04.8.1 The use of the time-out seclusion procedure shall be altered or discontinued as a behavioral management technique if data do not support its effectiveness.

20.04.8.2 The continued and/or frequent need for this type of behavioral intervention could indicate that behavioral objectives, management techniques or other factors affecting the learning environment are not appropriately matched with the student's needs and behaviors.

20.04.9 If A Time-Out Room Is To Be Employed, The Time-Out Room Should

20.04.9.1 Be at least 4' X 4' and no larger than 6' X 6' in size;

20.04.9.2 Be properly lighted (preferably recessed lighting, with switches outside the room). Lighting should remain on at all times;

20.04.9.3 Be properly ventilated;

20.04.9.4 Be free of objects and fixtures;

20.04.9.5 Provide the means by which an adult can continuously monitor, visually and auditorily, the student's behavior;

20.04.9.6 The door should be such that it cannot be locked; and

20.04.9.7 Meet state and county fire and safety codes.

20.04.10 In addition, it is necessary that all personnel involved in designing and implementing behavioral management procedures, including the use of timeout seclusion, be adequately trained and supervised. It is imperative that these persons have attained levels of skill and competency so that their qualifications correspond to their responsibilities.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

A.C.A. § 6-5-202. Prohibitions.

(d) In addition to any penalty provided by this section, a student convicted of hazing shall be expelled from the school, college, university, or other educational institution that he or she is attending.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(c) The school discipline policies shall:

(1)(A) Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school, for violations of any of the offenses described in subdivision (b)(3) of this section and for violations of other practices prohibited by school discipline policies.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(b)(1) The board of directors of a school district may suspend or expel any student from school for violation of the school district's written discipline policies, except that a school district shall not use out-of-school suspension as a discipline measure for truancy.

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(b) It shall be unlawful for any student or any other person using school-owned property to conceal any gun, drug, or any other contraband in any desk, locker, or other school-owned property in this state. [...]

(e)(1)(A) If a school official discovers a gun or other firearm in any school-owned property assigned to the use of an identifiable student, that student shall be expelled for one (1) year.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) In the event that prosecution by local authorities is pursued, the gun or other firearm shall be released to the local prosecuting authorities to be used as evidence in court and shall be legally admissible in any court in this state.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04 Student discipline policies shall:

5.04.1 Prescribe minimum and maximum penalties, including without limitation, students' suspension or expulsion from school, for violations of any of the offenses listed in 5.03 above, and for violations of other practices prohibited by school discipline policies; however, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis. [...]

5.13 The board of a school district may suspend or expel any student from school for violation of the school district's written discipline policies, with the following exceptions:

5.13.1 A school district shall not use out-of-school suspension as a discipline measure for truancy; and

5.13.2 A school district shall not use out-of-school suspension or expulsion for a student in kindergarten through grade five (K-5) except in cases when a student's behavior:

5.13.2.1 Poses a physical risk to himself or herself or to others; or

5.13.2.2 Causes a serious disruption that cannot be addressed through other means.

Limitations or Conditions on Exclusionary Discipline

LAWS

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition.

(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of unexcused absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, unexcused absences shall not be a basis for expulsion or dismissal of a student.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(c) The school discipline policies shall:

(1)(A) Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school, for violations of any of the offenses described in subdivision (b)(3) of this section and for violations of other practices prohibited by school discipline policies.

(B) However, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis.

(2)(A) Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(b)(1) The board of directors of a school district may suspend or expel any student from school for violation of the school district's written discipline policies, except that a school district shall not use out-of-school suspension as a discipline measure for truancy.

(2) The school district shall not use out-of-school suspension or expulsion for a student in kindergarten through grade five (K-5) except in cases when a student's behavior:

(A) Poses a physical risk to himself or herself or to others; or

(B) Causes a serious disruption that cannot be addressed through other means.

(c)(1)(A) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district's written discipline policies, subject to appeal to the superintendent or his or her designee.

(B) However, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

A.C.A. § 6-18-511. Removal by teacher.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, , so long as the placement is consistent with the school district's written student discipline policy.

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(e)(1)(A) If a school official discovers a gun or other firearm in any school-owned property assigned to the use of an identifiable student, that student shall be expelled for one (1) year.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04 Student discipline policies shall:

5.04.1 Prescribe minimum and maximum penalties, including without limitation, students' suspension or expulsion from school, for violations of any of the offenses listed in 5.03 above, and for violations of other practices prohibited by school discipline policies; however, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis;

5.04.2 Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law, provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

5.04.2.1 The policy shall require parents, guardians, or other persons in loco parentis of a student expelled for possession of a firearm or other prohibited weapon to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property.

5.04.2.2 The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of the expulsion.

5.04.2.3 School administrators and the local school district board shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

Due Process

LAWS

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition.

(4)(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent, guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student's absences.

(C)(i) If the community truancy board has scheduled a conference and the student's parent, guardian, or person in loco parentis does not attend the conference, the conference may be conducted with the student and a school official.

(ii) However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D)(i) Before a student accumulates the maximum number of unexcused absences allowed in a school district's student attendance policy, the student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's unexcused absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

- (a) Designee of the school administration or of the school district administration;
- (b) Student's parent, guardian, or person in loco parentis; and
- (c) Student.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(c) The school discipline policies shall:

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school district board of directors.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(d)(3) A school district board of directors meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

A.C.A. § 6-18-510. Enrollment during expulsion - School policy.

The board of directors of any school district may adopt a policy that any person who has been expelled as a student from any other school district may not enroll as a student until the time of the person's expulsion has expired, provided that the receiving school district board of directors affords the student the opportunity for a hearing at the time the student is seeking enrollment.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04.3 Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors. [...]

5.16 A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district's written discipline policies, subject to appeal to the board of directors and to requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1401. et seq.

5.16.1 After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors may consider its decision in executive session without the presence of anyone other than the board members.

5.16.2 At the conclusion of an executive session, the board of directors shall reconvene in public session to vote on the suspension, expulsion, or appeal.

5.16.3 A school district board meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

Return to School Following Removal

LAWS

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(e)(2)(B) The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection.

A.C.A. § 6-18-510. Enrollment during expulsion - School policy.

The board of directors of any school district may adopt a policy that any person who has been expelled as a student from any other school district may not enroll as a student until the time of the person's expulsion has expired, provided that the receiving school district board of directors affords the student the opportunity for a hearing at the time the student is seeking enrollment.

A.C.A. § 6-18-511. Removal by teacher.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(2) Return the student to the class. [...]

(d)(1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the Division of Elementary and Secondary Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

- (A) The principal or the principal's designee;
- (B) The teacher;
- (C) The school counselor;
- (D) The parents, guardians, or persons in loco parentis; and
- (E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04.2.2 The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of the expulsion. [...]

5.11.3 If a teacher removes a student from class in accordance with 5.11, the principal or his or her designee may:

5.11.3.2 Return the student to the class. [...]

5.11.4 If a teacher removes a student from class, in accordance with 5.11, two (2) times during any nine-week grading period or its equivalent, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

- 5.11.4.1 The principal or the principal's designee;
- 5.11.4.2 The teacher;
- 5.11.4.3 The school counselor;
- 5.11.4.4 The parents, guardians, or persons in loco parentis; and
- 5.11.4.5 The student, if appropriate.

5.11.4.6 The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference, provided that the parents, guardians, or persons in loco parentis have been offered the opportunity to participate.

Alternative Placements

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(5)(A) Every school and school district will offer appropriate alternative education programs organized to serve those students whose educational progress deviates from the standard expected for a successful transition to a productive life and those students whose behavior interferes with their own learning or the educational process of others.

A.C.A. § 6-16-1406. Digital learning courses.

(g) A public school district or open-enrollment public charter school that expels a student under § 6-18- 507 shall offer to the expelled public school student digital learning courses or other alternative educational courses for which the student may receive academic credit that is at least equal to credit the expelled public school student may have received if he or she was still enrolled in his or her assigned public school or open-enrollment public charter school immediately before he or she was expelled.

A.C.A. § 6-18-209. Adoption of student attendance policies - Effect of unexcused absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include unexcused absences as a mandatory basis for denial of promotion or graduation.

A.C.A. § 6-18-226. Community truancy boards - Members - Duties.

(a) The local school district boards of directors may create a community truancy board or may use other boards that exist or are created such as diversion boards. However, a diversion or other existing board must agree before it is used as a community truancy board.

(b) Members of the community truancy board shall be selected from representatives of the community.

(c) Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(c) The school discipline policies shall:

(6) Include programs, measures, or alternative means and methods to continue student engagement and access to education during periods of suspension or expulsion.

A.C.A. § 6-18-511. Removal by teacher.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, , so long as the placement is consistent with the school district's written student discipline policy.

A.C.A. § 6-48-101. Definitions.

As used in this chapter:

(1)(A)(i) "Alternative learning environment" means an alternate class or program within a public school or school district that affords all students an environment that seeks to eliminate barriers to learning for any student whose academic and social progress is negatively affected by the student's personal characteristics or situation.

(ii) The Division of Elementary and Secondary Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning.

(C) An alternative learning environment is not a separate school for the purposes of this title even if the division assigns the alternative learning environment a separate local education agency number.

A.C.A. § 6-48-102. Alternative learning environment required - Reporting.

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Division of Elementary and Secondary Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

- (A) Establishes and operates an alternative learning environment;
- (B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment;
- (C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.; or
- (D) Partners with a state-supported institution of higher education and technical institutes to provide concurrent courses or technical education options for academic learning to students in grades eight through twelve (8-12).

(b) Annually, a school district shall submit to the division:

- (1) Information on race and gender of the students educated in the alternative learning environment;
- (2) Any other information regarding students educated in alternative learning environments that the division requires by rule; and
- (3) An assurance statement that the school district is in compliance with this chapter.

A.C.A. § 6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

- (1) Assess a student either before or upon entry into the alternative learning environment; and
- (2) Provide intervention services designed to address a student's specific educational needs.

(b)(1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

- (2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

A.C.A. § 6-48-104. Division of Elementary and Secondary Education responsibilities.

(a) The Division of Elementary and Secondary Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the division may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

- (i) Leaves the school district to transfer to another alternative learning environment; or
- (ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

- (i) In-service training in classroom management; and
- (ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The division shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

- (A) For the students educated in the alternative learning environment the effect on the students':

- (i) School performance;
- (ii) Need for intervention; and
- (iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the division.

(b)(1) As part of the division's accreditation review of a school district under § 6-15-202, the division shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

- (A) Established and operated in compliance with this chapter; and
- (B) Effective under the measurements established by the division under this section.

(2) The division shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The division shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15, the division shall provide to the House Committee on Education and the Senate Committee on Education a report on:

- (1) The information reported to it under § 6-48-102; and
- (2) The effectiveness of alternative learning environments evaluated under this chapter.

REGULATIONS

005.15.022-5.00. Student discipline.

5.04.9 Include programs, measures, or alternative means and methods to continue student engagement and access to education during periods of suspension or expulsion;

5.04.10 Include provisions for placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a physical or mental impairment or disability in an alternative learning environment provided by the district. Behavioral problems include being at risk of not satisfactorily completing a high school education. [...]

5.11 Consistent with state and federal law, in order to maintain effective discipline in the classroom, a teacher may remove from class and send to the principal's or principal's designee's office, a student:

5.11.3 If a teacher removes a student from class in accordance with 5.11, the principal or his or her designee may:

5.11.3.1 Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment, so long as such placement is consistent with the school district's written policies, and state and federal law and rules. [...]

5.18 A public school district or open-enrollment public charter school that expels a student, shall offer to the expelled public school student digital learning courses or other alternative educational courses for which the student may receive academic credit that is at least equal to credit the expelled public school student may have received if he or she was still enrolled in his or her assigned public school or open-enrollment public charter school immediately before he or she was expelled.

005.19.007-Appendix. Rules governing standards for accreditation of Arkansas public schools and school districts.

Standard 2-I Alternative Education Services

2-I.1 Each public school district shall provide appropriate alternative programs for students who are identified as requiring such programs to continue their education.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

(B) These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

A.C.A. § 6-15-1303. Safe Schools Initiative Act.

(C) The training provided by the Arkansas Center for School Safety of the Criminal Justice Institute may include without limitation the training and education needed to assist a public school or private school in:

(ii) Addressing public safety and legal topics such as drugs and alcohol abuse, sexual assault, dating violence, bullying cyberbullying, human trafficking, gangs, preventing the possession of weapons by minors, and responding to the threat of weapons at school.

A.C.A. § 6-17-113. Duty to report and investigate student criminal acts - Definitions.

(a) As used in this section:

(1) "Act of violence" means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person;

(2) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious physical injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

(3) "Firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b)(1) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(b) Such rules shall include without limitation the following requirements:

(3) Student discipline policies shall include without limitation the following offenses:

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school district board of directors. [...]

(c) The school discipline policies shall:

(2)(A) Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(e)(2)(A) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property. [...]

(3)(A) The school administrators and the local school district board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the division the name, current address, and Social Security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection.

(4) The division shall maintain information regarding students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(b) It shall be unlawful for any student or any other person using school-owned property to conceal any gun, drug, or any other contraband in any desk, locker, or other school-owned property in this state. [...]

(e)(1)(A) If a school official discovers a gun or other firearm in any school-owned property assigned to the use of an identifiable student, that student shall be expelled for one (1) year.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) In the event that prosecution by local authorities is pursued, the gun or other firearm shall be released to the local prosecuting authorities to be used as evidence in court and shall be legally admissible in any court in this state.

REGULATIONS

005.15.022-5.00. Student discipline.

5.03 Student discipline policies shall include, without limitation, the following offenses:

5.03.2 Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors. [...]

5.04 Student discipline policies shall:

5.04.2 Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law, provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

5.04.2.1 The policy shall require parents, guardians, or other persons in loco parentis of a student expelled for possession of a firearm or other prohibited weapon to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property.

5.04.2.2 The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of the expulsion.

5.04.2.3 School administrators and the local school district board shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student. [...]

5.19 The principal of each school shall report, within a week, to the Division, the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

5.19.1 The expulsion shall be noted on the student's permanent school record.

5.19.2 Nothing in Section 5.19 of these rules shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis.

5.19.3 The Division shall maintain information regarding students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

005.23.001-3.00. Definitions.

For the purposes of these rules and regulations:

3.08 'Deadly weapon' means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious physical injury, or adapted for the purpose of inflicting death or serious physical injury; or

3.08.1 Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

3.08.2 'Firearm' means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

005.23.001-4.00. School reporting responsibility.

4.01 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision/authority shall immediately report the incident to the superintendent or designee.

4.02 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon shall report the incident to the superintendent or designee and the appropriate local law enforcement agency.

4.03 Behavior is considered to be a threat if a reasonable person would believe the actor could and would carry out the threatened behavior and if a reasonable person would be placed in fear of his life or safety.

4.04 The phrase "any crime involving a deadly weapon" requires the commission of a crime using a deadly weapon as previously defined. With the exception of firearms or items which are in and of themselves illegal, mere possession, without more, is not sufficient to trigger reporting requirements.

4.05 The superintendent, or his designee, shall notify the local school board of any report made to law enforcement under this section.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

A.C.A. § 6-11-209. Additional truancy officers - Definition.

- (b) An education service cooperative may receive funding from a local law enforcement agency, a state agency, or a federal agency, or from private donations, to employ one (1) or more truancy officers for a school district with a high dropout rate.
- (c) An education service cooperative may employ under this section:
 - (1) One (1) truancy officer for each school district with a high dropout rate in its service area that has a student population of one thousand (1,000) or fewer students; and
 - (2) Two (2) truancy officers for each school district with a high dropout rate in its service area that:
 - (A) Is a countywide school district; or
 - (B) Has a student population of more than one thousand (1,000) students.
- (d) A truancy officer hired under this section shall complete:
 - (1) The training requirements for juvenile intake and probation officer certification through the Administrative Office of the Courts; and
 - (2) Twelve (12) hours of continuing education annually as approved by the judge for the juvenile division of the circuit court for the county the truancy officer serves.

A.C.A. § 6-18-209. Adoption of student attendance policies - Effect of unexcused absences.

- (a) The board of directors of each school district in this state shall adopt student attendance policies.
- (b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.
- (c) A student attendance policy may include unexcused absences as a mandatory basis for denial of promotion or graduation.

A.C.A. § 6-18-221. Cooperation of law enforcement agencies.

- (b) Upon the request of the board of directors of the school district, the law enforcement agency shall stipulate, with the administration of the school district, specific days and hours when law enforcement officers will attempt to locate school-age students in the community who are off school premises during school hours without valid documentation excusing their absence.
- (c) Any certified law enforcement officer may stop and detain any unsupervised school-age student located off school premises during school hours and request the production of documentation excusing the student's absence from school.
- (d) Upon the student's failure to produce sufficient documentation, the law enforcement officer may take the student into custody and return the student to his or her school, transport the student to his or her parent, or transport the student to the truancy reception center, which shall not be a jail, juvenile detention center, or police department, and which has been designated by the school district.
- (e)(1) Any school district adopting this program shall include in its attendance policy a notice to parents and students that it has entered into a cooperative agreement with law enforcement officials to implement an Operation Stay in School Program, and unsupervised students found off school premises during school hours shall be subject to questioning by a law enforcement officer under the program.
 - (2) Any school district adopting this program shall include provisions for furnishing valid documentation for a student in work-study programs or other authorized absences from school premises in order to assist law enforcement officers in determining the validity of documentation excusing the student's absence from school during school hours.

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition.

(a)(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of unexcused absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, unexcused absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having unexcused absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2)(A) The Career Education and Workforce Development Board shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program.

(B) The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district's student attendance policy or the Career Education and Workforce Development Board's student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

(4)(A)(i) A student's parent, guardian, or person in loco parentis and the community truancy board, if the community truancy board has been created, shall be notified when the student has accumulated unexcused absences equal to one-half ($\frac{1}{2}$) the total number of absences permitted per semester under the school district's or the Career Education and Workforce Development Board's student attendance policy.

(ii) Notice shall be by telephonic contact with the student's parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day.

(iii) Notice to the community truancy board, if the community truancy board has been created, shall be by letter to the chair of the community truancy board.

(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent, guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student's absences.

(C)(i) If the community truancy board has scheduled a conference and the student's parent, guardian, or person in loco parentis does not attend the conference, the conference may be conducted with the student and a school official.

(ii) However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D)(i) Before a student accumulates the maximum number of unexcused absences allowed in a school district's student attendance policy, the student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's unexcused absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

(a) Designee of the school administration or of the school district administration;

(b) Student's parent, guardian, or person in loco parentis; and

(c) Student.

(5)(A) When a student exceeds the number of unexcused absences provided for in the district's or the Career Education and Workforce Development Board's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6)(A)(i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

A.C.A. § 6-18-226. Community truancy boards - Members - Duties.

(a) The local school district boards of directors may create a community truancy board or may use other boards that exist or are created such as diversion boards. However, a diversion or other existing board must agree before it is used as a community truancy board.

(b) Members of the community truancy board shall be selected from representatives of the community.

(c) Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(b)(1) The board of directors of a school district may suspend or expel any student from school for violation of the school district's written discipline policies, except that a school district shall not use out-of-school suspension as a discipline measure for truancy.

REGULATIONS

005.15.022-5.00. Student discipline.

5.13 The board of a school district may suspend or expel any student from school for violation of the school district's written discipline policies, with the following exceptions:

5.13.1 A school district shall not use out-of-school suspension as a discipline measure for truancy.

005.19.007-Appendix. Rules governing standards for accreditation of Arkansas public schools and school districts.

Standard 2-B Attendance and Enrollment

2-B.1 Each public school district board of directors shall adopt a student attendance policy and include the attendance policy in the student handbook.

Substance Use

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

(B) These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

A.C.A. § 6-18-111. School safety and crisis line.

(b) The school safety and crisis line under this section shall:

(1) Provide a means for a student to anonymously report:

(F) Issues involving drug abuse or alcohol abuse, or both, regarding the student or another individual whom the student knows.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(3) Student discipline policies shall include without limitation the following offenses:

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property.

A.C.A. § 6-21-608. Concealment of guns or drugs - Definitions.

(d)(1) Whenever a school official discovers any illegal drugs or other contraband in any school-owned property assigned to the use of an identifiable student or any other identifiable person, appropriate action for discipline, expulsion, discharge, or prosecution shall be within the discretion of the supervisor of the premises.

A.C.A. § 6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes - Definition.

(a) As used in this section, "e-cigarette" means an electronic oral device that provides a vapor of nicotine or another substance that, when used or inhaled simulates smoking, including without limitation a device that:

(1) Is composed of a heating element, battery, or electronic circuit, or a combination of heating element, battery, and electronic circuit;

(2) Works in combination with a liquid nicotine delivery device composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes; and

(3) Is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other name or descriptor.

(b) Smoking tobacco, the use of tobacco or tobacco products, or the use of e-cigarettes is prohibited:

(1) In or on real property owned or leased by a public school district, including a public charter school; or

(2) In or on personal property, including without limitation school buses, owned or leased by a public school district, including a public charter school.

(c) A copy of this statute shall be posted in a conspicuous location at every entrance to each building owned or leased by a public school district and every school bus used to transport public school students.

(d) A person who violates this section commits a violation punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

A.C.A. § 19-12-113. Establishment and administration of prevention and cessation programs.

(c) The Tobacco Prevention and Cessation Program shall be comprised of components approved by the State Board of Health. The program components selected by the board shall include:

- (2) local school programs for education and prevention in grades kindergarten through twelve (K-12) that should include school nurses, where appropriate.

REGULATIONS

005.15.022-5.00. Student discipline.

5.03 Student discipline policies shall include, without limitation, the following offenses:

- 5.03.3 Using, offering for sale, or selling, beer, alcoholic beverages, or other illicit drugs, by students on school property.

Gang-related Activity

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

- (B) These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

A.C.A. § 6-15-1303. Safe Schools Initiative Act.

(C) The training provided by the Arkansas Center for School Safety of the Criminal Justice Institute may include without limitation the training and education needed to assist a public school or private school in:

- (ii) Addressing public safety and legal topics such as drugs and alcohol abuse, sexual assault, dating violence, bullying cyberbullying, human trafficking, gangs, preventing the possession of weapons by minors, and responding to the threat of weapons at school.

A.C.A. § 6-18-2002. Definitions.

As used in this subchapter:

- (2) "Direct services" means services that are provided through face-to-face contact with students, including without limitation:

- (C) Responsive services on behalf of students whose immediate personal concerns and problems put the student's academic, career, or social and emotional development at risk, including the administration of a risk assessment; and

- (D) Interventions for students who are:

- (i) At risk of dropping out of school; or
- (ii) Exhibiting dangerous behaviors, such as drug use, self-harm, or gang activity.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

A.C.A. § 5-71-217. Cyberbullying.

(a) As used in this section:

(1) "Communication" means the electronic communication of information of a person's choosing between or among points specified by the person without change in the form or content of the information as sent and received;

(2) "Electronic means" means any textual, visual, written, or oral communication of any kind made through the use of a computer online service, Internet service, telephone, or any other means of electronic communication, including without limitation to a local bulletin board service, an Internet chat room, electronic mail, a social networking site, or an online messaging service; and

(3) "School employee" means a person who is employed full time or part time at a school that serves students in any of the grades kindergarten through grade twelve (K-12), including without limitation a:

(A) Public school operated by a school district;

(B) Public school operated by a state agency or institution of higher education;

(C) Public charter school; or

(D) Private school.

(b) A person commits the offense of cyberbullying if:

(1) He or she transmits, sends, or posts a communication by electronic means with the purpose to frighten, coerce, intimidate, threaten, abuse, or harass another person; and

(2) The transmission was in furtherance of severe, repeated, or hostile behavior toward the other person.

(c) The offense of cyberbullying may be prosecuted in the county where the defendant was located when he or she transmitted, sent, or posted a communication by electronic means, in the county where the communication by electronic means was received by the person, or in the county where the person targeted by the electronic communications resides.

(d)(1) Cyberbullying is a Class B misdemeanor.

(2) Cyberbullying is a Class A misdemeanor if the victim is a school employee.

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(b)(1) The school climate will promote student achievement.

(2)(A) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities.

(B) These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

A.C.A. § 6-15-1303. Safe Schools Initiative Act.

(C) The training provided by the Arkansas Center for School Safety of the Criminal Justice Institute may include without limitation the training and education needed to assist a public school in:

(ii) Addressing public safety and legal topics such as drugs and alcohol abuse, sexual assault, dating violence, bullying cyberbullying, human trafficking, gangs, preventing the possession of weapons by minors, and responding to the threat of weapons at school.

A.C.A. § 6-17-711. Bullying prevention - Professional development.

(a) The Division of Elementary and Secondary Education shall require two (2) hours of professional development in the following areas for licensed public school personnel according to the professional development schedule under § 6-17-709:

(1) Bullying prevention; and

(2) Recognition of the relationship between incidents of bullying and the risk of suicide.

(b) The professional development under this section shall count toward the satisfaction of requirements for professional development in the Standards for Accreditation of Arkansas Public Schools and School Districts and of licensure requirements for licensed personnel.

(c)(1) In addition to the professional development requirement under subsection (a) of this section, the division shall develop a guidance document for use by parents and legal guardians, students, and public school districts to assist in resolving complaints concerning student bullying behaviors.

(2) The guidance document required under subdivision (c)(1) of this section shall include without limitation:

(A) A public school district's obligations under § 6-18-514;

(B) Best practices for the prevention, reporting, and investigation of and the response to bullying in public schools; and

(C) A clear definition of bullying that provides examples regarding conduct that does and does not constitute bullying.

(3) The guidance document under subdivision (c)(1) of this section shall be provided to licensed public school personnel as part of the professional development required under subsection (a) of this section.

A.C.A. § 6-18-514. Antbullying policies - Definitions.

(a) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

(1) "Attribute" means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;

(2)(A) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

(i) Physical harm to a public school employee or student or damage to the public school employee's or student's property;

(ii) Substantial interference with a student's education or with a public school employee's role in education;

(iii) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(iv) Substantial disruption of the orderly operation of the public school or educational environment.

(B) "Bullying" includes cyberbullying as defined in this section;

(3) "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to:

(A) Harass, intimidate, humiliate, ridicule, defame, or threaten a student, public school employee, or person with whom the other student or public school employee is associated; or

(B) Incite violence against a student, public school employee, or person with whom the other student or public school employee is associated;

(4) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(5) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(6) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

- (A) Necessary cessation of instruction or educational activities;
- (B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;
- (C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or
- (D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:

(1) As soon as reasonably practicable:

- (A) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying; and
- (B) Prepare a written report of the alleged incident of bullying;

(2)(A) Promptly investigate the credible report or complaint.

(B)(i) The investigation conducted under subdivision (d)(2)(A) of this section shall be completed as soon as possible but not later than five (5) school days from the date of the written report of the alleged incident of bullying as required under subdivision (d)(1)(B) of this section.

(ii) Following the completion of the investigation into the alleged incident of bullying conducted under subdivision (d)(2)(A) of this section, an individual licensed as a public school district building-level administrator or his or her designee may without limitation:

- (a) Provide intervention services;
- (b) Establish training programs to reduce bullying;
- (c) Impose discipline on any of the parties involved in the incident of bullying;
- (d) Recommend counseling for any of the parties involved in the incident of bullying; or
- (e) Take or recommend other appropriate action;

(3)(A) Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

- (i) Upon completion of the investigation under subdivision (d)(2)(A) of this section; and
- (ii) Regarding the consequences of continued incidents of bullying.

(B) A parent or legal guardian of a student who is a party to an investigation of an incident of bullying conducted under subdivision (d)(2)(A) of this section is entitled within five (5) school days after the completion of the investigation, and in accordance with federal and state law, to receive information about the investigation, including without limitation:

- (i) That a credible report or complaint of bullying exists;
- (ii) Whether the credible report or complaint of bullying was found to be true based on the investigation;
- (iii) Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and
- (iv) Information regarding the reporting of another incident of bullying;

- (4)(A) Make a written record of the investigation and any action taken as a result of the investigation.
- (B) The written record of the investigation shall include a detailed description of the alleged incident of bullying, including without limitation a detailed summary of the statements from all material witnesses to the alleged incident of bullying; and
- (5) Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying.
- (e) One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.
- (f)(1) Each public school district board of directors shall adopt policies to prevent bullying.
- (2) The policies shall:
- (A)(i) Clearly define conduct that constitutes bullying.
- (ii) The definition under subdivision (f)(2)(A)(i) of this section shall include without limitation the definition contained in subsection (b) of this section;
- (B) Prohibit:
- (i) Bullying while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events; or
- (ii)(a) Cyberbullying that results in the substantial disruption of the orderly operation of the school or educational environment.
- (b) This section applies to cyberbullying whether or not the cyberbullying originated on school property or with school equipment if the cyberbullying is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;
- (C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;
- (D) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of an incident of bullying as defined by the public school district report the incident to the principal as soon as possible;
- (E) Require that any person who files a credible report or makes a complaint of bullying not be subject to retaliation or reprisal in any form;
- (F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;
- (G)(i) Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually.
- (ii) Each policy shall require that a full copy of the policy be made available upon request;
- (H) Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying as described in this section; and
- (I) Include information on how to make an anonymous report to the school safety and crisis line under § 6-18-111.
- (3) A notice of the public school district's policies shall appear in any:
- (A) Publication of the public school district that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district; and
- (B) Student handbook.

- (4) The public school district shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its policies regarding the prohibition of bullying and make any necessary revisions and additions.
- (g) A public school district shall provide training on compliance with the anti-bullying policies to all public school district employees responsible for reporting or investigating bullying under this section.
- (h) A public school employee who has reported violations under the public school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident of bullying.
- (i) The public school district board of directors may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by the public school district's policies.
- (j) The public school district shall provide the Division of Elementary and Secondary Education with the website address at which a copy of the policies adopted in compliance with this section may be found.
- (k) This section is not intended to:
 - (1) Restrict a public school district from adopting and implementing policies against bullying and school violence or policies to promote civility and student dignity that are more inclusive than the policies prohibiting bullying required under this section;
 - (2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly;
 - (3) Affect the provisions of any collective bargaining agreement or individual contract of employment in effect on July 24, 2019; or
 - (4) Alter or reduce the rights of a student with a disability with regard to disciplinary action or to general or special educational services and support.

A.C.A. § 6-18-111. School safety and crisis line.

- (b) The school safety and crisis line under this section shall:
 - (1) Provide a means for a student to anonymously report:
 - (B) Incidents of bullying, harassment, or hazing, including without limitation conduct described in § 6-18-514.

A.C.A. § 6-18-2004. Comprehensive student services.

- (b)(2) Direct and indirect services may be provided in collaboration with other school personnel and include without limitation:
 - (F) Providing social and emotional skills designed to support students, including without limitation programs:
 - (iv) To prevent bullying that include without limitation:
 - (a) Training programs for school employees regarding how to recognize bullying behaviors;
 - (b) Protocols for responding to bullying that is occurring in the school;
 - (c) Strategies that support a student who is being bullied; and
 - (d) Strategies that help a bystander speak out against bullying.

A.C.A. § 6-5-201. Definition.

- (a) As used in this subchapter, "hazing" means:
 - (1) A willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student, alumnus, or volunteer or employee of a fraternal organization if the volunteer or employee is acting on behalf of, or in the name of, the fraternal organization, acting alone, or acting with others when the conduct is directed against any other student and done for the purpose of intimidating the student attacked by threatening him or her with social or other ostracism or of

submitting such student to ignominy, shame, or disgrace among his or her fellow students, and acts calculated to produce such results;

(2) The playing of abusive or truculent tricks on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student, alumnus, or volunteer or employee of a fraternal organization if the volunteer or employee is acting on behalf of, or in the name of, the fraternal organization, acting alone, or acting with others, upon another student to frighten or scare him or her;

(3) A willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student, alumnus, or volunteer or employee of a fraternal organization if the volunteer or employee is acting on behalf of, or in the name of, the fraternal organization, acting alone, or acting with others which is directed against any other student done for the purpose of humbling the pride, stifling the ambition, or impairing the courage of the student attacked or to discourage him or her from remaining in that school, college, university, or other educational institution, or reasonably to cause him or her to leave the institution rather than submit to such acts; or

(4) A willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student, alumnus, or volunteer or employee of a fraternal organization if the volunteer or employee is acting on behalf of, or in the name of, the fraternal organization, acting alone, or acting with others in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim; or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution; or any assault upon any such student made for the purpose of committing any of the acts, or producing any of the results, to such student as defined in this section.

(b) The term "hazing" as defined in this section:

(1) Does not include customary athletic events or similar contests or competitions; and

(2) Is limited to those actions taken and situations created in connection with initiation into or affiliation with an organization, extracurricular activity, or sports program.

A.C.A. § 6-5-202. Prohibitions.

(a) A student, alumnus, or volunteer or employee of a fraternal organization of a school, college, university, or other educational institution in Arkansas shall not knowingly engage in hazing or encourage, aid, or assist any other student, alumnus, or volunteer or employee of a fraternal organization in hazing.

(b)(1) A person shall not knowingly permit, encourage, aid, or assist another person in committing the offense of hazing, or knowingly acquiesce in the commission of the offense of hazing, or fail to report promptly his or her knowledge or any reasonable information within his or her knowledge of the presence and practice of hazing in this state to an appropriate administrative official of the school, college, university, or other educational institution in Arkansas.

(2) An act of omission or commission is hazing under this subsection.

(c) A violation of this section is a Class B misdemeanor.

(d) In addition to any penalty provided by this section, a student convicted of hazing shall be expelled from the school, college, university, or other educational institution that he or she is attending.

A.C.A. § 6-5-204. Construction.

Nothing in this subchapter shall be construed as in any manner affecting or repealing any law of this state respecting any other criminal offense.

REGULATIONS

005.15.022-4.00. Definitions.

4.02 "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school

employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

4.02.1 Physical harm to a public school employee or student or damage to the public school employee's or student's property;

4.02.2 Substantial interference with a student's education or with a public school employee's role in education;

4.02.3 A hostile educational environment for one (1) or more student or public school employees due to the severity, persistence, or pervasiveness of the act; or

4.02.4 Substantial disruption of the orderly operation of the school or educational environment; and

4.02.5 Includes cyberbullying. [...]

4.04 "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to:

4.04.1 Harass, intimidate, humiliate, ridicule, defame, or threaten a student, public school employee, or person with whom the other student or public school employee is associated; or

4.04.2 Incite violence to a student, public school employee, or person with whom the other student or public school employee is associated. [...]

4.06 "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment. [...]

4.09 "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

4.09.1 Necessary cessation of instruction or educational activities;

4.09.2 Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

4.09.3 Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

4.09.4 Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

005.15.022-6.00. Anti-bullying.

6.01 Bullying of a public school student or a public school employee is prohibited.

6.02 Each public school district board of directors shall adopt policies to prevent bullying. The policies shall:

6.02.1 Clearly define conduct that constitutes bullying and shall include the definition contained in Ark. Code Ann. § 6-18-514. and these rules;

6.02.2 Prohibit bullying while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events;

6.02.3 Prohibit cyberbullying that results in the substantial disruption of the orderly operation of the school or educational environment, whether or not the cyberbullying originated on school property or with school equipment if the cyberbullying is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

6.02.4 State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

6.02.5 Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of an incident of bullying as defined by the public school district shall report the incident to the principal as soon as possible;

- 6.02.6 Require that any person who files a credible report or makes a complaint of bullying shall not be subject to retaliation or reprisal in any form;
- 6.02.7 Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;
- 6.02.8 Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually;
- 6.02.9 Require that a full copy of the policy be made available upon request;
- 6.02.10 Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying; and
- 6.02.11 Include information on how to make an anonymous report to the school safety and crisis line under Ark. Code Ann. § 6-18-111.
- 6.03 A notice of the public school district's policies shall appear in any publication of the public school district that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district, and the student handbook.
- 6.04 The public school district shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its policies regarding the prohibition of bullying and make any necessary revisions and additions.
- 6.05 A public school district shall provide training on compliance with the anti-bullying policies to all public school district employees responsible for reporting or investigating bullying.
- 6.06 A public school employee who has reported violations under the public school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident of bullying.
- 6.07 The public school district board of directors may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by the public school district's policies.
- 6.08 The public school district shall provide the Division with the website address at which a copy of the policies adopted in compliance with these rules may be found.
- 6.09 Nothing in these rules shall be construed to:
- 6.09.1 Restrict a public school district from adopting and implementing policies against bullying and school violence or policies to promote civility and student dignity that are more inclusive than the policies prohibiting bullying required under these rules;
 - 6.09.2 Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly;
 - 6.09.3 Affect the provisions of any collective bargaining agreement or individual contract of employment in effect on July 24, 2019; or
 - 6.09.4 Alter or reduce the rights of a student with a disability with regard to disciplinary action or to general or special educational services and support.
- 6.10 If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:
- 6.10.1 As soon as reasonably practicable:
 - 6.10.1.1 Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying; and
 - 6.10.1.2 Prepare a written report of the alleged incident of bullying; and
 - 6.10.2 Promptly investigate the credible report or complaint.

6.10.2.1 The investigation shall be completed as soon as possible but not later than five (5) school days from the date of the written report of the alleged incident of bullying.

6.10.2.2 Following the completion of the investigation into the alleged incident of bullying, an individual licensed as a public school district building-level administrator or his or her designee may without limitation:

6.10.2.2.1 Provide intervention services;

6.10.2.2.2 Establish training programs to reduce bullying;

6.10.2.2.3 Impose discipline on any of the parties involved in the incident of bullying in accordance with state and federal law and rules and district policy;

6.10.2.2.4 Recommend counseling for any of the parties involved in the incident of bullying; or

6.10.2.2.5 Take or recommend other appropriate action.

6.10.3 Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

6.10.3.1 Upon completion of the investigation; and

6.10.3.2 Regarding the consequences of continued incidents of bullying.

6.10.3.3 A parent or legal guardian of a student who is the victim or perpetrator of an incident of bullying is entitled within five (5) school days after the completion of the investigation, and in accordance with federal and state law, to receive information about the investigation, including without limitation:

6.10.3.3.1 That a credible report or complaint of bullying exists;

6.10.3.3.2 Whether the credible report or complaint of bullying was found to be true based on the investigation;

6.10.3.3.3 Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and

6.10.3.3.4 Information regarding the reporting of another incident of bullying.

6.10.4 Make a written record of the investigation and any action taken as a result of the investigation.

6.10.4.1 The written record of the investigation shall include a detailed description of the alleged incident of bullying, including without limitation a detailed summary of the statements from all material witnesses to the alleged incident of bullying; and

6.10.5 Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying.

6.11 One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.

005.15.12-008. ADE 096: Rules governing public school student services.

3.00 Definition

3.01 "Student services program" means a coordinated effort, which shall include, without limitation:

3.01.5 Group conflict resolution services, which shall include, without limitation:

3.01.5.1 Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

3.01.5.2 Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

3.01.5.3 Programs designed to prevent bullying.

005.22.017-8.00. Professional development criteria.

8.02 Approved professional development activities shall relate to the following Focus Areas:

8.02.14 Student health and wellness, which may include but is not limited to:

8.02.14.1 Antibullying policies.

005.22.017-9.00. School and school district professional development plans.

9.01 Each school district and school shall develop and implement a professional development plan.

9.01.2 An educator may count toward the annual minimum professional development required under these rules each hour of training included in the professional development plan that is mandated by law or by rule, including without limitation in the following areas:

9.01.2.6 Anti-bullying policies under A.C.A. § 6-18-514.

Dating and Relationship Violence

LAWS

A.C.A. § 6-16-1004. Dating violence awareness.

(a) Annually, in either the month of October for a one-semester course taught in the fall or the month of February for a one-semester course taught in the spring, a unit on dating violence awareness shall be taught as a component of a health course offered in grades seven through twelve (7-12).

(b) A unit on dating violence awareness shall:

- (1) Focus on healthy relationships, including the characteristics of healthy relationships;
- (2) Teach students the definition of dating violence and abuse, including without limitation:
 - (A) Warning signs of dating violence and abusive behavior; and
 - (B) Measures to stop or prevent dating violence and abusive behavior;
- (3) Inform students about resources and reporting procedures for dating violence or abuse; and
- (4) Examine the common misconceptions and stereotypes about dating violence and abuse.

(c)(1) Materials used to teach a unit in dating violence awareness shall be age appropriate.

(2) Information provided shall be objective and based on scientific research that is peer-reviewed and accepted by professionals and credentialed experts in the field of health education.

(d) The Division of Elementary and Secondary Education shall annually provide a list of source materials available for school districts to use to teach a unit on dating violence awareness, including without limitation materials from:

- (1) The Arkansas Coalition Against Domestic Violence;
- (2) The Centers for Disease Control and Prevention;
- (3) The National Domestic Violence Hotline;
- (4) The National Institutes of Health; and
- (5) Other sources of scientifically based research that are peer-reviewed.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

A.C.A. § 6-17-711. Bullying prevention - Professional development.

(a) The Division of Elementary and Secondary Education shall require two (2) hours of professional development in the following areas for licensed public school personnel according to the professional development schedule under § 6-17-709:

- (1) Bullying prevention; and
- (2) Recognition of the relationship between incidents of bullying and the risk of suicide.

(b) The professional development under this section shall count toward the satisfaction of requirements for professional development in the Standards for Accreditation of Arkansas Public Schools and School Districts and of licensure requirements for licensed personnel.

(c)(1) In addition to the professional development requirement under subsection (a) of this section, the division shall develop a guidance document for use by parents and legal guardians, students, and public school districts to assist in resolving complaints concerning student bullying behaviors.

(2) The guidance document required under subdivision (c)(1) of this section shall include without limitation:

- (A) A public school district's obligations under § 6-18-514;
- (B) Best practices for the prevention, reporting, and investigation of and the response to bullying in public schools; and
- (C) A clear definition of bullying that provides examples regarding conduct that does and does not constitute bullying.

(3) The guidance document under subdivision (c)(1) of this section shall be provided to licensed public school personnel as part of the professional development required under subsection (a) of this section.

A.C.A. § 6-18-226. Community truancy boards - Members - Duties.

(a) The local school district boards of directors may create a community truancy board or may use other boards that exist or are created such as diversion boards. However, a diversion or other existing board must agree before it is used as a community truancy board.

(b) Members of the community truancy board shall be selected from representatives of the community.

(c) Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

A.C.A. § 6-18-516. Effective school discipline - Definition.

(d) The division shall:

- (1) Provide school districts with resources for the best practices in effective school discipline; and
- (2) Annually communicate to school districts:
 - (A) The availability of and how to access the data listed in subsection (b) of this section; and
 - (B) How to access the resources listed in subdivision (d)(1) of this section.

A.C.A. § 6-48-104. Division of Elementary and Secondary Education responsibilities.

(c) The division shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

A.C.A. § 6-18-2408. Training — School personnel.

(a) A school district may conduct the following training for school personnel:

(1) Training on the use of an array of positive behavior interventions, strategies, and supports to increase appropriate student behavior and decrease inappropriate or dangerous student behavior;

(2)(A) Annual training on responding to a student in behavioral crisis and preventing a behavioral crisis.

(B) The training described under subdivision (a)(2)(A) of this section may be delivered using a web-based application and may include training on:

(i) The appropriate procedures that may be used to prevent the need for physical restraint and crisis intervention, including without limitation positive behavior management and support strategies;

(ii) The proper use of positive reinforcement;

(iii) The continuum of alternative behavioral interventions;

(iv) Crisis prevention techniques; and

(v) De-escalation strategies for problematic behavior, including without limitation verbal de-escalation and relationship building; and

(3)(A) Training for school personnel who are selected to participate in a core team that is designated to respond to crisis and emergency situations that may require the physical restraint of a student.

(B) The core team may receive training annually in the following areas:

(i) Appropriate procedures for preventing the need for physical restraint or crisis intervention that includes the de-escalation of problematic behavior, relationship building skills, and the use of alternatives to physical restraint;

(ii) Describing and identifying dangerous behaviors on the part of a student that may indicate the need for physical restraint or crisis intervention;

(iii) The methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint or crisis intervention is safe and warranted;

(iv) Simulated experience of administering and receiving physical restraint and crisis intervention;

(v) Instruction regarding the effect of using physical restraint on a student, including without limitation instruction on monitoring physical signs of distress and obtaining medical assistance;

(vi) Instruction on documentation and reporting requirements and the investigation of injuries; and

(vii) Demonstration by participants of proficiency in administering physical restraint and crisis intervention.

(b) A school district shall notify all school personnel of each member of school personnel who has been trained in the use of physical restraint procedures.

A.C.A. § 6-18-2409. Crisis Intervention Training Program — Criteria.

A program used by a school district to train school personnel on the use of physical restraint on a student shall:

(1) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint;

(2) Provide evidence-based skills training relating to positive support, conflict prevention, de-escalation, and crisis response techniques, including without limitation:

(A) Guidelines on understanding when there is an imminent danger of serious physical harm to a student or others;

(B) Guidelines on when to intervene when there is an imminent danger of serious physical harm to a student or others;

(C) An emphasis on safety and the respect for the rights and dignity of each person involved in an incident that involves the use of physical restraint on a student;

- (D) An emphasis on using the least restrictive form of intervention and taking incremental steps in an intervention;
- (E) The provision of updates on information concerning alternatives to the use of restrictive interventions;
- (F) Strategies for the safe implementation of restrictive interventions;
- (G) The use of emergency safety interventions that include without limitation continuous assessment and monitoring of the physical well-being of a student and the safe use of physical restraint throughout the duration of a restrictive intervention;
- (H) Prohibited procedures;
- (I) Debriefing strategies, including without limitation the importance and purpose of debriefing; and
- (J) Documentation of methods and procedures concerning the use of physical restraint on a student;
- (3) Be competency-based and include measurable learning objectives, measurable testing using written documentation of behavior and observation of behavior on the objectives of the testing, and measurable methods to determine passing or failing the program;
- (4) Require recertification at least biennially; and
- (5) Be consistent with the philosophies, practices, and techniques for physical restraint provided under this subchapter.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

A.C.A. § 6-17-2809. System of administrator leadership support and evaluations.

(a)(1) The Division of Elementary and Secondary Education shall design a system of administrator leadership support and evaluations that:

- (B) Uses multi-tiered systems of professional support and learning for what a leader should know and be able to do.

A.C.A. § 6-18-2004. Comprehensive student services.

(b)(2)(G)(ii) Response-to-intervention teams; [...]

- (v) Positive behavioral intervention support programs [...]

(c)(2)(C)(ii) Response-to-intervention teams; [...]

- (v) Positive behavioral intervention support programs.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

A.C.A. § 6-18-2004. Comprehensive student services.

(b)(2) Direct and indirect services may be provided in collaboration with other school personnel and include without limitation:

- (F) Providing social and emotional skills designed to support students, including without limitation programs:

- (i) To promote cultural and social awareness, positive communication and relationship skills, collaboration with others, and responsible decision-making.

(ii) To improve culture and climate in the school so that all students can feel that they are in a safe and supportive environment;

(iii) To develop conflict-resolution skills.

(d) By September 1, 2024, and every four (4) years following, a school counselor shall receive youth mental health training, as prescribed by the state board of education, to learn the risk factors and warning signs of mental health issues in adolescents, the importance of early intervention, and how to help an adolescent who is in crisis or expecting a mental health challenge.

A.C.A. § 6-18-2404. Prevention.

(a) School districts shall implement positive behavioral supports that shall be used at the:

(1) Prevention level for each student in a school;

(2) Strategic intervention level for a student who is not responding, from a social, emotional, or behavioral perspective, to the prevention level; and

(3) Intensive service or crisis-management level for a student who needs multifaceted or comprehensive behavioral or mental health services.

(b) Positive behavioral support implemented by a school district shall include:

(1) The teaching and reinforcing of interpersonal, social, problem solving, conflict resolution, and coping skills to a student;

(2) Holding a student positively accountable for meeting an established behavioral expectation;

(3) Maintaining a high level of consistency through the implementation process; and

(4) The following interrelated activities:

(A) Providing a school-wide approach to the discipline and safety of each student rather than an approach to only the behavior problem of a student;

(B) Focusing on preventing the development and occurrence of problem behavior;

(C) Regularly reviewing behavior data to adapt the procedures of a school to meet the needs of every student; and

(D) Providing a multitiered approach to academic and behavioral services and support to meet the academic and behavioral achievement needs of each student.

(c) A positive behavioral support system and conflict resolution or de-escalation approach implemented by a school district shall be based on the following principles:

(1) A school should promote the right of a student to be treated with dignity;

(2) A student should receive necessary academic, social, emotional, and behavioral support that is provided in a safe and least-restrictive environment possible;

(3) Positive and appropriate academic, social, emotional, or behavioral intervention, as well as mental health support, should be provided routinely to each student who needs the intervention or support;

(4) School personnel should be trained to provide routinely positive and appropriate academic, social, emotional, or behavioral intervention, as well as mental health support, to each student who needs the intervention or support;

(5) Behavioral intervention should emphasize prevention and should be a part of a school's system of positive behavioral support;

(6) A school should have the school personnel necessary to effectively provide positive support to a student;

(7) A school should appropriately train its school personnel to be able to address the needs of each student;

(8) All relevant school personnel, as determined by each public school district, should receive training in:

(A) The use of positive behavior support for student behavior and in preventive techniques for teaching and motivating prosocial student behavior; and

(B) Conflict de-escalation and resolution techniques, and these techniques should be employed by all school personnel to prevent, defuse, evaluate, and debrief a crisis and conflict situation; and

(9) Each student who exhibits an ongoing behavior that interferes with his or her learning or the learning of others, and who is nonresponsive to effectively implemented classroom or administrative intervention, should receive additional intensive behavioral intervention that is based on a Functional Behavior Assessment and data-based problem solving.

- (d)(1) A school shall establish a problem-solving and intervention team for each student who exhibits social, emotional, or behavioral difficulty that may escalate, if not addressed, to potentially dangerous behavior.
- (2) A problem-solving and intervention team shall include a team member who is an academic and behavioral assessment and intervention professional.
- (3) A problem-solving and intervention team shall:
- (A) Work with the teachers of a student to complete:
 - (i) A Functional Behavior Assessment of the student; and
 - (ii) An assessment of any problematic situations involving the student; and
 - (B) Consider the need for a Behavior Intervention Plan with the goal of preventing or resolving the social, emotional, or behavioral difficulty of the student and developing a response that will de-escalate and stabilize a potential emergency situation that approaches the danger level.
- (4) If a student is suspected of having a disability that relates to behavioral concerns, the school shall follow school district, state, and federal special education procedures.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

A.C.A. § 6-15-1005. Safe, equitable, and accountable public schools.

(c) Local schools will work with parents, families, and business and community members to incorporate responsibility, character, self-discipline, civic responsibility, and positive work habits into adult contacts with students and to promote student demonstration of these behaviors.

A.C.A. § 6-18-2003. Comprehensive school counseling program and plan framework.

(a) Each public school district shall:

- (1) Develop and implement a comprehensive school counseling program that ensures student services are coordinated in a manner that provides comprehensive support to all students. [...]
- (b) The comprehensive school counseling program required under subsection (a) of this section shall:
 - (1) Guide students in academic pursuits, career planning, and social and emotional learning.

A.C.A. § 6-18-2004. Comprehensive student services.

(b)(2) Direct and indirect services may be provided in collaboration with other school personnel and include without limitation:

- (F) Providing social and emotional skills designed to support students, including without limitation programs:
 - (i) To promote cultural and social awareness, positive communication and relationship skills, collaboration with others, and responsible decision-making.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

A.C.A. § 17-40-208. Training of personnel.

(d) For a commissioned school security officer, the minimum training requirements under this chapter include without limitation the following topics:

- (7) Trauma care.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

6-17-708. Mental health awareness and teen suicide awareness and prevention professional development.

(a)(1) The Division of Elementary and Secondary Education shall require two (2) hours of professional development, or professional learning credits as determined by the division, in mental health awareness and teen suicide awareness and prevention for licensed public school personnel according to the professional development schedule under § 6-17-709.

(2) The professional development under this section may be accomplished through self-review of suitable mental health awareness and suicide prevention materials approved by the division.

6-18-2004. Comprehensive student services.

(d) By September 1, 2024, and every four (4) years following, a school counselor shall receive youth mental health training, as prescribed by the state board of education to learn the risk factors and warning signs of mental health issues in adolescents, the importance of early intervention, and how to help an adolescent who is in crisis or expecting a mental health challenge.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

A.C.A. § 6-17-113. Duty to report and investigate student criminal acts - Definitions.

(a) As used in this section:

(1) "Act of violence" means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person;

(2) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious physical injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

(3) "Firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b)(1) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

(2) The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days.

(3) The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency.

(4) The superintendent or his or her designee shall notify the local school district board of directors of any report made to law enforcement under this section.

(c)(1) Whenever a law enforcement officer receives a report of an incident pursuant to subsection (b) of this section, that officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation of the incident.

(2) The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

(3)(A) The prosecuting attorney shall implement the appropriate course of action and, within thirty (30) calendar days after receipt of the file, the prosecuting attorney shall provide a written report to the principal.

(B) The report shall state:

(i) Whether the investigation into the reported incident is ongoing;

(ii) Whether any charges have been filed in either circuit court or the juvenile division of circuit court as a result of the reported incident; and

(iii) The disposition of the case.

(4) Upon receipt of the report from the prosecuting attorney, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

- (d) Excluding the reporting requirement set out in subdivision (c)(3) of this section, any person who purposely fails to report as required by this section shall be guilty of a Class C misdemeanor.
- (e) The State Board of Education shall promulgate rules to ensure uniform compliance with the requirements of this section and shall consult with the office of the Attorney General concerning the development of these rules.

A.C.A. § 6-18-514. Antbullying policies - Definitions.

- (d) If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:
 - (1) As soon as reasonably practicable:
 - (A) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying; and
 - (B) Prepare a written report of the alleged incident of bullying. [...]
 - (5) Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying. [...]
- (f)(2) The policies shall:
 - (H) Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying as described in this section.

A.C.A. § 6-18-2407 Documentation — Notification — Debriefing.

After the occurrence of an incident involving physical restraint of a student, school personnel involved in the incident shall:

- (1)(A) Document the incident in a written report within twenty-four (24) hours after the incident occurred.
- (B) A written report of the incident shall:
 - (i) Include all information contained in the Physical Restraint or Seclusion Incident Record and Debriefing Report provided by the Division of Elementary and Secondary Education; and
 - (ii) Be maintained in the education record of the student on whom physical restraint was used.
- (C) A copy of the report shall be provided to the parent of the student on whom physical restraint was used within one (1) school day of the completion of the report;
- (2) Notify the:
 - (A) Principal of the school or another designated building administrator of the incident as soon as possible but no later than the end of the school day on which the incident occurred;
 - (B)(i) Parent of the student on whom physical restraint was used via verbal or electronic communication as soon as possible but no later than the end of the school day on which the incident occurred.
 - (ii) If the parent of the student on whom physical restraint was used cannot be notified via verbal or electronic communication within twenty-four (24) hours after the incident occurred, the parent shall be mailed written notification of the incident within forty-eight (48) hours after the incident occurred; and
- (3)(A) Hold a debriefing meeting within two (2) school days after the incident occurred.
- (B) The following school personnel shall be present at a debriefing meeting:
 - (i) A member of school personnel who was present during the incident;
 - (ii) A member of school personnel who was in the proximity of the student on whom physical restraint was used immediately before and during the time of the incident;
 - (iii) A school administrator; and
 - (iv) Any other member of school personnel determined to be appropriate by the school district.
- (C) The purpose of the debriefing meeting shall be to:
 - (i) Determine whether the procedures used during the incident were necessary;
 - (ii) Evaluate the use of any behavioral supports and de-escalation techniques by school personnel before and during the incident; and

(iii) Evaluate the school district's positive behavioral supports system and prevention techniques in order to minimize future use of physical restraint.

(D) At a debriefing meeting, school personnel shall:

(i) Consider relevant information in the education record of the student on whom physical restraint was used, including without limitation the concerns of the parent of the student and the student's social and medical history, Functional Behavior Assessment, and Behavior Intervention Plan;

(ii) Consider relevant information from the teachers, parents, and other professionals employed with the school district;

(iii) Discuss whether positive behavior supports were appropriately implemented;

(iv) Discuss the duration and frequency of the use of physical restraint on the student;

(v) Discuss appropriate action that may be taken to prevent and reduce the need for physical restraint;

(vi) Consider whether additional intervention and support is necessary for the student on whom physical restraint was used;

(vii) Consider whether additional intervention and support is necessary for school personnel; and

(viii) Consider how and when to debrief a person who was not present at the debriefing meeting, including without limitation the student on whom physical restraint was used, the parent of the student on whom physical restraint was used, and any other school personnel or students who witnessed the incident.

(E)(i) The Physical Restraint or Seclusion Incident Record and Debriefing Report provided by the division or an alternative report that includes the same information in the Physical Restraint or Seclusion Incident Record and Debriefing Report shall be completed during the debriefing meeting and filed with a designated administrator of the school district.

(ii) A copy of the report completed under subdivision (3)(E)(i) of this section shall be mailed to the parent of the student on whom physical restraint was used within two (2) days of the date on which the debriefing meeting was held.

(F) All documentation used during the debriefing meeting shall be maintained as part of the education record of the student on whom physical restraint was used.

REGULATIONS

005.15.022-6.00. Anti-bullying.

6.02 Each public school district board of directors shall adopt policies to prevent bullying. The policies shall:

6.02.10 Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying.

005.23.001-1.00. Regulatory authority.

1.01 These regulations shall be known as Arkansas Department of Education regulations governing the duty of school principals or other persons in charge of a public school to report criminal acts.

005.23.001-2.00. Purpose of regulations.

The purpose of these regulations is to provide guidelines under which schools will report all threats of violence or acts of violence on school property.

005.23.001-4.00. School reporting responsibility.

4.01 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision/authority shall immediately report the incident to the superintendent or designee.

4.02 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any

crime involving a deadly weapon shall report the incident to the superintendent or designee and the appropriate local law enforcement agency.

4.03 Behavior is considered to be a threat if a reasonable person would believe the actor could and would carry out the threatened behavior and if a reasonable person would be placed in fear of his life or safety.

4.04 The phrase "any crime involving a deadly weapon" requires the commission of a crime using a deadly weapon as previously defined. With the exception of firearms or items which are in and of themselves illegal, mere possession, without more, is not sufficient to trigger reporting requirements.

4.05 The superintendent, or his designee, shall notify the local school board of any report made to law enforcement under this section.

Parental Notification

LAWS

A.C.A. § 6-18-222. Penalty for unexcused absences - Revocation of driving privilege - Definition.

(4)(A)(ii) Notice shall be by telephonic contact with the student's parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day. [...]

(5)(A) When a student exceeds the number of unexcused absences provided for in the district's or the Career Education and Workforce Development Board's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(c) The school discipline policies shall:

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school district board of directors.

A.C.A. § 6-18-507. Suspension - Expulsion - Definitions.

(f)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or legal guardian does not have a telephone; or

(C) A current mailing address if the parent or legal guardian does not have a telephone or email address.

(3) The contact required in this subsection is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

A.C.A. § 6-18-513. Parental notification.

(b)(1) The principal or, in the principal's absence, the principal's designee shall make a reasonable, good faith effort to notify the student's parent, legal guardian, or other person having lawful control of the student by court order or person acting in loco parentis listed on student enrollment forms of the occurrence of any of the events in subsection (a) of this section.

(2) The principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(3) If the principal or the principal's designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal's designee and leave both a day and an after-hours telephone number.

(c) Notification required by subsection (b) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under § 12-18-401 et seq. or if a law enforcement officer, investigator of the Crimes Against Children Division of the Department of Arkansas State Police, or Department of Human Services investigator or personnel member interviews a student during the course of an investigation of suspected child maltreatment.

(d)(1) The principal or the principal's designee shall not provide notification under subsection (b) of this section if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in loco parentis is named as an alleged offender.

(2) The investigator shall provide the school with documentation that notification to the parent, guardian, custodian, or person standing in loco parentis is prohibited.

A.C.A. § 6-18-514. Antibullying policies - Definitions.

(d) If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:

(1) As soon as reasonably practicable:

(A) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying. [...]

(3)(A) Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

(i) Upon completion of the investigation under subdivision (d)(2)(A) of this section; and

(ii) Regarding the consequences of continued incidents of bullying.

A.C.A. § 6-18-2407 Documentation — Notification — Debriefing.

After the occurrence of an incident involving physical restraint of a student, school personnel involved in the incident shall:

(2) Notify the:

(B)(i) Parent of the student on whom physical restraint was used via verbal or electronic communication as soon as possible but no later than the end of the school day on which the incident occurred.

(ii) If the parent of the student on whom physical restraint was used cannot be notified via verbal or electronic communication within twenty-four (24) hours after the incident occurred, the parent shall be mailed written notification of the incident within forty-eight (48) hours after the incident occurred; and

REGULATIONS

005.15.022-5.00. Student discipline.

5.04.3 Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors. [...]

5.04.11 Provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

5.04.11.1 Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students. [...]

5.06.2 The school principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel. [...]

5.17 Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

5.17.1 Each parent or legal guardian shall provide the school:

5.17.1.1 A primary call number. If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

5.17.1.2 An email address if the parent or legal guardian does not have a telephone; or

5.17.1.3 A current mailing address if the parent or legal guardian does not have a telephone or email address.

5.17.2 The contact required in this subsection is sufficient if made by:

5.17.2.1 Direct contact with the parent or legal guardian at the primary call number or in person;

5.17.2.2 Leaving a voice mail at the primary call number;

5.17.2.3 Sending a text message to the primary call number;

5.17.2.4 Email if the school is unable to make contact through the primary call number; or

5.17.2.5 Regular first-class mail if the school is unable to make contact through the primary call number or email.

5.17.3 The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

5.17.4 A public school shall indicate on a student's attendance record if a student's absence is the result of an out-of-school suspension.

005.15.022-6.00. Anti-bullying.

6.10 If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:

6.10.1 As soon as reasonably practicable:

6.10.1.1 Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying. [...]

6.10.3 Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

6.10.3.1 Upon completion of the investigation; and

6.10.3.2 Regarding the consequences of continued incidents of bullying.

6.10.3.3 A parent or legal guardian of a student who is the victim or perpetrator of an incident of bullying is entitled within five (5) school days after the completion of the investigation, and in accordance with federal and state law, to receive information about the investigation, including without limitation:

6.10.3.3.1 That a credible report or complaint of bullying exists;

6.10.3.3.2 Whether the credible report or complaint of bullying was found to be true based on the investigation;

6.10.3.3.3 Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and

6.10.3.3.4 Information regarding the reporting of another incident of bullying.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

A.C.A. § 6-18-502. Rules for development of school district student discipline policies.

(b) Such rules shall include without limitation the following requirements:

(2)(A) The school district's committee on personnel policies shall review annually:

(i) The school district's student discipline policies; and

(ii) State and district discipline data.

A.C.A. § 6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The Division of Elementary and Secondary Education shall monitor compliance with the requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education shall adopt rules for the administration of the requirements thereof.

(b) Any school district failing to file with the division disciplinary policies that meet the requirements of this subchapter shall have all state aid funds withheld until such disciplinary policies are filed with the division.

(c) Nothing in § 6-18-502, § 6-18-503, or this section, or any student discipline policies promulgated under § 6-18-502, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

A.C.A. § 6-18-514. Antibullying policies - Definitions.

(e) One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.

A.C.A. § 6-18-516. Effective school discipline - Definition.

(a) As used in this section, "exclusionary disciplinary actions" means out-of-school suspension and expulsion.

(b)(1) Annually, the Division of Elementary and Secondary Education shall report at the school, school district, and state level the following data concerning exclusionary disciplinary actions, in-school suspensions, and corporal punishment:

(A) Number per one hundred (100) students for the entire population;

(B) Number per one hundred (100) students for any racial or ethnic subgroup required for accountability by the Every Student Succeeds Act, Pub. L. No. 114-95;

(C) Number per one hundred (100) students for economically disadvantaged students; and

- (D) Number per one hundred (100) students for students with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.
- (2) The division shall report exclusionary disciplinary actions by both:
 - (A) Combining out-of-school suspensions and expulsions; and
 - (B) Separately listing out-of-school suspensions and expulsions.
- (c) The division shall report the data required in subsection (b) of this section:
 - (1) On the website of the division to the extent that publication is consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and
 - (2) In a manner that reflects historical trends and allows for the comparison of schools and school districts.
- (d) The division shall:
 - (1) Provide school districts with resources for the best practices in effective school discipline; and
 - (2) Annually communicate to school districts:
 - (A) The availability of and how to access the data listed in subsection (b) of this section; and
 - (B) How to access the resources listed in subdivision (d)(1) of this section.
- (e) The division, or researcher identified by the division, shall provide an annual report to the State Board of Education analyzing disciplinary infractions, disciplinary actions, and disciplinary disparities existing throughout the state.

REGULATIONS

005.15.022-5.00. Student discipline.

5.07 The student discipline policies and State and district discipline data shall be reviewed annually by the school district's committee on personnel policies. The committee may recommend changes in the policies to the board of directors of the local school district based on the committee's review. [...]

5.19 The principal of each school shall report, within a week, to the Division, the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

5.19.1 The expulsion shall be noted on the student's permanent school record.

5.19.2 Nothing in Section 5.19 of these rules shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis.

5.19.3 The Division shall maintain information regarding students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

005.15.022-6.00. Anti-bullying.

6.11 One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

A.C.A. § 6-17-113. Duty to report and investigate student criminal acts - Definitions.

(b)(1) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

(2) The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days.

(3) The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency.

(4) The superintendent or his or her designee shall notify the local school district board of directors of any report made to law enforcement under this section.

A.C.A. § 6-18-110. Reports by mandated reporters - Failure to notify by mandated reporter - Making a false report.

(a) Each of the following persons shall notify law enforcement if he or she has a good faith belief that there is a serious and imminent threat to the public based on a threat made by an individual regarding violence in or targeted at a school that has been communicated to the person in the course of his or her professional duties:

- (1) A childcare worker or foster care worker;
- (2) A coroner;
- (3) A daycare center worker;
- (4) A dentist;
- (5) A dental hygienist;
- (6) A domestic abuse advocate;
- (7) A domestic violence shelter employee;
- (8) A domestic violence shelter volunteer;
- (9) An employee of the Department of Human Services;
- (10) An employee working under contract for the Division of Youth Services;
- (11) A foster parent;
- (12) A judge;
- (13) A law enforcement official;
- (14) A licensed nurse;
- (15) Medical personnel who may be engaged in the admission, examination, care, or treatment of a person;
- (16) A mental health professional or paraprofessional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;

- (21) A resident intern;
 - (22) A public or private school counselor;
 - (23) A school official;
 - (24) A social worker;
 - (25) A surgeon;
 - (26) A teacher;
 - (27) A court-appointed special advocate program staff member or volunteer;
 - (28) A juvenile intake or probation officer;
 - (29) A clergy member, including a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or a person reasonably believed to be so by the individual consulting him or her unless the clergy member acquires knowledge of the serious and imminent threat of violence in or targeted at a school through a communication that is required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith;
 - (30) An employee of a child advocacy center or a child safety center;
 - (31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
 - (32)(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as the Safe Place program of the National Safe Place Network, United Family Services, Inc., or the Centers for Youth and Families, Inc.
 - (B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
 - (33) A rape crisis advocate or rape crisis volunteer;
 - (34)(A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as the Safe Place program of the National Safe Place Network, United Family Services, Inc., or the Centers for Youth and Families, Inc.
 - (B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
 - (35) A victim or witness coordinator;
 - (36) A victim assistance professional or victim assistance volunteer;
 - (37) An employee of the Crimes Against Children Division;
 - (38) An employee of a reproductive healthcare facility;
 - (39) A volunteer at a reproductive healthcare facility; and
 - (40) An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital.
- (b) A person listed as a mandated reporter under subsection (a) of this section shall:
- (1) Make every attempt to immediately notify law enforcement of the serious and imminent threat to the public; and
 - (2) Notify law enforcement within twenty-four (24) hours of learning of the serious and imminent threat to the public.
- (c)(1) A person listed as a mandated reporter under subsection (a) of this section commits the offense of failure to notify by a mandated reporter in the first degree if he or she knowingly fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties.
- (2) Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

(d)(1) A person listed as a mandated reporter under subsection (a) of this section commits the offense of failure to notify by a mandated reporter in the second degree if he or she recklessly fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties.

(2) Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

(e)(1) A person commits the offense of making a false report under this section if he or she purposely makes a report containing a false allegation to law enforcement knowing the allegation to be false.

(2) The first offense of making a false report under subdivision (e)(1) of this section is a Class A misdemeanor.

(3) A subsequent offense of making a false report under subdivision (e)(1) of this section is a Class D felony.

(f) Law enforcement may file a petition in the appropriate court seeking imposition of penalties for a violation of this section.

(g) A person who notifies law enforcement, in good faith, of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties is immune from civil or criminal liability.

A.C.A. § 6-18-111. School safety and crisis line.

(c)(1) Personnel operating the school safety and crisis line shall, when necessary or as required by law, promptly forward a report received under subsection (b) of this section to appropriate:

(A) School officials; or

(B) Law enforcement agencies.

(2) An individual who acts in good faith under this section while operating the school safety and crisis line shall not be liable for civil damages for an act or omission taken in good faith while operating the school safety and crisis line so long as the act or omission does not constitute gross negligence or willful misconduct.

A.C.A. § 6-18-221. Cooperation of law enforcement agencies.

(b) Upon the request of the board of directors of the school district, the law enforcement agency shall stipulate, with the administration of the school district, specific days and hours when law enforcement officers will attempt to locate school-age students in the community who are off school premises during school hours without valid documentation excusing their absence.

(c) Any certified law enforcement officer may stop and detain any unsupervised school-age student located off school premises during school hours and request the production of documentation excusing the student's absence from school.

(d) Upon the student's failure to produce sufficient documentation, the law enforcement officer may take the student into custody and return the student to his or her school, transport the student to his or her parent, or transport the student to the truancy reception center, which shall not be a jail, juvenile detention center, or police department, and which has been designated by the school district.

(e)(1) Any school district adopting this program shall include in its attendance policy a notice to parents and students that it has entered into a cooperative agreement with law enforcement officials to implement an Operation Stay in School Program, and unsupervised students found off school premises during school hours shall be subject to questioning by a law enforcement officer under the program.

(2) Any school district adopting this program shall include provisions for furnishing valid documentation for a student in work-study programs or other authorized absences from school premises in order to assist law enforcement officers in determining the validity of documentation excusing the student's absence from school during school hours.

A.C.A. § 6-18-513. Parental notification.

(a) A school or school district shall comply with subsection (b) of this section if the school or school district with respect to a student under the age of eighteen (18):

- (1) Makes a report to any law enforcement agency concerning student misconduct;
- (2) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or
- (3) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

A.C.A. § 16-81-118. Citation and arrest by a school resource officer - Definition.

(a) As used in this section, "school resource officer" means a school resource officer as described under § 6-10-128.

(b) A school resource officer may issue a citation to a person to appear in the local district court having jurisdiction over the place where a violation of state law occurred even if the school resource officer is outside of his or her jurisdiction if:

- (1) The school resource officer is accompanying students on a school-sanctioned event that takes the students outside the county in which the school is located;
- (2) The violation of state law is in conjunction with criminal activity that directly involves the students, school employees, or other persons participating in, observing, or assisting the school-sanctioned event; and
- (3) The person who is the recipient of the citation is a student, school employee, or other person participating in, observing, or assisting the school-sanctioned event.

(c) The school resource officer shall use a citation book that substantially complies with the citation requirements under § 16-10-205.

(c)(1) A school district board of directors that accepts a school resource officer shall enter into a memorandum of understanding with the local law enforcement agency with jurisdiction, or adopt policies and procedures if the school district has an institutional law enforcement officer as described by § 6-13-1701 et seq., that governs the school resource officer and includes without limitation:

- (A) The financial responsibilities of each party;
- (B) The chain of command;
- (C) The process for the selection of school resource officers;
- (D) The process for the evaluation of school resource officers;
- (E) The training requirements for school resource officers; and
- (F) The roles and responsibilities of school resource officers, which shall include without limitation:
 - (i) Clarification of the school resource officer's involvement in student discipline;
 - (ii) The use of physical restraints or chemical sprays;
 - (iii) The use of firearms; and
 - (iv) Making arrests on the public school campus.

(2) The memorandum of understanding required under subdivision (c)(1) of this section shall be based on a model memorandum created by the Division of Elementary and Secondary Education and the Arkansas Center for School Safety, which shall include without limitation the requirements listed in subdivision (c)(1) of this section.

(3) The Division of Elementary and Secondary Education shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures shall be verified.

(d)(1) Sworn, nonsupervisory law enforcement personnel, including without limitation school resource officers, who are assigned to a public school campus during the instructional day or employed by a public school district shall:

- (A) Within eighteen (18) months of being assigned or employed by the public school district:
- (i)(a) Complete a forty-hour basic school resource officer training program developed and provided, or approved, by the Arkansas Center for School Safety.
 - (b) The training required under subdivision (d)(1)(A)(i)(a) of this section shall include without limitation:
 - (1) The roles and responsibilities of school resource officers in public schools;
 - (2) Laws that are specific to public schools and students in public schools; and
 - (3) Adolescent behavior and development; and
 - (ii)(a) Obtain certification in Youth Mental Health First Aid.
 - (b) Youth Mental Health First Aid certification shall be maintained and renewed every four (4) years if the school resource officer remains assigned to or employed by a public school district;
- (B)(i) Within five (5) years after receiving the initial basic school resource officer training program, complete a sixteen-hour school resource officer refresher training developed and provided, or approved, by the Arkansas Center for School Safety.
- (ii) The school resource officer refresher training required under subdivision (d)(1)(B)(i) of this section shall be completed every five (5) years; and
- (C)(i) Annually complete twelve (12) hours of public school-specific continuing education developed and provided, or approved, by the Arkansas Center for School Safety.
- (ii) The Youth Mental Health First Aid training required under subdivision (d)(1)(A)(ii) of this section and the school resource officer refresher training required under subdivision (d)(1)(B) of this section shall count towards the twelve (12) hours of public school-specific continuing education required under subdivision (d)(1)(C)(i) of this section in the years during which the Youth Mental Health First Aid and school resource officer refresher trainings are completed.
- (2) A school resource officer who is assigned by a public school for only extracurricular activities is exempt from the training requirements under subdivision (d)(1) of this section.
- (e)(1) A public school district superintendent and public school principal who accept a school resource officer or employ an institutional officer as defined by § 6-13-1701 shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within nine (9) months of accepting or employing the school resource officer.
- (2) Public school district personnel directly responsible for supervising a school resource officer shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within one (1) year of accepting or employing the school resource officer and every two (2) years thereafter.
 - (3) Training received by a licensed educator under subdivisions (e)(1) and (2) of this section may count towards the professional development required for renewal of an educator's license by the Division of Elementary and Secondary Education Rules Governing Professional Development.
- (f)(1) The Arkansas Center for School Safety shall monitor compliance with the continuing education and training requirements under this section.
- (2) A school resource officer who fails to complete any training required under this section shall be unable to serve as a school resource officer until the training required under this section is complete.
 - (3) A school resource officer shall not be assigned to a public school district or a public school in which the public school district superintendent or public school principal have not completed the training required under this section.
- (d)(1) A citation issued under this section is not valid unless the school resource officer provides at a minimum:
- (A) The address and phone number of the district court having jurisdiction;
 - (B) The date and time when the recipient of the citation is to appear in the district court;
 - (C) A cite to the specific state law that was alleged to have been violated;

(D) The printed name and date of birth of the person receiving the citation; and

(E)(i) An opportunity for the person receiving the citation to sign the citation.

(ii) If the person who is to receive the citation refuses to sign the citation, the school resource officer is required to arrest the person and deliver him or her to the local law enforcement agency having jurisdiction immediately.

(2) The school resource officer shall file a copy of the citation issued under this section at least fifteen (15) days before the court date listed on the citation.

(3) The school resource officer shall provide a person receiving a citation under this section a full and complete copy of the citation.

REGULATIONS

005.15.022-5.00. Student discipline.

5.06 Nothing in any student discipline policies promulgated under state law and these rules shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

5.06.1 The school principal, or in his or her absence the principal's designee, shall make a reasonable, good faith effort to notify the student's parent or legal guardian, or other person having lawful control of the student by court order, or person standing in loco parentis, listed on the student's enrollment forms, if the school or school district, with respect to a student under the age of eighteen (18):

5.06.1.1 Makes a report to any law enforcement agency concerning student misconduct;

5.06.1.2 Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

5.06.1.3 Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

005.23.001-4.00. School reporting responsibility.

4.02 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon shall report the incident to the superintendent or designee and the appropriate local law enforcement agency. [...]

4.05 The superintendent, or his designee, shall notify the local school board of any report made to law enforcement under this section.

005.23.001-5.00. Guidelines for school reporting.

5.01 If a principal or designee has reason to believe that an incident has occurred that satisfies the provisions of these rules and regulations, the incident or threat must be reported to the superintendent and the appropriate local law enforcement agency.

5.02 The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days.

5.03 The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency.

5.04 Because a purposeful or knowing mental state is required of the person committing an act of violence, various factors should be considered. These should include but not be limited to:

5.04.1 The age of the person.

5.04.2 Developmental level of the person.

5.04.3 Past disciplinary problems, if any.

5.05 Possible defenses to criminal acts, such as self-defense or justification, may be considered when determining whether or not an offense must be reported.

5.06 In cases involving several persons, where appropriate and possible, assessing differing degrees of involvement is permissible with only the primary participants being reported.

5.07 Upon receipt of the report from the prosecuting attorney, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

005.23.001-6.00. Law enforcement responsibility.

6.01 Upon receipt, the law enforcement officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation into the incident.

6.01.1 The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

6.01.2 The prosecuting attorney shall implement the appropriate course of action and within thirty (30) calendar days after receipt of the file, the prosecuting attorney shall provide a written report to the principal.

6.01.2.1 The report shall state whether the investigation into the reported incident is on going

6.01.2.2 Whether any charges have been filed, in either circuit or juvenile court as a result of the reported incident; and

6.01.2.3 The disposition of the case.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

A.C.A. § 6-10-128. School resource officers.

(d)(1) Sworn, nonsupervisory law enforcement personnel, including without limitation school resource officers, who are assigned to a public school campus during the instructional day or employed by a public school district shall:

(A) Within eighteen (18) months of being assigned or employed by the public school district:

(i)(a) Complete a forty-hour basic school resource officer training program developed and provided, or approved, by the Arkansas Center for School Safety.

(b) The training required under subdivision (d)(1)(A)(i)(a) of this section shall include without limitation:

(1) The roles and responsibilities of school resource officers in public schools;

(2) Laws that are specific to public schools and students in public schools; and

(3) Adolescent behavior and development; and

(ii)(a) Attend a training in youth mental health as required by the state Board of Education.

(b) The youth mental health training required under subdivision (d)(1)(A)(ii)(a) of this section shall be obtained every four (4) years if the school resource officer remains assigned to or employed by a public school district;

(B)(i) Within five (5) years after receiving the initial basic school resource officer training program, complete a sixteen-hour school resource officer refresher training developed and provided, or approved, by the Arkansas Center for School Safety.

(ii) The school resource officer refresher training required under subdivision (d)(1)(B)(i) of this section shall be completed every five (5) years; and

(C)(i) Annually complete twelve (12) hours of public school-specific continuing education developed and provided, or approved, by the Arkansas Center for School Safety.

- (ii) The youth mental health training required under subdivision (d)(1)(A)(ii) of this section and the school resource officer refresher training required under subdivision (d)(1)(B) of this section shall count towards the twelve (12) hours of public school- specific continuing education required under subdivision (d)(1)(C)(i) of this section in the years during which the youth mental health and school resource officer refresher trainings are completed.
- (2) A school resource officer who is assigned by a public school for only extracurricular activities is exempt from the training requirements under subdivision (d)(1) of this section.
- (e)(1) A public school district superintendent and public school principal who accept a school resource officer or employ an institutional officer as defined by § 6-13-1701 shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within nine (9) months of accepting or employing the school resource officer.
- (2) Public school district personnel directly responsible for supervising a school resource officer shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within one (1) year of accepting or employing the school resource officer and every two (2) years thereafter.
- (3) Training received by a licensed educator under subdivisions (e)(1) and (2) of this section may count towards the professional development required for renewal of an educator's license by the Division of Elementary and Secondary Education Rules Governing Professional Development.
- (f)(1) The Arkansas Center for School Safety shall monitor compliance with the continuing education and training requirements under this section.
- (2) A school resource officer who fails to complete any training required under this section shall be unable to serve as a school resource officer until the training required under this section is complete.
- (3) A school resource officer shall not be assigned to a public school district or a public school in which the public school district superintendent or public school principal have not completed the training required under this section.

A.C.A. § 12-9-501. Legislative determination.

- (a) The Criminal Justice Institute, an educational entity, was created for the purpose of providing management education and training, technical assistance, practical research and evaluation, a clearinghouse, and computer and forensic education and training for Arkansas law enforcement and national law enforcement.
- (b) The initiatives developed by the Criminal Justice Institute are applicable on a national level, and this application for conceptualization and practice will be through the National Center for Rural Law Enforcement.
- (c)(1) The General Assembly recognizes the importance of providing management, education, and training to law enforcement and, through the initiatives developed by the Criminal Justice Institute, the citizens of the State of Arkansas will be better served.
- (2) These initiatives further the enhancement of the workforce through the developmental process of continuing education by which skills are upgraded and capabilities increased.
- (3) This process will assist law enforcement ability to adapt to an ever-changing environment.
- (d)(1) The General Assembly further recognizes that:
- (A) Law enforcement plays a significant role in preventing and responding to acts of violence, terrorism, and natural disasters that occur on public school campuses; and

(B) Matters of public school campus safety require specialized education and training for law enforcement officers, school resource officers, and other school personnel who respond to incidents on school campuses:

(i) To develop and maintain strong partnerships between school personnel and law enforcement in preventing and responding to acts of violence, terrorism, and natural disaster that occur on public school campuses; and

(ii) For law enforcement officers to operate effectively in a school setting.

(2) Initiatives of the Criminal Justice Institute for specialized education and training on public school campus safety will enhance citizen cooperation and understanding of law enforcement in these areas and other issues of crime and violence against school children.

A.C.A. § 17-40-208. Training of personnel.

(d) For a commissioned school security officer, the minimum training requirements under this chapter include without limitation the following topics:

(1) Legal limitations on the use of firearms and on the powers and authority of the commissioned school security officer;

(2) Familiarity with this chapter;

(3) Field note taking and report writing;

(4) Fundamental use of firearms, including firearm safety drills, tactics, and required qualification on an approved course of fire;

(5) Active shooter training;

(6) Active shooter simulation scenarios;

(7) Trauma care;

(8) Defensive tactics;

(9) Weapon retention;

(10) Handgun safety and maintenance; and

(11) Other topics the director deems necessary.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

A.C.A. § 6-10-128. School resource officers.

(a) A school district board of directors may accept from a local law enforcement agency with jurisdiction a school resource officer to assist with school security, safety, emergency preparedness, emergency response, or any other responsibility assigned to the school resource officer by the school or law enforcement agency.

(b) A school resource officer shall be a certified law enforcement officer and shall have statewide jurisdiction as described under § 16-81-118.

(c)(1) A school district board of directors that accepts a school resource officer shall enter into a memorandum of understanding with the local law enforcement agency with jurisdiction, or adopt policies and procedures if the school district has an institutional law enforcement officer as described by § 6-13-1701 et seq., that governs the school resource officer and includes without limitation:

(A) The financial responsibilities of each party;

- (B) The chain of command;
- (C) The process for the selection of school resource officers;
- (D) The process for the evaluation of school resource officers;
- (E) The training requirements for school resource officers; and
- (F) The roles and responsibilities of school resource officers, which shall include without limitation:

- (i) Clarification of the school resource officer's involvement in student discipline;
- (ii) The use of physical restraints or chemical sprays;
- (iii) The use of firearms; and
- (iv) Making arrests on the public school campus.

(2) The memorandum of understanding required under subdivision (c)(1) of this section shall be based on a model memorandum created by the Division of Elementary and Secondary Education and the Arkansas Center for School Safety, which shall include without limitation the requirements listed in subdivision (c)(1) of this section.

(3) The Division of Elementary and Secondary Education shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures shall be verified.

A.C.A. § 6-15-1303. Safe Schools Initiative Act.

(C) The Safe Schools Initiative training also may include without limitation the training and education needed to assist a public school in:

- (iv) Cooperating effectively with law enforcement officers, school resource officers, and other school safety personnel, in the school setting.

A.C.A. § 6-18-221. Cooperation of law enforcement agencies.

(a) Any public school district may enter into a cooperative agreement with local law enforcement officials to implement within the district an "Operation Stay in School Program".

A.C.A. § 12-9-501. Legislative determination.

(a) The Criminal Justice Institute, an educational entity, was created for the purpose of providing management education and training, technical assistance, practical research and evaluation, a clearinghouse, and computer and forensic education and training for Arkansas law enforcement and national law enforcement.

(b) The initiatives developed by the Criminal Justice Institute are applicable on a national level, and this application for conceptualization and practice will be through the National Center for Rural Law Enforcement.

(c)(1) The General Assembly recognizes the importance of providing management, education, and training to law enforcement and, through the initiatives developed by the Criminal Justice Institute, the citizens of the State of Arkansas will be better served.

(2) These initiatives further the enhancement of the workforce through the developmental process of continuing education by which skills are upgraded and capabilities increased.

(3) This process will assist law enforcement ability to adapt to an ever-changing environment.

(d)(1) The General Assembly further recognizes that:

(A) Law enforcement plays a significant role in preventing and responding to acts of violence, terrorism, and natural disasters that occur on public school campuses; and

(B) Matters of public school campus safety require specialized education and training for law enforcement officers, school resource officers, and other school personnel who respond to incidents on school campuses:

(i) To develop and maintain strong partnerships between school personnel and law enforcement in preventing and responding to acts of violence, terrorism, and natural disaster that occur on public school campuses; and

(ii) For law enforcement officers to operate effectively in a school setting.

(2) Initiatives of the Criminal Justice Institute for specialized education and training on public school campus safety will enhance citizen cooperation and understanding of law enforcement in these areas and other issues of crime and violence against school children.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

A.C.A. § 6-18-2409. Crisis Intervention Training Program — Criteria.

A program used by a school district to train school personnel on the use of physical restraint on a student shall:

(2) Provide evidence-based skills training relating to positive support, conflict prevention, de-escalation, and crisis response techniques, including without limitation:

(A) Guidelines on understanding when there is an imminent danger of serious physical harm to a student or others;

(B) Guidelines on when to intervene when there is an imminent danger of serious physical harm to a student or others

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Arkansas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Alternative Education, Arkansas Department of Education (ADE)	Provides information and resources on alternative education, including links to laws and regulations, core indicators for quality alternative education programs, and quality self-assessment tools.	https://dese.ade.arkansas.gov/Office/learning-services/alternative-education
Anti-Bullying and Violence Prevention, ADE	Provides information and resources on bullying prevention and response including bullying definitions, cyber safety resources, bullying FAQs, roles of mandated reporters, safe schools committee requirements, and school safety laws and rules.	https://dese.ade.arkansas.gov/Office/s/communications/safety/anti-bullying-and-violence-prevention
Arkansas Center for School Safety	Provides education, training, resources, and technical assistance to Arkansas educators and law enforcement professionals to assist them in providing safe learning environments.	https://arsafeschools.com/
Attendance, ADE	Compiles information on school attendance including definitions of chronic absence, Arkansas' ESSA Plan, and links to school and community resources.	https://dese.ade.arkansas.gov/Office/s/learning-services/attendance
School Safety, ADE	Compiles information on school safety including information from the Arkansas School Safety Commission.	https://dese.ade.arkansas.gov/Office/s/communications/safety

Title	Description	Website address (if applicable)
<i>Documents</i>		
Guidance on Bullying Prevention (September 2019), ADE	Guidance document developed by the Arkansas Division of Elementary and Secondary Education (DESE) as required by Act 1029 to support public school districts and public charter schools in addressing the issue of school bullying.	https://dese.ade.arkansas.gov/Files/20210208110531_AR_DESE_Bullying_Prevention_Guidance_rv.pdf
<i>Other Resources</i>		
AR DESE Equity Assistance Center: Student Handbook (April 2021), ADE	Guidance document for district and school teams to use as a resource in their review of the Student Handbook.	https://dese.ade.arkansas.gov/Files/20210429164413_EAC.General%20Supports.User%20Friendly%20Guide.Student%20Handbook%20Apr%202021.pdf
Bullying Prevention Roles Visual, ADE	Visual presents bullying prevention roles for schools, families and community members.	https://dese.ade.arkansas.gov/Files/20210211123316_Bullying%20Prevention%20Roles%20as%20PDF.pdf



California Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

EDC 221.1.

The State Board of Education shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act, to implement this chapter.

EDC 32280.

It is the intent of the Legislature that all California public schools, in kindergarten, and grades 1 to 12, inclusive, operated by school districts, in cooperation with local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, classified employees, and other persons who may be interested in the prevention of campus crime and violence, develop a comprehensive school safety plan that addresses the safety concerns identified through a systematic planning process. It is also the intent of the Legislature that all school staff be trained on the comprehensive school safety plan. For the purposes of this section, law enforcement agencies include local police departments, county sheriffs' offices, school district police or security departments, probation departments, and district attorneys' offices. For purposes of this section, a "safety plan" means a plan to develop strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus.

EDC 33031.

The board shall adopt rules and regulations not inconsistent with the laws of this state (a) for its own government, (b) for the government of its appointees and employees, (c) for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and (d) for the government of other schools, excepting the University of California, the California State University, and the California Community Colleges, as may receive in whole or in part financial support from the state.

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

EDC 35291.5.

(a) On or before December 1, 1987, and at least every four years thereafter, each public school may, at its discretion, adopt rules and procedures on school discipline applicable to the school. For schools that choose to adopt rules pursuant to this article, the school discipline rules and procedures shall be consistent with any applicable policies adopted by the governing board and state statutes governing school discipline. In developing these rules and procedures, each school shall solicit the participation, views, and advice of one representative selected by each of the following groups:

- (1) Parents.
- (2) Teachers.
- (3) School administrators.
- (4) School security personnel, if any.
- (5) For junior high schools and high schools, pupils enrolled in the school.

Meetings for the development of the rules and procedures should be developed and held within the school's existing resources, during nonclassroom hours, and on normal schooldays.

The final version of the rules and procedures on school discipline with attendant regulations may be adopted by a panel comprised of the principal of the school, or his or her designee, and a representative selected by classroom teachers employed at the school.

It shall be the duty of each employee of the school to enforce the rules and procedures on school discipline adopted under this section.

(b) The governing board of each school district may prescribe procedures to provide written notice to continuing pupils at the beginning of each school year and to transfer pupils at the time of their enrollment in the school and to their parents or guardians regarding the school discipline rules and procedures adopted pursuant to subdivision (a).

(c) Each school may file a copy of its school discipline rules and procedures with the district superintendent of schools and governing board on or before January 1, 1988.

(d) The governing board may review, at an open meeting, the approved school discipline rules and procedures for consistency with governing board policy and state statutes.

EDC 49391

(a) (1) On or before July 1, 2023, the department shall develop model content, in consultation with relevant local educational agencies, civil rights groups, and the Department of Justice.

(2) The model content developed pursuant to paragraph (1) shall include, at a minimum, content that informs parents or guardians of California's child access prevention laws and laws relating to the safe storage of firearms, including, but not limited to, Division 4 (commencing with Section 25000) of Title 4 of Part 6 of the Penal Code.

(b) The department shall update the model content on a yearly basis as necessary to reflect any changes in law.

EDC 44667.

(a) It is the intent of the Legislature to encourage school districts to plan and implement alternative models of school-based management projects, or advanced career opportunities for classroom teachers projects, or a combination of both, for one or more schools in the district. Further, it is the intent of the Legislature that school district governing boards and administrators work with classroom teachers and teacher bargaining units to develop and strengthen procedures that increase teachers' decisionmaking authority in responsibilities that affect their ability to teach. These procedures may include, but need not be limited to, the following:

- (1) Selection of new teachers and administrators.
- (2) Evaluation of teacher and administrator performance.
- (3) Selection of curricular areas for improvement.
- (4) Tailoring and coordination of curriculum and instruction across grade levels and within departments at the schoolsite level.
- (5) Establishment of pupil discipline policies.
- (6) Design and conduct of staff development programs and policies.
- (7) Assignment of pupils and scheduling of classes.
- (8) Schoolwide problem solving and program development.
- (9) Organization of the school for effective instruction.
- (10) Development of procedures designed to institutionalize teacher involvement in decisionmaking.
- (11) Determining the roles and functions of teachers, administrators, and classified employees at the school site.
- (12) Development of alternative methods of teacher compensation that reward teaching excellence, exceptional achievement or the assumption of additional educational responsibilities.

(13) Establishment of policies to decentralize district decisionmaking by providing schoolsite administrators and teachers with greater budget authority including the allocation of fiscal, personnel, and other resources at the schoolsite.

(b) Participation of school districts in the programs established pursuant to this article shall be on a voluntary basis. A school district shall be eligible to participate only upon the approval of participation by both the governing board of the district and the exclusive representative of certificated employees of the district.

EDC 48914.

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

EDC 48918.

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(a)(1) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board of the school district.

(2) Within 10 schooldays after the conclusion of the hearing, the governing board of the school district shall decide whether to expel the pupil, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the governing board of the school district does not meet on a weekly basis, the governing board of the school district shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent of schools, unless the pupil requests in writing that the decision be postponed.

(3) If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48925, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days before the first day of school for the school year. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

REGULATIONS

No relevant regulations found.

Scope

LAWS

EDC 44807.

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive. [...]

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct. [...]

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

EDC 234.2.

(a) The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, cyber sexual bullying, as defined in Section 48900, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy

Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, cyber sexual bullying, and bullying is posted.

(b) The department shall annually inform school districts of the information on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about cyber sexual bullying is posted pursuant to subdivision (a). The department may use electronic mail to inform school districts of this information.

(c) School districts are encouraged to inform pupils regarding the available information and resources on the department's Internet Web sites regarding the dangers and consequences of cyber sexual bullying to help reduce the instances of cyber sexual bullying.

EDC 234.5.

(a) The Superintendent shall post, and annually update, on the department's Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying, including school-based discrimination, harassment, intimidation, or bullying on the basis of religious affiliation, nationality, race, or ethnicity, or perceived religious affiliation, nationality, race, or ethnicity.

(b) The department's Internet Web site shall also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

EDC 234.6.

(a) For purposes of this article, "local educational agency" means a county office of education, school district, state special school, or charter school.

(b) Commencing with the 2020-21 academic year, each local educational agency shall ensure that all of the following information is readily accessible in a prominent location on the local educational agency's existing internet website in a manner that is easily accessible to parents or guardians and pupils:

- (1) The local educational agency's policy on pupil suicide prevention in grades 7 to 12, inclusive, adopted pursuant to Section 215.
- (2) The local educational agency's policy on pupil suicide prevention in kindergarten and grades 1 to 6, inclusive, adopted pursuant to Section 215, including reference to the age appropriateness of that policy.
- (3) The definition of discrimination and harassment based on sex as described in Section 230. This shall include the rights set forth in Section 221.8.
- (4) The Title IX information included on a local educational agency's internet website pursuant to Section 221.61.
- (5) A link to the Title IX information included on the department's internet website pursuant to Section 221.6.
- (6) The local educational agency's written policy on sexual harassment, as it pertains to pupils, prepared pursuant to Section 231.5.
- (7) The local educational agency's policy, if it exists, on preventing and responding to hate violence as described in Section 233.
- (8) The local educational agency's anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies as described in Section 234.1.
- (9) The local educational agency's anti-cyberbullying procedures adopted pursuant to Section 234.4.
- (10) A section on social media bullying that includes all of the following references to possible forums for social media bullying:

- (A) Internet websites with free registration and ease of registration.
- (B) Internet websites offering peer-to-peer instant messaging.
- (C) Internet websites offering comment forums or sections.
- (D) Internet websites offering image or video posting platforms.

(11) A link to statewide resources, including community-based organizations, compiled by the department pursuant to Section 234.5.

(12) Any additional information a local educational agency deems important for preventing bullying and harassment.

EDC 35291.

The governing board of any school district shall prescribe rules not inconsistent with law or with the rules prescribed by the State Board of Education, for the government and discipline of the schools under its jurisdiction. The governing board of each school district which maintains any of grades 1 through 12, inclusive, may, at the time and in the manner prescribed by Sections 48980 and 48981, notify the parent or guardian of all pupils registered in schools of the district of the availability of rules of the district pertaining to student discipline.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

EDC 35291.5.

(a) On or before December 1, 1987, and at least every four years thereafter, each public school may, at its discretion, adopt rules and procedures on school discipline applicable to the school. For schools that choose to adopt rules pursuant to this article, the school discipline rules and procedures shall be consistent with any applicable policies adopted by the governing board and state statutes governing school discipline. In developing these rules and procedures, each school shall solicit the participation, views, and advice of one representative selected by each of the following groups:

- (1) Parents.
- (2) Teachers.
- (3) School administrators.
- (4) School security personnel, if any.
- (5) For junior high schools and high schools, pupils enrolled in the school.

Meetings for the development of the rules and procedures should be developed and held within the school's existing resources, during nonclassroom hours, and on normal schooldays.

The final version of the rules and procedures on school discipline with attendant regulations may be adopted by a panel comprised of the principal of the school, or his or her designee, and a representative selected by classroom teachers employed at the school.

It shall be the duty of each employee of the school to enforce the rules and procedures on school discipline adopted under this section.

(b) The governing board of each school district may prescribe procedures to provide written notice to continuing pupils at the beginning of each school year and to transfer pupils at the time of their enrollment in the school and to their parents or guardians regarding the school discipline rules and procedures adopted pursuant to subdivision (a).

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

EDC 48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

EDC 33432.

(a) A local educational agency that receives a grant shall use the grant funds for planning, implementation, and evaluation of activities in support of evidence-based, nonpunitive programs and practices to keep the state's most vulnerable pupils in school. These activities shall complement or enhance the actions and services identified to meet the local educational agency's goals as identified in its local control and accountability plan pursuant to Section 47606.5, 52060, or 52066, as applicable. These activities may include, but are not limited to, all of the following:

(3) Implementing restorative practices, restorative justice models, or other programs to improve retention rates, reduce suspensions and other school removals, and reduce the referral of pupils to law enforcement agencies.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.

- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k)(1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph is inoperative on July 1, 2020.
 - (3) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended for any of the acts specified in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
 - (4) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in any of grades 6 to 8, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2025.
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.
- (r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:
 - (1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - (A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.
 - (B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.
 - (C) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(D) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)(A) "Electronic act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii)(I) An act of cyber sexual bullying.

(II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil's exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant

to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48900.5.

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069.7. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

(1) A conference between school personnel, the pupil's parent or guardian, and the pupil.

(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

(3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents.

(4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).

(5) Enrollment in a program for teaching prosocial behavior or anger management.

(6) Participation in a restorative justice program.

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

(8) After school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

(9) Any of the alternatives described in Section 48900.6.

EDC 48900.6.

As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform

community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

EDC 48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

EDC 48911.2.

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

EDC 48917.

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

EDC 49055.

(a) On or before June 1, 2024, the department shall develop evidence-based best practices for restorative justice practice implementation on a school campus and make these best practices available on the department's internet website for use by local educational agencies to implement restorative justice practices as part of efforts to improve campus culture and climate. In developing best practices, the department shall consult with all of the following to identify best practices for effective, evidence-based restorative justice practices in elementary and secondary schools:

- (1) School-based restorative justice practitioners.
- (2) Educators from public schools serving kindergarten and grades 1 to 12, inclusive.
- (3) Pupils from public schools serving kindergarten and grades 1 to 12, inclusive.
- (4) Community partners or community members.
- (5) Nonprofit and public entities.

(b) When developing best practices pursuant to subdivision (a), the department is encouraged to, to the extent feasible, take into account resources and best practices that have been identified or developed as part of aligned efforts, including, but not limited to, the Scaling Up MTSS Statewide (SUMS) Initiative, the

California Community Schools Partnership Program, and resources developed by the department in support of social-emotional learning.

(c) For purposes of this section, "local educational agency" means a school district, county office of education, or charter school.

EDC 49600.

(a) The governing board of a school district may, and is urged to, provide access to a comprehensive educational counseling program for all pupils enrolled in the school district. It is the intent of the Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling program within a Multi-Tiered System of Support framework

(b) For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel services who directly counsels pupils and implements equitable school programs and services that support pupils in their academic development, social emotional development, and college and career readiness.

(c) It is the intent of the Legislature that school counselors do all of the following:

(1) Engage with, advocate for, and provide both of the following services for all pupils:

(A) Direct services, including, but not limited to, individual counseling, group counseling, risk assessment, crisis response, and instructional services, including, but not limited to mental health, behavioral, academic, and postsecondary educational services.

(B) Indirect services including but not limited to, positive school climate strategies, teacher and parent consultations, and referrals to public and private community services.

(2) Plan, implement, and evaluate comprehensive school counseling programs.

(3) Work within multi-tiered systems of support that use multiple data sources to monitor and improve pupil behavior, attendance, engagement, and achievement.

(4) Develop, coordinate, and supervise comprehensive pupil support systems in collaboration with teachers, administrators, other pupil personnel services professionals, families, community partners, and community agencies, including county mental health agencies.

(5) Promote and maintain a safe learning environment for all pupils by providing restorative practices, positive behavior interventions, and support services, and by developing and responding with a variety of intervention strategies to meet individual, group, and school community needs before during and after crisis response.

(6) Intervene to ameliorate school-related problems, including issues related to chronic absences and retention.

(7) Use research-based strategies to promote mental wellness, reduce mental health stigma, and identify characteristics, risk factors, and warning signs of pupils who develop, or are at risk of developing, mental health and behavioral disorders and who experience or are at risk of experiencing mistreatment, including mistreatment related to any form of conflict or bullying.

(8) Improve school climate and pupil well-being by, including but not limited to, addressing the mental and behavioral health needs of pupils during their times of transition, separation, heightened stress, and critical changes and accessing community programs and services to meet those needs.

(9) Enhance pupils' social and emotional competence, character, health, civic engagement, cultural literacy, and commitment to lifelong learning and the pursuit of high-quality educational programs.

(10) Provide counseling services for unduplicated pupils who are classified as English learners, eligible for free or reduced-price meals, or foster youth in a manner that promotes equity and access to appropriate education systems and public and private services.

(11) Engage in continued development as a professional school counselor.

(d) Educational counseling shall include academic counseling and postsecondary services in the following areas:

- (1) Development and implementation, with parental involvement, of the pupil's immediate and long-range educational plans.
- (2) Optimizing progress towards achievement of proficiency standards and competencies.
- (3) Completion of the required curriculum in accordance with the pupil's needs, abilities, interests, and aptitudes.
- (4) Academic planning for access and success in higher education programs, including advisement on courses needed for admission to public colleges and universities, standardized admissions tests, and financial aid.
- (5) Provide high-quality career programs at all grade levels for pupils, in which pupils are assisted in doing all of the following:
 - (A) Planning for the future, including, but not limited to, identifying personal interests, skills, and abilities, career planning, course selection, and career transition.
 - (B) Becoming aware of personal preferences and interests that influence educational and occupational exploration, career choice, and career success.
 - (C) Developing work self-efficacy for the ever-changing work environment, the changing needs of the workforce, and the effects of work on the quality of life.
 - (D) Understanding the relationship between academic achievement and career success, and the importance of maximizing career options.
 - (E) Understanding the value of participating in career technical education pathways, programs, and certifications, including but not limited to those related to regional occupational programs and centers, the federal program administered by the United States Department of Labor offering free education and vocational training to pupils known as "Job Corps," the California Conservation Corps, work-based learning, industry certifications, college preparation and credit, and employment opportunities.
 - (F) Understanding the need to develop essential employable skills and work habits.
 - (G) Understanding entrance requirements to the Armed Forces of the United States, including the benefits of the Armed Services Vocational Aptitude Battery (ASVAB) test

(e) Educational counseling may also include counseling in any of the following:

- (1) Individualized review of the academic and department records of a pupil.
- (2) Advising pupils, in consultation with their parents and legal guardians when at all possible, who are at risk of not promoting or graduating with the rest of their class.
- (3) Developing a list of coursework and experience necessary to assist each pupil in middle school to successfully transition to high school and meet all graduation requirements..
- (4) In schools that enroll pupils in grades 6 to 12, inclusive, developing a list of coursework and experience necessary to assist and counsel each pupil to begin to satisfy the A–G requirements for admission to the University of California and the California State University and encourage participation in college preparation programs, including, but not limited to, the Advancement Via Individual Determination (AVID) program, and early college, dual enrollment, advanced placement, and international baccalaureate programs.
- (5) Developing pupil knowledge of financial aid planning for postsecondary education by providing pupils with financial aid information, including, but not limited to, information on the Free Application for Federal Student Aid (FAFSA), the California Dream Act application (CADAA), the Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42 of Division 5 of Title 3, local and national scholarship programs, financial aid programs and resources for foster

and homeless youth, fee waiver programs, and other financial aid programs and options, and net college cost.

(6) Providing a copy of the lists developed pursuant to paragraph (4) to a pupil and the pupil's parent or legal guardian, ensuring that the list of coursework and experience is part of the pupil's cumulative record.

(7) Developing a list of coursework and experience for a pupil enrolled in grade 12, including options for continuing the pupil's education if the pupil fails to meet graduation requirements. These options shall include, but are not limited to, all of the following:

(A) Enrolling in an adult education program.

(B) Enrolling in a community college.

(C) Continuing enrollment in the pupil's current school district.

(8) Providing a copy of the list of coursework and experiences developed pursuant to paragraph (7) to the pupil and the pupil's parent or legal guardian, ensuring that the list of coursework and experience is part of the cumulative records of a pupil.

(9) Offering and scheduling an individual conference with each pupil in grades 10 and 12 who has not satisfied, or is not on track to satisfy, the curricular requirements for admission to the University of California and the California State University and to successfully transition to postsecondary education or employment, and providing the following information to the pupil and the pupil's parent or legal guardian:

(A) The score of the pupil on the English language arts or mathematics portion of the California Assessment of Student Performance and Progress, established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, administered in grade 6, as applicable.

(B) The availability of financial aid for postsecondary education.

(10) Providing mental and behavioral health services to which pupils receive prevention, early intervention, and short-term counseling services and receive classroom instruction in mental health to reduce stigma and increase awareness of counseling support services.

(11) Providing training to school staff to recognize mental health warning signs.

(f) This section does not prohibit persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.

(g) Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

CIV 1708.9.

(a) It is unlawful for any person, except a parent or guardian acting toward his or her minor child, to commit any of the following acts:

- (1) By force, threat of force, or physical obstruction that is a crime of violence, to intentionally injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with, any person attempting to enter or exit a facility.
- (2) By nonviolent physical obstruction, to intentionally injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with, any person attempting to enter or exit a facility.

(b) For purposes of this section:

- (1) "Facility" means any public or private school grounds, as described in subdivision (a) of Section 626.8 of the Penal Code, or any health facility, as described in Section 1250 of the Health and Safety Code.
- (2) To "interfere" means to restrict a person's freedom of movement.
- (3) To "intimidate" means to place a person in reasonable apprehension of bodily harm to himself, herself, or another person.
- (4) "Nonviolent" means conduct that would not constitute a crime of violence.
- (5) "Physical obstruction" means rendering ingress to or egress from a facility impassable to another person, or rendering passage to or from a facility unreasonably difficult or hazardous to another person.

(c) A person aggrieved by a violation of subdivision (a) may bring a civil action to enjoin the violation, for compensatory and punitive damages, for injunctive relief, and for the cost of suit and reasonable attorney's and expert witness' fees. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of five thousand dollars (\$5,000) per violation of paragraph (1) of subdivision (a), and one thousand dollars (\$1,000) per violation of paragraph (2) of subdivision (a).

(d) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of subdivision (a), for compensatory damages to persons or entities aggrieved by the violation, and for the imposition of a civil penalty against each respondent. The civil penalty for a violation of paragraph (1) of subdivision (a) shall not exceed fifteen thousand dollars (\$15,000), or twenty-five thousand dollars (\$25,000) for a second or subsequent violation. The civil penalty for a violation of paragraph (2) of subdivision (a) shall not exceed five thousand dollars (\$5,000), or twenty-five thousand dollars (\$25,000) for a second or subsequent violation.

(e) This section shall not be construed to impair the right to engage in any constitutionally protected activity, including, but not limited to, speech, protest, or assembly.

(f) The adoption of the act that added this section is an exercise of the police power of the state for purposes of protecting the health, safety, and welfare of the people of California, and this section shall be liberally construed to effectuate that purpose.

(g) This section shall not be construed to restrict, inhibit, prevent, or bring a chilling effect upon any actions by a person that are reasonable under the circumstances to protect, secure, provide safety to, or prevent illness in any child or adult in a facility.

EDC 44807.

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

EDC 49000.

The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

EDC 49001.

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

REGULATIONS

No relevant regulations found.

Search and Seizure**LAWS****EDC 49050.**

No school employee shall conduct a search that involves:

- (a) Conducting a body cavity search of a pupil manually or with an instrument.
- (b) Removing or arranging any or all of the clothing of a pupil to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the pupil.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

EDC 49001.

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

EDC 49005.

The Legislature finds and declares all of the following:

(a) While it is appropriate to intervene in an emergency to prevent a pupil from imminent risk of serious physical self-harm or harm of others, restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety.

(b) United States Department of Education guidelines specify that the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and to be free from abuse.

(c) Restraint and seclusion should only be used as a safety measure of last resort, and should never be used as punishment or discipline or for staff convenience.

(d) Restraint and seclusion may cause serious injury or long lasting trauma and death, even when done safely and correctly.

(e) There is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques.

(f) Pupils with disabilities and pupils of color, especially African American boys, are disproportionately subject to restraint and seclusion.

(g) Well-established California law already regulates restraint techniques in a number of settings, including general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers. These minimal protections should be provided to all pupils in schools.

(h) It is the intent of the Legislature to ensure that schools foster learning in a safe and healthy environment and provide adequate safeguards to prevent harm, and even death, to children in school.

(i) This article is intended to be read to be consistent with, and does not change any requirements, limitations, or protections in, existing law pertaining to pupils with exceptional needs.

(j) It is the intent of the Legislature to prohibit dangerous practices. Restraint and seclusion, as described in this article, do not further a child's education. At the same time, the Legislature recognizes that if an emergency situation arises, the ability of education personnel to act in that emergency to safeguard a pupil or others from imminent physical harm should not be restricted.

EDC 49005.1.

The following definitions apply to this article:

(a) "Behavioral restraint" means "mechanical restraint" or "physical restraint," as defined in this section, used as an intervention when a pupil presents an immediate danger to self or to others. "Behavioral restraint" does not include postural restraints or devices used to improve a pupil's mobility and independent functioning rather than to restrict movement.

(b) "Educational provider" means a person who provides educational or related services, support, or other assistance to a pupil enrolled in an educational program provided by a local educational agency or a nonpublic school or agency.

(c) "Local educational agency" means a school district, county office of education, charter school, the California Schools for the Deaf, and the California School for the Blind.

(d)(1) "Mechanical restraint" means the use of a device or equipment to restrict a pupil's freedom of movement.

(2)(A) "Mechanical restraint" does not include the use of devices by peace officers or security personnel for detention or for public safety purposes.

(B) "Mechanical restraint" does not include the use of devices by trained school personnel, or by a pupil, prescribed by an appropriate medical or related services professional, if the device is used for the specific and approved purpose for which the device or equipment was prescribed, which shall include, but not be limited to, all of the following:

(i) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports.

(ii) Vehicle safety restraints when used as intended during the transport of a pupil in a moving vehicle.

(iii) Restraints for medical immobilization.

(iv) Orthopedically prescribed devices that permit a pupil to participate in activities without risk of harm.

(e) "Nonpublic school or agency" means any nonpublic school or nonpublic agency, including both in-state and out-of-state nonpublic schools and nonpublic agencies.

(f)(1) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a pupil to move the pupil's torso, arms, legs, or head freely. "Physical restraint" does not include a physical escort, which means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a pupil who is acting out to walk to a safe location.

(2) "Physical restraint" does not include the use of force by peace officers or security personnel for detention or for public safety purposes.

(g) "Prone restraint" means the application of a behavioral restraint on a pupil in a facedown position.

(h) "Pupil" means a pupil enrolled in preschool, kindergarten, or any of grades 1 to 12, inclusive, and receiving educational services from an educational provider.

(i) "Seclusion" means the involuntary confinement of a pupil alone in a room or area from which the pupil is physically prevented from leaving. "Seclusion" does not include a timeout, which is a behavior management technique that is part of an approved program, that involves the monitored separation of the pupil in a nonlocked setting, and is implemented for the purpose of calming.

EDC 49005.2.

A pupil has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited

to, the right to be free from the use of a drug administered to the pupil in order to control the pupil's behavior or to restrict the pupil's freedom of movement, if that drug is not a standard treatment for the pupil's medical or psychiatric condition.

EDC 49005.4.

An educational provider may use seclusion or a behavioral restraint only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.

EDC 49005.6.

An educational provider shall avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

EDC 49005.8.

(a) An educational provider shall not do any of the following:

- (1) Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.
- (2) Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
- (3) Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.
- (4) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.
- (5) Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.
- (6) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

(b) An educational provider shall keep constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. The observation required pursuant to this subdivision shall not be through indirect means, including through a security camera or a closed-circuit television.

(c) An educational provider shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.

(d) If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.

EDC 49006.

(a) A local educational agency that meets the definition of a "local educational agency" specified in Section 300.28 of Title 34 of the Code of Federal Regulations shall collect and, no later than three months after the end of a school year, report to the department annually on the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency for all or part of the prior school year.

(b) The report required pursuant to subdivision (a) shall include all of the following information, disaggregated by race or ethnicity, and gender:

(1) The number of pupils subjected to mechanical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(2) The number of pupils subjected to physical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(3) The number of pupils subjected to seclusion, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(4) The number of times mechanical restraint was used on pupils, with separate counts for the number of times mechanical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(5) The number of times physical restraint was used on pupils, with separate counts for the number of times physical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(6) The number of times seclusion was used on pupils, with separate counts for the number of times seclusion was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(c) Notwithstanding any other law, the data collected and reported pursuant to this section shall be available as a public record pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) No later than three months after the report is due to the department pursuant to subdivision (a), the department shall post the data from the report annually on its Internet Web site.

EDC 49006.2.

Notwithstanding Section 49006, the data collection and reporting requirements contained in this article shall be conducted in compliance with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights imposed pursuant to Sections 100.6(b) and 104.61 of Title 34 of the Code of Federal Regulations, and shall not be construed to impose a new program or higher level of service on local educational agencies or nonpublic schools or agencies.

EDC 49006.4.

(a) This article applies with regard to all pupils, including individuals with exceptional needs. For an individual with exceptional needs, if a behavioral restraint or seclusion is used, the procedures for followup contained in subdivisions (e), (f), (g), and (h) of Section 56521.1 also apply.

(b) For purposes of this section, "individual with exceptional needs" has the same meaning specified in Section 56026.

EDC 56520.

(a) The Legislature finds and declares all of the following:

(1) That the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions.

(2) That some schoolage individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both.

(3) Section 1400(c)(5)(F) of Title 20 of the United States Code states that research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children.

(4) That procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under Section 49001 or those that cause pain or trauma.

(b) It is the intent of the Legislature:

(1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(2) That assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.

(3) That when behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil's right to placement in the least restrictive educational environment.

(4) That behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

EDC 56521.

(a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

EDC 56521.1.

(a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

(b) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(c) No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the schoolsite administrator or law enforcement agency, as applicable to the situation.

(d) Emergency interventions shall not include:

(1) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(2) Employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures.

(3) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

(5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

EDC 56521.2.

(a) A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

(2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

(3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

(4) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

- (5) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.
 - (6) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
 - (7) An intervention that precludes adequate supervision of the individual.
 - (8) An intervention that deprives the individual of one or more of his or her senses.
- (b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

EDC 56523.

- (a) The Superintendent shall repeal those regulations governing the use of behavioral interventions with individuals with exceptional needs receiving special education and related services that are no longer supported by statute, including Section 3052 and subdivisions (d), (e), (f), (g), and (ab) of Section 3001 of Title 5 of the California Code of Regulations, as those provisions existed on January 10, 2013.
- (b) This chapter is necessary to implement the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and associated federal regulations. This chapter is intended to provide the clarity, definition, and specificity necessary for local educational agencies to comply with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and shall be implemented by local educational agencies without the development by the Superintendent and adoption by the state board of any additional regulations.
- (c) Pursuant to Section 1401(9) of Title 20 of the United States Code, special education and related services must meet the standards of the department.
- (d) As a condition of receiving funding from the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a local educational agency shall agree to adhere to this chapter and implementing federal regulations set forth in this chapter.
- (e) The Superintendent may monitor local educational agency compliance with this chapter and may take appropriate action, including fiscal repercussions, if either of the following is found:
- (1) The local educational agency failed to comply with this chapter and failed to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.
 - (2) The local educational agency failed to implement the decision of a due process hearing officer based on noncompliance with this part, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the federal implementing regulations, wherein noncompliance resulted in the denial of, or impeded the delivery of, a free appropriate public education for an individual with exceptional needs.
- (f) Commencing with the 2010-11 fiscal year, if any activities authorized pursuant to this chapter and implementing regulations are found to be a state reimbursable mandate pursuant to Section 6 of Article XIII B of the California Constitution, state funding provided for purposes of special education pursuant to Item 6110-161-0001 of Section 2.00 of the annual Budget Act shall first be used to directly offset any mandated costs.
- (g) The Legislature hereby requests the Department of Finance on or before December 31, 2013, to exercise its authority pursuant to subdivision (d) of Section 17557 of the Government Code to file a request with the Commission on State Mandates for the purpose of amending the parameters and guidelines of CSM-4464 to delete any reimbursable activities that have been repealed by statute or executive order and to update offsetting revenues that apply to the mandated program.

EDC 56524.

The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k)(1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph is inoperative on July 1, 2020.
 - (3) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended for any of the acts specified in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.

(4) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in any of grades 6 to 8, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2025.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(D) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)(A) "Electronic act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii)(I) An act of cyber sexual bullying.

(II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil's exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

EDC 48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

EDC 48900.4.

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

EDC 48900.7.

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

- (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

(2) Brandishing a knife at another person.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a

school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

REGULATIONS

§ 305. Pupil responsible for care of property.

A pupil who defaces, damages, or destroys any school property or willfully or negligently injures another pupil or school employee is liable to suspension or expulsion, according to the nature of the offense.

Limitations or Conditions on Exclusionary Discipline

LAWS

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k)(1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph is inoperative on July 1, 2020.
 - (3) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended for any of the acts specified in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
 - (4) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in any of grades 6 to 8, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2025.
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.
- (r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:
 - (1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - (A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(D) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)(A) "Electronic act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii)(I) An act of cyber sexual bullying.

(II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil's exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school-sponsored activity.
- (t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).
- (u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.
- (v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.
- (w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.
 - (2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5. For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

EDC 48903.

- (a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.
- (b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

EDC 48911.

- (a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.
- (b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary

action, including the other means of correction that were attempted before the suspension as required under Section 48900.5, and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

(f)(1) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

(2) No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools or other person designated by the district superintendent of schools in writing may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

EDC 48911.5.

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.

EDC 48912.5.

The governing board of a school district may suspend a pupil enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in Section 48900 occurred. The suspension shall meet the requirements of Section 48915.

EDC 48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

EDC 48915.5.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

REGULATIONS

§ 352. Detention during recess or noon intermission.

A pupil shall not be required to remain in school during the intermission at noon, or during any recess.

§ 353. Detention after school.

A pupil shall not be detained in school for disciplinary or other reasons for more than one hour after the close of the maximum school day, except as otherwise provided in Section 307.

Due Process

LAWS

EDC 35146.

Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of this code.

Before calling such closed session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his or her parent or guardian, or the pupil if the pupil is an adult, of

the intent of the governing board of the district to call and hold such closed session. Unless the pupil, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in closed session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

EDC 35181.

The governing board of each school district may convene hearings, make findings, and adopt and issue policy statements setting forth the responsibilities of the pupils of that school district regarding academic performance, attendance, in-school behavior, and any other aspects of school life which the school district governing board may deem relevant to this task.

EDC 48911.

(a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required under Section 48900.5, and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

(f)(1) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

(2) No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools or other person designated by the district superintendent of schools in writing may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

EDC 48912.

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

EDC 48915.1.

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

EDC 48917.

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

EDC 48918.

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(a)(1) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board of the school district.

(2) Within 10 schooldays after the conclusion of the hearing, the governing board of the school district shall decide whether to expel the pupil, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the governing board of the school district does not meet on a weekly basis, the governing board of the school district shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent of schools, unless the pupil requests in writing that the decision be postponed.

(3) If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48925, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days before the first day of school for the school year. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days before the date of the hearing. The notice shall include all of the following:

- (1) The date and place of the hearing.
- (2) A statement of the specific facts and charges upon which the proposed expulsion is based.
- (3) A copy of the disciplinary rules of the school district that relate to the alleged violation.
- (4) A notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1.
- (5) Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or to be represented by legal counsel or by a nonattorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. In a hearing in which a pupil is alleged to have committed or attempted to commit a sexual assault as specified in subdivision (n) of Section 48900 or to have committed a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall be given five days' notice before being called to testify, and shall be entitled to have up to two adult support persons, including,

but not limited to, a parent, guardian, or legal counsel, present during his or her testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential. This subdivision shall not preclude the person presiding over an expulsion hearing from removing a support person whom the presiding person finds is disrupting the hearing. If one or both of the support persons is also a witness, the provisions of Section 868.5 of the Penal Code shall be followed for the hearing. This section does not require a pupil or the pupil's parent or guardian to be represented by legal counsel or by a nonattorney adviser at the hearing.

(A) For purposes of this section, "legal counsel" means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

(B) For purposes of this section, "nonattorney adviser" means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case, and has been selected by the pupil or pupil's parent or guardian to provide assistance at the hearing.

(c)(1) Notwithstanding Section 35145, the governing board of the school district shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days before the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board of the school district may meet in closed session for the purpose of deliberating and determining whether the pupil should be expelled.

(2) If the governing board of the school district or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil also shall be allowed to attend the closed deliberations.

(3) If the hearing is to be conducted at a public meeting, and there is a charge of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.

(d) Instead of conducting an expulsion hearing itself, the governing board of the school district may contract with the county hearing officer, or with the Office of Administrative Hearings pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board of the school district may also appoint an impartial administrative panel of three or more certificated persons, none of whom is a member of the governing board of the school district or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board of the school district. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to the classroom instructional program from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the pupil requests another school placement in writing. Before the placement decision is made by the parent, guardian, or responsible adult, the superintendent of schools or the superintendent's designee shall consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the pupil committed any of the

acts specified in subdivision (c) of Section 48915, but does not recommend expulsion, the pupil shall be immediately reinstated and may be referred to his or her prior school or another comprehensive school, or, pursuant to the procedures set forth in Section 48432.5, a continuation school of the school district. The decision not to recommend expulsion shall be final.

(f)(1) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board of the school district. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board of the school district accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board of the school district may order.

(2) The decision of the governing board of the school district to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board of the school district or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations that shall be examined only by the governing board of the school district or the hearing officer or administrative panel. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h)(1) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board of the school district to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(2) In hearings that include an allegation of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, evidence of specific instances, of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before the person conducting the hearing makes the determination on whether extraordinary circumstances exist requiring that specific instances of a complaining witness' prior sexual conduct be heard, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

(i)(1) Before the hearing has commenced, the governing board of the school district may issue subpoenas at the request of either the superintendent of schools or the superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the governing board of the school district or the hearing officer or administrative panel may, upon request of either the county superintendent of schools or the superintendent's designee or the pupil, issue subpoenas. All subpoenas shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Section 11455.20 of the Government Code.

(2) Any objection raised by the superintendent of schools or the superintendent's designee or the pupil to the issuance of subpoenas may be considered by the governing board of the school district in closed session, or in open session, if so requested by the pupil before the meeting. Any decision by the governing board of the school district in response to an objection to the issuance of subpoenas shall be final and binding.

(3) If the governing board of the school district, hearing officer, or administrative panel determines, in accordance with subdivision (f), that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as provided for in subdivision (f).

(4) Service of process shall be extended to all parts of the state and shall be served in accordance with Section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision of the state, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board of the school district or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board of the school district in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by all of the following:

(1) Notice of the right to appeal the expulsion to the county board of education.

(2) Notice of the education alternative placement to be provided to the pupil during the time of expulsion.

(3) Notice of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that school district of the pupil's expulsion.

(k)(1) The governing board of the school district shall maintain a record of each expulsion, including the cause for the expulsion. Records of expulsions shall be nonprivileged, disclosable public records.

(2) The expulsion order and the causes for the expulsion shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

EDC 48918.1.

(a)(1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b)(1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for

homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

EDC 48918.5.

In expulsion hearings involving allegations brought pursuant to subdivision (n) of Section 48900, the governing board of each school district shall establish rules and regulations governing procedures. The procedures shall include, but are not limited to, all of the following:

(a) At the time that the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to: (1) receive five days' notice of the complaining witness's scheduled testimony at the hearing, (2) have up to two adult support persons of his or her choosing, present in the hearing at the time he or she testifies; and (3) to have the hearing closed during the time they testify pursuant to subdivision (c) of Section 48918.

(b) An expulsion hearing may be postponed for one schoolday in order to accommodate the special physical, mental, or emotional needs of a pupil who is the complaining witness where the allegations arise under subdivision (n) of Section 48900.

(c) The district shall provide a nonthreatening environment for a complaining witness in order to better enable them to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. Each school district shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room of those present in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.

(d) Whenever any allegation is made of conduct violative of subdivision (n) of Section 48900, complaining witnesses and accused pupils are to be advised immediately to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

EDC 48918.6.

In addition to any other immunity that may exist, any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to this article is expressly deemed to be a communication protected by subdivision (b) of Section 47 of the Civil Code.

EDC 48919.

If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education, or in a class 1 or class 2 county a hearing officer or impartial administrative panel, shall hold the hearing within 20 schooldays following the filing of a formal request under this section. If the county board of education hears the appeal without a hearing conducted pursuant to Section 48919.5, then the board shall render a decision within three schooldays of the hearing conducted pursuant to Section 48920, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. If the county board of education in a class 1 or class 2 county elects to use the procedures in Section 48919.5, then the board shall adopt rules and regulations establishing procedures for expulsion appeals conducted under Section 48919.5. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a written request for a copy of the written transcripts and supporting documents from the school district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within 10 schooldays following the pupil's written request. Upon receipt of the records, the pupil shall immediately file suitable copies of these records with the county board of education.

EDC 48919.5.

(a) A county board of education in a class 1 or class 2 county may have a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Title 3 of the Government Code, or an impartial administrative panel of three or more certificated persons appointed by the county board of education, hear appeals filed pursuant to Section 48919. The members of the impartial administrative panel shall not be members of the governing board of the school district nor employees of the school district, from which the pupil filing the appeal was expelled. Neither the hearing officer, nor any member of the administrative panel, hearing a pupil's appeal shall have been the hearing officer or a member of the administrative panel that conducted the pupil's expulsion hearing.

(b) A hearing conducted pursuant to this section shall not issue a final order of the county board. The hearing officer or impartial administrative panel shall prepare a recommended decision, including any findings or conclusions required for that decision, and shall submit that recommendation and the record to the county board of education within three schooldays of hearing the appeal.

(c) Sections 48919, 48920, 48921, 48922, 48923, and 48925 are applicable to a hearing conducted pursuant to this section.

(d) Within 10 schooldays of receiving the recommended decision and record from the hearing officer or the impartial administrative panel, the county board of education shall review the recommended decision and record and render a final order of the board.

(e) For purposes of this article, the following definitions shall apply:

- (1) "Countywide ADA" means the aggregate number of annual units of regular average daily attendance for the fiscal year in all school districts within the county.
- (2) "Class 1 county" means a county with 1994/95 countywide ADA of more than 500,000.
- (3) "Class 2 county" means a county with 1994/95 countywide ADA of at least 180,000 but less than 500,000.

EDC 48920.

Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the county board of education shall hear an appeal of an expulsion order in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted in a public meeting. Upon the timely submission of a request for a public meeting, the county board of education shall be required to honor the request. Whether the hearing is conducted in closed or public session, the county board may meet in closed session for the purpose of deliberations. If the county board admits any representative of the pupil or the school district, the board shall, at the same time, admit representatives from the opposing party.

EDC 48921.

The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 48923.

It shall be the responsibility of the pupil to submit a written transcription for review by the county board. The cost of the transcript shall be borne by the pupil except in either of the following situations:

- (1) Where the pupil's parent or guardian certifies to the school district that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.
- (2) In a case in which the county board reverses the decision of the local governing board, the county board shall require that the local board reimburse the pupil for the cost of such transcription.

EDC 48922.

(a) The review by the county board of education of the decision of the governing board shall be limited to the following questions:

- (1) Whether the governing board acted without or in excess of its jurisdiction.
- (2) Whether there was a fair hearing before the governing board.
- (3) Whether there was a prejudicial abuse of discretion in the hearing.
- (4) Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

(b) As used in this section, a proceeding without or in excess of jurisdiction includes, but is not limited to, a situation where an expulsion hearing is not commenced within the time periods prescribed by this article, a situation where an expulsion order is not based upon the acts enumerated in Section 48900, or a situation involving acts not related to school activity or attendance.

(c) For purposes of this section, an abuse of discretion is established in any of the following situations:

- (1) If school officials have not met the procedural requirements of this article.
- (2) If the decision to expel a pupil is not supported by the findings prescribed by Section 48915.
- (3) If the findings are not supported by the evidence.

A county board of education may not reverse the decision of a governing board to expel a pupil based upon a finding of an abuse of discretion unless the county board of education also determines that the abuse of discretion was prejudicial.

EDC 48923.

The decision of the county board shall be limited as follows:

- (a) If the county board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, it may do either of the following:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending the reconsideration.

(2) Grant a hearing de novo upon reasonable notice thereof to the pupil and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

(b) If the county board determines that the decision of the governing board is not supported by the findings required to be made by Section 48915, but evidence supporting the required findings exists in the record of the proceedings, the county board shall remand the matter to the governing board for adoption of the required findings. This remand for the adoption and inclusion of the required findings shall not result in an additional hearing pursuant to Section 48918, except that final action to expel the pupil based on the revised findings of fact shall meet all requirements of subdivisions (j) and (k) of Section 48918.

(c) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the pupil and the records of the district of any references to the expulsion action and the expulsion shall be deemed not to have occurred.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

EDC 1981.5.

(a) A pupil who is involuntarily enrolled in a county community school pursuant to subdivision (a) of, or subparagraph (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section 1981 shall have the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from the expulsion order pursuant to Section 48916 or court-ordered placement. Nothing in this section is intended to limit the school placement options that a school district may recommend for a pupil being readmitted.

(b) Consistent with the process and procedures set forth in Section 48916, only the governing board of the school district that issued the initial order or subsequent order to expel may extend the duration of an expelled pupil's placement in a county community school.

EDC 48915.1.

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status

with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

EDC 48915.2.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

EDC 48916.

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a

school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

EDC 48916.5.

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

EDC 48918.

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board of the school district. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to the classroom instructional program from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the pupil requests another school placement in writing. Before the placement decision is made by the parent, guardian, or responsible adult, the superintendent of schools or the superintendent's designee shall consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the pupil committed any of the acts specified in subdivision (c) of Section 48915, but does not recommend expulsion, the pupil shall be immediately reinstated and may be referred to his or her prior school or

another comprehensive school, or, pursuant to the procedures set forth in Section 48432.5, a continuation school of the school district. The decision not to recommend expulsion shall be final.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

EDC 1980.

A county board of education may establish and maintain one or more community schools.

EDC 1981.

The county board of education may enroll pupils in a county community school who are any of the following:

(a) Expelled from a school district for any reason other than those specified in subdivision (a) or (c) of Section 48915.

(3) If the parent, guardian, or responsible adult of the pupil objects for any of the reasons described in subclauses (I) to (IV), inclusive, of clause (i) of subparagraph (C) of paragraph (1), the school district may either address the express objection or find an alternative placement in another comprehensive or continuation school within the school district. If the school district has offered the pupil all other options, the school district may refer the pupil to the county community school.

EDC 1981.5.

(a) A pupil who is involuntarily enrolled in a county community school pursuant to subdivision (a) of, or subparagraph (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section 1981 shall have the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from the expulsion order pursuant to Section 48916 or court-ordered placement. Nothing in this section is intended to limit the school placement options that a school district may recommend for a pupil being readmitted.

(b) Consistent with the process and procedures set forth in Section 48916, only the governing board of the school district that issued the initial order or subsequent order to expel may extend the duration of an expelled pupil's placement in a county community school.

EDC 1983.

(a) Pupils enrolled in county community schools shall be assigned to classes or programs deemed most appropriate for reinforcing or reestablishing educational development.

(b) These classes or programs may include, but need not be limited to, basic educational skill development, on-the-job training, school credit recovery assistance, tutorial assistance, and individual guidance activities.

(c) To the extent that independent study is determined to satisfy the individually planned educational program described in subdivision (d) for a pupil attending a county community school, it shall meet all the requirements of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of Division 4 of Title 2, including the requirement that entry into that program is voluntary.

(d) An individually planned educational program based upon an educational assessment shall be prescribed for each pupil.

(e) The course of study of a county community school shall be adopted by the county board of education and shall enable each pupil to continue academic work leading to the completion of a regular high school program.

(f) Pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2, Chapter 33 (commencing with Section 1400) of Title 20 of the United States Code, and accompanying state and federal regulatory provisions, county boards of education operating county community schools shall ensure that assessments are administered in all areas of suspected disability and appropriate services and programs, as specified in a pupil's individualized education program, are provided.

(g) County boards of education operating county community schools shall ensure that appropriate services and programs designed to address the language needs of pupils identified as English learners are provided in compliance with all applicable state and federal laws and regulatory provisions.

(h) For purposes of this section, "school credit recovery assistance" refers to a pupil passing, and receiving credit for, a course that the pupil previously attempted, but for which the pupil was unsuccessful in earning academic credit towards graduation. The pupil can recover the credit by satisfying requirements for the course in which they were unsuccessful and can focus on earning credit based on competency in the content standards for that particular course. Credit recovery programs aim to help schools graduate more pupils by giving pupils who have fallen behind the chance to recover credits through a multitude of different strategies. Different programs allow pupils to work on their credit recovery classes over the summer, on school breaks, after school, on weekends, at home on their own, at night in school computer labs, online, or even during the schoolday.

EDC 1984.

For the purposes of establishing and maintaining a county community school, a county board of education shall be deemed to be a school district.

EDC 1986.

(a) The Legislature hereby recognizes that community schools are a permissive educational program.

(b) If a county superintendent of schools elects to operate a community school pursuant to this chapter, he or she shall do one or more of the following:

(1) Utilize available school facilities that conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(2) Apply for emergency portable classrooms pursuant to Section 17717.2 or Chapter 25 (commencing with Section 17785) of Part 10.

(3) Enter into lease agreements provided that the facilities are limited to one of the following:

(A) Single story, wood-framed structure.

(B) Single story, light steel frame structure.

(C) A structure where a structural engineer has submitted a report that determines substantial structural hazards do not exist. The county board of education shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(c) Before entering into any lease pursuant to paragraph (3) of subdivision (b), the county superintendent of schools shall certify that all reasonable efforts have been made to locate community schools in facilities that conform to the structural safety standards listed in paragraph (1) of subdivision (b).

(d) This section shall become operative on July 1, 1990.

EDC 48322.

The county school attendance review board may encourage local school attendance review boards to maintain a continuing inventory of community resources, including alternative educational programs, and to make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

EDC 48432.

The governing board of each high school district and each unified school district shall establish and maintain within its boundaries special continuation education classes and may establish and maintain regional occupational centers or programs, in accordance with the provisions of Section 52301, whenever there are any minors residing within the district who are subject to compulsory continuation education; provided, that if there are fewer than 100 students enrolled in grade 12 in any school of the district maintaining that grade, the governing board of the district may apply to the State Department of Education for exemption of that school from the requirements of this section and such exemption may be granted in accordance with rules and regulations that shall be adopted by the State Board of Education to govern the granting of the exemptions. An exemption may also be granted to schools having an enrollment of more than 100 pupils in grade 12 if the district seeking the exemption has entered into an agreement with another high school district or unified school district to maintain special continuation education classes for minors residing in either of the districts, but shall not be granted if the agreement would make it necessary for such minors to travel an excessive distance from their homes to the continuation education classes.

If there is a regional occupational center or program as provided in Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, of this division within a county, the governing board of any school district within that county may enroll minors, otherwise subject to, and in lieu of, continuation education, in the center or program in accordance with the provisions of Section 52314.

Any minor admitted to a regional occupational center or program under the provisions of Section 52314.5 shall be considered to have enrolled in the regional occupational center or program in lieu of continuation education classes. Nothing in this section shall prohibit a minor from enrolling in a program of continuation education or a regular high school program if the minor voluntarily chooses to enroll in the program.

EDC 48660.

(a) The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 to 6, inclusive, or any of grades 7 to 12, inclusive, or the same or lesser included range of grades as may be found in an individual middle or junior high school operated by the school district. If a school district is organized as a school district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the governing board of the school district. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school.

(b) The average daily attendance of a community day school shall be determined by dividing the total number of days of attendance in all full school months, by a divisor of 70 in the first period of each fiscal year, by a divisor of 135 in the second period of each fiscal year, and by a divisor of 180 at the annual time of each fiscal year.

EDC 48660.1.

It is the intent of the Legislature that school districts operating community day schools to the extent possible include the following program components:

- (a) School district cooperation with the county office of education, law enforcement, probation, and human services agencies personnel who work with at-risk youth.
- (b) Low pupil-teacher ratio.
- (c) Individualized instruction and assessment.

(d) Maximum collaboration with school district support service resources, including, but not limited to, school counselors and psychologists, academic counselors, and pupil discipline personnel.

EDC 48661.

(a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(1) When the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(2) When the governing board of a school district that is organized as a district to serve kindergarten and grades 1 to 8, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(3) When the governing board of a school district that desires to operate a community day school to serve any of kindergarten and grades 1 to 6, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

EDC 48662.

(a) The governing board of a school district that establishes a community day school shall adopt policies that provide procedures for the involuntary transfer of pupils to a community day school.

(b) A pupil may be assigned to a community day school only if he or she meets one or more of the following conditions:

(1) The pupil is expelled for any reason.

(2) The pupil is probation referred pursuant to Sections 300 and 602 of the Welfare and Institutions Code.

(3) The pupil is referred to a community day school by a school attendance review board or other district level referral process.

(4) First priority for assignment to a community day school shall be given to a pupil expelled pursuant to subdivision (d) of Section 48915, second priority shall be given to pupils expelled for any other reasons, and third priority shall be given for placement to all other pupils pursuant to this section, unless there is an agreement that the county superintendent of schools shall serve any of these pupils.

EDC 48663.

(a) The minimum schoolday in a community day school is 360 minutes of classroom instruction provided by a certificated employee of the district reporting the attendance of the pupils for apportionment funding.

(b) A pupil enrolled in a community day school may not generate more than one day of community day school attendance credit in a schoolday for any purpose.

(c) For the purposes of calculating the additional funding provided to a school district pursuant to Section 48664, only community day school attendance shall be reported in clock hours. Attendance of less than five clock hours in a schoolday shall be disregarded for purposes of Section 48664. Five clock hours of attendance in one schoolday shall be deemed to be one-half day of attendance, for purposes of additional funding pursuant to Section 48664. Six clock hours or more of attendance in one schoolday shall be deemed to be one day of attendance, for purposes of additional funding pursuant to Section 48664.

(d) Independent study may not be utilized as a means of providing any part of the minimum instructional day provided pursuant to subdivision (a).

(e) A community day school's academic programs shall be comparable to those available to pupils of a similar age in the school district.

EDC 48903.

(a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

EDC 48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

EDC 48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall

provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section

48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

(2) Brandishing a knife at another person.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

EDC 48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

EDC 48915.2.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

EDC 48915.5.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

EDC 48916.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

EDC 48916.1.

(a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing

board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e)(1) Each school district shall maintain the following data:

- (A) The number of pupils recommended for expulsion.
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

EDC 48926.

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services

to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

EDC 48929.

Notwithstanding any other law, the governing board of a school district may transfer to another school in that school district a pupil enrolled in that school district who has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, or convicted of a misdemeanor listed in Section 29805 of the Penal Code if the pupil to be transferred and the victim of the crime for which the pupil was convicted are enrolled at the same school, subject to satisfaction of both of the following conditions:

(a) The governing board of the school district has adopted a policy at a regularly scheduled meeting that contains all of the following provisions:

(1) A requirement that the pupil and pupil's parent or guardian be notified of the right to request a meeting with the school principal or designee of the school or school district.

(2) A requirement that the school first attempt to resolve the conflict before transferring a pupil, including, but not limited to, using restorative justice, counseling, or other services.

(3) Whether the decision to transfer a pupil is subject to periodic review and the procedure for conducting the review.

(4) The process to be used by the governing board of the school district to consider and approve or disapprove of the recommendation of the school principal or other school or school district designee to transfer the pupil.

(b) The governing board of the school district has provided notice of the policy to parents or guardians as part of the annual notification required pursuant to Section 48980.

EDC 58500.

The governing board of any school district may establish and maintain one or more alternative schools within the district.

For the purposes of this article, an alternative school is defined as a school or separate class group within a school which is operated in a manner designed to:

(a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.

(b) Recognize that the best learning takes place when the student learns because of his desire to learn.

(c) Maintain a learning situation maximizing student self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.

(d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.

(e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

EDC 58501.

The following notice shall be sent along with the notification of parents and guardians required by Section 48980:

Notice of Alternative Schools

California state law authorizes all school districts to provide for alternative schools. Section 58500 of the Education Code defines alternative school as a school or separate class group within a school which is operated in a manner designed to:

- (a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.
- (b) Recognize that the best learning takes place when the student learns because of his desire to learn.
- (c) Maintain a learning situation maximizing student self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.
- (d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.
- (e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

In the event any parent, pupil, or teacher is interested in further information concerning alternative schools, the county superintendent of schools, the administrative office of this district, and the principal's office in each attendance unit have copies of the law available for your information. This law particularly authorizes interested persons to request the governing board of the district to establish alternative school programs in each district.

Further, a copy shall be posted in at least two places normally visible to pupils, teachers, and visiting parents in each attendance unit for the entire month of March in each year.

EDC 58502.

The parent or guardian of any pupil may request the governing board of a school district to establish an alternative school program or programs in the district pursuant to this chapter.

EDC 58507.

Alternative schools shall be operated in a manner to maximize the opportunity for improvement of the general school curriculum by innovative methods and ideas developed within the alternative school operation and to improve the general level of education in the State of California as provided in Section 58510.

Any alternative school shall be maintained and funded by the school district at the same level of support as other educational programs for children of the same age level operated by the district.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

EDC 44276.1.

(a) The Legislature finds and declares all of the following:

(1) The educational mission of schools may be thwarted when school campuses are not safe, secure, and peaceful.

(2) Effective school management can improve school safety and decrease violence and criminal behavior.

(3) In many school districts and neighborhoods, violence and criminal behavior are increasingly frequent.

(4) Teachers and other educators who are well prepared in principles of school safety may be able to mitigate, to some degree, the detrimental behavior of pupils and others on school campuses.

(b) Therefore, it is the intent of the Legislature that a comprehensive school safety plan be established pursuant to Section 35294.1 in order to achieve safe, secure, and peaceful school campuses. It is the further intent of the Legislature that the Commission on Teacher Credentialing adopt standards that address the principles of school safety in the preparation of future classroom teachers, school administrators, school counselors, and other pupil personnel service providers as a condition for licensing these prospective practitioners.

(c) Standards adopted by the commission pursuant to paragraph (3) of subdivision (b) of Section 44259, and pursuant to Sections 44266, 44270, 44277, and 44372, shall include the effective preparation of prospective classroom teachers, school administrators, school counselors, and other pupil personnel service providers in principles of school safety. In developing these standards, the commission shall consider, but is not limited to considering, the following principles of school safety:

(1) School management skills that emphasize crisis intervention and conflict resolution.

(2) Developing and maintaining a positive and safe school climate, including methods to prevent the possession of weapons on school campuses.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid,

substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k)(1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph is inoperative on July 1, 2020.

(3) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended for any of the acts specified in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.

(4) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in any of grades 6 to 8, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2025.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts

committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.
- (B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.
- (C) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.
- (D) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)(A) "Electronic act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

- (i) A message, text, sound, video, or image.
- (ii) A post on a social network internet website, including, but not limited to:
 - (I) Posting to or creating a burn page. "Burn page" means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).
 - (II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
 - (III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
- (iii)(I) An act of cyber sexual bullying.
 - (II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
 - (III) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil's exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of

the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

- (2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- (A) Causing serious physical injury to another person, except in self-defense.
- (B) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:
 - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
- (D) Robbery or extortion.
- (E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
- (3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

- (1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary

school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

EDC 49330.

(a)(1) As used in this article "injurious object" shall mean those objects specified in the following sections:

- (A) Section 16250 of the Penal Code.
- (B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.
- (C) Section 16590 of the Penal Code.
- (D) Section 16880 of the Penal Code.
- (E) Section 17235 of the Penal Code.
- (F) Section 17240 of the Penal Code.
- (G) Section 17250 of the Penal Code.

(2) As used in this article, "injurious object" shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(b) As used in this section, "academic purpose" means any school sponsored activity or class of instruction scheduled during the schoolday.

(c) "Injurious object" does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

EDC 49331.

Any certificated employee of any school district and any classified employee of a school district who is designated by the governing board for such purposes may take from the personal possession of any pupil upon school premises or while under the authority of school personnel any injurious object in the possession of the pupil.

EDC 49332.

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

EDC 49333.

Notwithstanding Section 49332, a pupil who brings an injurious object to school, and who presents the object to a certificated or classified employee, may have the object returned to him or her at the conclusion of the school day, provided such injurious object may be lawfully possessed off school grounds.

EDC 49334.

If a school employee initially notifies a law enforcement agency regarding a student or adult who possesses an injurious object while upon school premises or while under the authority of school personnel, the employee may not be subject to any civil or administrative proceeding, including any

disciplinary action, for violation of any local policy or procedure relating to the notification of a law enforcement agency. The employee shall conform to locally adopted procedures after exercising his or her personal option to notify a law enforcement agency.

PEN 626.9.

(a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (4) of subdivision (e), shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision does not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Section 25615, 25625, 25630, or 25645.

(5) When the person holds a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, who is carrying that firearm in an area that is not in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but within a distance of 1,000 feet from the grounds of the public or private school.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (4) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "Concealed firearm" has the same meaning as that term is given in Sections 25400 and 25610.

(2) "Firearm" has the same meaning as that term is given in subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in Section 16850.

(4) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(f)(1) A person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

(2) A person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to Section 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) A person who violates subdivision (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

(g)(1) A person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) A person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) A person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years. Notwithstanding subdivision (k), a university

or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section 25605, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(l) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

- (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.
- (2) Section 25650.
- (3) Sections 25900 to 25910, inclusive.
- (4) Section 26020.
- (5) Paragraph (2) of subdivision (c) of Section 26300.

(p) This section does not apply to a peace officer appointed pursuant to Section 830.6 who is authorized to carry a firearm by the appointing agency.

(q)(1) This section does not apply to the activities of a program involving shooting sports or activities, including, but not limited to, trap shooting, skeet shooting, sporting clays, and pistol shooting, that are sanctioned by a school, school district, college, university, or other governing body of the institution, that occur on the grounds of a public or private school or university or college campus.

- (2) This section does not apply to the activities of a state-certified hunter education program pursuant to Section 3051 of the Fish and Game Code if all firearms are unloaded and participants do not possess live ammunition in a school building.

PEN 626.10.

(a)(1) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government

who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses a razor blade or a box cutter upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, or any razor blade or box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

PEN 30310.

(a) Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties.

(b) This section shall not apply to any of the following:

(1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.

(4) A member of the military forces of this state or of the United States who is engaged in the performance of that person's duties.

(5) An armored vehicle guard, who is engaged in the performance of that person's duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(6) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.

(7) Any other duly appointed peace officer.

(8) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.

(9) Any other honorably retired peace officer who during the course and scope of his or her appointment as a peace officer was authorized to, and did, carry a firearm.

(10)(A) A person carrying ammunition or reloaded ammunition onto school grounds that is in a motor vehicle at all times and is within a locked container or within the locked trunk of the vehicle.

(B) For purposes of this paragraph, the term "locked container" has the same meaning as set forth in Section 16850.

(c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be

recommended under the circumstances or that an alternative means of correction would address the conduct:

- (A) Causing serious physical injury to another person, except in self-defense.
- (B) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:
 - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
- (D) Robbery or extortion.
- (E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

EDC 32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

EDC 33432.

(a) A local educational agency that receives a grant shall use the grant funds for planning, implementation, and evaluation of activities in support of evidence-based, nonpunitive programs and practices to keep the state's most vulnerable pupils in school. These activities shall complement or enhance the actions and services identified to meet the local educational agency's goals as identified in

its local control and accountability plan pursuant to Section 47606.5, 52060, or 52066, as applicable. These activities may include, but are not limited to, all of the following:

(2) Implementing activities or programs to improve attendance and reduce chronic absenteeism, including, but not limited to, early warning systems or early intervention programs. [...]

(6) Adding or increasing staff within a local educational agency whose primary purpose is to address ongoing chronic attendance problems, including, but not necessarily limited to, conducting outreach to families and children currently, or at risk of becoming, chronically truant.

EDC 44046.

(a) The governing board of a small school district, which does not employ persons charged with school-community duties of counseling students and parents or guardians in their homes, may contract with any qualified social service agency or organization to secure the services, on a part-time or full-time basis, of qualified social workers as counselors in schools and in the homes of pupils. The State Board of Education shall adopt rules and regulations for the implementation of this section, but such social workers shall not be required to hold credentials or certification documents otherwise required under this code for service in the public schools.

(b) Social workers authorized to serve under this section, as well as credentialed school social workers in districts other than small school districts, may perform, but are not limited to, the performance of the following service to children, parents, school personnel, and community agencies:

(3) Consultation with parents and others in crisis situations, such as truancy, drug abuse, suicide threats, assaults, and child abuse.

EDC 48240.

(a) The governing board of each school district and each county superintendent of schools shall appoint a supervisor of attendance and any assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the school district or county. The governing board of the school district or county superintendent of schools shall prescribe the duties of the supervisor of attendance and assistant supervisors of attendance to include, among other duties that may be required, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of the attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48640) of Chapter 4.

(b) It is the intent of the Legislature that in performing his or her duties, the supervisor of attendance promote a culture of attendance and establish a system to accurately track pupil attendance in order to achieve all of the following:

(1) Raise the awareness of school personnel, parents, guardians, caregivers, community partners, and local businesses of the effects of chronic absenteeism and truancy and other challenges associated with poor attendance.

(2) Identify and respond to grade level or pupil subgroup patterns of chronic absenteeism or truancy.

(3) Identify and address factors contributing to chronic absenteeism and habitual truancy, including suspension and expulsion.

(4) Ensure that pupils with attendance problems are identified as early as possible to provide applicable support services and interventions.

(5) Evaluate the effectiveness of strategies implemented to reduce chronic absenteeism rates and truancy rates. [...]

(d) The supervisor of attendance may provide support services and interventions, which may include, but are not limited to, any or all of the following:

(10) Referral to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Section 48260.6.

EDC 48260.

(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting.

(c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil's circumstances, are deemed to constitute a valid excuse.

EDC 48260.5.

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

(a) That the pupil is truant.

(b) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(c) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with Section 48290).

(d) That alternative educational programs are available in the school district.

(e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

(f) That the pupil may be subject to prosecution under Section 48264.

(g) For a pupil under 18 years of age but 13 years of age or older, that the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

(h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

EDC 48260.6.

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

(1) The name of each pupil who has been classified as a truant.

(2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to

prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

EDC 48261.

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

EDC 48262.

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

EDC 48263.

(a) If a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined in Section 60901, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. The school district supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall provide documentation of the interventions undertaken at the school to the pupil, the pupil's parents or guardians, and the school attendance review board or probation department and shall notify the pupil and parents or guardians of the pupil, in writing, of the name and address of the school attendance review board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

(b)(1) If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the school attendance review board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(2) If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district

attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section.

(c) In any county that has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

EDC 48263.5.

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

EDC 48263.6.

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate school district officer or employee has complied with Sections 48260, 48260.5, 48261, 48262, 48263, and 48291.

EDC 48264.

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

EDC 48264.5.

A minor who is classified as a truant pursuant to Section 48260 or 48261 may be required to attend makeup classes conducted on one day of a weekend pursuant to subdivision (c) of Section 37223 and is subject to the following:

(a) The first time a truancy report issued, the pupil and, as appropriate, the parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

(b) The second time a truancy report issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

(1) Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment. The probation officer shall report to the court the failure of the pupil to comply with this paragraph.

(2) Payment of a fine by the pupil of not more than fifty dollars (\$50) for which a parent or legal guardian of the pupil may be jointly liable. The fine described in this paragraph shall not be subject to the assessments of Section 1464 of the Penal Code or any other applicable section.

(3) Attendance of a court-approved truancy prevention program.

(4) Suspension or revocation of driving privileges pursuant to Section 13202.7 of the Vehicle Code. This subdivision shall apply only to a pupil who has attended a school attendance review board program, a program operated by a probation department acting as a school attendance review board, or a truancy mediation program pursuant to subdivision (c).

EDC 48267.

Any pupil who has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in any of grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is

attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

EDC 48268.

The court may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver the pupil at the beginning of each schoolday, for the remainder of the school term, at the school from which the pupil is a truant or to a school designated by school authorities.

EDC 48297.

(a)(1) A state or local agency conducting a truancy-related mediation or prosecuting a pupil or a pupil's parent or legal guardian pursuant to Article 5 (commencing with Section 48260), this article, Section 48454, Section 270.1 or 272 of the Penal Code, or Section 601 of the Welfare and Institutions Code, as applicable, shall provide, using the most cost-effective method possible, including, but not limited to, by email or telephone, the school district, school attendance review board, county superintendent of schools, probation department, or any other agency that referred a truancy-related mediation, criminal complaint, or petition with the outcome of each referral. For purposes of this section, "outcome" means the imposed conditions or terms placed on a pupil or a pupil's parent or legal guardian and the acts or actions taken by a state or local agency with respect to a truancy-related mediation, prosecution, criminal complaint, or petition.

(2) This subdivision applies to, but is not limited to, the referrals referenced in Article 5 (commencing with Section 48260), this article, Section 48454, Sections 270.1 and 272 of the Penal Code, and Sections 601, 601.2, and 601.3 of the Welfare and Institutions Code.

(b) It is the intent of the Legislature to determine the best evidence-based practices to reduce truancy. This section is not intended to encourage additional referrals, complaints, petitions, or prosecutions, or to encourage more serious sanctions for pupils.

EDC 48320.

(a) In enacting this article it is the intent of the Legislature that intensive guidance and coordinated community services may be provided to meet the special needs of pupils with school attendance problems or school behavior problems.

(b) Any school attendance review board, established pursuant to this article, which determines that available public and private services are insufficient or inappropriate to correct school attendance or school behavior problems of minors may:

(1) Propose and promote the use of alternatives to the juvenile court system.

(2) Provide, in any proposed alternative, for maximum utilization of community and regional resources appropriately employed in behalf of minors prior to any involvement with the judicial system.

(3) Encourage an understanding that any alternative based on the utilization of community resources carries an inherent agency and citizen commitment directed toward the continuing improvement of such resources and the creation of resources where none exist.

EDC 48321.

(a)(1) A county school attendance review board may be established in each county. The county school attendance review board may accept referrals or requests for hearing services from one or more school districts within its jurisdiction pursuant to subdivision (f). A county school attendance review board may be operated through a consortium or partnership of a county with one or more school districts or between two or more counties.

(2) A county school attendance review board, if established, shall include, but need not be limited to, all of the following:

(A) A parent.

- (B) A representative of school districts.
- (C) A representative of the county probation department.
- (D) A representative of the county welfare department.
- (E) A representative of the county superintendent of schools.
- (F) A representative of law enforcement agencies.
- (G) A representative of community-based youth service centers.
- (H) A representative of school guidance personnel.
- (I) A representative of child welfare and attendance personnel.
- (J) A representative of school or county health care personnel.
- (K) A representative of school, county, or community mental health personnel.
- (L) A representative of the county district attorney's office. If more than one county is represented in a county school attendance review board, a representative from each county's district attorney's office may be included.
- (M) A representative of the county public defender's office. If more than one county is represented in a county school attendance review board, a representative from each county's public defender's office may be included.

(3) Notwithstanding paragraph (2), for purposes of conducting hearings, the chairperson of the county school attendance review board is authorized to determine the members needed at a hearing, based on the needs of the pupil, in order to address attendance or behavioral problems.

(4) The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(5)(A) If a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for purposes of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(B) Notwithstanding subparagraph (A), for purposes of conducting hearings, a county school attendance review board may meet as needed.

(b)(1) Local school attendance review boards may include, but need not be limited to, all of the following:

- (A) A parent.
- (B) A representative of school districts.
- (C) A representative of the county probation department.
- (D) A representative of the county welfare department.
- (E) A representative of the county superintendent of schools.
- (F) A representative of law enforcement agencies.
- (G) A representative of community-based youth service centers.
- (H) A representative of school guidance personnel.
- (I) A representative of child welfare and attendance personnel.
- (J) A representative of school or county health care personnel.
- (K) A representative of school, county, or community mental health personnel.
- (L) A representative of the county district attorney's office. If more than one county is represented in a local school attendance review board, a representative from each county's district attorney's office may be included.

(M) A representative of the county public defender's office. If more than one county is represented in a county school attendance review board, a representative from each county's public defender's office may be included.

(2) Other persons or group representatives shall be appointed by the county board of education.

(c) A county school attendance review board may elect, pursuant to regulations adopted pursuant to Section 48324, one member as chairperson with responsibility for coordinating services of the county school attendance review board.

(d) A county school attendance review board may provide for the establishment of local school attendance review boards in any number as shall be necessary to carry out the intent of this article.

(e) In any county in which there is no county school attendance review board the governing board of a school district may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

(f) A county school attendance review board may provide guidance to local school attendance review boards.

(g) If the county school attendance review board determines that the needs of pupils, as defined in this article, can best be served by a single board, the county school attendance review board may then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that school district.

(h) This article is not intended to prohibit an agreement on the part of counties to provide these services on a regional basis.

EDC 48321.5.

(a) In every case in which a minor pupil has been referred to it under Section 48263, each county or local school attendance review board may, for the purpose of making a proper disposition of the referral, issue subpoenas pursuant to the procedures provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure and subject to subdivision (f), or may request the juvenile court having jurisdiction to issue subpoenas, requiring the production of pertinent or material written information or the attendance of any of the following persons:

(1) The minor.

(2) The minor's parents, guardians, or other person having control of the minor.

(3) The school authority referring the minor.

(4) Any other person who has pertinent or material information concerning the matter.

(b) The juvenile court may issue subpoenas requiring the attendance of witnesses or the production of pertinent or material written information, subject to Section 1985 of the Code of Civil Procedure.

(c) Enforcement of a subpoena issued by a county or local school attendance review board is within the jurisdiction of the juvenile court. The juvenile court does not have jurisdiction to order detention in any secure facility or other confinement for failure to comply with a subpoena issued pursuant to this section.

(d) Nothing in this section shall be construed to authorize a county or local school attendance review board to issue a subpoena for the production of written materials or the attendance of any person except as specifically provided in subdivision (a) with respect to the limited purpose of making a proper disposition of the referral of a minor pupil made pursuant to Section 48263.

(e) Nothing in this section shall be construed to authorize a county or local school attendance review board to issue a subpoena or request a subpoena to be issued for the production of written materials or the attendance of any person if it is verified that the minor pupil is enrolled and in regular attendance in a private school maintaining kindergarten or any of grades 1 to 12, inclusive, that has filed an affidavit pursuant to Sections 33190 and 48222 of the Education Code.

(f) A county or local school attendance review board shall not issue a subpoena that includes a request for production of written materials, but may request a juvenile court having jurisdiction to issue a subpoena for production of written materials pursuant to subdivision (a).

EDC 48322.

The county school attendance review board may encourage local school attendance review boards to maintain a continuing inventory of community resources, including alternative educational programs, and to make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

EDC 48323.

Each of the departments or agencies authorized to participate in school attendance review boards may assign personnel to represent the department or agency on a continuing basis in accordance with the intent of this article. The duties, obligations, or responsibilities which may be imposed on local governmental entities by this act are such that the related costs are incurred as a part of their normal operating procedures. The minor costs of such services may be borne by each agency or department and each or all of the participants may apply for and utilize state or federal funds as may be available.

EDC 48324.

The county school attendance review board may adopt such rules and regulations not inconsistent with law, as are necessary for its own government and to enable it to carry out the provisions of this article. The rules and regulations may be binding upon the local school attendance review boards which are established pursuant to subdivision (d) of Section 48321.

EDC 48325.

(a) The Legislature finds and declares that statewide policy coordination and personnel training with respect to county attendance review boards will greatly facilitate the achievement of the goals expressed in Section 48320. It is therefore the intent of the Legislature in enacting this section to do the following:

(1) Encourage the cooperation, coordination, and development of strategies to support county school attendance review boards in carrying out their responsibilities to establish local school attendance review boards as necessary. These strategies may include, but need not be limited to, plans for the training of school attendance review board personnel.

(2) Divert pupils with serious attendance and behavioral problems from the juvenile justice system to agencies more directly related to the state public school system by developing a system for gathering and dispensing information on successful community-based and school-based programs.

(3) Reduce duplication of the services of state and county agencies in serving high-risk youth, including youth with school attendance or behavioral problems.

(4) Reduce the number of dropouts in the state public education system by promoting interagency cooperation among those agencies which have as their goals preventing students from dropping out, and increasing the holding power of the public schools.

(b) The Superintendent of Public Instruction shall coordinate and administer a state school attendance review board, as follows:

(1) On or before January 31 of each year, the superintendent shall extend invitations of participation to representatives of appropriate groups throughout the state, including, but not limited to, representatives of school districts, parent groups, county probation departments, county welfare departments, county superintendents of schools, law enforcement agencies, community-based youth service centers, school guidance personnel, child welfare and attendance personnel, the health care profession and state associations having an interest in youth with school attendance or behavioral problems. The superintendent shall also request the participation of representatives from interested state agencies or

departments, including, but not limited to, the Department of the California Youth Authority, the Department of Justice, the State Department of Social Services, and the Office of Criminal Justice Planning. To the extent feasible, members of the board shall include persons who are currently members of county or local school attendance review boards. For every year after the first year that the board is convened, the purpose of the invitations of participation shall be to inform appropriate groups, state agencies, and departments of the purposes of the board, to fill vacancies, and to supplement the membership of the board as necessary.

(2) The superintendent shall prescribe an appropriate deadline for acceptance of invitations of participation as a member of the state school attendance review board for that particular year, and the invitations accepted on or before the deadline shall constitute the board for that year, except that the board shall also include a representative of the State Department of Education designated by the director of that department. The representative of the State Department of Education shall be the chairperson of the board.

(3) The superintendent shall convene the board at least four times during the year. At its first meeting, the board shall elect any officers, other than its chairperson, as it deems necessary. Members of the board shall serve without compensation and without reimbursement of travel and living expenses.

(4) The State Department of Education shall provide assistance as requested by the Superintendent of Public Instruction in order to implement the provisions of this section.

(c) The state school attendance review board shall make recommendations annually to the Superintendent of Public Instruction, and to state agencies as deemed appropriate, regarding the needs and services provided to high-risk youth, including youth with school attendance or behavioral problems, in the state public schools, and shall propose uniform guidelines or other means to attain the goals stated in subdivision (a).

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(w)(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

EDC 49600.

(a) The governing board of a school district may, and is urged to, provide access to a comprehensive educational counseling program for all pupils enrolled in the school district. It is the intent of the Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling program within a Multi-Tiered Systems of Support framework.

(b) For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel services who directly counsels pupils and implements equitable school programs and services that support pupils in their academic development, social emotional development, and college and career readiness.

(c) It is the intent of the Legislature that school counselors do all of the following:

(3) Work within multi-tiered systems of support that use multiple data sources to monitor and improve pupil behavior, attendance, engagement, and achievement.

(6) Intervene to ameliorate school-related problems, including problems related to chronic absences and retention.

PEN 270.1.

(a) A parent or guardian of a pupil of six years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or compulsory continuation education,

whose child is a chronic truant as defined in Section 48263.6 of the Education Code, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. A parent or guardian guilty of a misdemeanor under this subdivision may participate in the deferred entry of judgment program defined in subdivision (b).

(b) A superior court may establish a deferred entry of judgment program that includes the components listed in paragraphs (1) to (7), inclusive, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants as defined in Section 48263.6 of the Education Code:

(1) A dedicated court calendar.

(2) Leadership by a judge of the superior court in that county.

(3) Meetings, scheduled and held periodically, with school district representatives designated by the chronic truant's school district of enrollment. Those representatives may include school psychologists, school counselors, teachers, school administrators, or other educational service providers deemed appropriate by the school district.

(4) Service referrals for parents or guardians, as appropriate to each case that may include, but are not limited to, all of the following:

(A) Case management.

(B) Mental and physical health services.

(C) Parenting classes and support.

(D) Substance abuse treatment.

(E) Child care and housing.

(5) A clear statement that, in lieu of trial, the court may grant deferred entry of judgment with respect to the current crime or crimes charged if the defendant pleads guilty to each charge and waives time for the pronouncement of judgment and that, upon the defendant's compliance with the terms and conditions set forth by the court and agreed to by the defendant upon the entry of his or her plea, and upon the motion of the prosecuting attorney, the court will dismiss the charge or charges against the defendant and the same procedures specified for successful completion of a drug diversion program or a deferred entry of judgment program pursuant to Section 851.90 and the provisions of Section 1203.4 shall apply.

(6) A clear statement that failure to comply with any condition under the program may result in the prosecuting attorney or the court making a motion for entry of judgment, whereupon the court will render a finding of guilty to the charge or charges pled, enter judgment, and schedule a sentencing hearing as otherwise provided in this code.

(7) An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment program and the defendant's rights relative to answering questions about his or her arrest and deferred entry of judgment following successful completion of the program.

(c) Funding for the deferred entry of judgment program pursuant to this section shall be derived solely from nonstate sources.

(d) A parent or guardian of an elementary school pupil who is a chronic truant, as defined in Section 48263.6 of the Education Code, may not be punished for a violation of both this section and the provisions of Section 272 that involve criminal liability for parents and guardians of truant children.

(e) If any district attorney chooses to charge a defendant with a violation of subdivision (a) and the defendant is found by the prosecuting attorney to be eligible or ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing, or state for the record, the grounds upon which that determination is based.

REGULATIONS

§ 306. Explanation of absence.

A principal or teacher may require satisfactory explanation from the parent or guardian of a pupil, either in person or by written note, whenever the pupil is absent a part or all of a school day. The explanation shall not be required until the day following.

Substance Use

LAWS

EDC 8804.

The superintendent shall award grants to a local educational agency or consortium to pay the costs of planning and operating, on behalf of one or more qualifying schools within the local educational agency or consortium, programs that provide support services to pupils and their families at or near the school, as follows:

(g) For purposes of this chapter, support services shall include case-managed health, mental health, social, and academic support services benefiting children and their families, and may include, but are not limited to:

(3) Substance abuse prevention and treatment services.

EDC 32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

EDC 44046.

(a) The governing board of a small school district, which does not employ persons charged with school-community duties of counseling students and parents or guardians in their homes, may contract with any qualified social service agency or organization to secure the services, on a part-time or full-time basis, of qualified social workers as counselors in schools and in the homes of pupils. The State Board of Education shall adopt rules and regulations for the implementation of this section, but such social workers shall not be required to hold credentials or certification documents otherwise required under this code for service in the public schools.

(b) Social workers authorized to serve under this section, as well as credentialed school social workers in districts other than small school districts, may perform, but are not limited to, the performance of the following service to children, parents, school personnel, and community agencies:

(3) Consultation with parents and others in crisis situations, such as truancy, drug abuse, suicide threats, assaults, and child abuse.

EDC 44049.

(a) Except as provided in subdivision (c), any principal or person designated by the principal who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a pupil whom he or she knows, or reasonably suspects as evidenced by the pupil's apparent intoxication, has consumed an alcoholic beverage or abused a controlled substance, as listed in Chapter 2 (commencing with Section 11053) of the Health and Safety Code, may report the known or suspected instance of alcohol or controlled substance abuse to the parent or parents, or other person having legal custody, of the student.

(b) No principal or his or her designee who reports a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil shall be civilly or criminally liable, for any report or as a result of any report, unless it can be proven that a false report was made and the principal or his or her designee knew that the report was false or was made with reckless disregard for the truth or falsity of the report. Any principal or his or her designee who makes a report known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.

(c) No principal or person designated by the principal shall report a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil if the report would require the disclosure of confidential information in violation of Section 49602 or 72621.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.

EDC 48901.

- (a) No school shall permit the smoking or use of a tobacco product by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.
- (b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.
- (c) For purposes of this section, "smoking" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.
- (d) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

EDC 48902.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

EDC 48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

EDC 48915.

(a)(1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school

activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

- (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

EDC 48916.5.

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

HSC 104420.

The State Department of Education shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

- (a) Provide a planning and technical assistance program to carry out its responsibilities under this article.
- (b) Provide guidelines for schools, school districts, county offices of education, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall do all of the following:
 - (1) Require the applicant agency to select one or more model program designs and permit the applicant to modify the model program designs to take special local needs and conditions into account.
 - (2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate, and a method to determine to what extent goals have been achieved.
 - (3) Require plan submissions to include a staffing configuration and a budget setting forth use and distribution of funds in a clear and detailed manner.
- (c) Prepare model program designs and information for schools, school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost effective. The State Department of Education shall consult with the department, and school districts with existing antitobacco programs in the preparation of model program designs and information.
- (d) Provide technical assistance for schools, school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention that shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the department and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.
- (e) Monitor the implementation of programs that it has approved under this article to ensure successful implementation.

- (f) Prepare guidelines within 180 days of January 1, 1996, for a school-based program of outreach, education, intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.
- (g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.
- (h) Train the tobacco use prevention coordinators of county offices of education so that they are:
- (1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.
 - (2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.
 - (3) Able to provide effective technical assistance to schools and school districts.
- (i) Establish a tobacco-free school recognition awards program.
- (j) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, charter schools, and school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.
- (k)(1) Develop, in coordination with the county offices of education, and administer a competitive grant program for school-based, antitobacco education programs and tobacco use intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. Grants shall be awarded, after consultation with local lead agencies, the committee, and representatives of nonprofit organizations dedicated to the reduction of tobacco-associated disease, to school districts, charter schools, and county offices of education for all pupils in grades 6 to 12, inclusive, that comply with the requirements of paragraphs (2) and, if applicable, (3).
- (2) Every school district, charter school, and county office of education that receives a grant pursuant to this section shall provide tobacco use prevention instruction that addresses all of the following essential topics:
- (A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.
 - (B) Reasons that adolescents say they smoke or use tobacco.
 - (C) Peer norms and social influences that promote tobacco use.
 - (D) Refusal skills for resisting social influences that promote tobacco use.
- (3) Every school district, charter school, and county office of education that receives a grant pursuant to this section for pupils in grades 7 to 12, inclusive, shall provide tobacco use intervention and cessation activities targeted for pupils in high-risk groups.
- (4) The State Department of Education shall develop criteria and standards for the allocation of grant awards that consider the need to balance rural, suburban, and urban projects. In addition, the State Department of Education shall give priority to applicants and programs that do all of the following:
- (A) Target current smokers and pupils most at risk for beginning to use tobacco.
 - (B) Offer or refer pupils to cessation classes for current smokers.
 - (C) Utilize existing antismoking resources, including local antismoking efforts by local lead agencies and competitive grant recipients.
 - (D) Design the project to coordinate with other community services, including, but not limited to, local health agencies, voluntary health organizations, and parent organizations.
 - (E) Design the project to use and develop existing services and resources.
 - (F) Demonstrate an understanding of the role that the environment and community norms play in influencing tobacco use.

(5) Available funds shall determine grant award amounts.

(l) Allocate funds to county offices of education to provide technical assistance and leadership for tobacco use prevention, intervention, and cessation programs. The funds shall be allocated to all participating county offices of education at a minimum amount of thirty-seven thousand five hundred dollars (\$37,500). If funds appropriated for purposes of allocating at least thirty-seven thousand five hundred dollars (\$37,500) to all participating county offices of education are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education ensuring that all participating county offices of education receive an equal minimum level of funding of thirty-seven thousand five hundred dollars (\$37,500). If funds are sufficient to provide all participating county offices of education a minimum of thirty-seven thousand five hundred dollars (\$37,500), the remaining funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to the county superintendent of schools within the county as certified by the Superintendent of Public Instruction:

(1) For counties with 550,000 or more units of average daily attendance, thirty cents (\$0.30) per average daily attendance.

(2) For counties with 100,000 or more and less than 550,000 units of average daily attendance, sixty-five cents (\$0.65) per average daily attendance.

(3) For counties with 50,000 or more and less than 100,000 units of average daily attendance, ninety cents (\$0.90) per average daily attendance.

(4) For counties with 37,500 or more and less than 50,000 units of average daily attendance, one dollar (\$1) per average daily attendance.

(5) For counties with less than 37,500 units of average daily attendance, thirty-seven thousand five hundred dollars (\$37,500).

(m) Allocate funds appropriated by Chapter 415 of the Statutes of 1995 for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year.

(n)(1) Provide that all school districts, charter schools, and county offices of education that receive funding under subdivision (m) make reasonable progress toward providing a tobacco-free environment in school facilities for pupils and employees.

(2) Require that all school districts, charter schools, and county offices of education that receive funding pursuant to paragraph (1) adopt and enforce a tobacco-free campus policy no later than July 1 of each fiscal year. The policy shall prohibit the use of products containing tobacco and nicotine, including, but not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and electronic cigarettes that can deliver nicotine and nonnicotine vaporized solutions, at any time, in charter school or school district-owned or leased buildings, on school or district property, and in school or district vehicles. However, this section does not prohibit the use or possession of prescription products, nicotine patches, or nicotine gum. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, pupils, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property as provided in Section 104559. Information about smoking cessation support programs shall be made available and encouraged for pupils and staff. Any school district, charter school, or county office of education that does not have a tobacco-free district policy implemented by July 1, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund for that fiscal year.

HSC 104559.

(a) The use of tobacco and nicotine products is prohibited at any time in a county office of education, charter school or school district-owned or leased buildings, on school or district property, and in school or

district vehicles. This includes, but is not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and other nicotine delivery devices, such as electronic cigarettes.

(b) School districts, charter schools, and county offices of education shall prominently display signs at all entrances to school property stating "Tobacco use is prohibited."

PEN 13860.

The Legislature finds and declares that a substantial drug abuse and drug trafficking problem exists among school-age children on and around school campuses in the State of California. By enacting this chapter, it is the intention of the Legislature to support increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug offices to suppress trafficking and prevent drug abuse among school age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and drug abuse agencies. As used in this chapter, drugs are defined as marijuana, inhalants, narcotics, dangerous drugs, pharmaceuticals, glue and alcohol. It is the further intention of the Legislature to establish a program of financial and technical assistance for local law enforcement and school districts.

PEN 13861.

There is hereby created in the Office of Emergency Services the Suppression of Drug Abuse in Schools Program. All funds made available to the Office of Emergency Services for the purposes of this chapter shall be administered and disbursed by the Director of Emergency Services in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and criteria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression of Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Emergency Services. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among schoolage children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863, shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of these guidelines and procedures, a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

PEN 13862.

Law enforcement agencies and school districts receiving funds under this chapter shall concentrate enhanced apprehension, prevention, and education efforts and resources on drug abuse and drug trafficking in and around school campuses.

(a) These enhanced apprehension, prevention, and education efforts shall include, but not be limited to:

(1) Drug traffic intervention programs.

(2) School and classroom-oriented programs, using tested drug abuse education curriculum that provides indepth and accurate information on drugs, which may include the participation of local law enforcement agencies and qualified drug abuse prevention specialists and which are designed to increase teachers' and students' awareness of drugs and their effects.

(3) Family oriented programs aimed at preventing drug abuse which may include the participation of community-based organizations experienced in the successful operation of such programs.

(4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. However, if the agency receiving funds under this chapter is a city agency and the program does not involve any county agency, or if a county agency is involved and the county board of supervisors consents, the committee shall be established and appointed by the city council. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board or city council. The committee shall be composed of, at a minimum, the following:

(A) Local law enforcement executives.

(B) School district executives.

(C) Schoolsite staff, which includes administrators, teachers, or other credentialed personnel.

(D) Parents.

(E) Students.

(F) School peace officers.

(G) County drug program administrators designated pursuant to Section 11962 of the Health and Safety Code.

(H) Drug prevention program executives.

(5) Development and distribution of appropriate written and audio-visual aids for training of school and law enforcement staff for handling drug-related problems and offenses. Appropriate existing aids may be utilized in lieu of development of new materials.

(6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs.

(7) Development of a coordinated intervention system that identifies students with chronic drug abuse problems and facilitates their referral to a drug abuse treatment program.

(b) Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between local law enforcement and local school districts in cooperation with county drug program offices. These efforts shall include, but not be limited to, the concentration of apprehension efforts in "problem" areas identified by local school authorities.

(c) Funds appropriated pursuant to this chapter may be used in part to support state-level development and statewide distribution of appropriate written and audio-visual aids for public awareness and training of school and law enforcement staff for handling drug-related problems and offenses. When existing aids can be identified, these aids may be utilized in lieu of the development of new aids.

PEN 13864.

There is hereby created in the Office of Emergency Services the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the Office of Emergency Services in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the Director of Emergency Services. All applications for that funding shall be reviewed and evaluated by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education.

(a) The Director of Emergency Services is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, containing all of the following components:

(1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order No. D-70-80.

(2) A planning process that includes assessment of the school district's characteristics, resources, and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.

(3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.

(4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.

(5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.

(6) Staff and in-service training programs, including both indepth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.

(7) In-service training programs for local law enforcement officers.

(8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the Office of Emergency Services. Funds made available to the Office of Emergency Services for allocation under

this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the Director of Emergency Services.

(1) Unless otherwise authorized by the Office of Emergency Services, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the Office of Emergency Services. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures established by the Office of Emergency Services pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives, school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The Director of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the Office of Emergency Services is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

EDC 32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement

agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

EDC 32270.

(a) The partnership shall establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(b) The partnership may appoint up to 100 professionals from educational agencies, community-based organizations, allied agencies, and law enforcement to the statewide cadre.

(c) The partnership shall provide training to the statewide cadre representatives to enable them to initiate and maintain school community safety programs among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies in each region.

EDC 32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following: [...]

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. A schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

EDC 35183.

(a) The Legislature finds and declares each of the following:

(1) The children of this state have the right to an effective public school education. Both students and staff of the primary, elementary, junior and senior high school campuses have the constitutional right to be safe and secure in their persons at school. However, children in many of our public schools are

forced to focus on the threat of violence and the messages of violence contained in many aspects of our society, particularly reflected in gang regalia that disrupts the learning environment.

(2) "Gang-related apparel" is hazardous to the health and safety of the school environment.

(3) Instructing teachers and administrators on the subtleties of identifying constantly changing gang regalia and gang affiliation takes an increasing amount of time away from educating our children.

(4) Weapons, including firearms and knives, have become common place upon even our elementary school campuses. Students often conceal weapons by wearing clothing, such as jumpsuits and overcoats, and by carrying large bags.

(5) The adoption of a schoolwide uniform policy is a reasonable way to provide some protection for students. A required uniform may protect students from being associated with any particular gang. Moreover, by requiring schoolwide uniforms teachers and administrators may not need to occupy as much of their time learning the subtleties of gang regalia.

(6) To control the environment in public schools to facilitate and maintain an effective learning environment and to keep the focus of the classroom on learning and not personal safety, schools need the authorization to implement uniform clothing requirements for our public school children.

(7) Many educators believe that school dress significantly influences pupil behavior. This influence is evident on school dressup days and color days. Schools that have adopted school uniforms experience a "coming together feeling," greater school pride, and better behavior in and out of the classroom.

(b) The governing board of any school district may adopt or rescind a reasonable dress code policy that requires pupils to wear a schoolwide uniform or prohibits pupils from wearing "gang-related apparel" if the governing board of the school district approves a plan that may be initiated by an individual school's principal, staff, and parents and determines that the policy is necessary for the health and safety of the school environment. Individual schools may include the reasonable dress code policy as part of its school safety plan, pursuant to Section 32281.

(c) Adoption and enforcement of a reasonable dress code policy pursuant to subdivision (b) is not a violation of Section 48950. For purposes of this section, Section 48950 shall apply to elementary, high school, and unified school districts. If a schoolwide uniform is required, the specific uniform selected shall be determined by the principal, staff, and parents of the individual school.

(d) A dress code policy that requires pupils to wear a schoolwide uniform shall not be implemented with less than six months' notice to parents and the availability of resources to assist economically disadvantaged pupils.

(e) The governing board shall provide a method whereby parents may choose not to have their children comply with an adopted school uniform policy.

(f) If a governing board chooses to adopt a policy pursuant to this section, the policy shall include a provision that no pupil shall be penalized academically or otherwise discriminated against nor denied attendance to school if the pupil's parents chose not to have the pupil comply with the school uniform policy. The governing board shall continue to have responsibility for the appropriate education of those pupils.

(g) A policy adopted pursuant to this section shall not preclude pupils that participate in a nationally recognized youth organization from wearing organization uniforms on days that the organization has a scheduled meeting.

EDC 51264.

(a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 5 (commencing with Section 32280) of Chapter 2.5 of Part 19, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Emergency Services regarding gang violence.

EDC 51265.

It is the intent of the Legislature that school districts and county offices of education give high priority to gang violence and drug and alcohol abuse prevention in-service training programs, which shall be part of the overall strategy for comprehensive gang violence and drug and alcohol abuse prevention education.

"Gang violence and drug and alcohol abuse prevention in-service training" for purposes of this article means the presentation of programs, instruction and curricula that will help educators develop competencies in interacting in a positive manner with children and youth to assist them in developing the positive values, self-esteem, knowledge, and skills to lead productive, gang-free and drug-free lives; develop knowledge of the causes of gang violence and substance abuse, and the properties and effects of tobacco, alcohol, narcotics, and dangerous drugs, including the risk of contracting acquired immune deficiency syndrome (AIDS) associated with intravenous drug use; receive training regarding available information and resources concerning gang violence and drug and alcohol abuse prevention as well as antigang and antisubstance abuse crime trends; develop familiarity with teaching social skills and resistance skills to children and youth; and develop skills in conducting effective education, which includes methods and techniques for helping children and youth to freely express ideas and opinions in a responsible manner and to understand the nature and consequences of their decisions as they relate to gang involvement and drug and alcohol abuse.

EDC 51266.

(a) The Office of Emergency Services, in collaboration with the State Department of Education, shall develop a model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled after a similar curriculum that has been developed by the Orange County Office of Education for grades 3, 5, and 7. The Office of Emergency Services, in collaboration with the State Department of Education, may contract with a county office of education for the development of the model curriculum. The model curriculum shall be made available to school districts and county offices of education and shall, at a minimum, provide for each of the following:

- (1) Lessons for grades 2, 4, and 6 that are aligned with the state curriculum frameworks for history, social science, and English and language arts.

- (2) Instructional resources that address issues of ethnic diversity and at-risk pupils.
- (3) The integration of the instructional resources of the Office of Emergency Services and the School/Law Enforcement Partnership in order to support the school curriculum and assist in the alignment of the state curriculum framework.

(b) The Office of Emergency Services shall develop an independent evaluation of the pupil outcomes of the model gang violence suppression and substance abuse prevention curriculum program.

PEN 13825.4.

(a) Community-based organizations and nonprofit agencies that receive funds under this chapter shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

(b) These prevention and intervention efforts shall include, but not be limited to, any of the following:

(1) Services and activities designed to do any of the following:

- (A) Teach alternative methods for resolving conflicts and responding to violence, drugs, and crime.
- (B) Develop positive and life-affirming attitudes and behaviors.
- (C) Build self-esteem.

(2) Recreational, educational, or cultural activities.

(3) Counseling or mentoring services.

(4) Economic development activities.

(c)(1) Funds allocated under this chapter may not be used for services or activities related to suppression, law enforcement, incarceration, or other purposes not related to the prevention and deterrence of gangs, crime, and violence.

(2) Nothing in this section shall prevent funds allocated under this chapter from being used for violence prevention and gang crime deterrence services provided by community-based organizations and nonprofit agencies to youths incarcerated in juvenile detention facilities.

(d) Services and activities provided with funds under this chapter shall be used for at-risk youth who are defined as persons from age 5 to 20 years of age and who fall into one or more of the following categories:

(1) Live in a high-crime or high-violence neighborhood as identified by local or federal law enforcement agencies.

(2) Live in a low-economic neighborhood as identified by the U.S. Census or come from an impoverished family.

(3) Are excessively absent from school or are doing poorly in school as identified by personnel from the youth's school.

(4) Come from a socially dysfunctional family as identified by local or state social service agencies.

(5) Have had one or more contacts with the police.

(6) Have entered the juvenile justice system.

(7) Are identified by the juvenile justice system as being at risk.

(8) Are current or former gang members.

(9) Have one or more family members living at home who are current or former members of a gang.

(10) Are identified as wards of the court, as defined in Section 601 of the Welfare and Institutions Code.

(e) Except as provided in subdivision (f), in carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall do all of the following:

(1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities with funds provided under this chapter.

PEN 13826.

The Legislature finds and declares all of the following:

- (a) That violent activity by gangs is a serious and growing problem in the State of California.
- (b) There is an increasing percentage of school age pupils involved in gang activity.
- (c) There are many schools that serve a disproportionate number of youth involved in gang activity which are unable to effectively implement programs designed to prevent youth from becoming involved in gang activity. There is no statewide funded educational program developed for this purpose.
- (d) There is evidence that gang involvement among youth begins at an early age.
- (e) There is evidence that the parents of gang members lack appropriate parenting skills.
- (f) There is evidence that drug activity is increasing among youth involved in gang activity.
- (g) There is evidence that gang members have no contact with positive role models.
- (h) There is evidence that most gang members lack basic educational skills.

In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute the perpetrators of gang violence, support increased efforts by local law enforcement agencies to identify, investigate, and apprehend perpetrators of gang violence, support increased efforts by county probation departments to intensively supervise gang members who are on court-ordered probation, support gang violence prevention and intervention efforts by school districts and county offices of education, and support gang violence suppression efforts by community-based organizations.

PEN 13826.1.

- (a) There is hereby established in the Board of State and Community Corrections, the Gang Violence Suppression Program, a program of financial and technical assistance for district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations which are primarily engaged in the suppression of gang violence.
- (b) Funds made available pursuant to this chapter are intended to ensure the highest quality provision of services and to reduce unnecessary duplication. Funds disbursed under this chapter shall not be used by local agencies to supplant other funding for Public Safety Services, as defined in Section 36 of Article XIII of the California Constitution. Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 10295 of the Public Contract Code.

PEN 13826.65.

School districts, county offices of education, or any consortium thereof, receiving funding under this chapter shall develop or adopt and implement a gang violence prevention curriculum, provide gang violence prevention and intervention services for school-aged children, and shall be encouraged to do all of the following:

- (a) Establish a local steering committee comprised of representatives of each local program funded under this chapter, corporations, small businesses, and other appropriate local, county, and community organization knowledgeable in the area of youth gang violence.
- (b) Develop and distribute information concerning parent education and parenting classes, including methods whereby parents may recognize youth gang involvement.

- (c) Identify and utilize the resources of appropriate community-based organizations involved in the coordination of after school activities for school-aged youth.
- (d) Establish contact between positive role models and youth involved in gang activity through adopt-a-youth programs and similar programs.
- (e) Incorporate into gang prevention activities references to the relationship between drug abuse and gang violence.
- (f) Develop partnerships between schools and businesses for the purpose of enhancing pupil achievement through such methods as tutorial services, field trips, role modeling, and other supportive services.
- (g) Develop methods of assuring followup services for children receiving the initial gang violence prevention and intervention services.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

EDC 200.

It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

EDC 201.

- (a) All pupils have the right to participate fully in the educational process, free from discrimination and harassment.
- (b) California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.
- (c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.
- (d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.
- (e) There is an urgent need to teach and inform pupils in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase pupils' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in public schools and in society as a means of responding to potential harassment and hate violence.
- (f) It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity.
- (g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973

(29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

EDC 218.

(a)(1) No later than July 1, 2021, the department shall develop resources or, as appropriate, update existing resources for in-service training on schoolsite and community resources for the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) pupils, and strategies to increase support for LGBTQ pupils and thereby improve overall school climate. The resources shall be designed for use in schools operated by a school district or county office of education and charter schools serving pupils in grades 7 to 12, inclusive.

(2) Schools described in paragraph (1) are encouraged to use the resources developed by the department pursuant to paragraph (1) to provide training at least once every two years to teachers and other certificated employees at those schools that serve pupils in grades 7 to 12, inclusive.

(b) The department shall periodically update the schoolsite and community resources for the support of LGBTQ pupils to reflect changes in law.

(c)(1) As used in this section, schoolsite resources for the support of LGBTQ pupils include, but are not limited to, all of the following:

(C) Antibullying and harassment policies and related complaint procedures.

EDC 234.

(a) This article shall be known, and may be cited, as the Safe Place to Learn Act.

(b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

EDC 234.1.

The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and this chapter as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Section 422.55 of the Penal Code, including immigration status, and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.

(b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code, including immigration status, and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The complaint process shall include, but not be limited to, all of the following:

- (1) A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so.
 - (2) A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the school district.
 - (3) An appeal process afforded to the complainant in the case of a disagreement with the resolution of a complaint filed pursuant to this section.
 - (4) All forms developed pursuant to this process shall be translated pursuant to Section 48985.
- (c) Publicized antidiscrimination, antiharassment, anti-intimidation, and antibullying policies adopted pursuant to subdivision (a), including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.
- (d)(1) Provided, incident to the publicizing described in subdivision (c), to certificated schoolsite employees who serve pupils in any of grades 7 to 12, inclusive, who are employed by the local educational agency, information on existing schoolsite and community resources related to the support of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) pupils, or related to the support of pupils who may face bias or bullying on the basis of religious affiliation, or perceived religious affiliation.
- (2) As used in this subdivision, both of the following apply:
- (A) Schoolsite resources may include, but are not limited to, peer support or affinity clubs and organizations, safe spaces for LGBTQ or other at-risk pupils, counseling services, staff who have received antibias or other training aimed at supporting these pupils or who serve as designated support to these pupils, health and other curriculum materials that are inclusive of, and relevant to, these pupils, online training developed pursuant to Section 32283.5, and other policies adopted pursuant to this article, including related complaint procedures.
 - (B) Community resources may include, but are not limited to, community-based organizations that provide support to LGBTQ or other at-risk pupils and their families, and physical and mental health providers with experience or training in treating or supporting these pupils.
- (e) Posted the policy established pursuant to subdivision (a) in all schools and offices, including staff lounges and pupil government meeting rooms.
- (f) Maintained documentation of complaints and their resolution for a minimum of one review cycle.
- (g) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.
- (h) Identified a responsible local educational agency officer for ensuring school district or county office of education compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and this chapter.
- (i) Nothing in this section shall be construed to require school employees to engage with religious institutions in the course of identifying community support resources pursuant to this section.

EDC 234.2.

- (a) The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, cyber sexual bullying, as defined in Section 48900, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, cyber sexual bullying, and bullying is posted.
- (b) The department shall annually inform school districts of the information on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about cyber sexual bullying is posted pursuant to subdivision (a). The department may use electronic mail to inform school districts of this information.

(c) School districts are encouraged to inform pupils regarding the available information and resources on the department's Internet Web sites regarding the dangers and consequences of cyber sexual bullying to help reduce the instances of cyber sexual bullying.

EDC 234.3.

The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

EDC 234.4.

(a) A local educational agency shall adopt, on or before December 31, 2019, procedures for preventing acts of bullying, including cyberbullying.

(b) For purposes of this section, a "local educational agency" means a school district, a county office of education, or a charter school.

EDC 234.5.

(a) The Superintendent shall post, and annually update, on the department's Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying, including school-based discrimination, harassment, intimidation, or bullying on the basis of religious affiliation, nationality, race, or ethnicity, or perceived religious affiliation, nationality, race, or ethnicity.

(b) The department's Internet Web site shall also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

EDC 234.6.

(a) For purposes of this article, "local educational agency" means a county office of education, school district, state special school, or charter school.

(b) Commencing with the 2020-21 academic year, each local educational agency shall ensure that all of the following information is readily accessible in a prominent location on the local educational agency's existing internet website in a manner that is easily accessible to parents or guardians and pupils:

(1) The local educational agency's policy on pupil suicide prevention in grades 7 to 12, inclusive, adopted pursuant to Section 215.

(2) The local educational agency's policy on pupil suicide prevention in kindergarten and grades 1 to 6, inclusive, adopted pursuant to Section 215, including reference to the age appropriateness of that policy.

(3) The definition of discrimination and harassment based on sex as described in Section 230. This shall include the rights set forth in Section 221.8.

(4) The Title IX information included on a local educational agency's internet website pursuant to Section 221.61.

(5) A link to the Title IX information included on the department's internet website pursuant to Section 221.6.

(6) The local educational agency's written policy on sexual harassment, as it pertains to pupils, prepared pursuant to Section 231.5.

(7) The local educational agency's policy, if it exists, on preventing and responding to hate violence as described in Section 233.

- (8) The local educational agency's anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies as described in Section 234.1.
- (9) The local educational agency's anti-cyberbullying procedures adopted pursuant to Section 234.4.
- (10) A section on social media bullying that includes all of the following references to possible forums for social media bullying:
 - (A) Internet websites with free registration and ease of registration.
 - (B) Internet websites offering peer-to-peer instant messaging.
 - (C) Internet websites offering comment forums or sections.
 - (D) Internet websites offering image or video posting platforms.
- (11) A link to statewide resources, including community-based organizations, compiled by the department pursuant to Section 234.5.
- (12) Any additional information a local educational agency deems important for preventing bullying and harassment.

EDC 32261.

- (d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment. [...]
- (f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

EDC 32265.

- (a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.
- (b) The conference may include, but need not be limited to, information on all of the following topics:
 - (9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.

EDC 32270.

- (a) The partnership shall establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.
- (b) The partnership may appoint up to 100 professionals from educational agencies, community-based organizations, allied agencies, and law enforcement to the statewide cadre.
- (c) The partnership shall provide training to the statewide cadre representatives to enable them to initiate and maintain school community safety programs among school districts, county offices of education,

agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies in each region.

EDC 32282.

- (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:
 - (2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:
 - (E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.
- (e) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

EDC 32283.

The Department of Justice and the State Department of Education, in accordance with Section 32262, shall contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel, and in particular school principals, to assist them in the development of their respective school safety and crisis response plans, and provide training in the prevention of bullying as defined in subdivision (r) of Section 48900. The Department of Justice and the State Department of Education shall work in cooperation with regard to the workshops coordinated and presented pursuant to the contracts. Implementation of this section shall be contingent upon the availability of funds in the annual Budget Act.

EDC 32283.5.

- (a) The department shall develop and post on its internet website an online training module to assist all school staff, school administrators, parents, pupils, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. The online training module shall include, but is not limited to, identifying an act of bullying or cyberbullying and implementing strategies to address bullying and cyberbullying.
- (b) The department shall post on its internet website and annually update a list of available online training modules relating to bullying or bullying prevention.
- (c) A school operated by a school district or a county office of education and a charter school shall annually make available the online training module developed by the department pursuant to subdivision (a) to certificated schoolsite employees and all other schoolsite employees who have regular interaction with pupils.

EDC 33546.

- (a) When the "Health Framework for California Public Schools" (health framework) is next revised after January 1, 2017, the commission shall consider including comprehensive information for kindergarten and grades 1 to 8, inclusive, on the development of healthy relationships, which shall be age and developmentally appropriate and consistent with the health education standards adopted by the state board.
- (b) If the commission includes comprehensive information on the development of healthy relationships in the health framework, the commission shall comply with both of the following:
 - (1) Ensure information included in the health framework is research-based and appropriate for pupils of all races, genders, sexual orientations, gender identities, and ethnic and cultural backgrounds. This may include, but shall not be limited to, reviewing other states' curricula.

(2) Consult with teachers and educators with expertise in curriculum for developing healthy relationships.

(c) For purposes of this section, the "development of healthy relationships" includes, but is not limited to, all of the following:

- (1) Understanding the principles of treating one another with respect, dignity, and kindness.
- (2) Demonstrating the ability to use interpersonal communication skills to address and resolve disagreement and conflict.
- (3) Recognizing when and how to respond to dangerous or other situations that may result in the bullying, harassment, harming, or hurting of another person.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(D) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)(A) "Electronic act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another

pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii)(I) An act of cyber sexual bullying.

(II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil's exceptional needs.

EDC 48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

EDC 48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

EDC 48900.4.

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

EDC 48900.9.

(a) The superintendent of a school district, the principal of a school, or the principal's designee may refer a victim of, witness to, or other pupil affected by, an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate.

(b) A pupil who has engaged in an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, may also be referred to the school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program, pursuant to Section 48900.5.

PEN 245.6.

(a) It shall be unlawful to engage in hazing, as defined in this section.

(b) "Hazing" means any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other educational institution in this state. The term "hazing" does not include customary athletic events or school-sanctioned events.

(c) A violation of this section that does not result in serious bodily injury is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both.

(d) Any person who personally engages in hazing that results in death or serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(e) The person against whom the hazing is directed may commence a civil action for injury or damages. The action may be brought against any participants in the hazing, or any organization to which the student is seeking membership whose agents, directors, trustees, managers, or officers authorized, requested, commanded, participated in, or ratified the hazing.

(f) Prosecution under this section shall not prohibit prosecution under any other provision of law.

REGULATIONS

§ 4600. General definitions.

As used in this chapter, the term:

(d) Complainant" means any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation or bullying in programs and activities funded directly by the state or receiving any financial assistance from the state.

(e) Complaint" means a written and signed statement alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation or bullying. A signature may be handwritten, typed (including in an email) or electronically generated.

Complaints may be filed anonymously pursuant to section 4630(e). Notwithstanding section 4600(d), a complaint filed on behalf of an individual student may only be filed by that student or that student's duly authorized representative. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the local agency shall assist the complainant in the filing of the complaint.

- (f) Complaint investigation" means an administrative process used by CDE or local educational agency (LEA) for the purpose of gathering data regarding the complaint.
- (g) Complaint procedure" means an internal process used by the CDE or LEA to process and resolve complaints.
- (h) Days" means calendar days unless designated otherwise.
- (i) Direct state intervention" means the steps taken by the CDE to initially investigate complaints or effect compliance.
- (j) Educational activity" shall have the same definition as found in Education Code section 49010(a).
- (k) Facilities that pose an emergency or urgent threat to the health or safety of pupils or staff" means a condition as defined in Education Code section 17592.72(c)(1) and any other emergency conditions the school district determines appropriate.

§ 4620. LEA responsibilities.

Each LEA shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations. Each LEA shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation or bullying and seek to resolve those complaints in accordance with the procedures set out in this chapter and in accordance with the policies and procedures of the governing board or authorized designee.

§ 4621. District policies and procedures.

- (a) Each LEA shall adopt policies and procedures consistent with sections 4600 through 4694 of this chapter for the investigation and resolution of complaints. Local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying remain confidential as appropriate. School districts, County Offices of Education, and direct-funded charter schools shall submit their policies and procedures to the local governing board or authorized designee for adoption.
- (b) Each LEA shall include in its policies and procedures the person(s), employee(s) or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA compliance. The LEA's policies shall ensure that the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.
- (c) The LEA may provide a complaint form for persons wishing to file a complaint to fill out and file. However, a person is not required to use the complaint form furnished by the LEA in order to file a complaint.

§ 4622. Notice.

- (a) Each LEA shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties of their LEA complaint procedures and the provisions of this chapter. The notice may be made available on the LEA's website.
- (b) The notice shall:
 - (1) Include the title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position, if known;
 - (2) Advise of the opportunity to appeal the LEA Investigation Report to the CDE, except when the LEA has used its local uniform complaint procedures to address a complaint not described in section 4610(b);
 - (3) Advise the recipient of any civil law remedies that may also be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code section 262.3;

- (4) Include the information required by Education Code section 33315(a)(7); and
- (5) Include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees.
- (c) The notice shall be in English, and when necessary, in the primary language, pursuant to Education Code section 48985, or mode of communication of the recipient of the notice.
- (d) Copies of LEA complaint procedures shall be available free of charge.

§ 4630. Filing a local complaint; procedures, time lines.

- (a) Complaints shall be filed not later than one year from the date the alleged violation occurred, except as stated in subdivision (b) below. For complaints relating to Local Control and Accountability Plans (LCAP), the date of the alleged violation is the date when the reviewing authority approves the LCAP or annual update that was adopted by the LEA.
- (b) An investigation of alleged unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying unless the time for filing is extended by the district or county superintendent or charter school administrator or similarly authorized charter school individual, or that person's designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the district or county superintendent or charter school administrator or similarly authorized charter school individual, or that person's designee shall be made in writing. The period for filing may be extended by the district or county superintendent or charter school administrator or similarly authorized charter school individual, or that person's designee for good cause for a period not to exceed 90 days following the expiration of the six-month time period. The district or county superintendent or charter school administrator or similarly authorized charter school individual, or that person's designee shall respond immediately upon a receipt of a request for extension.
- (c) A complaint of alleged unlawful discrimination, harassment, intimidation or bullying may be filed by an individual who alleges that that individual has personally suffered unlawful discrimination, harassment, intimidation or bullying, or by one who believes any specific class of individuals has been subjected to discrimination, harassment, intimidation or bullying prohibited by this part, or by a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying.
 - (1) The complaint shall be filed with the LEA in accordance with the complaint procedures of the LEA.
 - (2) An investigation of a discrimination, harassment, intimidation or bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.
- (d) Pupil fee complaints may be filed with the principal of the school.
- (e) Pupil fee complaints and complaints regarding local control and accountability plans only, may be filed anonymously, that is, without an identifying signature, if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with Education Code sections 49010 and 49011 regarding pupil fees or an allegation of noncompliance with Education Code sections 52060 through 52077, including an allegation of a violation of Education Code sections 47606.5 or 47607.3, as referenced in Education Code section 52075, regarding local control and accountability plans.

§ 4631. Responsibilities of the LEA.

- (a) Upon receipt of a complaint, the LEA person responsible for the investigation of the complaints or that person's designee shall conduct and complete an investigation of the complaint in accordance with the local procedures adopted pursuant to section 4621 and prepare a written LEA Investigation Report. This 60-day time period may be extended with the written agreement of the complainant.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

(e) The LEA shall issue an LEA Investigation Report based on the evidence. The LEA Investigation Report shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the LEA, subject to any extension under subsection (a) above. The LEA Investigation Report shall include:

(1) the findings of fact based on the evidence gathered;

(2) conclusion providing a clear determination as to each allegation as to whether the LEA is in compliance with the relevant law; and

(3) if the LEA finds merit in the complaint, corrective actions including in the case of complaints related to subsections (a)(1)(I), (J), (K) and (L) of Education Code section 33315, or as otherwise required by law, a remedy to all affected pupils, parents, and guardians. With respect to a pupil fees complaint, corrective actions shall include, a remedy that comports with Education Code section 49013(d) and section 4600(t).

(4) notice of the complainant's right to appeal the LEA Investigation Report to the CDE, except when the LEA has used its local uniform complaint procedures to address a complaint not described in section 4610(b); and

(5) procedures to be followed for initiating an appeal to the CDE.

(f) Nothing in this chapter shall prohibit the parties from utilizing alternative methods to resolve the allegations in the complaint, including, but not limited to, local mediation.

(g) Nothing in this chapter shall prohibit an LEA from resolving complaints prior to the formal filing of a written complaint.

§ 4632. Appeal of LEA investigation report - grounds.

(a) The complainant may appeal an LEA Investigation Report for a complaint described in section 4610(b) to the CDE by filing a written appeal within 30 days of the date of the LEA Investigation Report.

(b) In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

(1) The LEA failed to follow its complaint procedures, and/or

(2) Relative to the allegations of the complaint, the LEA Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or

(3) The material findings of fact in the LEA Investigation Report are not supported by substantial evidence, and/or

(4) The legal conclusion in the LEA Investigation Report is inconsistent with the law, and/or

(5) In a case in which the LEA found noncompliance, the corrective actions fail to provide a proper remedy.

(c) The appeal shall be accompanied by:

(1) a copy of the locally filed complaint; and

(2) a copy of the LEA Investigation Report.

(d) Appeals that do not comply with subsections (a) through (c), or do not pertain to subject matter described in section 4610(b), will not be processed. The CDE will notify the appellant of the deficiencies.

(e) If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the LEA for resolution as a new complaint under section 4630 or 4631.

(f) If the CDE determines that the LEA Investigation Report failed to address an allegation raised by the complaint and subject to the UCP process, the CDE shall notify the LEA of such failure and direct the LEA to investigate and address such allegation(s) in accordance with this chapter. The LEA must provide both the CDE and the appellant with an amended investigation report that addresses the complaint allegation(s) that was not addressed in the original Investigation Report within 20 days of such notification. The amended report must also inform the appellant of the right to separately appeal, in accordance with this section, the amended investigation report with respect to the complaint allegation(s) that was not addressed in the original report. The CDE will proceed with its resolution of the appeal of the LEA Investigation Report as to allegations that have been addressed even while, at the same time, the LEA is preparing an amended investigation report as to any allegation(s) that the CDE identified as not having been addressed.

§ 4633. Appeal of LEA investigation report.

(a) If the LEA Investigation Report is appealed and meets the requirements of section 4632, subdivisions (a) through (c), the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the LEA Investigation Report has been appealed, the LEA shall forward the following to the CDE within 10 days of the date of notification:

- (1) A copy of the original complaint;
- (2) A copy of the LEA Investigation Report;
- (3) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (4) A report of any action taken to resolve the complaint;
- (5) A copy of the LEA complaint procedures; and
- (6) Such other relevant information as the CDE may request.

An LEA's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the LEA.

(b) In deciding an appeal, the CDE shall not consider any information not previously presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE, to the extent permitted by law.

(c) The CDE may contact the parties for further information, if necessary.

(d) The CDE shall review the investigation file, the complaint procedures, documents and any other evidence received from the LEA and determine whether:

- (1) The LEA followed its complaint procedures;
- (2) The LEA Investigation Report includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal;
- (3) The material findings of fact in the LEA Investigation Report are supported by substantial evidence;
- (4) The LEA Investigation Report includes a legal conclusion(s) that is consistent with the law; and
- (5) In a case in which the LEA found noncompliance, the corrective actions provide a proper remedy.

(e) If the CDE determines that the LEA Investigation Report meets the criteria in subsection (d) above, the appeal shall be denied.

(f) If the CDE determines that the LEA Investigation Report is deficient because it does not meet the criteria in subsection (d) above, the CDE may:

- (1) Notify the LEA of such deficiencies and return the LEA Investigation Report to the LEA for further processing and instruct the LEA to provide both the CDE and the complainant with an amended Investigation Report within 20 days of such notification, which amended report must inform the complainant of the right to appeal in accordance with section 4632.; or
- (2) Issue a Decision based on the evidence in the investigation file received from the LEA; or
- (3) Conduct a further investigation of the allegations which are the basis for the appeal and issue a Decision.

(g) An appeal decision issued by the CDE shall include the following:

- (1) A finding that the LEA complied or did not comply with its complaint procedures;
- (2) The CDE's determination as to the LEA's findings of fact and conclusions of law regarding the issue on appeal; and
- (3) Corrective actions as appropriate and including a remedy to the affected pupil, or in the case of complaints related to subsections (a)(1)(I), (a)(1)(J), (a)(1)(K), and (a)(1)(L) of Education Code section 33315 , or as otherwise required by law, a remedy to all affected pupils, parents, and guardians. With respect to a pupil fee complaint, corrective actions shall include a remedy that comports with Education Code section 49013(d) and section 4600(t).

(h) The CDE must issue a written Decision regarding an appeal-to the appellant within 60 days of the CDE's receipt of the appeal, unless extended by written agreement with the appellant, or the CDE documents exceptional circumstances and informs the appellant, or the CDE receives notice that the matter has been resolved at the local level, or the CDE receives notice that the matter has been judicially decided.

§ 4640. Filing a state complaint that has not first been filed at the Local Educational Agency (LEA); time lines, notice, appeal rights.

(a) If a complaint is erroneously filed with the CDE without first being filed with and investigated by the LEA, the CDE shall immediately forward the complaint to the LEA for processing in accordance with article 4 of this chapter, unless extraordinary circumstances exist necessitating direct state intervention as described at section 4650.

(b) The CDE will notify the complainant in writing that:

- (1) The CDE does not have jurisdiction, at this time, over the complaint and that the complaint should have been filed with the LEA in the first instance;
- (2) That the complaint has been transferred to the LEA requesting the LEA to process and investigate the allegation in the complaint; and
- (3) That the complainant may file an appeal to the CDE following the issuance of the LEA Investigation Report, pursuant to section 4632.

§ 4650. Basis of direct state intervention.

(a) The CDE may at its discretion directly intervene without waiting for an LEA investigation if one or more of the following situations exist:

- (1) The complaint includes an allegation that an LEA failed to comply with the complaint procedures required by this chapter and its local rules and regulations, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation;
- (2) The complainant requests anonymity because the complainant would be in danger of retaliation and would suffer immediate and irreparable harm if the complainant filed a complaint with the LEA (except for complaints identified in section 4630(e), which may be filed anonymously at the local level);

- (3) The complainant alleges that the LEA failed or refused to implement the final LEA Investigation Report resulting from its local investigation or local mediation agreement or a CDE appeal Decision;
 - (4) The complainant alleges that through no fault of the complainant, no action has been taken by the LEA within 60 calendar days of the date the complaint was filed. Prior to direct intervention, the CDE shall attempt to work with the LEA to allow it to complete the investigation and issue an LEA Investigation Report; or
 - (5) The complainant alleges that the complainant would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this chapter, and that filing a complaint with the LEA would be futile.
- (b) The CDE shall directly intervene without waiting for LEA investigation if the complaint alleges that an agency that is not an LEA violated laws relating to a Child Care and Development program;
 - (c) The complaint shall identify the basis, as described in subdivision (a) or subdivision (b) above, for filing the complaint directly to the CDE. The complainant must present the CDE with evidence that supports the basis for the direct filing.

§ 4651. Notification.

- (a) When the Department accepts, a complaint requesting direct state intervention pursuant to section 4650, it will immediately notify the complainant in writing of the determination. If the complaint is not accepted, it shall be referred to the LEA for local investigation, or referred to another agency pursuant to section 4611.
- (b) When the CDE declines direct intervention for a complainant who requests anonymity pursuant to section 4650(a)(2), the CDE will not forward the complaint to the LEA pursuant to section 4640 without the complainant's permission.

§ 4663. Department investigation procedures.

- (a) The investigator(s) shall request all documentation and other evidence regarding the allegations in the complaint.
- (b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.
- (c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegations.
- (d) Refusal by the local educational agency to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

§ 4664. Department investigation report.

- (a) In cases of direct state intervention, the CDE shall issue a Department Investigation Report. The Department Investigation Report shall include the following:
 - (1) A summary of the allegations in the complaint;
 - (2) A description of the general procedures of the investigation;
 - (3) Citations of applicable law and regulations;
 - (4) Department findings of facts;
 - (5) Department conclusions;

- (6) Corrective actions for the LEA or other public agency as defined in section 3200, if applicable;
 - (7) Time line for corrective actions, if applicable;
 - (8) Notice that any party may request reconsideration of the Department Investigation Report from the Superintendent within 30 days of the date of the report;
 - (9) For those federal programs for which there is a right to appeal to the United States Secretary of Education, the parties shall be notified of that right.
- (b) The CDE must issue a written Department Investigation Report to the complainant within 60 days of receipt of the complaint, unless the parties have agreed to extend the time line or the CDE documents exceptional circumstances and informs the complainant, or the matter has been resolved at the local level or judicially decided.

§ 4665. Reconsideration of department investigation report.

(a) Within 30 days of the date of the Department Investigation Report, either party may request reconsideration by the Superintendent or the Superintendent's designee. The request for reconsideration shall specify and explain why:

- (1) Relative to the allegation(s), the Department Investigation Report lacks material findings of fact necessary to reach a conclusion of law on the subject of the complaint, and/or
- (2) The material findings of fact in the Department Investigation Report are not supported by substantial evidence, and/or
- (3) The legal conclusion in the Department Investigation Report is inconsistent with the law, and/or
- (4) In a case in which the CDE found noncompliance, the corrective actions fail to provide a proper remedy.

(b) In evaluating or deciding on a request for reconsideration, the CDE will not consider any information not previously submitted to the CDE by a party during the investigation unless such information was unknown to the party at time of the investigation and, with due diligence, could not have become known to the party. This prohibition does not prohibit the CDE from seeking and obtaining information from any source necessary to issue an accurate Department Investigation Report.

(c) Within 60 days of the receipt of the request for reconsideration, the Superintendent or the Superintendent's designee shall respond in writing to the parties. Such response may include a denial of the request for reconsideration, or modifications to the Department Investigation Report necessary to ensure factual and legal accuracy. Pending the Superintendent's response to a request for reconsideration, the Department Investigation Report remains in effect and enforceable, unless stayed by a court.

(d) Appeals from investigations of complaints involving Child Development contractors, whether public or private, shall be made to the Superintendent of Public Instruction as provided in subsection (a) except as otherwise provided in division 19 of title 5 of the Code of California Regulations.

(e) For those federal programs for which there is a right to appeal to the United States Secretary of Education, the parties shall be notified of that right.

§ 4670. Enforcement.

(a) Upon determination that a local agency violated the provisions of this chapter, the Department shall notify the local agency pursuant to sections 4633(g)(3) or 4664(b) that it must take corrective action to come into compliance. If corrective action is not taken, the Department may use any means authorized by law to effect compliance, including, but not limited to:

- (1) The withholding of all or part of the local agency's relevant state or federal fiscal support in accordance with state or federal statute or regulation;
- (2) Probationary eligibility for future state or federal support, conditional on compliance with specified conditions;

- (3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.
- (b) No decision to curtail state or federal funding to a local agency under this chapter shall be made until the Department has determined that compliance cannot be secured by other means.
- (c) If the Department determines that a Child Development Contractor's Agreement shall be terminated, the procedures set forth in sections 8257(b) or 8400 through 8409 of the Education Code and the regulations promulgated pursuant thereto (chapter 19 of title 5, CCR, commencing with section 18118), shall be followed.

Dating and Relationship Violence

LAWS

EDC 32261.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

EDC 32270.

(a) The partnership shall establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

EDC 33544.

(a) When the "Health Framework for California Public Schools" (health framework) is next revised after January 1, 2016, the commission shall consider including comprehensive information for grades 9 to 12, inclusive, on sexual harassment and violence that includes, but is not limited to, all of the following:

- (2) Discussion of the affirmative consent standard, as defined in paragraph (1) of subdivision (a) of Section 67386, and skills pupils use to establish boundaries in peer and dating relationships.

EDC 33545.

When the "Health Framework for California Public Schools" (health framework) is next revised after January 1, 2015, the commission shall consider including a distinct category on sexual abuse and sex trafficking prevention education that includes, but is not limited to, all of the following:

- (b) Discussion of healthy boundaries for relationships; how to recognize potentially harmful and abusive relationships; and refusal skills to overcome peer pressure and to avoid high-risk activities.

EDC 33546.

(a) When the "Health Framework for California Public Schools" (health framework) is next revised after January 1, 2017, the commission shall consider including comprehensive information for kindergarten and grades 1 to 8, inclusive, on the development of healthy relationships, which shall be age and

developmentally appropriate and consistent with the health education standards adopted by the state board.

(b) If the commission includes comprehensive information on the development of healthy relationships in the health framework, the commission shall comply with both of the following:

(1) Ensure information included in the health framework is research-based and appropriate for pupils of all races, genders, sexual orientations, gender identities, and ethnic and cultural backgrounds. This may include, but shall not be limited to, reviewing other states' curricula.

(2) Consult with teachers and educators with expertise in curriculum for developing healthy relationships.

(c) For purposes of this section, the "development of healthy relationships" includes, but is not limited to, all of the following:

(1) Understanding the principles of treating one another with respect, dignity, and kindness.

(2) Demonstrating the ability to use interpersonal communication skills to address and resolve disagreement and conflict.

(3) Recognizing when and how to respond to dangerous or other situations that may result in the bullying, harassment, harming, or hurting of another person.

EDC 51220.5.

(c) Commencing with the 1995-96 fiscal year, the adopted course of study for grade 7 or 8 shall include the equivalent content of a one-semester course in parenting skills and education. All pupils entering grade 7 on or after July 1, 1995, shall be offered that course or its equivalent content during grade 7 or 8, or both. On or before January 1, 1995, the State Department of Education shall supply, to each school district that includes a grade 7 or 8, a sample curriculum suitable either for implementation as a stand-alone one-semester course or for incorporation within identified existing required or optional courses, with content designed to develop a knowledge of topics including, but not limited to, all of the following:

(6) Maintaining healthy relationships.

EDC 51934.

(a) Each school district shall ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and HIV prevention education from instructors trained in the appropriate courses. Each pupil shall receive this instruction at least once in junior high or middle school and at least once in high school. This instruction shall include all of the following:

(11) Information about adolescent relationship abuse and intimate partner violence, including the early warning signs thereof.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

EDC 215.

(a)(1) The governing board or body of a local educational agency that serves pupils in grades 7 to 12, inclusive, shall, before the beginning of the 2017-18 school year, adopt, at a regularly scheduled meeting, a policy on pupil suicide prevention in grades 7 to 12, inclusive. The policy shall be developed in consultation with school and community stakeholders, school-employed mental health professionals, and suicide prevention experts and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention.

(2)(A) The governing board or body of a local educational agency that serves pupils in kindergarten and grades 1 to 6, inclusive, shall, before the beginning of the 2020-21 school year, adopt, at a regularly scheduled meeting, a policy on pupil suicide prevention in kindergarten and grades 1 to 6, inclusive. The policy shall be developed in consultation with school and community stakeholders, the county mental health plan, school-employed mental health professionals, and suicide prevention experts and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention.

(B) The policy for pupils in kindergarten and grades 1 to 6, inclusive, shall be age appropriate and shall be delivered and discussed in a manner that is sensitive to the needs of young pupils.

(C) The policy for pupils in kindergarten and grades 1 to 6, inclusive, shall be written to ensure proper coordination and consultation with the county mental health plan if a referral is made for mental health or related services on behalf of a pupil who is a Medi-Cal beneficiary.

(3) The policy shall specifically address the needs of high-risk groups, including, but not limited to, all of the following:

(A) Youth bereaved by suicide.

(B) Youth with disabilities, mental illness, or substance use disorders.

(C) Youth experiencing homelessness or in out-of-home settings, such as foster care.

(D) Lesbian, gay, bisexual, transgender, or questioning youth.

(4)(A) The policy shall also address any training on suicide awareness and prevention to be provided to teachers of pupils in all of the grades served by the local educational agency.

(B) Materials approved by a local educational agency for training shall include how to identify appropriate mental health services, both at the schoolsite and within the larger community, and when and how to refer youth and their families to those services.

(C) Materials approved for training may also include programs that can be completed through self-review of suitable suicide prevention materials.

(5) The policy shall be written to ensure that a school employee acts only within the authorization and scope of the employee's credential or license. Nothing in this section shall be construed as authorizing or encouraging a school employee to diagnose or treat mental illness unless the employee is specifically licensed and employed to do so.

(6) To assist local educational agencies in developing policies for pupil suicide prevention, the department shall develop and maintain a model policy in accordance with this section to serve as a guide for local educational agencies.

(b) The governing board or body of a local educational agency that serves pupils in kindergarten and grades 1 to 12, inclusive, shall review, at minimum every fifth year, its policy on pupil suicide prevention and, if necessary, update its policy.

(c) Nothing in this section shall prevent the governing board or body of a local educational agency from reviewing or updating its policy on pupil suicide prevention more frequently than every fifth year.

(d) For purposes of this section, "local educational agency" means a county office of education, school district, state special school, or charter school.

EDC 233.

(a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

(1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.

(2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.

(3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.

(4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.

(5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.

(6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.

(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).

(3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

EDC 234.3.

The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

EDC 32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

EDC 32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A school district or county office of education may work with the Office of Emergency Services and the Alfred E. Alquist Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff. The department shall provide general direction to school districts and county offices of education on what to include in the school building disaster plan.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The school district or county office of education shall cooperate with the public agency in furnishing and maintaining the services as the school district or county office of education may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts that would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. A schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(G) Procedures for safe ingress and egress of pupils, parents, and school employees to and from school.

(H) A safe and orderly environment conducive to learning at the school.

(I) The rules and procedures on school discipline adopted pursuant to Sections 35291, 35291.5, 47605, and 47605.6.

(J) Procedures for conducting tactical responses to criminal incidents, including procedures related to individuals with guns on school campuses and at school-related functions. The procedures to prepare for active shooters or other armed assailants shall be based on the specific needs and context of each school and community.

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

(c) Each schoolsite council or school safety planning committee, in developing and updating a comprehensive school safety plan, shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

(d) The comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An updated file of all safety-related plans and materials shall be readily available for inspection by the public.

(e) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

(f) The comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval pursuant to subdivision (a) of Section 32288.

(g) The department shall maintain and conspicuously post on its Internet Web site a compliance checklist for developing a comprehensive school safety plan, and shall update the checklist when necessary.

EDC 33433.

(a) The department shall use the funding the Safe Neighborhoods and Schools Act authorizes for administrative costs pursuant to subdivision (b) of Section 7599.2 of the Government Code, which is no more than 5 percent of the annual funding the department receives from the Safe Neighborhoods and Schools Fund, for the administrative costs of implementing this article, including, but not limited to, administering grant awards, coordinating the training and technical assistance structure described in subdivision (b), and completing the evaluation pursuant to Section 33434.

(b) The department shall establish a structure to deliver training and technical assistance to grantees using regional workshops and technical assistance providers that have expertise on pupil engagement, school climate, truancy reduction, and supporting pupils who are at risk of dropping out of school or who are victims of crime. The department may contract with those providers to assist the grantees as well as to serve as a resource for other local educational agencies that may use their own funding sources to engage in this community of practice. Technical assistance provided pursuant to this subdivision shall be consistent with the technical assistance provided to a local educational agency by the county superintendent of schools or the Superintendent, as appropriate, in the development of the local control and accountability plan.

EDC 51263.

The State Department of Education shall make available information on model drug and alcohol abuse prevention education programs developed and funded pursuant to Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, Chapter 7 (commencing with Section 13860) of Title 6 of Part 4 of the Penal Code, and other public and private sources.

EDC 51264.

(a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 5 (commencing with Section 32280) of Chapter 2.5 of Part 19, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Emergency Services regarding gang violence.

EDC 51266.

(a) The Office of Emergency Services, in collaboration with the State Department of Education, shall develop a model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled after a similar curriculum that has been developed by the Orange County Office of Education for grades 3, 5, and 7. The Office of Emergency Services, in collaboration with the State Department of Education, may contract with a county office of education for the development of the model curriculum. The model curriculum shall be made available to school districts and county offices of education and shall, at a minimum, provide for each of the following:

- (1) Lessons for grades 2, 4, and 6 that are aligned with the state curriculum frameworks for history, social science, and English and language arts.
- (2) Instructional resources that address issues of ethnic diversity and at-risk pupils.
- (3) The integration of the instructional resources of the Office of Emergency Services and the School/Law Enforcement Partnership in order to support the school curriculum and assist in the alignment of the state curriculum framework.

(b) The Office of Emergency Services shall develop an independent evaluation of the pupil outcomes of the model gang violence suppression and substance abuse prevention curriculum program.

EDC 51269.

(a) The State Department of Education shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for state and federal drug, alcohol, and tobacco education funds.

(b) The State Department of Education, in consultation with the Department of Justice, Office of Emergency Services, the State Department of Public Health, and the State Department of Health Care Services, shall develop, to the extent possible, an ongoing statewide monitoring and assessment system to provide current and reliable data on the utilization of resources for programs for prevention of and early intervention for drug, alcohol, and tobacco abuse. The purpose of the system shall be to facilitate improved planning and program delivery among state and local agencies, including law enforcement, juvenile justice, county health, and county drug and alcohol agencies and programs, and communities.

HSC 104420.

The State Department of Education shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

- (a) Provide a planning and technical assistance program to carry out its responsibilities under this article.
- (b) Provide guidelines for schools, school districts, county offices of education, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall do all of the following:
 - (1) Require the applicant agency to select one or more model program designs and permit the applicant to modify the model program designs to take special local needs and conditions into account.
 - (2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate, and a method to determine to what extent goals have been achieved.
 - (3) Require plan submissions to include a staffing configuration and a budget setting forth use and distribution of funds in a clear and detailed manner.
- (c) Prepare model program designs and information for schools, school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost effective. The State Department of Education shall consult with the department, and school districts with existing antitobacco programs in the preparation of model program designs and information.
- (d) Provide technical assistance for schools, school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention that shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the department and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.
- (e) Monitor the implementation of programs that it has approved under this article to ensure successful implementation.
- (f) Prepare guidelines within 180 days of January 1, 1996, for a school-based program of outreach, education, intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.
- (g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.
- (h) Train the tobacco use prevention coordinators of county offices of education so that they are:
 - (1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.

(2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.

(3) Able to provide effective technical assistance to schools and school districts.

(i) Establish a tobacco-free school recognition awards program.

(j) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, charter schools, and school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.

(k)(1) Develop, in coordination with the county offices of education, and administer a competitive grant program for school-based, antitobacco education programs and tobacco use intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. Grants shall be awarded, after consultation with local lead agencies, the committee, and representatives of nonprofit organizations dedicated to the reduction of tobacco-associated disease, to school districts, charter schools, and county offices of education for all pupils in grades 6 to 12, inclusive, that comply with the requirements of paragraphs (2) and, if applicable, (3).

(2) Every school district, charter school, and county office of education that receives a grant pursuant to this section shall provide tobacco use prevention instruction that addresses all of the following essential topics:

(A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.

(B) Reasons that adolescents say they smoke or use tobacco.

(C) Peer norms and social influences that promote tobacco use.

(D) Refusal skills for resisting social influences that promote tobacco use.

(3) Every school district, charter school, and county office of education that receives a grant pursuant to this section for pupils in grades 7 to 12, inclusive, shall provide tobacco use intervention and cessation activities targeted for pupils in high-risk groups.

(4) The State Department of Education shall develop criteria and standards for the allocation of grant awards that consider the need to balance rural, suburban, and urban projects. In addition, the State Department of Education shall give priority to applicants and programs that do all of the following:

(A) Target current smokers and pupils most at risk for beginning to use tobacco.

(B) Offer or refer pupils to cessation classes for current smokers.

(C) Utilize existing antismoking resources, including local antismoking efforts by local lead agencies and competitive grant recipients.

(D) Design the project to coordinate with other community services, including, but not limited to, local health agencies, voluntary health organizations, and parent organizations.

(E) Design the project to use and develop existing services and resources.

(F) Demonstrate an understanding of the role that the environment and community norms play in influencing tobacco use.

(5) Available funds shall determine grant award amounts.

(l) Allocate funds to county offices of education to provide technical assistance and leadership for tobacco use prevention, intervention, and cessation programs. The funds shall be allocated to all participating county offices of education at a minimum amount of thirty-seven thousand five hundred dollars (\$37,500). If funds appropriated for purposes of allocating at least thirty-seven thousand five hundred dollars (\$37,500) to all participating county offices of education are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education ensuring that all participating county offices of education receive an equal minimum level of

funding of thirty-seven thousand five hundred dollars (\$37,500). If funds are sufficient to provide all participating county offices of education a minimum of thirty-seven thousand five hundred dollars (\$37,500), the remaining funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to the county superintendent of schools within the county as certified by the Superintendent of Public Instruction:

(1) For counties with 550,000 or more units of average daily attendance, thirty cents (\$0.30) per average daily attendance.

(2) For counties with 100,000 or more and less than 550,000 units of average daily attendance, sixty-five cents (\$0.65) per average daily attendance.

(3) For counties with 50,000 or more and less than 100,000 units of average daily attendance, ninety cents (\$0.90) per average daily attendance.

(4) For counties with 37,500 or more and less than 50,000 units of average daily attendance, one dollar (\$1) per average daily attendance.

(5) For counties with less than 37,500 units of average daily attendance, thirty-seven thousand five hundred dollars (\$37,500).

(m) Allocate funds appropriated by Chapter 415 of the Statutes of 1995 for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year.

(n)(1) Provide that all school districts, charter schools, and county offices of education that receive funding under subdivision (m) make reasonable progress toward providing a tobacco-free environment in school facilities for pupils and employees.

(2) Require that all school districts, charter schools, and county offices of education that receive funding pursuant to paragraph (1) adopt and enforce a tobacco-free campus policy no later than July 1 of each fiscal year. The policy shall prohibit the use of products containing tobacco and nicotine, including, but not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and electronic cigarettes that can deliver nicotine and nonnicotine vaporized solutions, at any time, in charter school or school district-owned or leased buildings, on school or district property, and in school or district vehicles. However, this section does not prohibit the use or possession of prescription products, nicotine patches, or nicotine gum. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, pupils, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property as provided in Section 104559. Information about smoking cessation support programs shall be made available and encouraged for pupils and staff. Any school district, charter school, or county office of education that does not have a tobacco-free district policy implemented by July 1, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund for that fiscal year.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

EDC 32282.1.

(a) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district uses these people.

(b) The guidelines developed pursuant to subdivision (a) are encouraged to include both of the following:

(1) Primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.

(2) Consistent with paragraph (2) of subdivision (a) of Section 32282, protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:

(A) While on school grounds.

(B) While going to or coming from school.

(C) During a lunch period whether on or off campus.

(D) During, or while going to or coming from, a school-sponsored activity.

EDC 33432.

(a) A local educational agency that receives a grant shall use the grant funds for planning, implementation, and evaluation of activities in support of evidence-based, nonpunitive programs and practices to keep the state's most vulnerable pupils in school. These activities shall complement or enhance the actions and services identified to meet the local educational agency's goals as identified in its local control and accountability plan pursuant to Section 47606.5, 52060, or 52066, as applicable. These activities may include, but are not limited to, all of the following:

(4) Implementing activities that advance social-emotional learning, positive behavior interventions and supports, culturally responsive practices, and trauma-informed strategies.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(w)(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 48900.5.

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069.7. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

EDC 49600.

(a) The governing board of a school district may, and is urged to provide access to a comprehensive educational counseling program for all pupils enrolled in the school district. It is the intent of the

Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling program within a Multi-Tiered Systems of Support framework.

(b) For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel who directly counsels pupils and implements equitable school programs and services that support pupils in their academic development, social emotional development and college and career readiness.

(c) It is the intent of the Legislature that school counselors do all of the following:

(5) Promote and maintain a safe learning environment for all pupils by providing restorative practices, positive behavior interventions, and support services, and by developing and responding with a variety of intervention strategies to meet individual, group, and school community needs before, during, and after crisis response.

REGULATIONS

§ 4806. Description of intervention - Transformation model.

A transformation model is one in which an LEA implements each of the following strategies:

(b) Comprehensive instructional reform strategies.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(B) Implementing a school wide "response-to-intervention" model.

Prevention

LAWS

EDC 233.

(a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

(1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.

(2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.

(3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.

(4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.

(5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.

(6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.

(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).

(3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

EDC 233.5.

(a) Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations, kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

(b) Each teacher is also encouraged to create and foster an environment that encourages pupils to realize their full potential and that is free from discriminatory attitudes, practices, events, or activities, in order to prevent acts of hate violence, as defined in subdivision (e) of Section 233.

EDC 233.8.

(a) The State Department of Education shall provide regional training to assist school district personnel in the identification and determination of hate violence on school campuses.

(b)(1) A grant program for school districts shall be established by the department for the purpose of enabling pupils and teachers to participate in educational programs focused on fostering ethnic sensitivity, overcoming racism and prejudice, and countering hatred and intolerance. It is the intent of the Legislature that the grants be awarded on a competitive basis with similar sized school districts and county offices of education competing against each other for grant funds. The Superintendent of Public Instruction shall establish grant competition bands as follows:

(A) Districts with less than 2,501 average daily attendance.

(B) Districts with more than 2,500 average daily attendance but less than 5,001.

(C) Districts with more than 5,000 average daily attendance but less than 15,001.

(D) Districts with more than 15,000 average daily attendance but less than 30,001.

(E) Districts with more than 30,000 average daily attendance.

(F) County offices of education.

(2) The Superintendent of Public Instruction shall allocate the appropriated funds for competitive grants to each of the competitive bands based on the amount of average daily attendance in all districts in the

competitive range compared to the statewide average daily attendance in all school districts and county offices of education.

The grant program is not required to be implemented under this section unless funds are appropriated for that purpose.

EDC 234.2.

(a) The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, cyber sexual bullying, as defined in Section 48900, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, cyber sexual bullying, and bullying is posted.

(b) The department shall annually inform school districts of the information on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about cyber sexual bullying is posted pursuant to subdivision (a). The department may use electronic mail to inform school districts of this information.

(c) School districts are encouraged to inform pupils regarding the available information and resources on the department's Internet Web sites regarding the dangers and consequences of cyber sexual bullying to help reduce the instances of cyber sexual bullying.

EDC 234.5.

(a) The Superintendent shall post, and annually update, on the department's Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying, including school-based discrimination, harassment, intimidation, or bullying on the basis of religious affiliation, nationality, race, or ethnicity, or perceived religious affiliation, nationality, race, or ethnicity.

(b) The department's Internet Web site shall also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

EDC 32282.1.

(a) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district uses these people.

(b) The guidelines developed pursuant to subdivision (a) are encouraged to include both of the following:

(1) Primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.

(2) Consistent with paragraph (2) of subdivision (a) of Section 32282, protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:

(A) While on school grounds.

(B) While going to or coming from school.

(C) During a lunch period whether on or off campus.

(D) During, or while going to or coming from, a school-sponsored activity.

EDC 51210.5.

The instruction in all areas of study specified in subdivisions (a) to (g), inclusive, of Section 51210 as deemed appropriate by the governing board and consistent with the adopted course of study for each subject area, may include grade-level appropriate instruction on violence awareness and prevention, which may include personal testimony in the form of oral or video histories that illustrate the economic and cultural effects of violence within a city, the state, and the country.

EDC 51220.3.

The instruction in all areas of study specified in subdivisions (a) to (j), inclusive, of Section 51220 as deemed appropriate by the governing board and consistent with the adopted course of study for each subject area, may include grade-level appropriate instruction on violence awareness and prevention, which may include personal testimony in the form of oral or video histories that illustrate the economic and cultural effects of violence within a city, the state, and the country.

REGULATIONS

§ 11987. Purpose.

(a) These regulations fulfill a mandate of Education Code section 41513, which requires the State Superintendent of Public Instruction (SSPI) and the Attorney General to adopt regulations to implement the School Safety Consolidated Competitive Grant program established by sections 41510 through 41514 of the Education Code. This program consists of two competitive grant programs, which are hereinafter referred to as the School Community Violence Prevention (SCVP) Grant program and the School Safety and Violence Prevention Training Grant Program. The regulations shall specify application submission rules, criteria for scoring applications and awarding grants, allowable/non-allowable uses of grant funds, annual reporting requirements for grant recipients, and the manner in which grant recipients will be reimbursed for program expenditures.

(b) The program shall be jointly administered by the SSPI and the Attorney General's Office, through the School Law Enforcement Partnership (S/LEP), as authorized by Education Code section 32262.

§ 11987.7. School Safety and Violence Prevention Training Grant.

(a) The S/LEP shall award a maximum of \$ 400,000 per year of the annual SCVP appropriation for one grant to a county office of education for the purpose of providing statewide and regional training in school safety and violence prevention methods. The grant period shall be a maximum of five years in duration.

Social-emotional Learning (SEL)

LAWS

EDC 33432.

(a) A local educational agency that receives a grant shall use the grant funds for planning, implementation, and evaluation of activities in support of evidence-based, nonpunitive programs and practices to keep the state's most vulnerable pupils in school. These activities shall complement or enhance the actions and services identified to meet the local educational agency's goals as identified in its local control and accountability plan pursuant to Section 47606.5, 52060, or 52066, as applicable. These activities may include, but are not limited to, all of the following:

- (4) Implementing activities that advance social-emotional learning, positive behavior interventions and supports, culturally responsive practices, and trauma-informed strategies.

EDC 48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(w)(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EDC 49600.

(a) The governing board of a school district may, and is urged to provide access to a comprehensive educational counseling program for all pupils enrolled in the school district. It is the intent of the Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling within a Multi-Tiered Systems of Support framework.

(b) For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel services who is assigned specific times to directly counsel pupils and implements equitable school programs and services that support pupils in their academic development, social emotional development, and college and career readiness.

(c) It is the intent of the Legislature that school counselors do all of the following:

(2) Plan, implement, and evaluate comprehensive school counseling programs.

(9) Enhance pupils' social and emotional competence, character, health, civic engagement, cultural literacy, and commitment to lifelong learning and the pursuit of high-quality educational programs. [...]

EDC 51471.

(a) On or before January 1, 2020, the Superintendent shall recommend to the state board criteria for awarding a State Seal of Civic Engagement to pupils who have demonstrated excellence in civics education and participation and have demonstrated an understanding of the United States Constitution, the California Constitution, and the democratic system of government. In developing criteria for the State Seal of Civic Engagement, the Superintendent shall incorporate the Six Proven Practices for Effective Civic Learning, developed by the Education Commission of the States, and any and all other best practices for civic learning and engagement. In developing criteria for the State Seal of Civic Engagement, the Superintendent shall also consult with a diverse group of credentialed, current, classroom teachers who teach the subject of history-social science, including government, in secondary schools. The Superintendent shall also consider including criteria based on each of the following:

(1) Successful completion of history, government, and civics courses, including courses that incorporate character education.

EDC 51900.5.

(a) During the next revision of the publication "Health Framework for California Public Schools" (health framework), the Instructional Quality Commission shall consider developing, and recommending for adoption by the state board, a distinct category on mental health instruction to educate pupils about all aspects of mental health.

(b) As used in this section, "mental health instruction" shall include, but not be limited to, all of the following:

(4) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

EDC 33432.

(a) A local educational agency that receives a grant shall use the grant funds for planning, implementation, and evaluation of activities in support of evidence-based, nonpunitive programs and practices to keep the state's most vulnerable pupils in school. These activities shall complement or enhance the actions and services identified to meet the local educational agency's goals as identified in its local control and accountability plan pursuant to Section 47606.5, 52060, or 52066, as applicable. These activities may include, but are not limited to, all of the following:

- (4) Implementing activities that advance social-emotional learning, positive behavior interventions and supports, culturally responsive practices, and trauma-informed strategies.

EDC 48900.

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

WIC 5886.

(a) The Mental Health Student Services Act is hereby established as a mental health partnership competitive grant program for the purpose of establishing mental health partnerships between a county's mental health or behavioral health departments and school districts, charter schools, and the county office of education within the county. [...]

(e) Funding may also be used to provide other prevention, early intervention, and direct services, including, but not limited to, hiring qualified mental health personnel, professional development for school staff on trauma-informed and evidence-based mental health practices, and other strategies that respond to the mental health needs of children and youth, as determined by the commission.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

EDC 8804.

The superintendent shall award grants to a local educational agency or consortium to pay the costs of planning and operating, on behalf of one or more qualifying schools within the local educational agency or consortium, programs that provide support services to pupils and their families at or near the school, as follows:

- (g) For purposes of this chapter, support services shall include case-managed health, mental health, social, and academic support services benefiting children and their families, and may include, but are not limited to:

- (2) Mental health services, including primary prevention, crisis intervention, assessments, and referrals, and training for teachers in the detection of mental health problems.

WIC 5886.

(e) Funding may also be used to provide other prevention, early intervention, and direct services, including, but not limited to, hiring qualified mental health personnel, professional development for school staff on trauma-informed and evidence-based mental health practices, and other strategies that respond to the mental health needs of children and youth, as determined by the commission.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

EDC 8804.

The superintendent shall award grants to a local educational agency or consortium to pay the costs of planning and operating, on behalf of one or more qualifying schools within the local educational agency or consortium, programs that provide support services to pupils and their families at or near the school, as follows:

(f) A local educational agency or consortium is eligible for a grant under this article, on behalf of one or more schools operated by the agency or consortium, if it demonstrates in its program plan that it:

- (1) Will give priority for services provided under this chapter to pupils from low-income families.
- (2) Will assist families in responding to support services needs of pupils.
- (3) Has established the local agency collaboration process described in Article 4 (commencing with Section 8806), including a mechanism for sharing governance with cooperating agencies and entities, and for integrating or redirecting existing resources and other school support services.
- (4) Has submitted or is submitting an application to the State Department of Education and the State Department of Health Services for certification as a Medi-Cal provider, pursuant to Section 14000, and following, of the Welfare and Institutions Code.
- (5) Involves parents or guardians and teachers in the process of identifying pupils' service needs and in the planning for and provision of support services.

(g) For purposes of this chapter, support services shall include case-managed health, mental health, social, and academic support services benefiting children and their families, and may include, but are not limited to:

- (2) Mental health services, including primary prevention, crisis intervention, assessments, and referrals, and training for teachers in the detection of mental health problems.

EDC 32282.1.

(a) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district uses these people.

(b) The guidelines developed pursuant to subdivision (a) are encouraged to include both of the following:

- (1) Primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.
- (2) Consistent with paragraph (2) of subdivision (a) of Section 32282, protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:

- (A) While on school grounds.

- (B) While going to or coming from school.
- (C) During a lunch period whether on or off campus.
- (D) During, or while going to or coming from, a school-sponsored activity.

EDC 44046.

(a) The governing board of a small school district, which does not employ persons charged with school-community duties of counseling students and parents or guardians in their homes, may contract with any qualified social service agency or organization to secure the services, on a part-time or full-time basis, of qualified social workers as counselors in schools and in the homes of pupils. The State Board of Education shall adopt rules and regulations for the implementation of this section, but such social workers shall not be required to hold credentials or certification documents otherwise required under this code for service in the public schools.

(b) Social workers authorized to serve under this section, as well as credentialed school social workers in districts other than small school districts, may perform, but are not limited to, the performance of the following service to children, parents, school personnel, and community agencies:

- (1) Group and individual counseling and casework with parents and children relating to learning and adjustment problems of children, including parent education.
- (2) Liaison with community resources offering services to schoolchildren and their families.
- (3) Consultation with parents and others in crisis situations, such as truancy, drug abuse, suicide threats, assaults, and child abuse.
- (4) Assessment of social and behavioral disabilities affecting learning, including but not limited to case study evaluation, recommendations for remediation or placement, and periodic reevaluation.
- (5) Participation in and coordination of staff development programs for professional, paraprofessional, and classified school staff and supervision of pupil personnel services workers.
- (6) Coordination of social service and mental health components of children's centers and other early childhood development programs in the public schools.
- (7) Consultation and collaboration with school personnel to promote a school environment responsive to the needs of children and the planning of educational programs which will prepare children to function in a culturally diversified society.

(c) As used in this section "small school district" means any of the following school districts:

- (1) A unified school district having an average daily attendance of less than 1,501.
- (2) A high school district having an average daily attendance of less than 301.
- (3) An elementary school district having an average daily attendance of less than 901.

EDC 48900.5.

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069.7. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents.
- (4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- (5) Enrollment in a program for teaching prosocial behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
- (8) After school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- (9) Any of the alternatives described in Section 48900.6.

EDC 49428.

(a) A school of a school district or county office of education and a charter school shall notify pupils and parents or guardians of pupils no less than twice during the school year on how to initiate access to available pupil mental health services on campus or in the community, or both, as follows:

- (1) A school shall use at least two of the following methods to notify parents or guardians:
 - (A) Distributing the information in a letter electronically or in hardcopy, including, but not limited to, through the postal service.
 - (B) Including the information in the parent handbook at the beginning of the school year in accordance with Section 48980.
 - (C) Posting the information on the school's Internet Web site or social media Internet Web page.

- (2) A school shall use at least two of the following methods to notify pupils:
 - (A) Distributing the information in a document or school publication electronically or in hardcopy.
 - (B) Including the information in pupil orientation materials at the beginning of the school year or in a pupil handbook.
 - (C) Posting the information on the school's Internet Web site or social media Internet Web page.

(b)(1) A county may use funds from the Mental Health Services Act, enacted by the voters at the November 2, 2004, statewide general election as Proposition 63, to provide a grant to a school district or county office of education, or to a charter school, within the county, for purposes of funding the activities required pursuant to subdivision (a).

(2) A school district or county office of education, or a charter school, may apply to its respective county for a grant pursuant to paragraph (1).

EDC 49429.

(a) The department, in consultation with the State Department of Health Care Services and appropriate stakeholders, including stakeholders with experience in telehealth, as defined in subdivision (d), shall develop guidelines on or before July 1, 2020, for the use of telehealth technology in public schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses.

(b) The guidelines developed pursuant to subdivision (a) shall include, but are not limited to, guidance on all of the following:

- (1) Qualifications of individuals authorized to provide assistance, within their scope of practice, to pupils in accessing mental health and behavioral health services via telehealth technology at a schoolsite.

- (2) Qualifications of individuals authorized to provide mental health and behavioral health services, within their scope of practice, to pupils via telehealth technology.
 - (3) Potential sources of funding for the purchase of the necessary equipment and technology infrastructure by schools to allow schools to provide telehealth services.
 - (4) The ability of mental and behavioral health services providers to access reimbursement through the Medi-Cal program or other sources for services provided to pupils at schoolsites via telehealth technology.
 - (5) The legal requirements for parental consent for the provision of mental health and behavioral health treatment of minors via telehealth technology.
 - (6) Measures necessary to protect the security of data transmitted via telehealth technology.
 - (7) Measures necessary to protect the privacy of pupil data pursuant to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) and medical records pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).
 - (8) Potential school district, county office of education, and charter school liability associated with the provision of telehealth services.
- (c) The department shall post the guidelines developed pursuant to this section on its Internet Web site on or before July 1, 2020.
- (d) For purposes of this section, "telehealth" means the mode of delivering health care services via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a pupil's health care while the pupil is at a schoolsite and the health care provider is at a distant site.
- (e) This section shall only be implemented if sufficient funds are made available to the department pursuant to an appropriation in the annual Budget Act or another statute for that purpose.

HSC 124174.6.

The department shall establish a grant program within the Public School Health Center Support Program to provide technical assistance, and funding for the expansion, renovation, and retrofitting of existing school health centers, and the development of new school health centers, in accordance with the following procedures and requirements:

- (a) A school health center receiving grant funds pursuant to this section shall meet or have a plan to meet the following requirements:
 - (1) Strive to provide a comprehensive set of services including medical, oral health, mental health, health education, and related services in response to community needs.
 - (2) Provide primary and other health care services, provided or supervised by a licensed professional, which may include all of the following:
 - (H) Mental health services provided or supervised by an appropriately licensed mental health professional may include: assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs. School health centers providing mental health services as specified in this section shall consult with the local county mental health department for collaboration in planning and service delivery. [...]
 - (3) Work in partnership with the school nurse, if one is employed by the school or school district, to provide individual and family health education; school or districtwide health promotion; first aid and administration of medications; facilitation of student enrollment in health insurance programs; screening of students to identify the need for physical, mental health, and oral health services; referral and linkage to services not offered onsite; public health and disease surveillance; and emergency response procedures. A school health center may receive grant funding pursuant to this section if the

school or school district does not employ a school nurse. However, it is not the intent of the Legislature that a school health center serve as a substitute for a school nurse employed by a local school or school district.

(4) Have a written contract or memorandum of understanding between the school district and the health care provider or any other community providers that ensures coordination of services, ensures confidentiality and privacy of health information consistent with applicable federal and state laws, and integration of services into the school environment.

WIC 4343.

The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the Bronzan-McCorquodale program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish throughout the state a school-based primary intervention program designed for the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by child aides or unpaid volunteers under the supervision of mental health professionals. The Legislature recognizes the documented significant improvement of children who have participated in the program over time. The goal of the primary intervention program is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

WIC 4344.

Primary intervention programs shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts, publicly funded preschool programs, and local mental health programs may implement primary intervention programs with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant programs outlined in this chapter.

WIC 4345.

The Director of Mental Health shall develop guidelines for primary intervention programs in accordance with the following:

- (a) School-based programs shall serve children in grades kindergarten through three.
- (b) The programs may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.
- (c) The programs may serve children enrolled in a publicly funded preschool program.
- (d) The programs shall serve children referred by either a screening process, a teacher, school-based mental health professionals, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary intervention programs are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.
- (e) The programs may include a parent involvement component.
- (f) Before acceptance of a child into a primary intervention program, parental consent is required.

WIC 4346.

- (a) Each primary intervention program shall have a core team consisting of school-based mental health professionals, including credentialed school psychologists, school counselors, school social workers, or local mental health program professionals, or a combination thereof, and child aides.
- (b) The school-based mental health professionals shall be responsible for accepting referred children into the program, supervision of the child aides, assignment of a child to an aide, evaluation of progress, and

determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening and assessment test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) Child aides, under supervision of the school-based mental health professional, shall conduct weekly play sessions with children served in the primary intervention programs. Child aides may be salaried school aides, unpaid volunteers or other persons with time and interest in working with young children, and who may be provided stipends to meet expenses.

(d) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary intervention programs. Training shall, at a minimum, include basic child development, crisis intervention, techniques of nondirective play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

WIC 4350.

(a) The role of the school district or preschool in each approved primary intervention program shall be to do all of the following:

- (1) Arrange for mental health professionals based at the program site to supervise program staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.
- (2) Recruit and train child aides.
- (3) Screen and assess children in accordance with guidelines established by the department.
- (4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.
- (5) Provide space and equipment for child aide sessions with children and for staff meetings.
- (6) Establish and maintain program records.
- (7) Prepare program reports in accordance with guidelines established by the department.
- (8) Submit periodic statements of program grant fund expenditures to the local mental health program for reimbursement in accordance with the approved program budget.

(b) The role of the local mental health program in each approved jointly proposed primary intervention program shall be to:

- (1) Administer state program grant funds awarded by the department by contracting with the school district or preschool to provide a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and the school district or preschool as approved by the department.
- (2) Contribute professional staff to the program to do both of the following:
 - (A) Assist the school district or preschool in the recruiting and initial training of child aides.
 - (B) Provide ongoing case consultation and training to the child aides at regular intervals at the program site.
- (3) Ensure access to appropriate mental health treatment services available within the county's program for those children in the program and their families who require services that are beyond the scope and purposes of the primary intervention program.

(c) The role of the State Department of Mental Health in each approved primary intervention program shall be to:

- (1)(A) Develop a contract with the local mental health program for provision of a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and school district or preschool as approved by the department.

(B) Develop contracts with the county superintendent of schools or a school district for provision of a primary intervention program in accordance with this chapter and the proposal submitted by the county superintendent of schools or a school district pursuant to paragraph (3) of subdivision (a) of Section 4348.

(2) Develop contracts with school districts or local mental health programs to permit the establishment of technical assistance centers to support in the timely and effective implementation of the primary intervention programs. Technical assistance centers shall be in districts which have successfully implemented programs over a period of time.

(3) Disburse program grant funds to the local mental health program or county superintendent of schools or school district in accordance with terms of the contract.

(4) Conduct visits to each program site at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of program staff.

(5) Provide for periodic training workshops for program staff.

(6) Establish guidelines for program procedures, screening and assessment of children, records, and reports.

WIC 4380.

Subject to the availability of funding each year, the Legislature authorizes the director, in consultation with the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing programs that provide school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, as follows:

(h) Eligible supportive services may include the following:

(6) Any other service or activity that will improve the mental health of eligible pupils. [...]

(j) Each matching grant application submitted shall include all of the following:

(1) Documentation of need for the school-based early mental health intervention and prevention services.

(2) A description of the school-based early mental health intervention and prevention services expected to be provided at the schoolsite.

(3) A statement of program goals.

(4) A list of cooperating entities that will participate in the provision of services. A letter from each cooperating entity confirming its participation in the provision of services shall be included with the list. At least one letter shall be from a cooperating entity confirming that it will agree to screen referrals of low-income children the program has determined may be in need of mental health treatment services and that, if the cooperating entity determines that the child is in need of those services and if the cooperating entity determines that according to its priority process the child is eligible to be served by it, the cooperating entity will agree to provide those mental health treatment services.

(5) A detailed budget and budget narrative.

(6) A description of the proposed plan for parent involvement in the program.

(7) A description of the population anticipated to be served, including number of pupils to be served and socioeconomic indicators of sites to receive funds.

(8) A description of the matching funds from a combination of local education agencies and cooperating entities.

(9) A plan describing how the proposed school-based early mental health intervention and prevention services program will be continued after the matching grant has expired.

(10) Assurance that grants would supplement and not supplant existing local resources provided for early mental health intervention and prevention services.

(11) A description of an evaluation plan that includes quantitative and qualitative measures of school and pupil characteristics, and a comparison of children's adjustment to school.

(k) Matching grants awarded pursuant to this article may be used for salaries of staff responsible for implementing the school-based early mental health intervention and prevention services program, equipment and supplies, training, and insurance.

(l) Salaries of administrative staff and other administrative costs associated with providing services shall be limited to 5 percent of the state share of assistance provided under this section.

(m) No more than 10 percent of each matching grant awarded pursuant to this article may be used for matching grant evaluation.

(n) No more than 10 percent of the moneys allocated to the director pursuant to this chapter may be utilized for program administration and evaluation.

Program administration shall include both state staff and field staff who are familiar with and have successfully implemented school-based early mental health intervention and prevention services. Field staff may be contracted with by local school districts or community mental health programs. Field staff shall provide support in the timely and effective implementation of school-based early mental health intervention and prevention services. Reviews of each project shall be conducted at least once during the first year of funding.

(o) Subject to the approval of the director, at the end of the fiscal year, a school district may apply unexpended funds to the budget for the subsequent funding year.

(p) Contracts for the program and administration, or ancillary services in support of the program, shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.

WIC 5886.

(a) The Mental Health Student Services Act is hereby established as a mental health partnership competitive grant program for the purpose of establishing mental health partnerships between a county's mental health or behavioral health departments and school districts, charter schools, and the county office of education within the county.

(b) The Mental Health Services Oversight and Accountability Commission shall award grants to county mental health or behavioral health departments to fund partnerships between educational and county mental health entities.

(1) County, city, or multicounty mental health or behavioral health departments, or a consortium of those entities, including multicounty partnerships, may, in partnership with one or more school districts and at least one of the following educational entities located within the county, apply for a grant to fund activities of the partnership:

(A) The county office of education.

(B) A charter school.

(2) An educational entity may be designated as the lead agency at the request of the county, city, or multicounty department, or consortium, and authorized to submit the application. The county, city, or multicounty department, or consortium, shall be the grantee and receive any grant funds awarded pursuant to this section even if an educational entity is designated as the lead agency and submits the application pursuant to this paragraph.

(c) The commission shall establish criteria for the grant program, including the allocation of grant funds pursuant to this section, and shall require that applicants comply with, at a minimum, all of the following requirements:

- (1) That all school districts, charter schools, and the county office of education have been invited to participate in the partnership, to the extent possible.
- (2) That applicants include with their application a plan developed and approved in collaboration with participating educational entity partners and that include a letter of intent, a memorandum of understanding, or other evidence of support or approval by the governing boards of all partners.
- (3) That plans address all of the following goals:
 - (A) Preventing mental illnesses from becoming severe and disabling.
 - (B) Improving timely access to services for underserved populations.
 - (C) Providing outreach to families, employers, primary care health care providers, and others to recognize the early signs of potentially severe and disabling mental illnesses.
 - (D) Reducing the stigma associated with the diagnosis of a mental illness or seeking mental health services.
 - (E) Reducing discrimination against people with mental illness.
 - (F) Preventing negative outcomes in the targeted population, including, but not limited to:
 - (i) Suicide and attempted suicide.
 - (ii) Incarceration.
 - (iii) School failure or dropout.
 - (iv) Unemployment.
 - (v) Prolonged suffering.
 - (vi) Homelessness.
 - (vii) Removal of children from their homes.
 - (viii) Involuntary mental health detentions.
- (4) That the plan includes a description of the following:
 - (A) The need for mental health services for children and youth, including campus-based mental health services, as well as potential gaps in local service connections.
 - (B) The proposed use of funds, which shall include, at a minimum, that funds will be used to provide personnel or peer support.
 - (C) How the funds will be used to facilitate linkage and access to ongoing and sustained services, including, but not limited to, objectives and anticipated outcomes.
 - (D) The partnership's ability to do all of the following:
 - (i) Obtain federal Medicaid or other reimbursement, including Early and Periodic Screening, Diagnostic, and Treatment funds, when applicable, or to leverage other funds, when feasible.
 - (ii) Collect information on the health insurance carrier for each child or youth, with the permission of the child or youth's parent, to allow the partnership to seek reimbursement for mental health services provided to children and youth, where applicable.
 - (iii) Engage a health care service plan or a health insurer in the mental health partnership, when applicable, and to the extent mutually agreed to by the partnership and the plan or insurer.
 - (iv) Administer an effective service program and the degree to which mental health providers and educational entities will support and collaborate to accomplish the goals of the effort.
 - (v) Connect children and youth to a source of ongoing mental health services, including, but not limited to, through Medi-Cal, specialty mental health plans, county mental health programs, or private health coverage.
 - (vi) Continue to provide services and activities under this program after grant funding has been expended.

(d) Grants awarded pursuant to this section shall be used to provide support services that include, at a minimum, all of the following:

- (1) Services provided on school campuses, to the extent practicable.
- (2) Suicide prevention services.
- (3) Drop-out prevention services.
- (4) Outreach to high-risk youth and young adults, including, but not limited to, foster youth, youth who identify as lesbian, gay, bisexual, transgender, or queer, and youth who have been expelled or suspended from school.
- (5) Placement assistance and development of a service plan that can be sustained over time for students in need of ongoing services.

(e) Funding may also be used to provide other prevention, early intervention, and direct services, including, but not limited to, hiring qualified mental health personnel, professional development for school staff on trauma-informed and evidence-based mental health practices, and other strategies that respond to the mental health needs of children and youth, as determined by the commission.

(f) The commission shall determine the amount of grants and shall take into consideration the level of need and the number of schoolage youth in participating educational entities when determining grant amounts.

(g) The commission may establish incentives to provide matching funds by awarding additional grant funds to partnerships that do so.

(h) Partnerships currently receiving grants from the Investment in Mental Health Wellness Act of 2013 (Part 3.8 (commencing with Section 5848.5)) are eligible to receive a grant under this section for the expansion of services funded by that grant or for the inclusion of additional educational entity partners within the mental health partnership.

(i) Grants awarded pursuant to this section may be used to supplement, but not supplant, existing financial and resource commitments of the county, city, or multi-county mental health or behavioral health departments, or a consortium of those entities, or educational entities that receive a grant.

(j)(1) The commission shall develop metrics and a system to measure and publicly report on the performance outcomes of services provided using the grants.

(2)(A) The commission shall provide a status report to the fiscal and policy committees of the Legislature on the progress of implementation of this section no later than March 1, 2022. The report shall address, at a minimum, all of the following:

- (i) Successful strategies.
- (ii) Identified needs for additional services.
- (iii) Lessons learned.
- (iv) Numbers of, and demographic information for, the schoolage children and youth served.
- (v) Available data on outcomes, including, but not limited to, linkages to ongoing services and success in meeting the goals identified in paragraph (3) of subdivision (c).

(B) A report to be submitted pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.

(k) This section does not require the use of funds allocated for the purpose of satisfying the minimum funding obligation under Section 8 of Article XVI of the California Constitution for the partnerships established by this section.

(l) The commission may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis in order to implement this section. Contracts entered into or amended pursuant to this subdivision are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with

Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

(m) This section shall be implemented only to the extent moneys are appropriated in the annual Budget Act or another statute for purposes of this section.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

EDC 44049.

(a) Except as provided in subdivision (c), any principal or person designated by the principal who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a pupil whom he or she knows, or reasonably suspects as evidenced by the pupil's apparent intoxication, has consumed an alcoholic beverage or abused a controlled substance, as listed in Chapter 2 (commencing with Section 11053) of the Health and Safety Code, may report the known or suspected instance of alcohol or controlled substance abuse to the parent or parents, or other person having legal custody, of the student.

(b) No principal or his or her designee who reports a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil shall be civilly or criminally liable, for any report or as a result of any report, unless it can be proven that a false report was made and the principal or his or her designee knew that the report was false or was made with reckless disregard for the truth or falsity of the report. Any principal or his or her designee who makes a report known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.

(c) No principal or person designated by the principal shall report a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil if the report would require the disclosure of confidential information in violation of Section 49602 or 72621.

EDC 48202.

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

EDC 48261.

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

EDC 48900.8.

For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the department, each school district shall specifically identify, by offense committed, in all appropriate official records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in Section 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915.

EDC 48911.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

EDC 48916.1.

(e)(1) Each school district shall maintain the following data:

- (A) The number of pupils recommended for expulsion.
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

EDC 49393

(a) A school official who is alerted to or observes any threat or perceived threat, as described in subdivision (e) of Section 49390, shall immediately report the threat or perceived threat to law enforcement. The report shall include copies of any documentary or other evidence associated with the threat or perceived threat.

(b) When two or more school officials jointly have an obligation to report pursuant to subdivision (a), and when there is agreement among them, the report required by this section may be made by any of them in a single report. A school official who has knowledge that the designated reporting school official has failed to make the single report shall thereafter make the report.

(c) Law enforcement shall keep a record of any report received pursuant to this section.

EDC 56521.1.

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

- (1) The name and age of the individual with exceptional needs.
 - (2) The setting and location of the incident.
 - (3) The name of the staff or other persons involved.
 - (4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.
 - (5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.
- (f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.
- (g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.
- (h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

REGULATIONS

§ 4610. Purpose and scope.

- (e) Nothing in these regulations shall prevent an LEA from using its local uniform complaint procedure to address complaints not described in subsection (b). LEA Investigation Reports on complaints not described in subsection (b) may not be appealed to the CDE.
- (f) These procedures do not apply to complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies and misassignments, except as otherwise indicated. Such complaints are addressed in and governed by sections 4680 through 4687. LEA Investigation Reports on facilities complaints may be appealed to the CDE pursuant to section 4687.
- (g) These procedures do not apply to complaints regarding state preschool health and safety issues in LEAs exempt from licensing, except as otherwise indicated. Such complaints are addressed in and governed by sections 4690 through 4694. LEA Investigation Reports on state preschool health and safety issues in LEAs exempt from licensing may be appealed to the CDE pursuant to section 4694
- (h) The CDE will develop a pamphlet for parents that will explain the Uniform Complaint Procedures in a user-friendly manner and post this pamphlet on the CDE's website.

§ 4622. Notice.

- (a) Each LEA shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties of their LEA complaint procedures and the provisions of this chapter. The notice may be made available on the LEA's website.
- (b) The notice shall:
- (1) Include the title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position, if known;
 - (2) Advise of the opportunity to appeal the LEA Investigation Report to the CDE, except when the LEA has used its local uniform complaint procedures to address a complaint not described in section 4610(b);

- (3) Advise the recipient of any civil law remedies that may also be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code section 262.3;
 - (4) Include the information required by Education Code section 33315(a)(7); and
 - (5) Include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees.
- (c) The notice shall be in English, and when necessary, in the primary language, pursuant to Education Code section 48985, or mode of communication of the recipient of the notice.
- (d) Copies of LEA complaint procedures shall be available free of charge.

§ 4631. Responsibilities of the LEA.

- (a) Upon receipt of a complaint, the LEA person responsible for the investigation of the complaints or that person's designee shall conduct and complete an investigation of the complaint in accordance with the local procedures adopted pursuant to section 4621 and prepare a written LEA Investigation Report. This 60-day time period may be extended with the written agreement of the complainant.
- (b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.
- (c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.
- (d) Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.
- (e) The LEA shall issue an LEA Investigation Report based on the evidence. The LEA Investigation Report shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the LEA, subject to any extension under subsection (a) above. The LEA Investigation Report shall include:
- (1) the findings of fact based on the evidence gathered;
 - (2) conclusion providing a clear determination as to each allegation as to whether the LEA is in compliance with the relevant law; and
 - (3) if the LEA finds merit in the complaint, corrective actions including in the case of complaints related to subsections (a)(1)(I), (J), (K) and (L) of Education Code section 33315, or as otherwise required by law, a remedy to all affected pupils, parents, and guardians. With respect to a pupil fees complaint, corrective actions shall include, a remedy that comports with Education Code section 49013(d) and section 4600(t).
 - (4) notice of the complainant's right to appeal the LEA Investigation Report to the CDE, except when the LEA has used its local uniform complaint procedures to address a complaint not described in section 4610(b); and
 - (5) procedures to be followed for initiating an appeal to the CDE.
- (f) Nothing in this chapter shall prohibit the parties from utilizing alternative methods to resolve the allegations in the complaint, including, but not limited to, local mediation.
- (g) Nothing in this chapter shall prohibit an LEA from resolving complaints prior to the formal filing of a written complaint.

§ 4632. Appeal of LEA investigation report - grounds.

(a) The complainant may appeal an LEA Investigation Report for a complaint described in section 4610(b) to the CDE by filing a written appeal within 30 days of the date of the LEA Investigation Report.

(b) In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

- (1) The LEA failed to follow its complaint procedures, and/or
- (2) Relative to the allegations of the complaint, the LEA Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
- (3) The material findings of fact in the LEA Investigation Report are not supported by substantial evidence, and/or
- (4) The legal conclusion in the LEA Investigation Report is inconsistent with the law, and/or
- (5) In a case in which the LEA found noncompliance, the corrective actions fail to provide a proper remedy.

(c) The appeal shall be accompanied by:

- (1) a copy of the locally filed complaint; and
- (2) a copy of the LEA Investigation Report.

(d) Appeals that do not comply with subsections (a) through (c), or do not pertain to subject matter described in section 4610(b), will not be processed. The CDE will notify the appellant of the deficiencies.

(e) If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the LEA for resolution as a new complaint under section 4630 or 4631.

(f) If the CDE determines that the LEA Investigation Report failed to address an allegation raised by the complaint and subject to the UCP process, the CDE shall notify the LEA of such failure and direct the LEA to investigate and address such allegation(s) in accordance with this chapter. The LEA must provide both the CDE and the appellant with an amended investigation report that addresses the complaint allegation(s) that was not addressed in the original Investigation Report within 20 days of such notification. The amended report must also inform the appellant of the right to separately appeal, in accordance with this section, the amended investigation report with respect to the complaint allegation(s) that was not addressed in the original report. The CDE will proceed with its resolution of the appeal of the LEA Investigation Report as to allegations that have been addressed even while, at the same time, the LEA is preparing an amended investigation report as to any allegation(s) that the CDE identified as not having been addressed.

§ 4633. Appeal of LEA investigation report.

(a) If the LEA Investigation Report is appealed and meets the requirements of section 4632, subdivisions (a) through (c), the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the LEA Investigation Report has been appealed, the LEA shall forward the following to the CDE within 10 days of the date of notification:

- (1) A copy of the original complaint;
- (2) A copy of the LEA Investigation Report;
- (3) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (4) A report of any action taken to resolve the complaint;
- (5) A copy of the LEA complaint procedures; and
- (6) Such other relevant information as the CDE may request.

An LEA's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the LEA.

(b) In deciding an appeal, the CDE shall not consider any information not previously presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE, to the extent permitted by law.

(c) The CDE may contact the parties for further information, if necessary.

(d) The CDE shall review the investigation file, the complaint procedures, documents and any other evidence received from the LEA and determine whether:

(1) The LEA followed its complaint procedures;

(2) The LEA Investigation Report includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal;

(3) The material findings of fact in the LEA Investigation Report are supported by substantial evidence;

(4) The LEA Investigation Report includes a legal conclusion(s) that is consistent with the law; and

(5) In a case in which the LEA found noncompliance, the corrective actions provide a proper remedy.

(e) If the CDE determines that the LEA Investigation Report meets the criteria in subsection (d) above, the appeal shall be denied.

(f) If the CDE determines that the LEA Investigation Report is deficient because it does not meet the criteria in subsection (d) above, the CDE may:

(1) Notify the LEA of such deficiencies and return the LEA Investigation Report to the LEA for further processing and instruct the LEA to provide both the CDE and the complainant with an amended Investigation Report within 20 days of such notification, which amended report must inform the complainant of the right to appeal in accordance with section 4632.; or

(2) Issue a Decision based on the evidence in the investigation file received from the LEA; or

(3) Conduct a further investigation of the allegations which are the basis for the appeal and issue a Decision.

(g) An appeal decision issued by the CDE shall include the following:

(1) A finding that the LEA complied or did not comply with its complaint procedures;

(2) The CDE's determination as to the LEA's findings of fact and conclusions of law regarding the issue on appeal; and

(3) Corrective actions as appropriate and including a remedy to the affected pupil, or in the case of complaints related to subsections (a)(1)(I), (a)(1)(J), (a)(1)(K), and (a)(1)(L) of Education Code section 33315 , or as otherwise required by law, a remedy to all affected pupils, parents, and guardians. With respect to a pupil fee complaint, corrective actions shall include a remedy that comports with Education Code section 49013(d) and section 4600(t).

(h) The CDE must issue a written Decision regarding an appeal-to the appellant within 60 days of the CDE's receipt of the appeal, unless extended by written agreement with the appellant, or the CDE documents exceptional circumstances and informs the appellant, or the CDE receives notice that the matter has been resolved at the local level, or the CDE receives notice that the matter has been judicially decided.

§ 4640. Filing a state complaint that has not first been filed at the Local Educational Agency (LEA); time lines, notice, appeal rights.

(a) If a complaint is erroneously filed with the CDE without first being filed with and investigated by the LEA, the CDE shall immediately forward the complaint to the LEA for processing in accordance with article 4 of this chapter, unless extraordinary circumstances exist necessitating direct state intervention as described at section 4650.

(b) The CDE will notify the complainant in writing that:

- (1) The CDE does not have jurisdiction, at this time, over the complaint and that the complaint should have been filed with the LEA in the first instance;
- (2) That the complaint has been transferred to the LEA requesting the LEA to process and investigate the allegation in the complaint; and
- (3) That the complainant may file an appeal to the CDE following the issuance of the LEA Investigation Report, pursuant to section 4632.

§ 4650. Basis of direct state intervention.

(a) The CDE may at its discretion directly intervene without waiting for an LEA investigation if one or more of the following situations exist:

- (1) The complaint includes an allegation that an LEA failed to comply with the complaint procedures required by this chapter and its local rules and regulations, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation;
- (2) The complainant requests anonymity because the complainant would be in danger of retaliation and would suffer immediate and irreparable harm if the complainant filed a complaint with the LEA (except for complaints identified in section 4630(e), which may be filed anonymously at the local level);
- (3) The complainant alleges that the LEA failed or refused to implement the final LEA Investigation Report resulting from its local investigation or local mediation agreement or a CDE appeal Decision;
- (4) The complainant alleges that through no fault of the complainant, no action has been taken by the LEA within 60 calendar days of the date the complaint was filed. Prior to direct intervention, the CDE shall attempt to work with the LEA to allow it to complete the investigation and issue an LEA Investigation Report; or
- (5) The complainant alleges that the complainant would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this chapter, and that filing a complaint with the LEA would be futile.

(b) The CDE shall directly intervene without waiting for LEA investigation if the complaint alleges that an agency that is not an LEA violated laws relating to a Child Care and Development program;

(c) The complaint shall identify the basis, as described in subdivision (a) or subdivision (b) above, for filing the complaint directly to the CDE. The complainant must present the CDE with evidence that supports the basis for the direct filing.

§ 4651. Notification.

(a) When the Department accepts, a complaint requesting direct state intervention pursuant to section 4650, it will immediately notify the complainant in writing of the determination. If the complaint is not accepted, it shall be referred to the LEA for local investigation, or referred to another agency pursuant to section 4611.

(b) When the CDE declines direct intervention for a complainant who requests anonymity pursuant to section 4650(a)(2), the CDE will not forward the complaint to the LEA pursuant to section 4640 without the complainant's permission.

§ 4664. Department investigation report.

(a) In cases of direct state intervention, the CDE shall issue a Department Investigation Report. The Department Investigation Report shall include the following:

- (1) A summary of the allegations in the complaint;
- (2) A description of the general procedures of the investigation;
- (3) Citations of applicable law and regulations;
- (4) Department findings of facts;
- (5) Department conclusions;

- (6) Corrective actions for the LEA or other public agency as defined in section 3200, if applicable;
 - (7) Time line for corrective actions, if applicable;
 - (8) Notice that any party may request reconsideration of the Department Investigation Report from the Superintendent within 30 days of the date of the report;
 - (9) For those federal programs for which there is a right to appeal to the United States Secretary of Education, the parties shall be notified of that right.
- (b) The CDE must issue a written Department Investigation Report to the complainant within 60 days of receipt of the complaint, unless the parties have agreed to extend the time line or the CDE documents exceptional circumstances and informs the complainant, or the matter has been resolved at the local level or judicially decided.

§ 4665. Reconsideration of department investigation report.

(a) Within 30 days of the date of the Department Investigation Report, either party may request reconsideration by the Superintendent or the Superintendent's designee. The request for reconsideration shall specify and explain why:

- (1) Relative to the allegation(s), the Department Investigation Report lacks material findings of fact necessary to reach a conclusion of law on the subject of the complaint, and/or
- (2) The material findings of fact in the Department Investigation Report are not supported by substantial evidence, and/or
- (3) The legal conclusion in the Department Investigation Report is inconsistent with the law, and/or
- (4) In a case in which the CDE found noncompliance, the corrective actions fail to provide a proper remedy.

(b) In evaluating or deciding on a request for reconsideration, the CDE will not consider any information not previously submitted to the CDE by a party during the investigation unless such information was unknown to the party at time of the investigation and, with due diligence, could not have become known to the party. This prohibition does not prohibit the CDE from seeking and obtaining information from any source necessary to issue an accurate Department Investigation Report.

(c) Within 60 days of the receipt of the request for reconsideration, the Superintendent or the Superintendent's designee shall respond in writing to the parties. Such response may include a denial of the request for reconsideration, or modifications to the Department Investigation Report necessary to ensure factual and legal accuracy. Pending the Superintendent's response to a request for reconsideration, the Department Investigation Report remains in effect and enforceable, unless stayed by a court.

(d) Appeals from investigations of complaints involving Child Development contractors, whether public or private, shall be made to the Superintendent of Public Instruction as provided in subsection (a) except as otherwise provided in division 19 of title 5 of the Code of California Regulations.

(e) For those federal programs for which there is a right to appeal to the United States Secretary of Education, the parties shall be notified of that right.

Parental Notification

LAWS

EDC 48213.

If a pupil is excluded from attendance pursuant to Section 120230 of the Health and Safety Code or Section 49451 of this code, or if a principal or his or her designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety, or health of a pupil or school personnel, the governing board is not required to send prior notice of the exclusion to the parent or

guardian of the pupil. The governing board shall send a notice of the exclusion as soon as is reasonably possible after the exclusion.

EDC 48240.

(a) The governing board of each school district and each county superintendent of schools shall appoint a supervisor of attendance and any assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the school district or county. The governing board of the school district or county superintendent of schools shall prescribe the duties of the supervisor of attendance and assistant supervisors of attendance to include, among other duties that may be required, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of the attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48640) of Chapter 4.

(b) It is the intent of the Legislature that in performing his or her duties, the supervisor of attendance promote a culture of attendance and establish a system to accurately track pupil attendance in order to achieve all of the following:

- (1) Raise the awareness of school personnel, parents, guardians, caregivers, community partners, and local businesses of the effects of chronic absenteeism and truancy and other challenges associated with poor attendance.
- (2) Identify and respond to grade level or pupil subgroup patterns of chronic absenteeism or truancy.
- (3) Identify and address factors contributing to chronic absenteeism and habitual truancy, including suspension and expulsion.
- (4) Ensure that pupils with attendance problems are identified as early as possible to provide applicable support services and interventions.
- (5) Evaluate the effectiveness of strategies implemented to reduce chronic absenteeism rates and truancy rates.

(c) When a pupil with a temporary disability, as defined in Section 48206.3, is receiving individual instruction in the home or a hospital or other residential health facility, the supervisor of attendance shall ensure that absences from the pupil's regular school program are excused until the pupil is able to return to the regular school program.

(d) The supervisor of attendance may provide support services and interventions, which may include, but are not limited to, any or all of the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Promoting cocurricular and extracurricular activities that increase pupil connectedness to school, such as tutoring, mentoring, the arts, service learning, or athletics.
- (3) Recognizing pupils who achieve excellent attendance or demonstrate significant improvement in attendance.
- (4) Referral to a school nurse, school counselor, school psychologist, school social worker, and other pupil support personnel for case management and counseling.
- (5) Collaboration with child welfare services, law enforcement, courts, public health care agencies, or government agencies, or medical, mental health, and oral health care providers to receive necessary services.
- (6) Collaborating with school study teams, guidance teams, school attendance review teams, or other intervention-related teams to assess the attendance or behavior problem in partnership with the pupil and his or her parents, guardians, or caregivers.
- (7) In schools with significantly higher rates of chronic absenteeism, identify barriers to attendance that may require schoolwide strategies rather than case management.

(8) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program for an individual with exceptional needs, as that term is defined in Section 56026, or plan adopted for a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(9) Referral to a school attendance review board established by the county or by a school district pursuant to Section 48321 or to the probation department pursuant to Section 48263.

(10) Referral to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Section 48260.6.

EDC 48260.5.

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

(a) That the pupil is truant.

(b) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(c) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with Section 48290).

(d) That alternative educational programs are available in the school district.

(e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

(f) That the pupil may be subject to prosecution under Section 48264.

(g) For a pupil under 18 years of age but 13 years of age or older, that the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

(h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

EDC 48262.

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

EDC 48263.

(a) If a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined in Section 60901, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. The school district supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall provide documentation of the interventions undertaken at the school to the pupil, the pupil's parents or guardians, and the school attendance review board or probation department and shall notify the pupil and parents or guardians of the pupil, in writing, of the name and address of the school attendance review board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

(b)(1) If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the school attendance review board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(2) If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section.

(c) In any county that has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

EDC 48263.5.

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

EDC 48266.

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

EDC 48900.1.

(a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a schoolday in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

The adopted policy shall include the procedures that the district will follow to accomplish the following:

(1) Ensure that parents or guardians who attend school for the purposes of this section meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the schoolsite.

(2) Contact parents or guardians who do not respond to the request to attend school pursuant to this section.

(c) If a teacher imposes the procedure pursuant to subdivision (a), the principal shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. This section shall apply only to a parent or guardian who is actually living with the pupil.

(d) A parent or guardian who has received a written notice pursuant to subdivision (c) shall attend class as specified in the written notice. The notice may specify that the attendance of the parent or guardian be on the day the pupil is scheduled to return to class, or within a reasonable period of time thereafter, as established by the policy of the board adopted pursuant to subdivision (a).

EDC 48904.

(a)(1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000), adjusted annually for inflation. The parent or guardian shall be liable also for the amount of any reward not exceeding ten thousand dollars (\$10,000), adjusted annually for inflation, paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the school district or private school authorized to make the demand.

(2) The Superintendent annually shall compute an adjustment of the liability limits prescribed by this subdivision to reflect the percentage change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustment shall be rounded to the nearest one hundred dollars (\$100).

(b)(1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the school district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

(2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

EDC 48906.

When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165.6 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

EDC 48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

EDC 48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

EDC 48911.

(a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required under Section 48900.5, and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

(f)(1) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

(2) No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools or other person designated by the district superintendent of schools in writing may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional

process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

EDC 48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

EDC 48912.

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the

written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

EDC 48914.

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

EDC 48929.

Notwithstanding any other law, the governing board of a school district may transfer to another school in that school district a pupil enrolled in that school district who has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, or convicted of a misdemeanor listed in Section 29805 of the Penal Code if the pupil to be transferred and the victim of the crime for which the pupil was convicted are enrolled at the same school, subject to satisfaction of both of the following conditions:

(a) The governing board of the school district has adopted a policy at a regularly scheduled meeting that contains all of the following provisions:

(1) A requirement that the pupil and pupil's parent or guardian be notified of the right to request a meeting with the school principal or designee of the school or school district.

(2) A requirement that the school first attempt to resolve the conflict before transferring a pupil, including, but not limited to, using restorative justice, counseling, or other services.

(3) Whether the decision to transfer a pupil is subject to periodic review and the procedure for conducting the review.

(4) The process to be used by the governing board of the school district to consider and approve or disapprove of the recommendation of the school principal or other school or school district designee to transfer the pupil.

(b) The governing board of the school district has provided notice of the policy to parents or guardians as part of the annual notification required pursuant to Section 48980.

EDC 49332.

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

EDC 56521.1.

(a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. [...]

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral

emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

- (1) The name and age of the individual with exceptional needs.
- (2) The setting and location of the incident.
- (3) The name of the staff or other persons involved.
- (4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.
- (5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

EDC 33126.

(a) The school accountability report card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on the school in which to enroll his or her children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(10) Suspension and expulsion rates for the most recent three-year period. [...]

(c) If the Commission on State Mandates finds a school district is eligible for a reimbursement of costs incurred complying with this section, the school district shall be reimbursed only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Section 41020. If the information is determined to be inaccurate, the school district remains eligible for reimbursement if the information is corrected by May 15.

(d) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

EDC 48202.

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

EDC 48273.

The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

EDC 48911.2.

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

EDC 48916.1.

(e)(1) Each school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the

governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

EDC 52060.

(a) On or before July 1, 2014, the governing board of each school district shall adopt a local control and accountability plan using a template adopted by the state board.

(b) A local control and accountability plan adopted by the governing board of a school district shall be effective for a period of three years, and shall be updated on or before July 1 of each year.

(c) A local control and accountability plan adopted by the governing board of a school district shall include, for the school district and each school within the school district, all of the information specified in the template adopted by the state board pursuant to Section 52064. [...]

(d) All of the following are state priorities for purposes of a school district's local control and accountability plan:

(5) Pupil engagement, as measured by all of the following, as applicable:

- (A) School attendance rates.
- (B) Chronic absenteeism rates.
- (C) Middle school dropout rates.
- (D) High school dropout rates.
- (E) High school graduation rates.

(6) School climate, as measured by all of the following, as applicable:

- (A) Pupil suspension rates.
- (B) Pupil expulsion rates.
- (C) Other local measures, including surveys of pupils, parents, and teachers on the sense of safety and school connectedness. [...]

(e) For purposes of the descriptions required by subdivision (b) of Section 52064, the governing board of a school district may consider qualitative information, including, but not limited to, findings that result from school quality reviews conducted pursuant to subdivision (b) of Section 52052 or any other reviews.

(f) To the extent practicable, data reported in a local control and accountability plan shall be reported in a manner consistent with how information is reported on the California School Dashboard maintained by the department pursuant to Section 52064.5.

(g) The governing board of a school district shall consult with teachers, principals, administrators, other school personnel, local bargaining units of the school district, parents, and pupils in developing a local control and accountability plan.

(h) A school district may identify local priorities, goals in regard to the local priorities, and the method for measuring the school district's progress toward achieving those goals.

EDC 52066.

(d) All of the following are state priorities for purposes of a county board of education's local control and accountability plan:

(5) Pupil engagement, as measured by all of the following, as applicable:

(A) School attendance rates.

(B) Chronic absenteeism rates. [...]

(6) School climate, as measured by all of the following, as applicable:

(A) Pupil suspension rates.

(B) Pupil expulsion rates.

EDC 60901.

(a) Contingent upon the receipt of federal funds for this purpose, the department, in consultation with the Department of Finance and the Legislative Analyst's Office, shall prepare the California Longitudinal Pupil Achievement Data System established pursuant to Section 60900 to include data on a quarterly rate of pupil attendance. Preparation shall include all of the following:

(1) The addition of fields to facilitate the transfer of data.

(2) System development activities including any business rules and definitions that would be needed to improve the quality and consistency of the data.

(3) Processes for the transfer of data from local educational agencies.

(4) Consultation with organizations representing school, district, and county education administrators, classified and certified staff, and parents in order to develop the criteria and frequency of reports on pupil attendance data and other indicators as may be submitted by local educational agencies.

(b) The system shall support local educational agencies in their efforts to identify and support pupils at risk of dropping out and shall be capable of issuing to local educational agencies periodic reports that include, but may not be limited to, district, school, class, and individual pupil reports on both of the following:

(1) Rates of absence.

(2) Chronic absentees.

(c)(1) For purposes of this section, "chronic absentee" means a pupil who is absent on 10 percent or more of the schooldays in the school year when the total number of days a pupil is absent is divided by the total number of days the pupil is enrolled and school was actually taught in the regular day schools of the district, exclusive of Saturdays and Sundays.

(2) Once available, chronic absentee rates shall be incorporated into the annual report on dropouts required pursuant to Section 48070.6.

(d) It is the intent of the Legislature to support the development of early warning systems to enable the identification and support of individual pupils who are at risk of academic failure or dropping out of school. The systems shall encompass the following characteristics:

(1) The utilization of highly predictive indicators, including attendance, course grades or completion, performance on assessments of pupil achievement, suspensions, and expulsions.

(2) A thorough validation process to ensure the predictive reliability of the systems.

(3) Periodic reports that inform principals, teachers, and parents in a manner that enables timely identification and support of individual pupils who are at risk of academic failure or dropping out.

(e) When the system established pursuant to Section 60900 is prepared to accept data on a quarterly rate of pupil attendance, a local educational agency may submit data to the department on a quarterly rate of pupil attendance and other indicators as identified by the department. It is the intent of the Legislature that schools identified on the list of persistently lowest-achieving schools will fully utilize the early warning systems described in subdivision (d).

(f) A local educational agency that reports attendance data for pupils to the system established pursuant to Section 60900 may request, and the department shall provide, the early warning report described in subdivision (d) up to four times each school year.

(g) The department shall notify local educational agencies that reporting pupil attendance and chronic absentee data pursuant to this section is voluntary. The notice shall include a description of the benefits of reporting pupil attendance and chronic absentee data in fostering the development of effective supports and interventions for at-risk pupils.

(h) This section shall not be implemented unless federal funds are appropriated specifically for the purposes of this section.

REGULATIONS

§ 700. Definitions.

(a) "Aggregated data," means the information contained on all of the completed California Safe Schools Assessment School Crime and Incident Reporting Forms (July 1, 2001) collected during each reporting period by the school district or county office of education from each school, program, or camp within the jurisdiction of the superintendent of the respective school district or county office of education.

§ 701. School crime and incident reporting procedures.

(a) All school district superintendents and county office of education superintendents who operate educational programs are required to submit to the California Department of Education safe school assessment reports that contain specific numerical data on the incidents of crime, including hate crimes or hate motivated incidents, occurring on their respective school campuses. Each school district or county office of education shall utilize the following procedure to report crime and hate motivated incident data from school or program sites to the respective school district or county office of education superintendent, and to the California Department of Education:

(1) Each administrator of a school site or county office of education program, or designee, shall complete a California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for each incident of crime, including hate crime or hate motivated incidents. The information on the form includes, but is not limited to, identification of the crime or hate motivated incident, victim characteristics, suspect characteristics, if known at the time of the incident, and the actual or estimated dollar loss to the school district or county office of education resulting from a criminal act directed against property of the school district or county office of education. The site or program administrator shall use the crime and hate motivated incident classification definitions as specified above in Section 700(b) and (d) and the reporting guidelines as specified below in Section 702(a) to determine if a crime or an incident is reportable for the purposes of the Safe Schools Assessment Program.

(2) The site or program administrator, or designee, shall retain on file for not less than three years the individual reports of crimes and hate motivated incidents on which the aggregate data is based, and any other required documentation, as specified below in Section 702(b).

(3) Each month the data regarding reportable school crimes and hate motivated incidents shall be reported to the designated person at the respective school district or county office of education.

(4) Any school district that has its own police department may have the chief of its police force or other administrator of the police department prepare the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for its schools and submit the aggregated data to the California Department of Education.

(5) On or before February 1 and August 1 of each year, the respective school district or county office of education superintendent, or designee, shall aggregate the school crime and hate motivated incident data reported by schools or programs within their jurisdiction and report the aggregated data to the California Department of Education.

(6) Beginning February 1, 1997 and thereafter, if a school district or county office of education chooses to submit its data to the California Department of Education in an electronic format, it must do so in a format designated by the California Department of Education. For the purposes of this section, an electronic format includes, computer disk, modem transfer, or other electronic means.

(b) Reportable crimes and hate motivated incidents occurring at a school in the jurisdiction of another school district or county office of education shall be reported by the education agency in which the crime or hate motivated incident occurred.

§ 702. Guidelines for reporting and required documentation.

Site or program administrators and school district and county office of education superintendents shall use (1) crime and hate motivated incident classifications based on existing statutes, as specified above in Section 700(b) and (d), (2) reporting guidelines as specified in subsection (a) below, and (3) guidelines for required documentation as specified in subsection (b) below to complete the reporting procedures as specified above in Section 701.

(a) Reporting guidelines

The site or program administrator or designee shall report a crime or hate motivated incident when it has been determined that a reportable crime or hate motivated incident, as specified above in Section 700(b) and (d), has been committed on a school location, as specified above in Section 700(f). If more than one crime or hate motivated incident is committed during an occurrence, the most serious crime or incident in the judgment of the site or program administrator or designee shall be reported. The suspect(s) need not be apprehended for a crime or hate motivated incident to be reportable. The site or program administrator or designee may consult with local law enforcement to confirm that the occurrences reported on the forms are crimes or hate motivated incidents as defined in statute.

(b) Required documentation

The school district or county office of education superintendent responsible for reporting school crime and hate motivated incident data shall make available, for not less than three years from the date the report was submitted, supporting data which verifies information contained on the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001). Such data shall include, but not be limited to, reports to local law enforcement officers and suspension and expulsion reports which have been reported to the respective local governing board, for the crime classifications specified in Education Code section 48915(a) through (d); and insurance claims, maintenance records, and other documents to verify economic loss, if applicable. In addition, staff should be available to participate in interviews during site visits from the California Department of Education.

§ 704. Certification of report.

Each school district or county office of education superintendent or designee shall certify to the best of their knowledge and belief that the information in each crime and hate motivated incident reporting form is true, accurate, and complete prior to submission to the California Department of Education.

§ 705. Failure to submit or intentionally submitting misleading data.

School districts or county offices of education failing to submit a report or intentionally submitting misleading data may be sanctioned by the Superintendent of Public Instruction. The sanction is withholding a dollar amount not to exceed one-half of the annual salary of the superintendent of either the reporting school district or the county office of education from the school district's or county office of education's next state funding apportionment.

§ 11992. Provisions.

(a) A California public elementary or secondary school is "persistently dangerous" if, in each of three consecutive fiscal years, one of the following criteria has been met:

- (1) For a school of fewer than 300 enrolled students, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than three.

(2) For a larger school, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than one per 100 enrolled students or a fraction thereof.

(b) Applicable violations include:

- (1) Assault or battery upon a school employee (Education Code section 48915(a)(5));
- (2) Brandishing a knife (Education Code section 48915(c)(2));
- (3) Causing serious physical injury to another person, except in self-defense (Education Code section 48915(a)(1));
- (4) Hate violence (Education Code section 48900.3);
- (5) Possessing, selling or furnishing a firearm (Education Code section 48915(c)(1));
- (6) Possession of an explosive (Education Code section 48915(c)(5));
- (7) Robbery or extortion (Education Code section 48915(a)(4));
- (8) Selling a controlled substance (Education Code section 48915(c)(3)); and
- (9) Sexual assault or sexual battery (Education Code section 48915(c)(4)).

(c) In instances where a student committed a violation enumerated in subsection (b) for which expulsion proceedings would have been instituted, but is no longer a student and therefore cannot be expelled, that violation must be reported in the total number of incidents and expulsions referenced in subsection (a).

§ 11993. Definitions.

(k) An "incident" of a firearm violation by non-student(s) for the purpose of section 11992 is an event on school grounds during school hours, or at a school-sponsored activity, involving a person or persons not enrolled in the school who unlawfully brings or possesses a handgun, rifle, shotgun, or other type of firearm. An event shall be counted as a single incident when it happens at the same time in the same location, regardless of the number of non-students involved. School site administrators or designees are responsible for documenting the incident and reporting the incident to the local educational agency (LEA) staff who are responsible for collecting expulsion data.

§ 11994. Data collection.

Local educational agencies (LEAs) will submit to the California Department of Education (CDE) the number of incidents of non-student firearm violations and student expulsions specified in section 11992 above for determining persistently dangerous schools. The CDE will use the information collected to determine if a school site meets the criteria in this subchapter. If an LEA contests the CDE's determination that one or more of its schools is persistently dangerous, the LEA may appeal that determination to the State Board of Education based on incorrect data or circumstances that caused the school to be identified as persistently dangerous, but actually increased student and teacher safety at the school.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

EDC 32281.

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b)(1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency, a fire department, and other first responder entities in the writing and development of the comprehensive school safety plan. The comprehensive school safety plan and any updates to the plan shall be shared with the law enforcement agency, the fire department, and the other first responder entities.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) This article does not limit or take away the authority of school boards as guaranteed under this code.

(d)(1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

(2) As used in this article, "small school district" means a school district that has fewer than 2,501 units of average daily attendance at the beginning of each fiscal year.

(e)(1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular workday after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) This subdivision does not create any liability in a school district or its employees for complying with paragraph (1).

(f)(1) Notwithstanding subdivision (b), a school district or county office of education may, in consultation with law enforcement officials, elect to not have its schoolsite council develop and write those portions of its comprehensive school safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the schoolsite. The portions of a comprehensive school safety plan that include tactical responses to criminal incidents may be developed by administrators of the school district or county office of education in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of employees of that school district or county office of education, if he or she chooses to participate. The school district or county office of education may elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents.

(2) As used in this article, "tactical responses to criminal incidents" means steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrator or perpetrators.

(3) This subdivision does not preclude the governing board of a school district or county office of education from conferring in a closed session with law enforcement officials pursuant to Section 54957 of the Government Code to approve a tactical response plan developed in consultation with those officials pursuant to this subdivision. Any vote to approve the tactical response plan shall be announced in open session following the closed session.

(4) This subdivision does not reduce or eliminate the requirements of Section 32282.

EDC 48240.

(a) The governing board of each school district and each county superintendent of schools shall appoint a supervisor of attendance and any assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the school district or county. The governing board of the school district or county superintendent of schools shall prescribe the duties of the supervisor of attendance and assistant supervisors of attendance to include, among other duties that may be required, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of the attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48640) of Chapter 4.

(b) It is the intent of the Legislature that in performing his or her duties, the supervisor of attendance promote a culture of attendance and establish a system to accurately track pupil attendance in order to achieve all of the following:

(1) Raise the awareness of school personnel, parents, guardians, caregivers, community partners, and local businesses of the effects of chronic absenteeism and truancy and other challenges associated with poor attendance.

(2) Identify and respond to grade level or pupil subgroup patterns of chronic absenteeism or truancy.

(3) Identify and address factors contributing to chronic absenteeism and habitual truancy, including suspension and expulsion.

(4) Ensure that pupils with attendance problems are identified as early as possible to provide applicable support services and interventions.

(5) Evaluate the effectiveness of strategies implemented to reduce chronic absenteeism rates and truancy rates.

(c) When a pupil with a temporary disability, as defined in Section 48206.3, is receiving individual instruction in the home or a hospital or other residential health facility, the supervisor of attendance shall ensure that absences from the pupil's regular school program are excused until the pupil is able to return to the regular school program.

(d) The supervisor of attendance may provide support services and interventions, which may include, but are not limited to, any or all of the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Promoting cocurricular and extracurricular activities that increase pupil connectedness to school, such as tutoring, mentoring, the arts, service learning, or athletics.
- (3) Recognizing pupils who achieve excellent attendance or demonstrate significant improvement in attendance.
- (4) Referral to a school nurse, school counselor, school psychologist, school social worker, and other pupil support personnel for case management and counseling.
- (5) Collaboration with child welfare services, law enforcement, courts, public health care agencies, or government agencies, or medical, mental health, and oral health care providers to receive necessary services.
- (6) Collaborating with school study teams, guidance teams, school attendance review teams, or other intervention-related teams to assess the attendance or behavior problem in partnership with the pupil and his or her parents, guardians, or caregivers.
- (7) In schools with significantly higher rates of chronic absenteeism, identify barriers to attendance that may require schoolwide strategies rather than case management.
- (8) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program for an individual with exceptional needs, as that term is defined in Section 56026, or plan adopted for a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).
- (9) Referral to a school attendance review board established by the county or by a school district pursuant to Section 48321 or to the probation department pursuant to Section 48263.
- (10) Referral to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Section 48260.6.

EDC 48246.

The attendance supervisor, who is a full-time attendance supervisor performing no other duties, of any county, city and county, or school district in which any place of employment is situated, or the probation officer of the county, may at any time enter into any such place of employment for the purpose of examining permits to work or to employ of all minors employed in such place of employment, or for the purpose of investigating violations of the provisions of the Labor Code or of the provisions of this chapter, or Chapter 7 (commencing with Section 49100) of this part. If the attendance supervisor or probation officer is denied entrance to such place of employment, or if any violation of laws relating to the education of minors is found to exist, the attendance supervisor or probation officer shall report the denial of entrance or the violation to the Labor Commissioner. Such report shall be made within 48 hours and shall be in writing, setting forth the fact that he has good cause to believe that such laws are being violated in such place of employment and describing the nature of the violation.

EDC 48260.6.

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

- (1) The name of each pupil who has been classified as a truant.
- (2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

EDC 48263.

(a) If a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined in Section 60901, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. The school district supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall provide documentation of the interventions undertaken at the school to the pupil, the pupil's parents or guardians, and the school attendance review board or probation department and shall notify the pupil and parents or guardians of the pupil, in writing, of the name and address of the school attendance review board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

(b)(1) If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the school attendance review board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(2) If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section.

(c) In any county that has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the

district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

EDC 48263.5.

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

EDC 48267.

Any pupil who has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in any of grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

EDC 48269.

If the parent, guardian, or other person having control or charge of the pupil, within three days after the rendition of the judgment executes a bond to the governing board of the school district in the sum of two hundred dollars (\$200), conditioned that the pupil will, during the remainder of the current school year, regularly attend a public or private school in the city, or city and county, or school district, the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be filed with the secretary of the board of education, or clerk of the board of trustees. All money paid or collected on the bond shall be paid into the county treasury as provided in Section 41001.

EDC 48321.

(a)(1) A county school attendance review board may be established in each county. The county school attendance review board may accept referrals or requests for hearing services from one or more school districts within its jurisdiction pursuant to subdivision (f). A county school attendance review board may be operated through a consortium or partnership of a county with one or more school districts or between two or more counties.

(2) A county school attendance review board, if established, shall include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

(F) A representative of law enforcement agencies.

(G) A representative of community-based youth service centers.

(H) A representative of school guidance personnel.

(I) A representative of child welfare and attendance personnel.

(J) A representative of school or county health care personnel.

(K) A representative of school, county, or community mental health personnel.

(L) A representative of the county district attorney's office. If more than one county is represented in a county school attendance review board, a representative from each county's district attorney's office may be included.

(M) A representative of the county public defender's office. If more than one county is represented in a county school attendance review board, a representative from each county's public defender's office may be included.

(3) Notwithstanding paragraph (2), for purposes of conducting hearings, the chairperson of the county school attendance review board is authorized to determine the members needed at a hearing, based on the needs of the pupil, in order to address attendance or behavioral problems.

(4) The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(5)(A) If a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for purposes of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(B) Notwithstanding subparagraph (A), for purposes of conducting hearings, a county school attendance review board may meet as needed.

(b)(1) Local school attendance review boards may include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

- (F) A representative of law enforcement agencies.
- (G) A representative of community-based youth service centers.
- (H) A representative of school guidance personnel.
- (I) A representative of child welfare and attendance personnel.
- (J) A representative of school or county health care personnel.
- (K) A representative of school, county, or community mental health personnel.
- (L) A representative of the county district attorney's office. If more than one county is represented in a local school attendance review board, a representative from each county's district attorney's office may be included.
- (M) A representative of the county public defender's office. If more than one county is represented in a county school attendance review board, a representative from each county's public defender's office may be included.

(2) Other persons or group representatives shall be appointed by the county board of education.

(c) A county school attendance review board may elect, pursuant to regulations adopted pursuant to Section 48324, one member as chairperson with responsibility for coordinating services of the county school attendance review board.

(d) A county school attendance review board may provide for the establishment of local school attendance review boards in any number as shall be necessary to carry out the intent of this article.

(e) In any county in which there is no county school attendance review board the governing board of a school district may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

(f) A county school attendance review board may provide guidance to local school attendance review boards.

(g) If the county school attendance review board determines that the needs of pupils, as defined in this article, can best be served by a single board, the county school attendance review board may then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that school district.

(h) This article is not intended to prohibit an agreement on the part of counties to provide these services on a regional basis.

EDC 48321.5.

(a) In every case in which a minor pupil has been referred to it under Section 48263, each county or local school attendance review board may, for the purpose of making a proper disposition of the referral, issue subpoenas pursuant to the procedures provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure and subject to subdivision (f), or may request the juvenile court having jurisdiction to issue subpoenas, requiring the production of pertinent or material written information or the attendance of any of the following persons:

- (1) The minor.
- (2) The minor's parents, guardians, or other person having control of the minor.
- (3) The school authority referring the minor.
- (4) Any other person who has pertinent or material information concerning the matter.

(b) The juvenile court may issue subpoenas requiring the attendance of witnesses or the production of pertinent or material written information, subject to Section 1985 of the Code of Civil Procedure.

(c) Enforcement of a subpoena issued by a county or local school attendance review board is within the jurisdiction of the juvenile court. The juvenile court does not have jurisdiction to order detention in any secure facility or other confinement for failure to comply with a subpoena issued pursuant to this section.

(d) Nothing in this section shall be construed to authorize a county or local school attendance review board to issue a subpoena for the production of written materials or the attendance of any person except as specifically provided in subdivision (a) with respect to the limited purpose of making a proper disposition of the referral of a minor pupil made pursuant to Section 48263.

(e) Nothing in this section shall be construed to authorize a county or local school attendance review board to issue a subpoena or request a subpoena to be issued for the production of written materials or the attendance of any person if it is verified that the minor pupil is enrolled and in regular attendance in a private school maintaining kindergarten or any of grades 1 to 12, inclusive, that has filed an affidavit pursuant to Sections 33190 and 48222 of the Education Code.

(f) A county or local school attendance review board shall not issue a subpoena that includes a request for production of written materials, but may request a juvenile court having jurisdiction to issue a subpoena for production of written materials pursuant to subdivision (a).

EDC 48340.

In enacting this article it is the intent of the Legislature to encourage school districts and county offices of education maintaining any classes in kindergarten and grades 1 to 12, inclusive, to adopt pupil attendance policies based on the active involvement of parents, pupils, teachers, administrators, other personnel, and community members which include proposals and procedures for the following:

(a) Notifying parents of pupil absences, including notification of parents on the day of each absence.

(b) Increasing parent and pupil awareness of the importance of regular pupil attendance.

(c) Auditing and accountability of pupil attendance.

(d) Staff development for certificated and classified personnel.

(e) Alternative learning programs designed to respond to the different ways pupils learn, such as independent study.

(f) Joint efforts between law enforcement and schools, such as school level attendance review teams and periodic efforts to return truant pupils to school.

EDC 48645.

The purpose of this article is to provide for the administration and operation of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, juvenile camps, regional youth educational facilities, or Orange County youth correctional centers in existence and providing services prior to the effective date of the amendments to this section made by the Statutes of 1989, established pursuant to Article 23 (commencing with Section 850), Article 24 (commencing with Section 880), Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2, or Article 9 (commencing with Section 1850) of Chapter 1 of Division 2.5, of the Welfare and Institutions Code or in any group home housing 25 or more children placed pursuant to Sections 362, 727, and 730, of the Welfare and Institutions Code or in any group home housing 25 or more children and operating one or more additional sites under a central administration for children placed pursuant to Section 362, 727, or 730 of the Welfare and Institutions Code, with acceptable school structures at one or more centrally located sites to serve the single or composite populations, and to provide the juvenile court school pupils therein detained with quality education and training.

Nothing in this section shall be construed as indicating that it is the intent of the Legislature to prevent juvenile court school pupils who are housed in group homes from enrolling in regular public schools, or that it is the intent of the Legislature to transfer the responsibility for any costs associated with the operation of group homes to the counties.

The Orange County Office of Education shall only provide educational services in youth correctional centers for individuals up to 19 years of age.

EDC 48645.2.

The county board of education shall provide for the administration and operation of juvenile court schools established pursuant to Section 48645.1:

(a) By the county superintendent of schools, provided that, in any county in which the board of supervisors is establishing or maintaining juvenile court schools on January 1, 1978, the county superintendent of schools may contract with the board of supervisors for the administration and operation of such schools if agreed upon between the board of education and the board of supervisors. In any event, the county superintendent of schools may contract with other educational agencies for supporting services to the same extent that school districts may contract with other such agencies.

(b) By contract with the respective governing boards of the elementary, high school, or unified school district in which the juvenile court school is located.

EDC 48645.3.

(a) Juvenile court schools shall be conducted in a manner as shall be prescribed by the county board of education to best accomplish the provisions of Section 48645. The minimum schoolday shall be 240 minutes. Minimum schooldays shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The minimum schoolday for pupils in attendance in approved vocational education programs, work programs prescribed by the probation department pursuant to Section 883 of the Welfare and Institutions Code, and work experience programs shall be 180 minutes, which shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The county board of education shall adopt and enforce a course of study and evaluate its program in accordance with Sections 51040, 51041, 51050, and 51054 and the provisions of Article 1 (commencing with Section 51200) to Article 3 (commencing with Section 51220), inclusive, of Chapter 2 of Part 28, except subdivision (c) of Section 51220.

(b) Juvenile court schools shall not be closed on any weekday of the calendar year, except those weekdays adopted by the county board of education as school holidays or set aside by the county board of education for inservice purposes. However, the county board of education may close juvenile court schools when it deems the closing is necessary to accommodate contingencies.

(c)(1) The county board of education may adopt and enforce a course of study that enhances instruction in mathematics and English language arts for pupils attending juvenile court schools, as determined by statewide assessments or objective local evaluations and assessments as approved by the county superintendent of schools.

(2) The enhanced course of study adopted pursuant to paragraph (1) shall meet the standards adopted pursuant to Section 60605.8, as appropriate, and shall be tailored to meet the needs of the individual pupil to increase the pupil's academic literacy and reading fluency.

(d) It is the intent of the Legislature that pupils in juvenile court schools have a rigorous curriculum that includes a course of study preparing them for high school graduation and career entry and fulfilling the requirements for admission to the University of California and the California State University.

EDC 48645.5.

(a) Each public school district and county office of education shall accept for credit full or partial coursework satisfactorily completed by a pupil while attending a public school, juvenile court school, or nonpublic, nonsectarian school or agency. The coursework shall be transferred by means of the standard state transcript. If a pupil completes the graduation requirements of his or her school district of residence while being detained, the school district of residence shall issue to the pupil a diploma from the school the

pupil last attended before detention or, in the alternative, the county superintendent of schools may issue the diploma.

(b) A pupil shall not be denied enrollment or readmission to a public school solely on the basis that he or she has had contact with the juvenile justice system, including, but not limited to:

- (1) Arrest.
- (2) Adjudication by a juvenile court.
- (3) Formal or informal supervision by a probation officer.
- (4) Detention for any length of time in a juvenile facility or enrollment in a juvenile court school.

(c) Pursuant to subparagraph (B) of paragraph (8) of subdivision (f) of Section 48853.5, a pupil who has had contact with the juvenile justice system shall be immediately enrolled in a public school.

(d) If a pupil completes the statewide coursework requirements for graduation specified in Section 51225.3 while attending a juvenile court school, the county office of education shall issue to the pupil a diploma of graduation and shall not require the pupil to complete coursework or other requirements that are in addition to the statewide coursework requirements.

EDC 48646.

(a) The Legislature encourages each county superintendent of schools or governing board of a school district, as determined by the county board of education pursuant to subdivision (b) of Section 48645.2, and the county chief probation officer to enter into a memorandum of understanding or equivalent mutual agreement to support a collaborative process for meeting the needs of wards of the court who are receiving their education in juvenile court schools. The memorandum of understanding or equivalent mutual agreement may include, but is not limited to, a process for communication, decisionmaking, mutually established goals, and conflict resolution. The purpose of this memorandum of understanding or equivalent mutual agreement is to develop a collaborative model that will foster an educational and residential environment that nurtures the whole child and consistently supports services that will meet the educational needs of the pupils.

(b) A memorandum of understanding or equivalent mutual agreement on providing educational and related services for juvenile court school pupils developed in accordance with this section may include, but is not limited to, the following provisions:

- (1) Mutually developed goals and objectives that are reviewed annually, including, but not limited to, the following:
 - (A) Building resiliency and strengthening life skills.
 - (B) Fostering prosocial attitudes and behaviors.
 - (C) Assigning pupils to appropriate classrooms based on their educational needs.
 - (D) Ensuring regular classroom attendance.
 - (E) Providing clean, safe, and appropriate educational facilities.
 - (F) Improving academic achievement and vocational preparation.
- (2) Clear delineation of responsibilities among the educational and residential or custodial service providers.
- (3) A process for communicating, collaborating, and resolving conflicts. Whenever possible, resolution of issues shall be reached by consensus through a collaborative process that would promote decisionmaking at the site where services are delivered. A working group charged with this responsibility may be appointed by the county superintendent of schools, or the superintendent of the school district with responsibility for providing juvenile court school services, and the county chief probation officer, or their designees. The working group is responsible for establishing and maintaining open communication, collaboration, and resolution of issues that arise.
- (4) A clearly identified mechanism for resolving conflicts.

(5) A joint process for performing an intake evaluation for each ward to determine educational needs and ability to participate in all educational settings once the ward enters the local juvenile facility. The process shall recognize the limitations on academic evaluation and planning that can result from short-term placements. The evaluation team shall include staff from the responsible educational agency and the county probation department, and may include other participants as appropriate, and as mutually agreed upon by the education and probation members of the team. The evaluation process specified in the memorandum of understanding or equivalent mutual agreement may:

(A) Include a timeline for evaluation once a ward is assigned to a local facility.

(B) Result in an educational plan for a ward while assigned to a local juvenile facility that is integrated with other rehabilitative and behavioral management programs, and that supports the educational needs of the pupil.

It is the intent that this shared information about each ward placed in a juvenile court school shall assist both the county superintendent of schools and the county chief probation officer in meeting the needs of wards in their care and promoting a system of comprehensive services.

(c) The memorandum of understanding or equivalent mutual agreement shall not cede responsibility or authority prescribed by statute or regulation from one party to another party unless mutually agreed upon by both parties.

EDC 48647.

(a) Local educational agencies are strongly encouraged to enter into memoranda of understanding and create joint policies, systems, including data sharing systems, transition centers, and other joint structures that will allow for the immediate transfer of educational records, create uniform systems for calculating and awarding course credit, and allow for the immediate enrollment of pupils transferring from juvenile court schools.

(b) As part of their existing responsibilities for coordinating education and services for youth in the juvenile justice system, the county office of education and county probation department shall have a joint transition planning policy that includes collaboration with relevant local educational agencies to improve communication regarding dates of release and the educational needs of pupils who have had contact with the juvenile justice system, to coordinate immediate school placement and enrollment, and to ensure that probation officers in the community have the information they need to support the return of pupils who are being transferred from juvenile court schools to public schools in their communities.

(c) As part of the joint transition planning policy required under subdivision (b), the county office of education shall assign transition oversight responsibilities to existing county office of education personnel who will work in collaboration with the county probation department, as needed, and relevant local educational agencies to ensure all of the following:

(1) The transfer of complete and accurate education records, including the pupil's individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the pupil's plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), if applicable, within 72 hours of the pupil's release from the juvenile detention facility.

(2) Access to information about postsecondary academic and vocational opportunities, including college financial aid programs.

(3) The implementation of the pupil's transition plan, if one exists.

(d) As part of the joint transition planning policy required under subdivision (b), the county office of education personnel assigned transition oversight responsibilities shall work in collaboration with the county probation department, as needed, and relevant local educational agencies to facilitate all of the following:

- (1) The immediate enrollment in an appropriate public school in their community when a pupil is transferred from the juvenile court school.
 - (2) The acceptance, upon enrollment by the pupil in a public school, of course credits, including partial credits, for coursework completed in the juvenile court school, pursuant to subdivision (b) of Section 51225.2.
 - (3) The immediate placement in appropriate courses, based on coursework completed by the pupil, pursuant to subdivision (d) of Section 51225.2.
 - (4) The transfer of complete and accurate education records, including the pupil's individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the pupil's plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), if applicable, when a pupil enters the juvenile court school.
- (e) Each pupil detained for more than 20 consecutive schooldays shall have an individualized transition plan developed by the county office of education in collaboration with the county probation department, as needed. The individualized transition plan shall be developed before the pupil's release and reviewed and revised as needed, and shall address, but not be limited to, both of the following:
- (1) The academic, behavioral, social-emotional, and career needs of the pupil.
 - (2) The identification and engagement of programs, including higher education programs, services, and individuals to support a pupil's successful transition into and out of the juvenile detention facility.
- (f) Each pupil detained for more than 20 consecutive schooldays shall have all of the following accessible to the holder of the educational rights for that pupil upon the pupil's release from the juvenile detention facility:
- (1) School transcripts.
 - (2) The pupil's individualized learning plan, if applicable. For purposes of this section, an individualized learning plan is a plan developed collaboratively by a pupil and school personnel that identifies academic and career goals and how the pupil will progress toward meeting those goals.
 - (3) The pupil's individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), if applicable.
 - (4) The pupil's plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), if applicable.
 - (5) Any academic and vocational assessments.
 - (6) An analysis of credits completed and needed.
 - (7) Any certificates or diplomas earned by the pupil.
- (g) For each pupil detained for 20 consecutive schooldays or fewer, a copy of the pupil's individualized learning plan, if one exists, shall be made available by the county office of education to the pupil upon the pupil's release, if possible.
- (h) The county office of education, in collaboration, as needed, with the county probation department, shall establish procedures for the timely, accurate, complete, and confidential transfer of educational records in compliance with state and federal law.
- (i) Notwithstanding any other law, this section applies to juvenile court schools that are operated by, or as, charter schools. As used in this section, "county office of education" includes a charter school that serves juvenile court school pupils.

EDC 48902.

- (a) The principal of a school or the principal's designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

(d) A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of making any report authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

(e) The principal of a school or the principal's designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(k)(6) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

EDC 48905.

An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or the employee's property is (1) located on property owned by the district, (2) being transported to or from an activity sponsored by the district or a school within the district, (3) present at an activity sponsored by such district or school, or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48904.

EDC 48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

EDC 48918.1.

(a)(1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the

pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b)(1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

PEN 270.1.

(a) A parent or guardian of a pupil of six years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or compulsory continuation education, whose child is a chronic truant as defined in Section 48263.6 of the Education Code, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. A parent or guardian guilty of a misdemeanor under this subdivision may participate in the deferred entry of judgment program defined in subdivision (b).

(b) A superior court may establish a deferred entry of judgment program that includes the components listed in paragraphs (1) to (7), inclusive, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants as defined in Section 48263.6 of the Education Code:

(1) A dedicated court calendar.

(2) Leadership by a judge of the superior court in that county.

(3) Meetings, scheduled and held periodically, with school district representatives designated by the chronic truant's school district of enrollment. Those representatives may include school psychologists, school counselors, teachers, school administrators, or other educational service providers deemed appropriate by the school district.

(4) Service referrals for parents or guardians, as appropriate to each case that may include, but are not limited to, all of the following:

(A) Case management.

(B) Mental and physical health services.

(C) Parenting classes and support.

(D) Substance abuse treatment.

(E) Child care and housing.

(5) A clear statement that, in lieu of trial, the court may grant deferred entry of judgment with respect to the current crime or crimes charged if the defendant pleads guilty to each charge and waives time for the pronouncement of judgment and that, upon the defendant's compliance with the terms and conditions set forth by the court and agreed to by the defendant upon the entry of his or her plea, and upon the motion of the prosecuting attorney, the court will dismiss the charge or charges against the

defendant and the same procedures specified for successful completion of a drug diversion program or a deferred entry of judgment program pursuant to Section 851.90 and the provisions of Section 1203.4 shall apply.

(6) A clear statement that failure to comply with any condition under the program may result in the prosecuting attorney or the court making a motion for entry of judgment, whereupon the court will render a finding of guilty to the charge or charges pled, enter judgment, and schedule a sentencing hearing as otherwise provided in this code.

(7) An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment program and the defendant's rights relative to answering questions about his or her arrest and deferred entry of judgment following successful completion of the program.

(c) Funding for the deferred entry of judgment program pursuant to this section shall be derived solely from nonstate sources.

(d) A parent or guardian of an elementary school pupil who is a chronic truant, as defined in Section 48263.6 of the Education Code, may not be punished for a violation of both this section and the provisions of Section 272 that involve criminal liability for parents and guardians of truant children.

(e) If any district attorney chooses to charge a defendant with a violation of subdivision (a) and the defendant is found by the prosecuting attorney to be eligible or ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing, or state for the record, the grounds upon which that determination is based.

PEN 626.9.

(a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (4) of subdivision (e), shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision does not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Section 25615, 25625, 25630, or 25645.

(5) When the person holds a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, who is carrying that firearm in an area that is not in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but within a distance of 1,000 feet from the grounds of the public or private school.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (4) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "Concealed firearm" has the same meaning as that term is given in Sections 25400 and 25610.

(2) "Firearm" has the same meaning as that term is given in subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in Section 16850.

(4) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(f)(1) A person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

(2) A person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to Section 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) A person who violates subdivision (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

(g)(1) A person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) A person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) A person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section 25605, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(l) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

- (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.
- (2) Section 25650.
- (3) Sections 25900 to 25910, inclusive.
- (4) Section 26020.
- (5) Paragraph (2) of subdivision (c) of Section 26300.

(p) This section does not apply to a peace officer appointed pursuant to Section 830.6 who is authorized to carry a firearm by the appointing agency.

(q)(1) This section does not apply to the activities of a program involving shooting sports or activities, including, but not limited to, trap shooting, skeet shooting, sporting clays, and pistol shooting, that are sanctioned by a school, school district, college, university, or other governing body of the institution, that occur on the grounds of a public or private school or university or college campus.

(2) This section does not apply to the activities of a state-certified hunter education program pursuant to Section 3051 of the Fish and Game Code if all firearms are unloaded and participants do not possess live ammunition in a school building.

PEN 626.10.

(a)(1) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses a razor blade or a box cutter upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, or any razor blade or box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

PEN 626.85.

(a) Any specified drug offender who, at any time, comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, unless the person is a parent or guardian of a child attending that school and his or her presence is during any school activity, or is a student at the school and his or her presence is during any school activity, or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative officer of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or to prohibit any lawful act, including picketing, strikes, or collective bargaining.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction, by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in the county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than

90 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

PEN 13825.4.

(a) Community-based organizations and nonprofit agencies that receive funds under this chapter shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

(b) These prevention and intervention efforts shall include, but not be limited to, any of the following:

(1) Services and activities designed to do any of the following:

(A) Teach alternative methods for resolving conflicts and responding to violence, drugs, and crime.

(B) Develop positive and life-affirming attitudes and behaviors.

(C) Build self-esteem.

(2) Recreational, educational, or cultural activities.

(3) Counseling or mentoring services.

(4) Economic development activities.

(c)(1) Funds allocated under this chapter may not be used for services or activities related to suppression, law enforcement, incarceration, or other purposes not related to the prevention and deterrence of gangs, crime, and violence.

(2) Nothing in this section shall prevent funds allocated under this chapter from being used for violence prevention and gang crime deterrence services provided by community-based organizations and nonprofit agencies to youths incarcerated in juvenile detention facilities.

(d) Services and activities provided with funds under this chapter shall be used for at-risk youth who are defined as persons from age 5 to 20 years of age and who fall into one or more of the following categories:

(1) Live in a high-crime or high-violence neighborhood as identified by local or federal law enforcement agencies.

(2) Live in a low-economic neighborhood as identified by the U.S. Census or come from an impoverished family.

(3) Are excessively absent from school or are doing poorly in school as identified by personnel from the youth's school.

(4) Come from a socially dysfunctional family as identified by local or state social service agencies.

(5) Have had one or more contacts with the police.

(6) Have entered the juvenile justice system.

(7) Are identified by the juvenile justice system as being at risk.

(8) Are current or former gang members.

(9) Have one or more family members living at home who are current or former members of a gang.

(10) Are identified as wards of the court, as defined in Section 601 of the Welfare and Institutions Code.

(e) Except as provided in subdivision (f), in carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall do all of the following:

(1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations,

for purposes of developing plans to provide a program of prevention and intervention services and activities with funds provided under this chapter.

(2) Identify other community-based organizations, nonprofit agencies, local agencies, and charitable or religious organizations in the local community that can serve as a resource in providing services and activities under this chapter.

(3) Follow the public health model approach in developing and carrying out a program to prevent, deter, or reduce youth gangs, crime, or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime, or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.

(4) Provide referral services to at-risk youth who are being served under this chapter to appropriate organizations and agencies where the community-based organization or nonprofit agency can readily identify a need for counseling, tutorial, family support, or other types of services.

(5) Provide the parents and family of the at-risk youth with support, information, and services to cope with the problems the at-risk youth, the parents, and the family are confronting.

(6) Involve members of the at-risk target population in the development, coordination, implementation, and evaluation of their program of services and activities.

(7) Objectively evaluate the effectiveness of their services and activities to determine changes in attitudes or behaviors of the at-risk youth being served under this chapter towards gangs, crime, and violence.

(f) Providers of programs that operate in juvenile detention facilities shall not be required to meet the criteria specified in paragraph (5) of subdivision (e) for those programs offered only in those facilities.

PEN 13860.

The Legislature finds and declares that a substantial drug abuse and drug trafficking problem exists among school-age children on and around school campuses in the State of California. By enacting this chapter, it is the intention of the Legislature to support increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug offices to suppress trafficking and prevent drug abuse among school age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and drug abuse agencies. As used in this chapter, drugs are defined as marijuana, inhalants, narcotics, dangerous drugs, pharmaceuticals, glue and alcohol. It is the further intention of the Legislature to establish a program of financial and technical assistance for local law enforcement and school districts.

PEN 13861.

There is hereby created in the Office of Emergency Services the Suppression of Drug Abuse in Schools Program. All funds made available to the Office of Emergency Services for the purposes of this chapter shall be administered and disbursed by the Director of Emergency Services in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and criteria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint

application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression of Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Emergency Services. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among schoolage children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863, shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of these guidelines and procedures, a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

PEN 13862.

Law enforcement agencies and school districts receiving funds under this chapter shall concentrate enhanced apprehension, prevention, and education efforts and resources on drug abuse and drug trafficking in and around school campuses.

(a) These enhanced apprehension, prevention, and education efforts shall include, but not be limited to:

(1) Drug traffic intervention programs.

(2) School and classroom-oriented programs, using tested drug abuse education curriculum that provides indepth and accurate information on drugs, which may include the participation of local law enforcement agencies and qualified drug abuse prevention specialists and which are designed to increase teachers' and students' awareness of drugs and their effects.

(3) Family oriented programs aimed at preventing drug abuse which may include the participation of community-based organizations experienced in the successful operation of such programs.

(4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. However, if the agency receiving funds under this chapter is a city agency and the program does not involve any county agency, or if a county agency is involved and the county board of supervisors consents, the committee shall be established and appointed by the city council. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board or city council. The committee shall be composed of, at a minimum, the following:

(A) Local law enforcement executives.

(B) School district executives.

(C) Schoolsite staff, which includes administrators, teachers, or other credentialed personnel.

(D) Parents.

(E) Students.

(F) School peace officers.

(G) County drug program administrators designated pursuant to Section 11962 of the Health and Safety Code.

(H) Drug prevention program executives.

(5) Development and distribution of appropriate written and audio-visual aids for training of school and law enforcement staff for handling drug-related problems and offenses. Appropriate existing aids may be utilized in lieu of development of new materials.

(6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs.

(7) Development of a coordinated intervention system that identifies students with chronic drug abuse problems and facilitates their referral to a drug abuse treatment program.

(b) Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between local law enforcement and local school districts in cooperation with county drug program offices. These efforts shall include, but not be limited to, the concentration of apprehension efforts in "problem" areas identified by local school authorities.

(c) Funds appropriated pursuant to this chapter may be used in part to support state-level development and statewide distribution of appropriate written and audio-visual aids for public awareness and training of school and law enforcement staff for handling drug-related problems and offenses. When existing aids can be identified, these aids may be utilized in lieu of the development of new aids.

PEN 13864.

There is hereby created in the Office of Emergency Services the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the Office of Emergency Services in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the Director of Emergency Services. All applications for that funding shall be reviewed and evaluated by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education.

(a) The Director of Emergency Services is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, containing all of the following components:

(1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order No. D-70-80.

(2) A planning process that includes assessment of the school district's characteristics, resources, and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.

(3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.

(4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.

(5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.

(6) Staff and in-service training programs, including both in-depth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.

(7) In-service training programs for local law enforcement officers.

(8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the Office of Emergency Services. Funds made available to the Office of Emergency Services for allocation under this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the Director of Emergency Services.

(1) Unless otherwise authorized by the Office of Emergency Services, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the Office of Emergency Services. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures established by the Office of Emergency Services pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives, school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The Director of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the Office of Emergency Services is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

PEN 30310.

- (a) Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties.
- (b) This section shall not apply to any of the following:
- (1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.
 - (2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.
 - (3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.
 - (4) A member of the military forces of this state or of the United States who is engaged in the performance of that person's duties.
 - (5) An armored vehicle guard, who is engaged in the performance of that person's duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.
 - (6) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.
 - (7) Any other duly appointed peace officer.
 - (8) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.
 - (9) Any other honorably retired peace officer who during the course and scope of his or her appointment as a peace officer was authorized to, and did, carry a firearm.
 - (10)(A) A person carrying ammunition or reloaded ammunition onto school grounds that is in a motor vehicle at all times and is within a locked container or within the locked trunk of the vehicle.
(B) For purposes of this paragraph, the term "locked container" has the same meaning as set forth in Section 16850.
 - (c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

EDC 38001.5.

- (a) It is the intent of the Legislature to ensure the safety of pupils, staff, and the public on or near California's public schools, by providing school security officers with training that will enable them to deal with the increasingly diverse and dangerous situations they encounter.
- (b)(1) Every school security officer employed by a school district shall complete the latest course of training developed by the Bureau of Security and Investigative Services of the Department of Consumer Affairs in consultation with the Commission on Peace Officer Standards and Training pursuant to Section 7583.45 of the Business and Professions Code. If a school security officer subject to the requirements of this subdivision is required to carry a firearm while performing their duties, that school security officer shall additionally satisfy the training requirements of Section 832 of the Penal Code.

(2) A school district shall provide the training required pursuant to this subdivision to all school security officers who are employees of the school district. A school district shall provide the training during the employee's regular work hours, unless otherwise negotiated and mutually agreed upon with the employee's exclusive representative.

(3) This subdivision does not require a school district to provide training to security guards who are not employees of the school district, including security guards who work on the property of the school district pursuant to a contract with a private licensed security agency. A school district that contracts for security services shall comply with the requirements of Section 45103.1.

(4) This subdivision shall not apply to a school security officer employed by a school district who works 20 or fewer hours per week as a school security officer until July 1, 2021.

(5) For purposes of this subdivision, "school district" includes a school district, county office of education, and charter school.

(c) For purposes of this chapter, "school security officer" means any person primarily employed or assigned pursuant to subdivision (b) to provide security services as a watchperson, security guard, or patrolperson on or about premises owned or operated by a school district to protect persons or property or to prevent the theft or unlawful taking of school district property of any kind or to report any unlawful activity to the school district and local law enforcement agencies.

(d)(1) A school security officer shall not be employed and shall not continue to be employed by a school district until both of the following conditions have been met:

(A)(i) The applicant or employee has submitted to the school district two copies of their fingerprints on forms or electronically, as prescribed by the Department of Justice. The school district shall submit the fingerprints to the Department of Justice, which shall submit one copy of the fingerprints to the United States Federal Bureau of Investigation.

(ii) An applicant or contracted employee who holds a permanent registration with the Bureau of Security and Investigative Services of the Department of Consumer Affairs as a security guard need only submit one copy of their fingerprints, which copy shall be submitted to the United States Federal Bureau of Investigation.

(iii) An applicant or contracted employee who is registered by the Bureau of Security and Investigative Services of the Department of Consumer Affairs, and who holds a firearms qualification card as specified in Section 7583.22 of the Business and Professions Code, is exempt from the requirements of this subdivision.

(B) The applicant or employee has been determined not to be a person prohibited from employment by a school district pursuant to Sections 44237 and 45122.1, or by the Department of Justice from possessing a firearm if the applicant is required to carry a firearm.

(2) The Department of Justice may participate in the National Instant Criminal Background Check System (NICS) in lieu of submitting fingerprints to the United States Federal Bureau of Investigation in order to meet the requirements of this subdivision relating to firearms.

PEN 832.2.

Every school police reserve officer, as described in Section 38000 of the Education Code, shall complete a course of training approved by the Commission on Peace Officer Standards and Training relating directly to the role of school police reserve officers.

The school police reserve officer training course shall address guidelines and procedures for reporting offenses to other law enforcement agencies that deal with violence on campus and other school related matters, as determined by the Commission on Peace Officer Standards and Training.

PEN 832.3.

(f) Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete a basic course of training as prescribed by subdivision (a) before exercising the powers of a peace officer. A school police officer shall not be subject to this subdivision while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(g) The commission shall prepare a specialized course of instruction for the training of school peace officers, as defined in Section 830.32, to meet the unique safety needs of a school environment. This course is intended to supplement any other training requirements.

(h) Any school peace officer first employed by a K-12 public school district or California Community College district before July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) no later than July 1, 2002. Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) within two years of the date of first employment.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

EDC 32281.

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b)(1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency, a fire department, and other first responder entities in the writing and development of the comprehensive school safety plan. The comprehensive school safety plan and any updates to the plan shall be shared with the law enforcement agency, the fire department, and the other first responder entities.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) This article does not limit or take away the authority of school boards as guaranteed under this code.

(d)(1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

(2) As used in this article, "small school district" means a school district that has fewer than 2,501 units of average daily attendance at the beginning of each fiscal year.

(e)(1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular workday after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) This subdivision does not create any liability in a school district or its employees for complying with paragraph (1).

(f)(1) Notwithstanding subdivision (b), a school district or county office of education may, in consultation with law enforcement officials, elect to not have its schoolsite council develop and write those portions of its comprehensive school safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the schoolsite. The portions of a comprehensive school safety plan that include tactical responses to criminal incidents may be developed by administrators of the school district or county office of education in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of employees of that school district or county office of education, if he or she chooses to participate. The school district or county office of education may elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents.

(2) As used in this article, "tactical responses to criminal incidents" means steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrator or perpetrators.

(3) This subdivision does not preclude the governing board of a school district or county office of education from conferring in a closed session with law enforcement officials pursuant to Section 54957 of the Government Code to approve a tactical response plan developed in consultation with those officials pursuant to this subdivision. Any vote to approve the tactical response plan shall be announced in open session following the closed session.

(4) This subdivision does not reduce or eliminate the requirements of Section 32282.

EDC 35021.5.

(a) The governing board of a school district may establish a school police reserve officer corps to supplement a police department established pursuant to Section 38000. Any person deputized by a school district as a school police reserve officer shall complete the training prescribed by Section 832.2 of the Penal Code.

(b) It is the intent of the Legislature to allow school districts to use volunteer school police reserve officers to the extent necessary to provide a safe and secure school environment.

EDC 38000.

(a) The governing board of a school district may establish a security department under the supervision of a chief of security as designated by, and under the direction of, the superintendent of the school district.

In accordance with Chapter 5 (commencing with Section 45100) of Part 25, the governing board of a school district may employ personnel to ensure the safety of school district personnel and pupils and the security of the real and personal property of the school district. It is the intent of the Legislature in enacting this section that a school district security department is supplementary to city and county law enforcement agencies and is not vested with general police powers.

(b) The governing board of a school district may establish a school police department under the supervision of a school chief of police and, in accordance with Chapter 5 (commencing with Section 45100) of Part 25, may employ peace officers, as defined in subdivision (b) of Section 830.32 of the Penal Code, to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district.

(c) The governing board of a school district that establishes a security department or a police department shall set minimum qualifications of employment for the chief of security or school chief of police, respectively, including, but not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officer Standards and Training. A chief of security or school chief of police shall comply with the prior employment or training requirement set forth in this subdivision as of January 1, 1993, or a date one year subsequent to the initial employment of the chief of security or school chief of police by the school district, whichever occurs later. This subdivision shall not be construed to require the employment by a school district of additional personnel.

(d) A school district may assign a school police reserve officer who is deputized pursuant to Section 35021.5 to a schoolsite to supplement the duties of school police officers pursuant to this section.

(e) It is the intent of the Legislature to evaluate the presence of peace officers and other law enforcement on school campuses and to identify and consider alternative options to ensure pupil safety based on the needs of the local school communities. It is the intent of the Legislature to consider encouraging local educational agencies to use school resources currently allocated to such personnel, including school police departments and contracts with local police or sheriff departments, for pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice, as needed, if found to be a more appropriate use of resources based upon the needs of the pupils and campuses that serve them.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

EDC 32265.

(a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) The conference may include, but need not be limited to, information on all of the following topics:

(10) Threat assessment.

EDC 49390

For purposes of this article, unless the context requires otherwise, the following definitions apply:

(a) "Law enforcement" means any of the following:

(1) A peace officer employed or contracted by a school, school district, or local educational agency for school safety purposes.

(2) A police or security department of a local educational agency.

(3) A local law enforcement agency or agencies with geographic jurisdiction over a local educational agency.

(b) "Local educational agency" means a school district, county office of education, or charter school serving pupils in any of grades 6 to 12, inclusive, as part of a middle school or high school.

(c) "Reasonable suspicion" means articulable facts, together with rational inferences from those facts, warranting an objective suspicion.

(d) "School official" means any certificated or classified employee of a local educational agency or member of the school district governing board, county board of education, or governing body of a charter school whose official duties bring the individual in contact with pupils in any of grades 6 to 12, inclusive, as part of a middle school or high school, on a regular basis.

(e) "Threat or perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual

EDC 49394.

(a) Upon the notification described in Section 49393, the local law enforcement agency or the schoolsite police, as described in paragraphs (1) and (2) of subdivision (a) of Section 49390, as appropriate, with the support of the local educational agency, shall immediately conduct an investigation and assessment of any threat or perceived threat described in subdivision (e) of Section 49390.

(b) The investigation and threat assessment under subdivision (a) shall include a review of the firearm registry of the Department of Justice.

(c) The investigation and threat assessment under subdivision (a) shall include a search conducted at the schoolsite, only if the search is justified by a reasonable suspicion that it would produce evidence related to the threat or perceived threat.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by California provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Attendance Improvement, California Department of Education (CDE)	Provides resources and links to information addressing child welfare and attendance, dropout prevention, school attendance review boards, and truancy.	https://www.cde.ca.gov/ls/ai/
Behavioral Intervention Strategies and Supports, CDE	Provides information about how to keep students in school and hold them accountable. Highlights research on student engagement, academic success, dropout and graduation rates showing the need to replace punitive discipline practices.	https://www.cde.ca.gov/ls/ss/se/behavioralintervention.asp
Bullying Prevention Training & Resources, CDE	Provides information, training modules, and resources for bullying and cyber-bullying prevention.	https://www.cde.ca.gov/ls/ss/se/bullyingres.asp
Equity, CDE	Compiles resources and information for educators that focus on ensuring equity in education and narrowing the achievement gap.	https://www.cde.ca.gov/qs/ea/
Mental Health, CDE	Provides strategies, resources, and training in psychological and mental health issues, including coping with tragedy, crisis intervention and prevention, school psychology and suicide prevention.	https://www.cde.ca.gov/ls/cg/mh/index.asp
Multi-Tiered System of Supports, CDE	Provides information, training, and resources on Multi-Tiered Systems of Supports, Response to Instruction and Intervention (RTI), and Positive Behavioral Interventions and Supports (PBIS).	https://www.cde.ca.gov/ci/cr/ri/
Positive School Climate, CDE	Compiles information regarding the importance of positive school climate and resources to improve school climate.	https://www.cde.ca.gov/ls/ss/se/schoolclimate.asp

Title	Description	Website address (if applicable)
Safe School & Violence Prevention, CDE	Provides information about funds, training, resources, and technical assistance concerning preventing violence, helping students to make safe choices, and collecting data about violence in schools.	https://www.cde.ca.gov/ls/ss/vp/
Information about Restraint and Seclusion Data	Provides a high-level overview of the collection and reporting of restraint and seclusion data.	https://www.cde.ca.gov/ds/ad/rsdiinfo.asp
Documents		
Sample Policy for Bullying Prevention (2018), CDE	Sample policy on the prevention of bullying and on conflict resolution.	https://www.cde.ca.gov/ls/ss/se/samplepolicy.asp
Other Resources		
California School Dashboard	Data dashboard contains reports that display the performance of local educational agencies (LEAs), schools, and student groups on a set of state and local measures in identifying strengths, challenges, and areas in need of improvement, including chronic absenteeism and suspension rate.	https://www.caschooldashboard.org/
Fix School Discipline: How We Can Fix School Discipline Toolkit for Educators	Toolkit for educators highlighting alternatives to punitive discipline strategies that remove students from the learning environment.	https://view.jomag.com/fix-school-discipline-toolkit-for-educators/0264187001429224353?short



Colorado Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Colorado State Codes Cited

Colorado Revised Laws

The State of Colorado contracts with LexisNexis to provide free public access to the Colorado Code (<http://www.lexisnexis.com/hottopics/colorado/>). Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 13. Courts and Court Procedure

Courts of Record

Article 3. Judicial Departments

13-3-116. Restorative justice coordinating council - establishment - membership

Article 5. Judicial Districts

Part 1. Judges - Terms

13-5-145. Truancy detention reduction policy - legislative declaration

Title 18. Criminal Code

Article 9. Offenses Against Public Peace, Order, and Decency

Part 1. Public Peace and Order

18-9-124. Hazing - penalties - legislative declaration

Article 12. Offenses Relating to Firearms and Weapons

Part 1. Firearms and Weapons - General

18-12-105.5. Unlawfully carrying a weapon - unlawful possession of weapons - school, college, or university grounds

Title 22. Education

General and Administrative

Article 1. General Provisions

22-1-120. Rights of free expression for public school students

22-1-126. Safe2tell program

22-1-128. Comprehensive human sexuality education - legislative declaration - definitions - guidelines and content standards

22-1-138. Information collected and posted on department website

22-1-139. Accessible district profile reports, including school climate and safety data

22-1-140. Corporal punishment prohibited - definition

Article 2. Department - Commissioner

Part 1. Department of Education - Commissioner

22-2-127.9. Mental health education literacy - resource bank - technical assistance

22-2-144. Bullying prevention and education policies - short title – study

22-2-503. Teaching and Learning conditions

Article 7. Educational Accountability

Part 3. Colorado State Advisory Council for Parent Involvement in Education

22-7-304. Council - advisory duties - technical assistance - report

Part 6. School Accountability Reports

22-7-604.5. Alternative education campuses - criteria - application - rule-making - definition

Article 11. Accreditation

Part 3. School District and Institute Accountability

22-11-302. School district accountability committee - powers and duties

Part 4. School Accountability

22-11-402. School accountability committee - powers and duties - meetings

Article 12. Teacher and School Administrator Protection Act

22-12-104. Liability

Article 14. Dropout Prevention and Student Re-Engagement

22-14-105. Assessment of statewide student attendance data - report

22-14-109.5. Ninth-grade success grant program - created - criteria - use of grant money - report - rules - definitions - repeal

22-14-110. State board - rules

Compensatory Education

Article 25. Colorado Comprehensive Health Education Act

22-25-102. Legislative declaration

22-25-103. Definitions

22-25-104.5. Law-related education program - creation

Article 29. Character Education

22-29-101. Legislative declaration

22-29-103. Character education - development - resource

School Districts

Article 32. School District Boards - Powers and Duties

22-32-109. Board of education - specific duties - definitions

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions

22-32-118.5. Intervention strategies - students at risk of dropping out - legislative declaration

22-32-126. Principals - employment and authority

22-32-144. Restorative justice practices - legislative declaration

22-32-146. School use of on-site peace officers as school resource officers

22-32-147. Use of restraints on students - certain restraints prohibited - reports and review process - definitions - rules

Article 33. School Attendance Law of 1963

Part 1. School Attendance Law of 1963

- 22-33-102. Definitions
- 22-33-104. Compulsory school attendance
- 22-33-105. Suspension, expulsion, and denial of admission
- 22-33-106. Grounds for suspension, expulsion, and denial of admission
- 22-33-106.1. Suspension - expulsion - preschool through second grade - definitions
- 22-33-106.3. Disciplinary investigations - parental presence - student statements
- 22-33-106.5. Information concerning offenses committed by students
- 22-33-107. Enforcement of compulsory school attendance - definitions
- 22-33-107.5. Notice of failure to attend
- 22-33-108. Judicial proceedings

Part 2. Expulsion Prevention Programs

- 22-33-201. Legislative declaration
- 22-33-202. Identification of at-risk students
- 22-33-203. Educational alternatives for expelled students
- 22-33-204. Services for at-risk students - agreements with state agencies and community organizations
- 22-33-204.5. Legislative declaration
- 22-33-205. Services for expelled and at-risk students - grants - criteria

Article 37. Grant Program for In-School or In-Home Suspension

- 22-37-102. Legislative declaration
- 22-37-104. Qualification

Teachers

Article 60.5 Colorado Educator Licensing Act

Part 1. General Provisions

- 22-60.5-110. Renewal of licenses

Miscellaneous

Article 93. School Bullying Prevention and Education Grant Program

- 22-93-101. Definitions
- 22-93-102. School bullying prevention and education grant program - created
- 22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients
- 22-93-104. Rules
- 22-93-105. School bullying prevention and education cash fund - created
- 22-93-106. School bullying prevention and education - availability of best practices and other resources

Article 96. Behavioral Health Care Professional Matching Grant Program

- 22-96-101. Legislative declaration
- 22-96-102. Definitions
- 22-96-103. Behavioral health care professional matching grant program - created - rules
- 22-96-104. Behavioral health care professional matching grant program - application - criteria - grant awards
- 22-96-105. Reporting

Article 102. Colorado K-5 Social and Emotional Health Act

- 22-102-101. Short title
- 22-102-102. Legislation declaration
- 22-102-103. Definitions
- 22-102-104. K-5 social and emotional health pilot program - creation - selection of pilot schools - rules
- 22-102-105. Implementation of pilot program
- 22-102-106. Pilot program coordinator - evaluation of pilot program - student impacts and outcomes

Title 24. Government - State

Administration

Article 10. Governmental Immunity

- 24-10-106.3. Immunity and partial waiver - claims for serious bodily injury or death on public school property or at school-sponsored events resulting from incidents of school violence - short title - definitions

Principal Departments

Article 31. Department of Law

Part 3. Peace Officers Standards and Training

- 24-31-303. Duties - powers of the P.O.S.T. board
- 24-31-312. School resource officer training

Part 6. Safe2Tell Act

- 24-31-606. Safe2tell program - creation - duties

Article 33.5. Public Safety

Part 5. Division of Criminal Justice

- 24-33.5-503. Duties of division

Part 18. School Safety Resource Center

- 24-33.5-1803. School safety resource center - created - duties
- 24-33.5-1810. School security disbursement program - created - rules - definitions - repeal

Title 25. Public Health and Environment

Administration

Article 1.5. Powers and Duties of the Department of Public Health and Environment

Part 1. General Powers and Duties

- 25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created – “Ethan’s Law” – definitions - repeal

Environmental Control

Article 14. Control of Smoking

Part 1. Prohibition against the use of Tobacco on School Property

25-14-103.5. Prohibition against the use of tobacco products and retail marijuana on school property - legislative declaration - education program - special account - definitions

Prevention, Intervention, and Treatment Services

Article 20.5. Intervention, and Treatment Services for Children and Youth

Part 5. School-based Health Center Grant Program

25-20.5-501. Legislative declaration
25-20.5-502. Definitions
25-20.5-503. School-based health center grant program - creation - funding - grants

Title 25.5. Health Care Policy and Financing

Administration

Article 1. Department of Health Care policy and Financing

Part 2. Programs to be administered by the Department

25.5-1-206. School-based substance abuse prevention and intervention program - creation - reporting - legislative declaration - definitions

Title 26. Human Services Code

Article 20. Protection of Persons from Restraint

26-20-101. Short title
26-20-102. Definitions
26-20-103. Basis for use of restraint or seclusion
26-20-104. General duties relating to use of restraint on individuals
26-20-104.5. Duties relating to use of seclusion by division of youth services
26-20-105. Staff training concerning the use of restraint and seclusion - adults and youth
26-20-106. Documentation requirements for restraint and seclusion - adults and youth
26-20-107. Review of the use of restraint and seclusion
26-20-108. Rules
26-20-109. Limitations
26-20-110. Youth restraint and seclusion working group - membership - purpose - repeal
26-20-111. Use of restraints in public schools - certain restraints prohibited

Colorado Regulations

Department of Education

301 Colorado State Board of Education

1 CCR 301-1. Administration of Statewide Accountability Measures for the Colorado Public School System, Charter School Institute, Public School Districts and Public Schools

11.0. Performance reporting

1 CCR 301.43. Rule for the administration of the expelled and at risk student services grant program

- 1.0. Statement of basis and purpose for adoption of rules
- 4.0 Application requirements
- 5.0 Grant criteria

1 CCR 301-45. Rules for the Administration of the Protection of Persons from Restraint Act

- 2620-R- 1.00. Statement of basis purpose
- 2620-R- 2.00. Definitions
 - 2620-R- 2.01. Basis for the use of restraint
 - 2620-R- 2.02. Duties related to the use of restraint
 - 2620-R- 2.03. Staff training
 - 2620-R- 2.04. Documentation and notification requirements
 - 2620-R- 2.05. Review of the use of restraint
 - 2620-R- 2.06. Exceptions

1 CCR 301-57. The Administration of Accountability for Alternative Campuses

- 1.00. Statement of basis and purpose
- 2.00. Definitions
- 3.00. Criteria and application process for a school to be designated an alternative education campus

1 CCR 301-68. Rules for the Administration of Medications

- 7.00. Policy for management of student possession and administration of prescription medication

1 CCR 301-78. Standardized Calculation for Counting Student Attendance and Truancy

- 1.00. Statement of basis and purpose
- 2.00. Definitions
- 3.00. Standardized calculation for counting absences for students
- 4.00. Format for reporting habitually truant student data to the department

1 CCR 301-97. Rules for the Administration of the School Health Professional Grant Program

- 1.00. Statement of basis and purpose
- 2.00. Definitions

1 CCR 301-99. Rules for the Administration of the School Bullying Prevention and Education Grant Program

- 0.00. Statement of basis and purpose
- 1.00. Definitions
- 2.00. Bullying prevention website
- 3.00. Application requirements and timeline
- 4.00. Application evaluation criteria
- 5.00. Data collection and reporting

Department of Public Safety

Division of Homeland Security and Emergency Management

8 CCR 1507-45. School Security Disbursement Program

- 5.00. Program requirements

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(g.3) "School" means a public school of a school district, a charter school, or an institute charter school.

(2) Safe school plan. To provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(l) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(A) General policies on student conduct, safety, and welfare;

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(I) A written policy concerning searches on school grounds, including searches of student lockers;

(J) A dress code policy that prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum standards of dress;

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district shall ensure that the school district's policy, at a minimum, incorporates the approaches, policies, and practices outlined in the model bullying prevention and education policy developed pursuant to section 22-2-144.

(L) Information concerning the school district's policies for the use of restraint and seclusion on students, including a reference to section 26-20-111 and information concerning the process for filing a complaint regarding the use of restraint or seclusion, as such process is set forth by rule of the state board pursuant to section 22-32-147.

22-33-104. Compulsory school attendance.

(4)(a) The board of education shall adopt a written policy setting forth the district's attendance requirements. The policy must provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section, as well as temporary absences due to behavioral health concerns. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(b.5) Each board of education is encouraged to establish attendance procedures for identifying students who are chronically absent and to implement best practices and research-based strategies to improve the attendance of students who are chronically absent.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

22-33-105. Suspension, expulsion, and denial of admission.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section 22-33-106 (1)(a), (1)(b), (1)(c), or (1)(e) or not more than ten school days on the grounds stated in section 22-33-106 (1)(d);

(b) Suspend, on the grounds stated in section 22-33-106, a pupil from school for not more than another ten school days, or may delegate such power to its executive officer; except that the latter may extend a suspension to an additional ten school days if necessary in order to present the matter to the next meeting of the board of education, but the total period of suspension pursuant to this paragraph (b) and paragraph (a) of this subsection (2) shall not exceed twenty-five school days; and

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

26-20-108. Rules.

An agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint and seclusion consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

REGULATIONS

1 CCR 301-45. Section 2620-R-1.00. Statement of basis purpose.

(1) These Rules were developed in accordance with C.R.S. 26-20-101, et seq. Specific statutory authority for the development of these Rules comes from C.R.S. 26-20-108. These Rules are provided pursuant to the terms of the "Protection of Persons from Restraint Act". These Rules outline the procedures to be followed in the administration of restraint, staff training, documentation requirements, and the review of the use of restraint.

(2) The statutory authority for the 2009 amendments to these Rules is found in 26-20-108, C.R.S. The purpose of these amendments is to better align these Rules to the Protection of Persons from Restraint Act; add clarifying language; and reorganize these Rules to provide enhanced clarification for implementation.

(3) The purpose of the 2017 amendments is to conform to the changes made in HB 17-1276 to update definitions, generally prohibit the use of prone holds and restraints, and outline the process for complaints concerning the use of restraint or seclusion.

1 CCR 301-99. Section 0.00. Statement of basis and purpose.

The Bullying Prevention and Education Program, 22-93-101 et. seq., C.R.S., requires the State Board of Education to promulgate rules to implement and administer the program. At a minimum, the rules must include: Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants; criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient.

Scope

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(I) A written policy concerning searches on school grounds, including searches of student lockers.

22-32-146. School use of on-site peace officers as school resource officers.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...]

The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(1) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code.

22-32-126. Principals employment and authority

(1) The board of education may employ through written contract public school principals who shall hold valid principal licenses or authorizations and who shall supervise the operation and management of the school and such property as the board shall determine necessary.

(2) The principal shall assume the administrative responsibility and instructional leadership, under the supervision of the superintendent and in accordance with the rules and regulations of the board of education, for the planning, management, operation, and evaluation of the educational program of the schools to which he is assigned.

(3) The principal shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school under his supervision.

(4) The principal shall perform such other duties as may be assigned by the superintendent pursuant to the rules and regulations of the board of education.

(5)(a) The principal or the principal's designee shall communicate discipline information concerning any student enrolled in the school to any teacher who has direct contact with the student in the classroom and to any counselor who has direct contact with the student. Any teacher or counselor who receives information under this subsection (5) shall maintain the confidentiality of the information and does not have authority to communicate the information to any other person.

(b) Each school district shall include in its discipline code adopted in accordance with section 22-32-110 (2) procedures to inform the student and the student's parent or guardian when disciplinary information is communicated and to provide a copy of the disciplinary information to the student and the student's parent or guardian. The discipline code shall also establish procedures to allow the student and the student's parent or guardian to challenge the accuracy of the disciplinary information.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(V) Referral to law enforcement; or

(VI) Any other form of discipline, which shall be officially identified as part of a board policy. [...]

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code must be provided to each student upon enrollment at the preschool, elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(A) General policies on student conduct, safety, and welfare;

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that

includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105, 22-33-106, and 22-33-106.1;

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(I) A written policy concerning searches on school grounds, including searches of student lockers;

(J) A dress code policy that prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum standards of dress;

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district shall ensure that the school district's policy, at a minimum, incorporates the approaches, policies, and practices outlined in the model bullying prevention and education policy developed pursuant to section 22-2-144.

(L) Information concerning the school district's policies for the use of restraint and seclusion on students, including a reference to section 26-20-111 and information concerning the process for filing a complaint regarding the use of restraint or seclusion, as such process is set forth by rule of the state board pursuant to section 22-32-147.

(II) In creating and enforcing a school conduct and discipline code pursuant to subsection (2)(a)(I) of this section, each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5);

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of Title IX of the United States Code and other state and federal laws; and

(E) Ensure that, in implementing the code, each school of the school district complies with the requirements of section 22-33-106.1.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class

unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(V) Referral to law enforcement; or

(VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b) "Bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1)(II)(I). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(b.5) "Community partners" means, collectively, local fire departments, state and local law enforcement, local 911 agencies, interoperable communications providers, the safe2tell program described in section 24-31-606, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, local or regional homeland security personnel, and school resource officers.

(2) Safe school plan. To provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of title IX of the United States Code and other state and federal laws.

22-32-144. Restorative justice practices - legislative declaration.

(1) The general assembly hereby finds that:

(a) Conflicts and offenses arising during the school day interrupt learning, threaten school safety, and often lead to suspensions, expulsions, and an increase in the likelihood of a student dropping out of school;

(b) Students who drop out of high school face diminished job opportunities, lower lifetime earnings, and increased unemployment and more often require public assistance. They are more likely to participate in criminal activity, resulting in higher incarceration rates, and they face much greater challenges to becoming productive, contributing members of their communities.

(c) School conflicts can result in offenses that violate school rules and local laws and damage relationships among members of the school and surrounding community;

(d) Restorative justice, which requires the offender to accept responsibility and accountability for his or her actions, teaches conflict resolution, repairs the harm from the offense, reduces classroom disruptions, suspensions, expulsions, and consequent dropouts, promotes school safety, and enables victims, offenders, and community members to rebuild the community and restore relationships; and

(e) The general assembly has a vital interest in reducing classroom disruptions, suspensions, expulsions, and dropout rates and in assisting victims, reducing referrals to the justice system, and building safer, more cohesive school communities to promote learning.

(2)(a) Therefore, the general assembly supports and encourages the use of restorative justice as a school's first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, harassment and internet harassment, and attendance issues.

(b) The general assembly encourages each school district to implement training and education in the principles and practices of restorative justice to ensure that capable personnel and resources are available to successfully facilitate all steps of the restorative justice process.

(3) For purposes of this section, "restorative justice" means practices that emphasize repairing the harm to the victim and the school community caused by a student's misconduct. Restorative justice practices may include victim-initiated victim-offender conferences attended voluntarily by the victim, a victim advocate, the offender, school members, and supporters of the victim and the offender, which program provides an opportunity for the offender to accept responsibility for the harm caused to those affected by the act and to participate in setting consequences to repair the harm. Consequences recommended by the participants may include, but need not be limited to, apologies, community service, restitution, restoration, and counseling. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants.

(4) Each school district is encouraged to develop and utilize restorative justice practices that are part of the disciplinary program of each school in the district.

22-33-105. Suspension, expulsion, and denial of admission.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian, or legal custodian does not agree to attend class with the pupil or fails to attend class with the pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

- (a) The age of the student;
- (b) The disciplinary history of the student;
- (c) Whether the student has a disability;
- (d) The seriousness of the violation committed by the student;
- (e) Whether the violation committed by the student threatened the safety of any student or staff member; and
- (f) Whether a lesser intervention would properly address the violation committed by the student.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(1) As used in this section, unless the context otherwise requires:

- (a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.
- (b) "Enrolling entity" means:
 - (I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;
 - (II) A school district; or
 - (III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

- (a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:
 - (I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;
 - (II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

22-1-140. Corporal punishment prohibited – definition

(1) A person employed by or volunteering in a public school, as defined in section 22-1-101, shall not impose corporal punishment on a child.

(2)

(a) As used in this section, unless the context otherwise requires, “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a child.

(b) “Corporal punishment” does not include:

(I) An amount of force that is reasonable and necessary to quell a disturbance that threatens physical injury to persons or damage to property, necessary for purposes of self-defense, or used to obtain possession of a weapon or other dangerous object within the control of a child; or

(II) Physical pain or discomfort caused by athletic competition or other similar physical activity in which a child is voluntarily engaged.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(b.7) “Corporal punishment” has the same meaning as set forth in section 22-1-140.

(2) Safe School plan. The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except a board shall not adopt a discipline code that includes provisions that are in conflict with the description of child abuse in section 18-6-401 (1) or 19-1-103 (1). Each conduct and discipline code must state that, in accordance with section 22-1-140, a person employed by or volunteering in a public school shall not impose corporal punishment on a child.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(l) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(l) A written policy concerning searches on school grounds, including searches of student lockers.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(l) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(L) Information concerning the school district's policies for the use of restraint and seclusion on students, including a reference to section 26-20-111 and information concerning the process for filing a complaint regarding the use of restraint or seclusion, as such process is set forth by rule of the state board pursuant to section 22-32-147.

22-32-147. Use of restraints on students - certain restraints prohibited - reports and review process - definitions - rules.

(1) As used in this section, unless the context otherwise requires:

(a) "Chemical restraint" has the same meaning as set forth in section 26-20-102 (2).

(b) "Mechanical restraint" has the same meaning as set forth in section 26-20-102 (4).

(b.7) "Physical restraint" has the same meaning as set forth in section 26-20-102 (5).

(c) "Prone position" means a face-down position.

(d) "Prone restraint" means a restraint in which the individual being restrained is secured in a prone position.

(e) "Restraint" has the same meaning as set forth in section 26-20-102 (6).

(2) Pursuant to section 26-20-111, the use of a chemical, mechanical, or prone restraint upon a student in a school or charter school of a school district or board of cooperative services is prohibited.

(3)(a) On and after August 9, 2017, each school district shall require any school employee or volunteer who uses any type of restraint on a student of the school district to submit a written report of the incident to the administration of the school not later than one school day after the incident occurred.

(b) On and after August 9, 2017, each school district shall establish a review process, conduct the review process at least annually, and document the results of each review process in writing. Each annual review process must include a review of each incident in which restraint was used on a student during the preceding year. The purpose of each annual review process is to ensure that the school district is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. Each annual review process must include but is not limited to:

- (I) Analysis of incident reports, including consideration of procedures used during the restraint, preventative or alternative techniques attempted, documentation, and follow-up;
- (II) Training needs of staff;
- (III) Staff-to-student ratios; and
- (IV) Environmental considerations, including physical space, student seating arrangements, and noise levels.

(b.5) If a physical restraint is more than one minute but less than five minutes, the notification requirement is a written notice to the parent on the day of the restraint. The written notice must include the date, the name of the student, and the number of restraints that day that lasted between one and five minutes.

(c) If a physical restraint is five minutes or more, the school administration shall mail, fax, or e-mail a written report of the incident to the parent or legal guardian of the student not more than five calendar days after the use of the restraint on the student. The written report must be placed in the student's confidential file and include:

- (I) The antecedent of the student's behavior, if known;
- (II) A description of the incident;
- (III) Any efforts made to de-escalate the situation;
- (IV) Any alternatives to the use of restraints that were attempted;
- (V) The type and duration of the restraint used;
- (VI) Any injuries that occurred; and
- (VII) The staff members who were present and staff members who were involved in administering the restraint.

(d) No later than June 30, 2023, and every June 30 thereafter, each school district shall submit the data from the annual review conducted pursuant to subsection (3)(b) of this section to the department of education pursuant to section 22-1-138.

(4) On or before November 1, 2017, the state board shall promulgate rules establishing a process by which a student or a parent or legal guardian of a student may formally complain about the use of restraint or seclusion by any employee or volunteer of any school or charter school of a school district or board of cooperative services. To the extent practicable, the process must reflect the complaint process for filing a state complaint under the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended.

(5) The department of education shall make training available on the "Protection of Individuals from Restraint and Seclusion Act", sections 26-20-101 to 26-20-111, and on the department of education's corresponding rules for administration of such act to individuals certified in the use of restraint.

(6) The department of education has enforcement authority over the restraint investigation decisions. This enforcement authority must follow the same procedures outlined for state complaints under the federal

"Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and the department's state-level complaint procedures.

26-20-101. Short title.

The short title of this article is the "Protection of Individuals from Restraint and Seclusion Act".

26-20-102. Definitions.

As used in this article 20, unless the context otherwise requires:

(1)(a) "Agency" means:

(I) Any one of the principal departments of state government created in article 1 of title 24, C.R.S., or any division, section, unit, office, or agency within one of such principal departments of state government, except as excluded in paragraph (b) of this subsection (1);

(II) Any county, city and county, municipality, or other political subdivision of the state or any department, division, section, unit, office, or agency of such county, city and county, municipality, or other political subdivision of the state;

(III) Any public or private entity that has entered into a contract for services with an entity described in subsection (1)(a)(I), (1)(a)(II), or (1)(a)(VI) of this section;

(IV) Any public or private entity licensed or certified by one of the entities described in subparagraph (I) or (II) of this paragraph (a);

(V) A person regulated pursuant to article 245 of title 12;

(VI) Any school district, including any school or charter school of a school district, and the state charter school institute established in section 22-30.5-503, including any institute charter school.

(b) "Agency" does not include:

(I) The department of corrections or any public or private entity that has entered into a contract for services with such department;

(II) Any law enforcement agency of the state or of a political subdivision of the state;

(III) A juvenile probation department or division authorized pursuant to section 19-2-204, C.R.S.;

(IV) Any county department of human or social services when engaged in performance of duties pursuant to part 3 of article 3 of title 19.

(2) "Chemical restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to section 27-65-111 (5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

(2.5) "Division of youth services" means the division of youth services within the state department created pursuant to section 19-2-203.

(3) "Emergency" means a serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.

(3.5) "Individual" encompasses both adults and youths, unless the context specifically states one or the other.

(4) "Mechanical restraint" means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.

(5) "Physical restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement for more than one minute; except that "physical restraint" does not include the holding of a child by one adult for the purposes of calming or comforting the child.

(5.3) "Prone position" means a face-down position.

(5.5) "Prone restraint" means a restraint in which the individual who is being restrained is secured in a prone position.

(5.7) "Qualified mental health professional" means an individual who is a licensed psychologist, a licensed psychiatrist, a licensed clinical social worker, a psychologist candidate for licensure, a licensed marriage and family therapist, or a masters-level mental health therapist who is under the supervision of a licensed mental health professional.

(6) "Restraint" means any method or device used to involuntarily limit freedom of movement, including bodily physical force, mechanical devices, or chemicals. Restraint must not be used as a form of discipline or to gain compliance from a student. If property damage might be involved, restraint may only be used when the destruction of property could possibly result in bodily harm to the individual or another person. "Restraint" includes chemical restraint, mechanical restraint, and physical restraint.

"Restraint" does not include:

(a) The use of any form of restraint in a licensed or certified hospital when such use:

(I) Is in the context of providing medical or dental services that are provided with the consent of the individual or the individual's guardian; and

(II) Is in compliance with industry standards adopted by a nationally recognized accrediting body or the conditions of participation adopted for federal medicare and medicaid programs;

(b) The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;

(c) The holding of an individual for less than one minute by a staff person for protection of the individual or other persons; except that nothing in this subsection (6)(c) may be interpreted to permit the holding of a public school student in a prone position, except as described in section 26-20-111 (2), (3), or (4); or

(d) Placement of an inpatient or resident in his or her room for the night.

(e) Repealed.

(7) "Seclusion" means the placement of an individual alone in a room or area from which egress is involuntarily prevented, except during normal sleeping hours.

(8) "State department" means the state department of human services.

(9) "Youth" means an individual who is less than twenty-one years of age.

26-20-103. Basis for use of restraint or seclusion.

(1) Subject to the provisions of this article, an agency may only use restraint or seclusion on an individual:

(a) In cases of emergency, as defined in section 26-20-102 (3); and

(b)(I) After the failure of less restrictive alternatives; or

(II) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.

(1.5) Restraint and seclusion must never be used:

(a) As a punishment or disciplinary sanction;

(b) As part of a treatment plan or behavior modification plan;

(c) For the purpose of retaliation by staff; or

(d) For the purpose of protection, unless:

(I) The restraint or seclusion is ordered by the court; or

(II) In an emergency, as provided for in subsection (1) of this section.

(2) An agency that uses restraint or seclusion pursuant to the provisions of subsection (1) of this section shall use such restraint or seclusion:

(a) Only for the purpose of preventing the continuation or renewal of an emergency;

(b) Only for the period of time necessary to accomplish its purpose; and

(c) In the case of physical restraint, only if no more force than is necessary to limit the individual's freedom of movement is used.

(3) In addition to the circumstances described in subsection (1) of this section, a facility, as defined in section 27-65-102 (7), that is designated by the executive director of the state department to provide treatment pursuant to section 27-65-105, 27-65-106, 27-65-107, or 27-65-109 to an individual with a mental health disorder, as defined in section 27-65-102 (11.5), may use seclusion to restrain an individual with a mental health disorder when the seclusion is necessary to eliminate a continuous and serious disruption of the treatment environment.

(4)(a) The general assembly recognizes that skilled nursing and nursing care facilities that participate in federal medicaid programs are subject to federal statutes and regulations concerning the use of restraint in such facilities that afford protections from restraint in a manner consistent with the purposes and policies set forth in this article.

(b) If the use of restraint or seclusion in skilled nursing and nursing care facilities licensed under state law is in accordance with the federal statutes and regulations governing the medicare program set forth in 42 U.S.C. sec. 1395i-3(c) and 42 CFR part 483, subpart B and the medicaid program set forth in 42 U.S.C. sec. 1396r(c) and 42 CFR part 483, subpart B and with the rules of the department of public health and environment relating to the licensing of these facilities, there is a conclusive presumption that use of restraint or seclusion is in accordance with the provisions of this article.

(5)(a) The general assembly recognizes that article 10.5 of title 27, C.R.S., and article 10 of title 25.5, C.R.S., and the rules promulgated pursuant to the authorities set forth in those articles, address the use of restraint on an individual with a developmental disability.

(b) If any provision of this article concerning the use of restraint or seclusion conflicts with any provision concerning the use of restraint or seclusion stated in article 10.5 of title 27, C.R.S., article 10 of title 25.5, C.R.S., or any rule adopted pursuant thereto, the provision of article 10.5 of title 27, C.R.S., article 10 of title 25.5, C.R.S., or the rule adopted pursuant thereto prevails.

(6) The provisions of this article do not apply to any agency engaged in transporting an individual from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

26-20-104. General duties relating to use of restraint on individuals.

(1) Notwithstanding the provisions of section 26-20-103, an agency that uses restraint shall ensure that:

(a) At least every fifteen minutes, staff shall monitor any individual held in mechanical restraints to assure that the individual is properly positioned, that the individual's blood circulation is not restricted, that the individual's airway is not obstructed, and that the individual's other physical needs are met;

(b) No physical or mechanical restraint of an individual shall place excess pressure on the chest or back of that individual or inhibit or impede the individual's ability to breathe;

(c) During physical restraint of an individual, an agent or employee of the agency shall check to ensure that the breathing of the individual in such physical restraint is not compromised;

(d) A chemical restraint shall be given only on the order of a physician or an advanced practice nurse with prescriptive authority who has determined, either while present during the course of the emergency justifying the use of the chemical restraint or after telephone consultation with a registered nurse, licensed physician assistant, or other authorized staff person who is present at the time and site of the emergency and who has participated in the evaluation of the individual, that such form of restraint is the least restrictive, most appropriate alternative available. Nothing in this subsection (1) shall modify the requirements of section 26-20-102 (2) or 26-20-103 (3).

(e) An order for a chemical restraint, along with the reasons for its issuance, shall be recorded in writing at the time of its issuance;

- (f) An order for a chemical restraint shall be signed at the time of its issuance by such physician if present at the time of the emergency;
- (g) An order for a chemical restraint, if authorized by telephone, shall be transcribed and signed at the time of its issuance by an individual with the authority to accept telephone medication orders who is present at the time of the emergency;
- (h) Staff trained in the administration of medication shall make notations in the record of the individual as to the effect of the chemical restraint and the individual's response to the chemical restraint.

(2) For individuals in mechanical restraints, agency staff shall provide relief periods, except when the individual is sleeping, of at least ten minutes as often as every two hours, so long as relief from the mechanical restraint is determined to be safe. During such relief periods, the staff shall ensure proper positioning of the individual and provide movement of limbs, as necessary. In addition, during such relief periods, staff shall provide assistance for use of appropriate toileting methods, as necessary. The individual's dignity and safety shall be maintained during relief periods. Staff shall note in the record of the individual being restrained the relief periods granted.

(3) Relief periods from seclusion shall be provided for reasonable access to toilet facilities.

(4) An individual in physical restraint shall be released from such restraint within fifteen minutes after the initiation of physical restraint, except when precluded for safety reasons.

26-20-104.5. Duties relating to use of seclusion by division of youth services.

(1) Notwithstanding the provisions of section 26-20-103 to the contrary, if the division of youth services holds a youth in seclusion in any secure state-operated or state-owned facility:

- (a) A staff member shall check the youth's safety at varying intervals, but at least every fifteen minutes;
- (b) Within one hour after the beginning of the youth's seclusion period, and every hour thereafter, a staff member shall notify the facility director or his or her designee of the seclusion and receive his or her written approval of the seclusion; and
- (c) Within twelve hours after the beginning of the youth's seclusion period, the division of youth services shall notify the youth's parent, guardian, or legal custodian and inform that person that the youth is or was in seclusion and the reason for his or her seclusion.

(2)(a) A youth placed in seclusion because of an ongoing emergency must not be held in seclusion beyond four consecutive hours, unless the requirements of paragraph (b) of this subsection (2) are satisfied.

(b) If an emergency situation occurs that continues beyond four consecutive hours, the division of youth services may not continue the use of seclusion for that youth unless the following criteria are met and documented:

(I) A qualified mental health professional, or, if such professional is not available, the facility director or his or her designee, determines that referral of the youth in seclusion to a mental health facility is not warranted; and

(II) The director of the division of youth services, or his or her designee, approves at or before the conclusion of four hours, and every hour thereafter, the continued use of seclusion.

(c) A youth may not be held in seclusion under any circumstances for more than eight total hours in two consecutive calendar days without a written court order.

(3) Notwithstanding any other provision of this section, the division of youth services may place a youth alone in a room or area from which egress is involuntarily prevented if such confinement is part of a routine practice that is applicable to substantial portions of the population. Such confinement must be imposed only for the completion of administrative tasks and should last no longer than necessary to achieve the task safely and effectively.

26-20-105. Staff training concerning the use of restraint and seclusion - adults and youth.

(1) An agency that utilizes restraint or seclusion shall ensure that all staff involved in utilizing restraint or seclusion in its facilities or programs are trained in the appropriate use of restraint and seclusion.

(1.5) The division of youth services shall ensure that all staff involved in utilizing restraint and seclusion are trained in:

- (a) The health and behavioral effects of restraint and seclusion on youth, including those with behavioral or mental health disorders or intellectual and developmental disabilities;
- (b) Effective de-escalation techniques for youth in crisis, including those with behavioral or mental health disorders or intellectual and developmental disabilities;
- (c) The value of positive over negative reinforcement in dealing with youth; and
- (d) Methods for implementing positive behavior incentives.

(2) All agencies that utilize restraint or seclusion shall ensure that staff are trained to explain, where possible, the use of restraint or seclusion to the individual who is to be restrained or secluded and to the individual's family if appropriate.

26-20-106. Documentation requirements for restraint and seclusion - adults and youth.

(1) Each agency shall ensure that the use of restraint or seclusion is documented in the record of the individual who was restrained or secluded. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions specifying the documentation requirements for purposes of this section.

(2) The division of youth services shall maintain the following documentation each time a youth is placed in seclusion as a result of an emergency in any secure state-operated or state-owned facility:

- (a) The date of the occurrence;
- (b) The race, age, and gender of the individual;
- (c) The reason or reasons for seclusion, including a description of the emergency and the specific facts that demonstrate that the youth posed a serious, probable, and imminent threat of bodily harm to himself, herself, or others, and that there was a present ability to effect such bodily harm;
- (d) A description of de-escalation measures taken by staff and the response, if any, of the youth in seclusion to those measures;
- (e) An explanation of why less restrictive alternatives were unsuccessful;
- (f) The total time in seclusion;
- (g) Any incidents of self-harm or suicide that occurred while the youth was in seclusion;
- (h) With respect to the interactions required by section 26-20-104.5, documentation of the justification for keeping the youth in seclusion and specific facts to demonstrate that the emergency was ongoing;
- (i) The facility director or his or her designee's approval of continued seclusion at intervals as required by section 26-20-104.5;
- (j) Documentation of notification within twelve hours to the parent, guardian, or legal custodian of the youth in seclusion as required by section 26-20-104.5; and
- (k) The written approval by the director of the division of youth services for any seclusion that results from an emergency that extends beyond four consecutive hours, as required by section 26-20-104.5. This written approval must include documentation of specific facts to demonstrate that the emergency was ongoing and specific reasons why a referral to a mental health facility was not warranted.

(3) The division of youth services shall maintain the following documentation each time one or more youths are placed in confinement for administrative reasons pursuant to section 26-20-104.5 (3) in a secure state-operated or state-owned facility:

- (a) The number of youth confined;
- (b) The length of time the youth or youths were confined; and

(c) The reason or reasons for the confinement.

(4) On or before January 1, 2017, and on or before July 1, 2017, and every January 1 and July 1 thereafter, the division of youth services shall report on its use of restraint or seclusion in any secure state-operated or state-owned facility to the youth restraint and seclusion working group established in section 26-20-110. The January report must include information from March 1 through August 31, and the July report must include information from September 1 through the last day of February. The reports must include the following:

(a) An incident report on any use of seclusion on a youth due to an emergency for more than four consecutive hours, or for more than eight total hours in two consecutive calendar days. Each incident report must include length of seclusion, specific facts that demonstrate that the emergency was ongoing, any incidents of self-harm while in seclusion, the reasons why attempts to process the youth out of seclusion were unsuccessful, and any corrective measures taken to prevent lengthy or repeat periods of seclusion in the future. To protect the privacy of the youth, the division of youth services shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred.

(b) A report that lists the following aggregate information, both as combined totals and totals by facility for all secure state-operated or state-owned facilities:

(I) The total number of youths held in seclusion or restraint due to an emergency;

(II) The total number of incidents of seclusion or restraint due to an emergency;

(III) The average time in seclusion or restraint per incident;

(IV) An aggregate summary of race, age, and gender of youths held in seclusion or restraint; and

(V) The type of restraint or restraints used in each incident; and

(c) An incident report for any youth whom the division isolates from his or her peers for more than eight hours in two consecutive calendar days. Each incident report must include the age, race, and gender of the youth; the name of the facility; the length of time that the youth was isolated from his or her peers; and the justification for the isolation on an hour-by-hour basis. To protect the privacy of the youth, the division shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred. If the division has prepared an incident report of an incident involving seclusion pursuant to subsection (4)(a) of this section, the division is not required to include a report of the same incident pursuant to this subsection (4)(c).

(5) Reports prepared pursuant to this section must maintain the confidentiality of all youth. The reports made pursuant to this section are available to the public upon request.

(6) Prior to January 1, 2018, the division of youth services shall meet the requirements of this section to the extent that it is able using its current reporting mechanisms. The division of youth services shall fully comply with all requirements of this section on or before January 1, 2018.

26-20-107. Review of the use of restraint and seclusion.

An agency that utilizes restraint or seclusion shall ensure that a review process is established for the appropriate use of restraint or seclusion.

26-20-108. Rules.

An agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint and seclusion consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

26-20-109. Limitations.

(1) Nothing in this article shall be deemed to form an independent basis of statutory authority for the use of restraint.

(2) Nothing in this article shall be deemed to authorize an agency to implement policies, procedures, or standards or promulgate rules or adopt ordinances that would limit, decrease, or adversely impact any policies, procedures, standards, rules, or ordinances in effect on April 22, 1999, that provided greater protection concerning the use of restraint than is set forth in this article.

26-20-110. Youth restraint and seclusion working group - membership - purpose - repeal.

(1) There is established within the division of youth services a youth restraint and seclusion working group, referred to in this section as the "working group". The working group consists of:

(a) The director of the office of children, youth, and families in the division of child welfare within the state department, or his or her designee. The director shall convene the working group and serve as chair.

(b) The director of the division of youth services, or his or her designee;

(c) The director of behavioral health within the division of youth services, or his or her designee;

(d) The director of the office of behavioral health within the state department, or his or her designee;

(e) An employee of the division of youth services who is a representative of an organization in Colorado that exists for the purpose of dealing with the state as an employer concerning issues of mutual concern between employees and the state, as appointed by the governor;

(f) Two representatives from nonprofit advocacy groups that work to restrict restraint or seclusion for youth or that represent children within the custody of the division of youth services, one who is appointed by the speaker of the house of representatives and one who is appointed by the president of the senate;

(g) Two experts independent from the division of youth services with expertise in adolescent development, adolescent brain development, trauma-responsive care of juveniles, positive behavior incentives in a juvenile correctional setting, evidence-based de-escalation techniques, or the negative effects of seclusion on the adolescent brain. The minority leader of the house of representatives shall appoint one expert and the minority leader of the senate shall appoint the other expert.

(h) A person who does not work for the department or for the division of youth services and who has worked as a staff member or as a senior executive in youth corrections and who has experience working to establish a rehabilitative and therapeutic culture in one or more juvenile justice facilities, to be appointed by the governor or his or her designee.

(i) The child protection ombudsman or his or her designee pursuant to section 19-3.3-103 (1)(g); and

(j) A parent of a person who was once committed to the custody of the division of youth services, to be appointed by the state public defender.

(2) The working group shall advise the division of youth services concerning policies, procedures, and best practices related to restraint and seclusion and alternatives to restraint and seclusion.

(3) The working group shall monitor the division of youth services' use of confinement for administrative purposes. The division of youth services shall share with the working group, on an ongoing basis, available data regarding time spent in confinement by youths for administrative reasons, as described in section 26-20-104.5 (3), in any secure state-operated and state-owned facility. If necessary, the working group may make recommendations to the division of youth services and to the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees, about the use of confinement for administrative purposes.

(4) The working group may request, on a semiannual basis, information and data from the state department on the status of the division of youth services' work related to the restraint and seclusion of youths in their care and custody.

(5) The chair of the working group shall convene the working group's first meeting no later than August 1, 2016. The working group must meet at least semi-annually thereafter. The chair shall schedule and convene subsequent meetings.

(6) The chair shall provide the working group with semiannual updates on the division of youth services' policies related to restraint and seclusion and alternatives to restraint and seclusion.

(7)(a) This section is repealed, effective September 1, 2024.

(b) Prior to the repeal, the working group shall be reviewed as provided in section 2-3-1203, C.R.S.

26-20-111. Use of restraints in public schools - certain restraints prohibited.

(1) Except as provided otherwise in this section, and notwithstanding any other provision of this article 20:

(a) the use of a chemical, mechanical, or prone restraint upon a student of a school of a school district, charter school of a school district, or institute charter school is prohibited when the student is on the property of any agency or is participating in an off-campus, school-sponsored activity or event; and

(b) A school resource officer or a law enforcement officer acting in the officer's official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall not use handcuffs on any student, unless there is a danger to themselves or others or handcuffs are used during a custodial arrest that requires transport.

(2) The prohibition described in subsection (1) of this section does not apply to the use of mechanical or prone restraints on a student of a school of a school district, charter school of a school district, or institute charter school who is openly displaying a deadly weapon, as defined in section 18-1-901 (3)(e).

(3) The prohibition described in subsection (1) of this section does not apply to the use of mechanical or prone restraints by an armed security officer or a certified peace officer working in a school of a school district, charter school of a school district, or institute charter school when the officer:

(a) Has received documented training in defensive tactics utilizing handcuffing procedures;

(b) Has received documented training in restraint tactics utilizing prone holds; and

(c) Has made a referral to a law enforcement agency.

(4) The prohibition described in subsection (1) of this section does not apply to schools operated in state-owned facilities within the division of youth services.

(5) If a school district, charter school of a school district, or institute charter school uses a seclusion room, there must be at least one window for monitoring when the door is closed. If a window is not feasible, monitoring must be possible through a video camera. A student placed in a seclusion room must be continually monitored. The room must be a safe space free of injurious items. The seclusion room must not be a room that is used by school staff for storage, custodial, or office space.

(6) Nothing in this section prohibits school personnel from taking any lawful actions necessary, including seclusion or restraint, when and where necessary to keep students and staff safe from harm during an emergency, as defined by rule of the state board. School personnel shall comply with all documentation and reporting requirements, even in the case of an emergency.

(7) If a physical restraint is between one and five minutes, the notification requirement must be a written notice to the parent on the day of the restraint. The notice must include the date, the student's name, and the number of restraints that day that lasted between one and five minutes.

(8) On or before July 1, 2023, the state board shall initiate rule making for the process of determining whether to require the reporting of restraints from one to five minutes and what data, if any, will be collected. As a part of the public input process required pursuant to section 24-4-104, the state board

and the department of education shall engage with stakeholders, including, but not limited to, a representative of school district administrators, a statewide organization representing special education directors, and a member of a disability rights organization.

(9) Statutory provisions concerning the use of restraints in school districts, charter schools of a school district, or institute charter schools, including reporting requirements, are set forth in sections 22-30.5-528 and 22-32-147.

REGULATIONS

1 CCR 301-45. Section 2620-R-1.00. Statement of basis purpose.

(1) These Rules were developed in accordance with C.R.S. 26-20-101, et seq. Specific statutory authority for the development of these Rules comes from C.R.S. 26-20-108. These Rules are provided pursuant to the terms of the "Protection of Persons from Restraint Act". These Rules outline the procedures to be followed in the administration of restraint, staff training, documentation requirements, and the review of the use of restraint.

(2) The statutory authority for the 2009 amendments to these Rules is found in 26-20-108, C.R.S. The purpose of these amendments is to better align these Rules to the Protection of Persons from Restraint Act; add clarifying language; and reorganize these Rules to provide enhanced clarification for implementation.

(3) The purpose of the 2017 amendments is to conform to the changes made in HB 17-1276 to update definitions, generally prohibit the use of prone holds and restraints, and outline the process for complaints concerning the use of restraint or seclusion.

1 CCR 301-45. Section 2620-R-2.00. Definitions.

(1) "Bodily Injury" means physical pain, illness or any impairment of physical or mental condition as defined in Section 18-1-901(3)(c), C.R.S.

(2) "Complaint" means a signed, written document alleging that there has been a misuse of the use of restraints or seclusion on a student.

(3) "Deadly Weapon" means a firearm, whether loaded or unloaded; a knife, bludgeon, or any other weapon, device, instrument, material, or substance, whether animate or inanimate, that, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.

(4) "Emergency" means serious, probable, imminent threat of bodily injury to self or others with the present ability to effect such bodily injury. Emergency includes situations in which the student creates such a threat by abusing or destroying property.

(5) "Parent" means

(a) A biological or adoptive parent of a child;

(b) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

(c) A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(d) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;

(e) An educational surrogate parent who has been assigned in accordance with 1 C.C.R. 301-8 2220-R6.02(8);

(f) Except as provided in section (3)(b) of this Rule 2.00(3), the biological or adoptive parent, when attempting to act as the parent under these Rules and when more than one party is qualified under Section (3) of this Rule 2.00 to act as a parent, must be presumed to be the parent for the purposes of

this Section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(g) If a judicial decree or order identifies a specific person or persons under Sections 3(a) through (d) of this rule to act as the "parent" of a child or to make educational decisions on behalf of a child, then such persons(s) shall be determined to be the "parent" for the purposes of this Section 2.00(3).

(6) "Positional Asphyxia" means an insufficient intake of oxygen as a result of body position that interferes with one's ability to breathe.

(7) "Public Education Agency"

(a) For the purposes of these Rules only, means:

(i) Any public school district organized and existing under the laws of Colorado except a junior college district;

(ii) The Charter School Institute as established in Article 30.5 of Title 22, C.R.S.;

(iii) The Colorado School for the Deaf and the Blind as created by Article 80 of TITLE 22, C.R.S.;

(iv) A Board of Cooperative Education Services as created by Article 5 of Title 22, C.R.S.;

(v) An approved facility school as defined in 22-2-402(1) C.R.S. operated by an eligible facility; or

(vi) Any public or private entity that has entered into a contract for services with an entity described in Subsections (i) through (v) of this Section 2.00(5)(a).

(b) "Public Education Agency" does not include:

(i) Educational schools, programs, or facilities operated by or under the supervision, rules or licensing authority of the Colorado Department Of Human Services including:

(A) The Division Of Youth Services;

(B) The Mental Health Institutes at Fort Logan and Pueblo; and

(C) An eligible facility that is a day treatment facility; or

(ii) Educational schools, programs or facilities operated by or under the supervision of the Colorado Department of Corrections.

(c) These Rules apply to public education agencies, as defined in Section 2.00(7)(a) and to all educational programs, activities or events provided, supervised or sponsored by such public agencies.

(8) "Restraint" means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, chemicals, and seclusion.

(a) "Chemical Restraint" means administering medication to a student (including medications prescribed by his or her physician) on an as needed basis for the sole purpose of involuntarily limiting the student's freedom of movement. "Chemical Restraint" does not include:

(i) Prescription medication that is regularly administered to the student for medical reasons other than to restrain the student's freedom of movement (e.g., Asthma-cort, medications used to treat mood disorders or ADHD, Glucagon); or

(ii) The administration of medication for voluntary or life-saving medical procedures (e.g., EpiPens, Diastat).

(b) "Mechanical Restraint" means a physical device used to involuntarily restrict the movement of a student or the movement or normal function of his or her body. "Mechanical Restraint" does not include:

(i) Devices recommended by a physician, occupational therapist, or physical therapist and agreed to by a student's IEP Team or Section 504 Team and used in accordance with the student's Individualized Education Program (IEP) or Section 504 Plan;

(ii) Protective devices such as helmets, mitts, and similar devices used to prevent self-injury and in accordance with a student's IEP or Section 504 Plan;

- (iii) Adaptive devices to facilitate instruction or therapy and used as recommended by an occupational therapist or physical therapist, and consistent with a student's IEP or Section 504 Plan; or
 - (iv) Positioning or securing devices used to allow treatment of a student's medical needs.
- (c) "Physical Restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement. "Physical Restraint" does not include:
- (i) Holding of a student in a position other than a prone position for less than five minutes by a staff person for the protection of the student or others;
 - (ii) Brief holding of a student by one adult for the purpose of calming or comforting the student, not to include holding a student in a prone position;
 - (iii) Minimal physical contact for the purpose of safely escorting a student from one area to another; or
 - (iv) Minimal physical contact for the purpose of assisting the student in completing a task or response.
- (d) "Prone Position" means a face-down position.
- (e) "Prone Restraint" means a restraint in which the individual who is being restrained is secured in a prone position.
- (9) "Seclusion" means the placement of a student alone in a room from which egress is involuntarily prevented. "Seclusion" does not mean:
- (a) Placement of a student in residential services in his or her room for the night; or
 - (b) "Time-out" which is the removal of a student from potentially rewarding people or situations. A Timeout is not used primarily to confine the student, but to limit accessibility to reinforcement. In a Time-out, the individual is not physically prevented from leaving the designated Time-out area. Such a Time-out requires effective monitoring by staff.
- (10) "School Day" means any day or partial day that students are in attendance at the public education programs, agencies or services or sponsored events.
- (11) "Student," for the purposes of these Rules only, means any individual aged 3 - 21 years.

1 CCR 301-45. Section 2620-R-2.01. Basis for the use of restraint.

- (1) Restraints shall only be used:
- (a) In an emergency and with extreme caution; and
 - (b) After
 - (i) The failure of less restrictive alternatives (such as Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment); or
 - (ii) A determination that such alternatives would be inappropriate or ineffective under the circumstances.
- (2) Restraints must never be used as a punitive form of discipline or as a threat to control or gain compliance of a student's behavior.
- (3) School personnel shall:
- (a) Use restraints only for the period of time necessary and using no more force than is necessary; and
 - (b) Prioritize the prevention of harm to the student.

1 CCR 301-45. Section 2620-R-2.02. Duties related to the use of restraint.

- (1) General Requirements
- (a) When restraints, including seclusion, are used, the public education program shall ensure that:
 - (i) No restraint is administered in such a way that the student is inhibited or impeded from breathing or communicating;
 - (ii) No restraint is administered in such a way that places excess pressure on the student's chest, back, or causes positional asphyxia;

(iii) Restraints are administered only by staff who have received training, in accordance with Section 2.03 of these Rules;

(iv) Opportunities to have the restraint removed are provided to the student who indicates that (s)he is willing to cease the violent or dangerous behavior;

(v) When it is determined by trained staff that the restraint is no longer necessary to protect the student or others (i.e., the emergency no longer exists), the restraint must be removed. In the case of seclusion, staff must reintegrate the student or clearly communicate to the student that (s)he is free to leave the area used to seclude the student; and

(vi) Student is reasonably monitored to ensure the student's physical safety.

(2) Proper administration of specific restraints.

(a) "Chemical Restraints" shall not be used by public education agencies.

(b) "Mechanical Restraints" shall not be used by public education agencies, except:

(i) When mechanical restraints are used on a student who is openly displaying a deadly weapon, as defined in Section 2.00(3).

(ii) When used by armed security officers who: Have received documented training in defensive tactics utilizing handcuffing procedures and restraint tactics utilizing prone holds; and Have made a referral to a law enforcement agency.

(c) "Physical restraint"

(i) A person administering the physical restraint must use only the amount of force necessary to stop the dangerous or violent actions of the student.

(ii) A restrained student must be continuously monitored to ensure that the breathing of the student in such physical restraint is not compromised.

(iii) A student shall be released from physical restraint within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons.

(d) "Prone restraint" shall not be used by public education agencies except:

(i) When prone restraints are used on a student who is openly displaying a deadly weapon, as defined in Section 2.00(3).

(ii) When used by armed security officers who: Have received documented training in defensive tactics utilizing handcuffing procedures and restraint tactics utilizing prone holds; and Have made a referral to a law enforcement agency.

(e) "Seclusion"

(i) Relief periods from seclusion shall be provided for reasonable access to toilet facilities; and

(ii) Any space in which a student is secluded must have adequate lighting, ventilation, and size. To the extent possible under the specific circumstances, the space should be free of injurious items.

1 CCR 301-45. Section 2620-R-2.03. Staff training.

All public educational programs shall ensure that staff utilizing restraint in schools or facilities are trained.

Training shall include:

(1) a continuum of prevention techniques;

(2) environmental management;

(3) a continuum of de-escalation techniques;

(4) nationally recognized physical management and restraint practices, including, but not limited to, techniques that allow restraint in an upright or sitting position and information about the dangers created by prone restraint;

- (5) methods to explain the use of restraint to the student who is to be restrained and to the individual's family;
- (6) appropriate documentation and notification procedures; and
- (7) retraining at a frequency of at least every two years.

1 CCR 301-45. Section 2620-R-2.04. Documentation and notification requirements.

(1) If there is a reasonable probability that restraint might be used with a particular student, appropriate school staff must notify, in writing, the parents and, if appropriate, the student of the restraint procedures (including types of restraints) that might be used; specific circumstances in which restraint might be used; and staff involved. For students with disabilities, if the parents request a meeting with school personnel to discuss the notification, school personnel must ensure that the meeting is convened. This notification may occur at the meeting where the student's Behavior Plan or IEP is developed/reviewed.

(2) If restraints are used by any school employee or volunteer, a written report must be submitted within one (1) school day to school administration.

(3) The school principal or designee shall verbally notify the parents as soon as possible but no later than the end of the school day that the restraint was used.

(4) A written report based on the findings of the staff review referenced in Section 2.05(1)(a) of these Rules, must be emailed, faxed, or mailed to the parent within five (5) calendar days of the use of restraint. The written report of the use of restraint must include:

- (a) The antecedent to the student's behavior if known;
- (b) A description of the incident;
- (c) Efforts made to deescalate the situation;
- (d) Alternatives that were attempted;
- (e) The type and duration of the restraint used;
- (f) Injuries that occurred, if any; and
- (g) The staff present, and staff involved in administering the restraint.

(5) A copy of the written report on the use of restraint shall be placed in the student's confidential file.

1 CCR 301-45. Section 2620-R-2.05. Review of the use of restraint.

(1) Each public education agency shall ensure that a review process is established and conducted for each incident of restraint used. The purpose of this review shall be to ascertain that appropriate procedures were followed and to minimize future use of restraint. The review shall include, but is not limited to:

- (a) Staff review of the incident;
- (b) Follow up communication with the student and his/her family;
- (c) Review of the documentation to ensure use of alternative strategies; and
- (d) Recommendations for adjustment of procedures, if appropriate.

If requested by the public education agency or the parent(s) of the student, the public education agency shall convene a meeting to review the incident. For students with IEPs or Section 504 Plans, such a review may occur through the IEP or Section 504 process.

(2) Each public education agency shall ensure that a general review process is established, conducted and documented in writing at least annually. The purpose of the general review is to ascertain that the public education agency is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. The review shall include but is not limited to:

- (a) Analysis of incident reports, including all reports prepared pursuant to 2.04(2) and 2.04(4); including but not limited to procedures used during the restraint, preventative or alternative techniques tried, documentation, and follow up;
- (b) Training needs of staff;
- (c) Staff to student ratio; and
- (d) Environmental considerations, including physical space, student seating arrangements, and noise levels.

1 CCR 301-45. Section 2620-R-2.06. Exceptions.

(1) The provisions in these Rules shall not apply to Peace Officers, as defined in Section 16-2.5-101, C.R.S. et seq. who are acting within the scope of their employment or in accordance with Section 16-3-109, C.R.S.

(2) The provisions in these Rules shall not apply to any public education agency while engaged in transporting a student from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

- (II) Out-of-school suspension;
- (III) Classroom removal in accordance with board policy;
- (IV) Expulsion;

(2) Safe school plan.

The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

- (C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;
- (E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;

22-33-105. Suspension, expulsion, and denial of admission.

(5)(a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4)(h), C.R.S. If the board of education or its designee, in

accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22-20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(c.5)(I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

(IV)(Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7961, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

(2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

(3) The following may constitute additional grounds for denial of admission to a public school:

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1)(b), C.R.S., to obtain such information.

(e)(I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Enrolling entity" means:

(I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;

(II) A school district; or

(III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

(I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

22-33-106.5. Information concerning offenses committed by students.

(1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1)(d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

(2) Upon adjudication or conviction of a person under the age of eighteen years for an offense that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., or for an offense involving controlled substances, or, for a person under eighteen years of age but at least twelve years of age, for an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult the adjudicating or convicting court shall notify the school district in which the person is enrolled of the person's adjudication or conviction.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

22-33-105. Suspension, expulsion, and denial of admission.

(1) No child who has attained the age of six years and is under the age of twenty-one shall be suspended or expelled from or be denied admission to the public schools, except as provided by this article. (3)(d)

The suspending authority shall:

(II) Not extend a period of suspension because of the failure of the suspending authority to meet with the parent, guardian, or legal custodian during the period of suspension.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22-20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(c.5)(I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

(IV)(Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

- (e) Repeated interference with a school's ability to provide educational opportunities to other students.
 - (f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.
 - (g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.
- (1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:
- (a) The age of the student;
 - (b) The disciplinary history of the student;
 - (c) Whether the student has a disability;
 - (d) The seriousness of the violation committed by the student;
 - (e) Whether the violation committed by the student threatened the safety of any student or staff member; and
 - (f) Whether a lesser intervention would properly address the violation committed by the student.
- (1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7961, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.
- (2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:
- (a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;
 - (b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.
- (3) The following may constitute additional grounds for denial of admission to a public school:
- (a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;
 - (b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;
 - (c) Having been expelled from any school district during the preceding twelve months;
 - (d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;
 - (e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.
 - (f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.
- (4)(a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of

subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1)(b), C.R.S., to obtain such information.

(e)(I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Enrolling entity" means:

(I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;

(II) A school district; or

(III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

(I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid expulsion.

22-33-204.5. Legislative declaration.

The general assembly finds that a student who is placed in a residential child care facility or other facility licensed by the department of human services or in a hospital or who is receiving educational services through a day treatment center is, in most cases, dealing with significant behavioral and emotional issues. These issues make it difficult, if not impossible, for the student to function within a regular school and often severely impact the student's ability to participate in a facility school. The general assembly further finds that, although a student who is placed in a facility cannot be expelled due to the nature of the placement, the student is at risk of being unable to prosper academically and should be considered an at-risk student for purposes of section 22-33-205.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan.

(a) Conduct and discipline code.

(1)(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

22-33-105. Suspension, expulsion, and denial of admission.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108

(3)(c) A pupil suspended for a period of ten days or less shall receive an informal hearing by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable. Any pupil suspended for more than ten days shall be given the opportunity to request a review of the suspension before an appropriate official of the school district.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family. [...]

(e)(I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

22-33-106.3. Disciplinary investigations - parental presence - student statements.

(1) A public school employee shall not use a student's statement concerning an act alleged to have been committed by the student that results in mandatory expulsion pursuant to section 22-33-106 (1)(d), in the expulsion hearing, unless the statement is signed by the student and a parent, guardian, or legal or physical custodian is present when the student signs the statement or admission or a reasonable attempt was made to contact the parent, guardian, or legal or physical custodian to have the parent, guardian, or legal or physical custodian present when the student signed the statement. The school shall be deemed to have made a reasonable attempt to contact the parent, guardian, or legal or physical custodian if the school calls each of the phone numbers the parent, guardian, or legal or physical custodian provides to the school and all phone numbers the student provides to the school for the parent, guardian, or legal or physical custodian.

(2) Notwithstanding the provisions of subsection (1) of this section, the student and his or her parent, guardian, or legal or physical custodian may expressly waive the requirement that the parent, guardian, or legal or physical custodian be present when a student signs a statement or admission. This express waiver shall be in writing and shall be obtained only after full advisement of the student and his or her parent, guardian, or legal or physical custodian of the student's rights prior to the signing of the statement or admission by the student.

(3) The requirements of subsection (1) of this section shall not apply if the student makes any deliberate misrepresentations affecting the applicability or requirements of this section and a school official, acting in good faith and in reasonable reliance on such deliberate misrepresentation, obtains a signed statement or admission of the student that does not comply with the requirements of subsection (1) of this section.

(4) Nothing in this section shall be construed to prevent or interfere with a fact-finding or information-gathering investigation by a school or school employee.

22-33-108. Judicial proceedings.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a)(4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5)(a) It is the intent of the general assembly that, in enforcing the compulsory school attendance requirements of this article, a school district shall employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.

(b) A school district shall initiate court proceedings to compel a child and the child's parent to comply with the attendance requirements specified in this article but only as a last-resort approach to address the child's truancy and only if a child continues to be habitually truant after school or school district personnel have created and implemented a plan pursuant to section 22-33-107 (3) to improve the child's school attendance.

(c) Before initiating court proceedings to compel compliance with the attendance requirements specified in this article, the school district shall give the child and the child's parent written notice that the school district will initiate proceedings if the child does not comply with the attendance requirements of this article. The school district may combine the notice and summons. If combined, the petition must state the date on which the school district will initiate proceedings, which date must not be less than five days after the date of the notice and summons. The notice must state the provisions of this article with which compliance is required and must state that the school district will not initiate proceedings if the child complies with the identified provisions before the proceedings are filed.

(d) If a school district initiates court proceedings pursuant to this subsection (5), the school district, at a minimum, must submit to the court evidence of:

(I) The child's attendance record prior to and after the point at which the child was identified as habitually truant;

(II) Whether the child was identified as chronically absent and, if so, the strategies the school district used to improve the child's attendance;

(III) The interventions and strategies used to improve the child's attendance before school or school district personnel created the child's plan described in section 22-33-107 (3); and

(IV) The child's plan and the efforts of the child, the child's parent, and school or school district personnel to implement the plan.

(6) The court before which a proceeding to compel attendance is brought may issue, in its discretion, an order against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order must require the child and parent to cooperate with the school district in complying with the plan created for the child pursuant to section 22-33-107 (3).

(7)(a) If the child or youth does not comply with the valid court order issued against the child or youth or against both the parent and the child or youth, the court may order that an assessment for neglect as described in section 19-3-102 (1) be conducted as provided in section 19-3-501. In addition, the court may order the child or youth to show cause why he or she should not be held in contempt of court. When instituting contempt of court proceedings pursuant to this subsection (7), the court shall provide all procedural protections mandated in rule 107 of the Colorado rules of civil procedure, or any successor rule, concerning punitive sanctions for contempt.

(a.5) A judge or magistrate of any court may issue a warrant that authorizes the taking into temporary custody of a child or youth who has failed to appear for a court hearing for a truancy or contempt action; except that any such warrant must provide for release of the child or youth from temporary custody on an unsecured personal recognizance bond that is cosigned by the child's or youth's parent or legal guardian or, if the child or youth is in the custody of the department of human services, cosigning may be accomplished by a representative of the department of human services. In the alternative, the warrant may direct that the child or youth must only be arrested while court is in session and that he or she be taken directly to court for an appearance rather than booked into secure confinement.

(b) The court may impose sanctions after a finding of contempt that may include, but need not be limited to, community service to be performed by the child or youth, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having the goal of ensuring that the child or youth has an opportunity to obtain a quality education.

(c)(I) If the court finds that the child or youth has refused to comply with the plan created for the child or youth pursuant to section 22-33-107 (3), the court may impose on the child or youth, as a sanction for contempt of court, a sentence of detention for no more than forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402 and any rules promulgated by the Colorado supreme court. The court shall not sentence a child or youth to detention as a sanction for contempt of court unless the court finds that detention is in the best interest of the child or youth as well as the public. In making such a finding, the court shall consider the following factors, including that:

(A) The child or youth has violated a valid court order;

(B) National and Colorado-specific evidence shows that detaining children and youth for truancy alone is counterproductive and harmful to children and youth;

(C) The legislative intent is that a child or youth who is truant must not be placed in secure confinement for truancy alone;

(D) Detention is likely to have a detrimental effect on the child's or youth's school attendance; and

(E) Detention is likely to have an effect on the child's or youth's future involvement with the criminal justice system.

(II) There is a rebuttable presumption that a child or youth must receive credit for time served if he or she is sentenced to detention pursuant to subsection (7)(c)(I) of this section for violating a valid court order to attend school. If the court rebuts this presumption, it shall explain its reasoning on the record.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

22-33-105. Suspension, expulsion, and denial of admission.

(3)(b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(II) Not be readmitted to a public school until a meeting between the parent, guardian, or legal custodian and the suspending authority has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot

contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit the pupil. The meeting shall address whether there is a need to develop a remedial discipline plan for the pupil in an effort to prevent further disciplinary action.

(d) The suspending authority shall:

(III) Provide an opportunity for a pupil to make up school work during the period of suspension for full or partial academic credit to the extent possible. The intent of this provision is to provide an opportunity for the pupil to reintegrate into the educational program of the district and to help prevent the pupil from dropping out of school because of an inability to reintegrate into the educational program following the period of suspension. The school district should take this intent into consideration when determining the amount of credit a student will receive for this makeup work.

(5)(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

22-33-105. Suspension, expulsion, and denial of admission.

(5)(a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4)(h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty,

is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

22-33-203. Educational alternatives for expelled students.

(1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion. If the parent or guardian chooses to provide a home-based educational program for the student, the school district shall assist the parent in obtaining appropriate curricula for the student if requested by the parent or guardian.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection (2), upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district. The educational services provided must be designed to enable the student to return to the school in which he or she was enrolled prior to expulsion, to successfully complete the high school equivalency examination, or to enroll in a nonpublic, nonparochial school or in an alternative school, including but not limited to a charter school or a pilot school established pursuant to article 38 of this title. The expelling school district shall determine the amount of credit the student must receive toward graduation for the educational services provided pursuant to this section.

(b) The educational services provided pursuant to this section are designed to provide a second chance for the student to succeed in achieving an education. While receiving educational services, a student may be suspended or expelled pursuant to the conduct and discipline code of the school district providing the educational services and the provisions of part 1 of this article. Except as required by federal law, the expelling school district is not required to provide educational services to any student who is suspended or expelled while receiving educational services pursuant to this section until the period of the suspension or expulsion is completed.

(c)(I) Educational services provided pursuant to this section shall be provided by the expelling school district; except that the expelling school district may provide educational services either directly or in cooperation with one or more other school districts, boards of cooperative services, charter schools, nonpublic, nonparochial schools, or pilot schools established pursuant to article 38 of this title under contract with the expelling school district. Any program of educational services provided by a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107.

(II) Educational services may be provided by the school district through agreements entered into pursuant to section 22-33-204. The expelling school district need not provide the educational services on school district property. Any expelled student receiving educational services shall be included in the expelling school district's pupil enrollment as defined in section 22-54-103 (10).

(d) If an expelled student is receiving educational services delivered by a school district other than the expelling school district, by a charter school in a school district other than the expelling school district, by a board of cooperative services, by a nonpublic, nonparochial school, or by a pilot school pursuant to an agreement entered into pursuant to subparagraph (I) of paragraph (c) of this subsection (2), the expelling school district shall transfer ninety-five percent of the district per pupil revenues, as defined in section 22-30.5-112 (2)(a.5)(II) to the school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services, reduced in proportion to the amount of time remaining in the school year at the time the student begins receiving educational services.

(e) Any school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services to expelled students pursuant to this subsection (2)

may apply for moneys through the expelled student services grant program established in section 22-33-205 to assist in providing educational services.

(3) If a student is expelled and the student is not receiving educational services pursuant to this section, the school district shall contact the expelled student's parent or guardian at least once every sixty days until the beginning of the next school year to determine whether the student is receiving educational services from some other source; except that the school district need not contact a student's parent or guardian after the student is enrolled in another school district or in an independent or parochial school or if the student is committed to the department of human services or is sentenced pursuant to ARTICLE 2.5 OF TITLE 19.

(4) In addition to the educational services required under this section, a student who is at risk of suspension or expulsion or has been suspended or expelled, or the student's parent or guardian, may request any of the services provided by the school district through an agreement entered into pursuant to section 22-33-204, and the school district may provide such services.

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including the department of human services and the department of public health and environment; with community-based nonprofit and faith-based organizations; with nonpublic, nonparochial schools; with the department of military and veterans affairs; and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student, or the student's family, who is identified as being at risk of suspension or expulsion or who has been suspended or expelled. Any services provided pursuant to an agreement with a nonpublic, nonparochial school are subject to approval by the state board of education pursuant to section 22-2-107. Services provided through such agreements may include, but are not limited to:

- (a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;
- (b) Counseling services;
- (c) Substance use disorder treatment programs;
- (d) Family preservation services.
- (e) and (f)(Deleted by amendment, L. 98, p. 570, § 3, effective April 30, 1998.)

(2) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement. In addition, each agreement shall require each entity entering into the agreement to contribute the services or funds for the provision of the services specified in the agreement. The agreement shall specify the services or the amount and source of funds that each entity will provide and the mechanism for providing said services or funds.

(3) Each school district shall use a portion of its per pupil revenues to provide services under agreements entered into pursuant to this section for each student who is at risk of suspension or expulsion or who is suspended or expelled. In addition, the school district may use federal moneys, moneys received from any other state appropriation, and moneys received from any other public or private grant to provide said services.

22-37-102. Legislative declaration.

The general assembly hereby finds and declares that the purpose of this article is to provide means for encouraging experimentation in the management of students suspended from public schools or facility schools and to evaluate programs that will provide continuous education, supervision, and discipline to

suspended students in order to maintain the education of a suspended student and prevent the continuation of disruptive behavior, further suspension, or expulsion of the student.

22-37-104. Qualification.

(1) An eligible participant may submit a proposal to the state board for a grant for the development of a program under this article, which may involve selected grade levels within a public school or facility school.

(2) A program shall:

(a) Provide supervision, discipline, counseling, and continuous education for a suspended student with the goal of maintaining the education of a suspended student and preventing further disruptive behavior, subsequent suspension, or expulsion.

22-7-604.5. Alternative education campuses - criteria - application - rule-making - definition.

(1) A public school may apply to the state board for designation as an alternative education campus. The state board shall adopt rules specifying the criteria and application process for a public school to be designated an alternative education campus. The rules must include but need not be limited to:

(a) Criteria that a public school must meet to be designated an alternative education campus, including but not limited to the following:

(I) Having a specialized mission and serving a special needs or at-risk population;

(II) Being an autonomous public school;

(III) Having an administrator who is not under the supervision of an administrator at another public school;

(IV) Having a budget separate from any other public school;

(V) Having nontraditional methods of instruction delivery; and

(VI)(A) Serving students who have severe limitations that preclude appropriate administration of the assessments administered pursuant to section 22-7-1006.3;

(B) Serving a student population in which more than ninety percent of the students have an individualized education program pursuant to section 22-20-108 or meet the definition of a high-risk student contained in subsection (1.5) of this section, or any combination of these two criteria that equals at least ninety percent of the student population; or

(C) Serving students who attend on a part-time basis and who come from other public schools where the part-time students are counted in the enrollment of the other public school; except that the results of the assessments administered pursuant to section 22-7-1006.3 to all part-time students and high-risk students as defined in subsection (1.5) of this section must be used in determining the levels of attainment on the performance indicators for the public school for which the student is counted for enrollment purposes;

(D)(Deleted by amendment, L. 2010, (SB 10-154), ch. 157, p. 541, § 1, effective April 21, 2010.)

(b) A procedure for a district school board to request that the state board designate a public school of the school district as an alternative education campus; and

(c)(Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21, 2009.)

(d) A procedure for a district school board to appeal to the state board a denial of a request for designation.

(1.5) As used in this section, unless the context otherwise requires, a "high-risk student" means a student enrolled in a public school who:

(a) Has been committed to the department of human services following adjudication as a juvenile delinquent or is in detention awaiting disposition of charges that may result in commitment to the department of human services;

- (b) Has dropped out of school or has four excused or unexcused absences from public school in any one month or ten excused or unexcused absences from public school during any school year. Absences due to suspension or expulsion of a student are considered absences for purposes of this paragraph (b).
- (c) Has been expelled from school or engaged in behavior that would justify expulsion;
- (d) Has a documented history of personal drug or alcohol use or has a parent or guardian with a documented substance use disorder;
- (e) Has a documented history of personal street gang involvement or has an immediate family member with a documented history of street gang involvement;
- (f) Has a documented history of child abuse or neglect, has been adjudicated a ward of the court, or has been involved in the foster care system;
- (g) Has a parent or guardian in prison or on parole or probation or has experienced the loss of a parent or sibling;
- (h) Has a documented history of domestic violence in the immediate family;
- (i) Has a documented history of repeated school suspensions;
- (j) Is a parent or pregnant woman under the age of twenty years;
- (k) Is a migrant child, as defined in section 22-23-103 (2);
- (l) Is a homeless child, as defined in section 22-1-102.5 (2)(a);
- (m) Has a documented history of a mental health disorder or behavioral issue or has experienced significant trauma; or
- (n) Is over traditional school age for his or her grade level and lacks adequate credit hours for his or her grade level.

(2)(a) A district school board for a public school that desires to be considered an alternative education campus pursuant to this section shall file with the state board a request for designation as an alternative education campus. The request shall be in a form approved by the state board and shall contain sufficient information to establish that the public school meets the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section. The state board shall approve the designation of alternative education campus for any public school for which a request is filed pursuant to this subsection (2) that is found by the state board to meet the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section.

(2.5)(a) The department shall annually review the performance of each alternative education campus based on the criteria specified by rule of the state board pursuant to section 22-11-210 (1)(b) and shall recommend to the commissioner and the state board whether the alternative education campus shall adopt a performance, improvement, priority improvement, or turnaround plan, as said plans are described in sections 22-11-403 to 22-11-406. Based on the recommendations, the state board, pursuant to section 22-11-210 (2), shall notify each alternative education campus and its district school board, or the institute if the alternative education campus is an institute charter school, of the type of plan the alternative education campus shall adopt. In adopting its plan, each alternative education campus shall comply with the provisions of sections 22-11-403 to 22-11-406, as applicable.

(b) The district school board for an alternative education campus or the institute, if the alternative education campus is an institute charter school, shall specify the accreditation category for the alternative education campus in accordance with the accreditation process adopted by the district school board or the institute pursuant to section 22-11-307.

(c) Notwithstanding the provisions of section 22-11-503, the school performance report for an alternative education campus shall include the information specified by rule of the state board that will effectively communicate to the parents of students enrolled in the alternative education campus and to

the public the performance of the alternative education campus and the performance of students enrolled in the alternative education campus.

(e)(I) Notwithstanding the provisions of subsection (2.5)(a) of this section, for the 2021-22 school year, the department shall not review the performance of each alternative education campus based on the criteria specified in state board rule nor recommend to the commissioner of education, as described in section 22-11-210, regarding whether the alternative education campus shall adopt a performance, improvement, priority improvement, or turnaround plan. For the 2021-22 school year, each alternative education campus shall continue to implement the school plan type that was assigned for the preceding school year.

(II) If required to implement a priority improvement or turnaround plan during the 2020-21 school year on the basis of its plan type for the preceding school year, an alternative education campus may request a plan type for the 2021-22 school year that reflects its level of attainment based on an alternative body of evidence as described in section 22-11-210 (2.6)(b).

(III) This subsection (2.5)(e) is repealed, effective July 1, 2022.

(3)(a) Except as excluded pursuant to section 22-7-1006.3, the results of the assessments administered pursuant to section 22-7-1006.3 to all part-time students attending a school or a program that is designated an alternative education campus pursuant to this section must be included in determining the levels of attainment on the performance indicators achieved by the school to which the student is assigned for enrollment purposes.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), for a part-time student with an individualized education program pursuant to section 22-20-108, the school district in which the student is enrolled, or, in the case of a board of cooperative services, the administrative unit, may designate either the school of residency or the school of attendance as the school to which the student's scores shall be assigned to determine levels of attainment on the performance indicators.

REGULATIONS

1 CCR 301-57. The administration of accountability for alternative campuses.

1.00 Statement of Basis and Purpose.

Section 22-7-604.5, C.R.S. , requires the State Board to adopt rules specifying the criteria and application process for a school to be designated an alternative education campus and to adopt rules specifying the information that will be used to effectively communicate to parents of students enrolled in an alternative education campus and to the public the performance of the alternative education campus and the performance of students enrolled in the alternative education campus. Section 22-11-210 (1)(b), C.R.S. , requires the State Board to promulgate rules establishing objective, measurable criteria that the Department shall apply in recommending to the State Board that an alternative education campus implement a performance, improvement, priority improvement or turnaround plan or that an alternative education campus shall be subject to restructuring.

2.00 Definitions.

2.01 "Alternative Education Campus" means a public school, including a charter school that receives a designation pursuant to §22-7-604.5(1), C.R.S.

2.02 "Charter School Institute" means the entity created pursuant to §22-30.5-503, C.R.S.

2.03 "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

2.04 "High-Risk Student" means a student enrolled in a public school who meets the criteria outlined in §22-7-604.5(1.5), C.R.S.

2.05 "Institute charter school" means a charter school that is authorized by the Charter School Institute pursuant to the provisions of part 5 of article 30.5 of title 22, C.R.S.

2.06 "Local school board" means the board of education of a district. "Local school board" also includes the governing board of a Board of Cooperative Education Services, as defined by §22-5-101, C.R.S. , et seq., if the Board of Cooperative Education Services is operating a public school.

2.07 "Public school" shall have the same meaning as provided in §22-1-101, C.R.S. , and includes but is not limited to a district charter school, an Institute Charter School, and an online school as defined in section §22-30.7-102(9.5), C.R.S.

2.08 "State Board" means the State Board of Education established pursuant to section 1 of article IX of the state constitution.

2.09 "Statewide Assessments" means the assessments administered pursuant to the Colorado student assessment program created in § 22-7-409, C.R.S. , or as part of the system of assessments adopted by the State Board pursuant to § 22-7-1006, C.R.S.

3.00 Criteria and Application Process for a School to be Designated an Alternative Education Campus.

3.005 As a result of the Governor's declaration of a state of disaster emergency in the spring of 2020, the suspension of the 2020 Statewide Assessments, and the temporary suspension of normal in-person instruction at public elementary and secondary schools thereafter, the State Board suspends Rules 3.02 and 3.05 for calendar year 2020. The State Board may allow any Public School that was designated as an Alternative Education Campus in school year 2019-2020 to retain that designation in school year 2020-21. Any public school not previously designated as an Alternative Education Campus but seeking such designation for school year 2020-2021 may apply only in accordance with these rules.

3.01 To be designated an Alternative Education Campus, a public school must:

3.01(A) Have a specialized mission and serving a special needs or at-risk population;

3.01(B) Be an autonomous public school, meaning that the school provides a complete instructional program that allows students to proceed to the next grade level or to graduate;

3.01(C) Have an administrator who is not under the supervision of an administrator at another public school;

3.01(D) Have a budget separate from any other public school; 3.01(E) Have nontraditional methods of instruction delivery; and 3.01(F) One of the following:

3.01(F)(i) Serve students who have severe limitations that preclude appropriate administration of the assessments administered pursuant to § 22-7-409, C.R.S. ;

3.01(F)(ii) Serve a student population in which more than ninety percent of the students have an individual education program pursuant to § 22-20-108, C.R.S. or meet the definition of a High-Risk Student, or any combination of these two criteria that equals at least ninety percent of the student population; or

3.01(F)(iii) Serve students who attend on a part-time basis and who come from other public schools where the part-time students are counted in the enrollment of the other public school; except that the results of the assessments administered pursuant to § 22-7-409, C.R.S. , of all part-time students and High-Risk Students shall be used in determining the levels of attainment on the performance indicators for the public school for which the student is counted for enrollment purposes.;

3.02 On or before July 1 of each year, the Institute or local school board for any public school that desires to be designated an Alternative Education Campus pursuant to § 22-7-602, C.R.S. , shall file with the State Board a request for designation as an Alternative Education Campus. A public school may submit an application on its own, with approval from the Institute or local school board. Each request shall contain sufficient information to establish that the public school meets the requirements established by these rules. The application will include the selection of the evaluation measures described in section 3.05 of these rules, below.

3.03 On or before August 20 of each year, the State Board shall approve the designation as an Alternative Education Campus for any public school for which a request has been filed and that is found by the State Board to meet the requirements of these rules.

3.04 If the State Board denies a request for a public school to be designated as an Alternative Education Campus, the public school or the Institute or local school board for the public school, may resubmit the application with any relevant information, within ten (10) business days of the State Board's initial determination. On or before September of each year, the State Board shall reconsider the public school's designation as an Alternative Education Campus and shall issue a final determination on the matter.

3.05 The Department shall annually review the performance of each Alternative Education Campus based on the following indicators, and using the following measures:

3.05(A) Student achievement. Student achievement shall be measured on the Statewide Assessments, if sufficient data is available. If sufficient data on the Statewide Assessments is not available, or if the Alternative Education Campus provides sufficient rationale for why information in addition to the Statewide Assessment data is necessary, student achievement also shall be measured on an alternative standardized assessment selected by the Alternative Education Campus, agreed to by the local school board for that Alternative Education Campus or the Institute, whichever is applicable, and approved by the Department pursuant to section 3.08 of these rules. Assessments other than the Statewide Assessments must be aligned with the academic standards adopted by the local school board or Institute pursuant to § 22-7-1013;

3.05(B) Student longitudinal academic growth. Student longitudinal academic growth shall be measured on the Statewide Assessments, if sufficient data is available. If sufficient data on the Statewide Assessments is not available, or if the Alternative Education Campus provides sufficient rationale for why information in addition to the Statewide Assessment data is necessary, student longitudinal academic growth also shall will be measured on an alternative standardized assessment selected by the Alternative Education Campus, agreed to by the local school board for that Alternative Education Campus or the Institute, whichever is applicable, and approved by the Department pursuant to section 3.08 of these rules. The measures of student longitudinal academic growth must be consistent with the measures set forth in § 22-11-204 (2), C.R.S. ;

3.05(C) Post-secondary and workforce readiness. Post-secondary and workforce readiness shall be measured in a manner that is consistent with § 22-7-1008, C.R.S. , and § 22-11-204, C.R.S. , on measures that are selected by the Alternative Education Campus, agreed to by the local school board for that Alternative Education Campus or the Institute, whichever is applicable, and approved by the Department pursuant to section 3.08 of these rules. Post-secondary and workforce readiness measures shall include performance on the standardized, curriculum-based, achievement, college entrance examination administered as a Statewide Assessment or the postsecondary and workforce readiness assessment described in § 22-7-1003 (16), C.R.S. , if sufficient data is available. Post-secondary and workforce readiness measures also shall include transition success for non-degree granting institutions; and

3.05(D) Student engagement. Student engagement shall be measured in a manner that is selected by the Alternative Education Campus, agreed to by the local school board for that Alternative Education Campus or the Institute, whichever is applicable, and approved by the Department pursuant to section 3.08 of these rules. Student engagement may include attendance rates, truancy rates, student re- engagement rate or other measures of student/parent attitude or behavior that promote positive educational outcomes.

3.06 The measures used to evaluate the performance of each Alternative Education Campus shall reflect the unique purposes of the campus and unique circumstances of and challenges that must be met by the students enrolled in the campus, as well as consider the statewide performance targets established pursuant to § 22-11-201, C.R.S. .

3.07 Prior to being evaluated, each Alternative Education Campus, after having received approval from its local school board or the Institute, whichever is applicable, shall submit the following to the Department for approval:

3.07(A) The selected measure for each indicator (student achievement on a standardized assessment, student longitudinal academic growth on a standardized assessment, postsecondary and workforce readiness, and student engagement); and

3.07(B) Measurable targets for each indicator that are achievable but ambitious, based on research, to the extent available, or, when such research is not available or adequate, calculated to enable rigorous review of school performance and future research;

3.08 Department approval of the measures and targets used to evaluate the performance of each Alternative Education Campus shall be based on:

3.08(A) Whether the measures fairly evaluate the performance of the Alternative Education Campus based on the size and distinctive student population and mission of the school, and whether those measures can reasonably demonstrate successful changes in student attitudes, behaviors and performance;

3.08(B) Whether the targets are achievable but ambitious, and allow for evaluation of progress towards attainment on each of the indicators described in section 3.05 of these rules;

3.08(C) Whether the measures and targets reflect expectations established for students becoming postsecondary and workforce ready as described in Part 10 of Article 7 of Title 22 (the Preschool to Postsecondary Education Alignment Act) and § 22-2-136, C.R.S. ;

3.08(D) Whether the measures and targets recognize and make appropriate use of well-established or widespread existing practices in education of High-Risk Students or subgroups of such students; and

3.08(E) Whether the measures and targets are based on data that will allow the Department to collect, evaluate, and, if needed, audit said data.

3.09 In evaluating the performance of each Alternative Education Campus, greatest emphasis shall be placed on student academic growth and postsecondary and workforce readiness.

3.10 Each August, the Department shall conduct a review of the performance of each Alternative Education Campus based on the school performance evaluation framework described in 1 CCR 301-1 and the performance evaluation framework described in section 3.05 of these rules. Following this annual review, the Department shall recommend to the Commissioner and the State Board whether the Alternative Education Campus shall adopt a performance, improvement, priority improvement, or turnaround plan, as said plans are described in § 22-11-403 to 22-11-406, C.R.S. Based on the recommendations, the State Board shall notify each Alternative Education Campus and its district school board or the Charter School Institute, if the Alternative Education Campus is an Institute Charter School, of the type of plan the Alternative Education Campus shall adopt. In adopting its plan, each Alternative Education Campus shall comply with the provisions of § 22-11-403 to 22-11-406, C.R.S. , as applicable.

3.11 The local school board for an Alternative Education Campus or the Charter School Institute, if the Alternative Education Campus is an Institute Charter School, shall specify the accreditation category for the Alternative Education Campus in accordance with the accreditation process adopted by the district school board or the Charter School Institute pursuant to §22-11-307, C.R.S.

3.12 The Department shall publish on SchoolView a performance report for each Alternative Education Campus. The performance report for an Alternative Education Campus will effectively communicate to the parents of students enrolled in the Alternative Education Campus and to the public the performance of the Alternative Education Campus and the performance of students enrolled in the Alternative Education Campus. Said report will include the following information:

3.12(A) All information included in the school performance reports for all other public schools in the state, pursuant to §22-11-503, C.R.S. ; and

3.12(B) Any additional information related to the performance of the Alternative Education Campus on the indicators described in section 3.05 of these rules, above.

3.13 Prior to the publication of the performance reports on SchoolView, the Department shall allow each District and the Institute a reasonable period of time to review the Alternative Education Campus' information as it will appear on the performance reports and correct any errors or misinformation identified by the District or Institute.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

18-12-105.5. Unlawfully carrying a weapon - unlawful possession of weapons - school, college, or university grounds.

(1) A person commits a class 6 felony if such person knowingly and unlawfully and without legal authority carries, brings, or has in such person's possession a deadly weapon as defined in section 18-1-901 (3)(e) in or on the real estate and all improvements erected thereon of any public or private elementary, middle, junior high, high, or vocational school or any public or private college, university, or seminary, except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of an employee of an educational institution that require the use of a deadly weapon, or for the purpose of participation in an authorized extracurricular activity or on an athletic team.

(3) It shall not be an offense under this section if:

(a) The weapon is unloaded and remains inside a motor vehicle while upon the real estate of any public or private college, university, or seminary; or

(b) The person is in that person's own dwelling or place of business or on property owned or under that person's control at the time of the act of carrying; or

(c) The person is in a private automobile or other private means of conveyance and is carrying a weapon for lawful protection of that person's or another's person or property while traveling; or

(d) The person, at the time of carrying a concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to section 18-12-105.1, as said section existed prior to its repeal; except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of section 18-12-214 (3); or

(d.5) The weapon involved was a handgun and the person held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to part 2 of this article; except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of section 18-12-214 (3); or

(e) The person is a school resource officer, as defined in section 22-32-109.1 (1)(g.5), C.R.S., or a peace officer, as described in section 16-2.5-101, C.R.S., when carrying a weapon in conformance with the policy of the employing agency as provided in section 16-2.5-101 (2), C.R.S.; or

(f) and (g)(Deleted by amendment, L. 2003, p. 1626, § 51, effective August 6, 2003.)

(h) The person has possession of the weapon for use in an educational program approved by a school which program includes, but shall not be limited to, any course designed for the repair or maintenance of weapons.

22-12-104. Liability.

(1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

- (a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(c) "Dangerous weapon" has the same meaning as set forth in section 22-33-102 (4).

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, and in accordance with standardized methods and any revised reporting categories identified and adopted through the stakeholder process set forth in section 22-1-138, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year, including any disciplinary incident specified in subsection (2)(b)(iv)(e) or (2)(b)(iv)(k) of this section that requires additional reporting on the incident.

(IV) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific

information identifying the number of, and the action taken with respect to, each of the following types of violations:

- (A) Possessing a dangerous weapon on school grounds, in a school vehicle, or at a school activity or sanctioned event without the authorization of the school or the school district.

22-33-102. Definitions.

As used in this article 33, unless the context otherwise requires:

- (4) "Dangerous weapon" means:
 - (a) A firearm, as defined in section 18-1-901 (3)(h), C.R.S.;
 - (b) Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;
 - (c) A fixed-blade knife with a blade that exceeds three inches in length;
 - (d) A spring-loaded knife or a pocket knife with a blade exceeding three and one-half inches in length; or
 - (e) Any object, device, instrument, material, or substance, whether animate or inanimate, that is used or intended to be used to inflict death or serious bodily injury.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

- (a) Continued willful disobedience or open and persistent defiance of proper authority;
 - (b) Willful destruction or defacing of school property;
 - (c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22-20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.
- (c.5)(I) Declaration as a habitually disruptive student.
- (II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.
 - (III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".
 - (IV)(Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)
- (d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;
(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7961, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

(2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

(3) The following may constitute additional grounds for denial of admission to a public school:

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1)(b), C.R.S., to obtain such information.

(e)(I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Enrolling entity" means:

(I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;

(II) A school district; or

(III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

(I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(e) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1)(c.5). (a) Conduct and discipline code.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each

student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, and in accordance with standardized methods and any revised reporting categories identified and adopted through the stakeholder process set forth in section 22-1-138, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year, including any disciplinary incident specified in subsection (2)(b)(iv)(e) or (2)(b)(iv)(k) of this section that requires additional reporting on the incident.

(l) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(E) Being willfully disobedient or openly and persistently defiant or repeatedly interfering with the school's ability to provide educational opportunities to, and a safe environment for, other students. In addition to providing information on such disciplinary incidents in the compiled report required by this subsection (2)(b), the report filing must include any additional information deemed necessary by the department of education pursuant to the process required pursuant to section 22-1-138. Information included in reporting for incidents currently categorized as disobedience or defiance may include, but is not limited to school and district code; location of incidents; description of the behaviors that constituted the violations; interventions or de-escalation strategies attempted leading up to the incident; and descriptive information of the student or students involved in the incidents, including, but not limited to, gender, grade level, ethnicity, race, and whether the student has federal section 504 accommodations or an individualized education plan. Information on the report must be submitted in accordance with the department of education's data privacy and reporting requirements;

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22- 20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school

district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(c.5)(I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

(IV)(Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7961, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

(2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

(3) The following may constitute additional grounds for denial of admission to a public school:

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the

provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1)(b), C.R.S., to obtain such information.

(e)(I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid expulsion.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

13-5-145. Truancy detention reduction policy - legislative declaration.

(1) The general assembly finds that:

- (a) Imposing a sentence of detention on a juvenile who violates a court order to attend school does not improve the likelihood that the juvenile will attend school and does not address the underlying causes of the juvenile's truancy;
- (b) The best methods to address truancy and its underlying causes and the resources needed to implement those methods are different in each community;
- (c) Since 2014, the juvenile courts in many judicial districts around the state have successfully reduced the use of detention for juveniles who are truant by implementing pilot projects through which the juvenile court imposes reasonable sanctions and, where possible, provides incentives to attend school, reserving detention as a sanction of last resort; and
- (d) These pilot projects need additional time to produce meaningful data regarding the effectiveness of the alternate sanctions and incentives and to determine whether they result in improved outcomes for juveniles and their families.

(2) The chief judge in each judicial district, or his or her designee, shall convene a meeting of community stakeholders to create a policy for addressing truancy cases that seeks alternatives to the use of detention as a sanction for truancy. Community stakeholders may include, but need not be limited to:

- (a) Parents;
- (b) Representatives from school districts;
- (c) Representatives from county departments of human or social services;
- (d) Guardians ad litem;
- (e) Court-appointed special advocates;
- (f) Juvenile court judges;
- (g) Respondent counsel;
- (h) Representatives from law enforcement agencies;
- (i) Mental health care providers;
- (j) Substance use disorder treatment providers;

- (k) Representatives from the division of criminal justice in the department of public safety;
 - (l) Representatives from the state department of human services; and
 - (m) Representatives from the department of education.
- (3) The chief judge in each judicial district shall adopt a policy for addressing truancy cases no later than March 15, 2016. In developing the policy for addressing truancy cases, the chief judge and the community stakeholders shall consider, at a minimum:
- (a) Best practices for addressing truancy that are used in other judicial districts and in other states;
 - (b) Evidence-based practices to address and reduce truancy;
 - (c) Using a wide array of reasonable sanctions and reasonable incentives to address and reduce truancy;
 - (d) Using detention only as a last resort after exhausting all other reasonable sanctions and, when imposing detention, appropriately reducing the number of days served; and
 - (e) Research regarding the effect of detention on juveniles.
- (4) The state court administrator's office shall report to the judiciary committees of the house of representatives and the senate, or any successor committees, no later than April 15, 2016, regarding the policy for addressing truancy cases adopted by each judicial district.

22-11-302. School district accountability committee - powers and duties.

- (1) Each school district accountability committee has the following powers and duties:
- (g) To increase the level of parent engagement in the school district and in the public schools of the school district, especially the engagement of parents of students in the populations described in section 22-11-301 (3). The committee's activities to increase parent engagement must include, but need not be limited to:
 - (III) Assisting school personnel to increase parents' engagement with educators, including but not limited to parents' engagement in creating students' READ plans pursuant to part 12 of article 7 of this title, in creating individual career and academic plans pursuant to section 22-32-109 (1)(oo), and in creating plans to address habitual truancy pursuant to section 22-33-107 (3).

22-11-402. School accountability committee - powers and duties - meetings.

- (1) Each school accountability committee has the following powers and duties:
- (h) To increase the level of parent engagement in the school, especially the engagement of parents of students in the populations described in section 22-11-401 (1)(d). The committee's activities to increase parent engagement must include, but need not be limited to:
 - (III) Assisting school personnel to increase parents' engagement with teachers, including but not limited to parents' engagement in creating students' READ plans pursuant to part 12 of article 7 of this title, in creating individual career and academic plans pursuant to section 22-32-109 (1)(oo) or 22-30.5-525, and in creating plans to address habitual truancy pursuant to section 22-33-107 (3).

22-32-118.5. Intervention strategies - students at risk of dropping out - legislative declaration.

- (1) The general assembly finds that research shows there are certain behaviors such as truancy, low academic achievement, and misbehavior that results in suspension or expulsion that, when exhibited by a student, are clear indications that the student is at increased risk of dropping out of school before graduation. These behaviors are often noticeable as early as grades six through nine and, even at this relatively early stage of a student's academic career, are accurate predictors of whether the student will graduate or drop out of high school. The general assembly further finds that interventions with students who demonstrate these behaviors in these middle grades can be very successful in enabling the student to refocus his or her efforts, improve in academic achievement, and successfully graduate from high school. Therefore, it is the intent of the general assembly that school districts and public schools focus

attention on the data collected for students in these middle grades, identify students who require interventions, and provide the appropriate interventions to assist students in graduating from high school.

(2)(a) Each school district board of education shall consider adopting procedures by which the schools of the school district, including charter schools, that include any of grades six through nine shall review the relevant data for students in those grades and identify students who are demonstrating behaviors that indicate the student is at greater risk of dropping out of school. The behaviors may include, but need not be limited to, low academic achievement, truancy, insubordinate behavior, and disengagement.

(b) The procedures may specify that, after a school identifies a student as being at increased risk of dropping out of school, the school shall provide appropriate interventions that are designed to assist the student in improving his or her academic performance and behavior and in increasing his or her overall level of engagement in school. Interventions may include, but need not be limited to, counseling, tutoring, parent engagement, and developmental education services.

(c) If a school district board of education adopts procedures pursuant to this subsection (2), the school district shall notify a student's parents as soon as possible after the school district identifies the student as being at greater risk of dropping out of school. The school district shall provide to the student's parents a description of the interventions that the school district intends to implement for the student, if any. The parent may approve or reject the described interventions. If the parent rejects the interventions, the school district shall not implement the interventions. The parent may terminate the interventions at any time after the school district begins providing the interventions.

(d) A parent may contact the school district in which his or her student is enrolled to request interventions pursuant to this subsection (2) if the parent determines that the student is at greater risk of dropping out of school.

22-33-104. Compulsory school attendance.

(4)(a) The board of education shall adopt a written policy setting forth the district's attendance requirements. The policy must provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section, as well as temporary absences due to behavioral health concerns. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(b.5) Each board of education is encouraged to establish attendance procedures for identifying students who are chronically absent and to implement best practices and research-based strategies to improve the attendance of students who are chronically absent.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

22-33-107. Enforcement of compulsory school attendance - definitions.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(3)(a) As used in this subsection (3):

(II) "Local community services group" means the local juvenile services planning committee created pursuant to section 19-2-211, C.R.S., the local collaborative management group created by a memorandum of understanding entered into pursuant to section 24-1.9-102, C.R.S., or another local group of public agencies that collaborate with the school district to identify and provide support services for students.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning elementary and secondary school attendance, including but not limited to policies and procedures to work with children who are habitually truant. The policies and procedures must include provisions for the development of a plan. The plan must be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The appropriate school personnel are encouraged to work with the local community services group to develop the plan. The plan must be in compliance with section 22-33-108 (7) and include appropriate sanctions other than placement in a juvenile detention facility for a child who is habitually truant and who has refused to comply with the plan. The policies and procedures may also include but need not be limited to the following:

(I.5) Procedures to monitor the attendance of each child enrolled in the school district to identify each child who has a significant number of unexcused absences and to work with the local community services group and the child's parent to identify and address the likely issues underlying the child's truancy, including any nonacademic issues;

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of children who are habitually truant, as defined in section 22-33-102 (3.5), for the preceding academic year. The department shall post this information for each school district on its website for the public to access and may post additional information reported by school districts related to truancy.

(5) The department of education may post on its website information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

22-33-107.5. Notice of failure to attend.

(1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day where the school district has received notice from the court or parole board:

- (a) Pursuant to section 19-2-508 (3)(a)(X) that the student is required to attend school as a condition of release pending an adjudicatory trial;
- (b) Pursuant to section 17-22.5-404, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (9), or 19-2-1002 (1) or (3) that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or
- (c) Pursuant to section 13-10-113 (8), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by a municipal court.

(2) If the school district has notice that a student who is required to attend school as a condition of release or as a condition of or in connection with any sentence imposed by a court, including a condition of probation or parole, has enrolled in a nonpublic home-based educational program, pursuant to section 22-33-104.5, or in an independent or parochial school, the school district shall notify the appropriate court or parole board and shall no longer be required to notify the court or parole board, pursuant to subsection (1) of this section, if the student fails to attend.

22-33-108. Judicial proceedings.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a)(4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5)(a) It is the intent of the general assembly that, in enforcing the compulsory school attendance requirements of this article, a school district shall employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.

(b) A school district shall initiate court proceedings to compel a child and the child's parent to comply with the attendance requirements specified in this article but only as a last-resort approach to address the child's truancy and only if a child continues to be habitually truant after school or school district personnel have created and implemented a plan pursuant to section 22-33-107 (3) to improve the child's school attendance.

(c) Before initiating court proceedings to compel compliance with the attendance requirements specified in this article, the school district shall give the child and the child's parent written notice that the school district will initiate proceedings if the child does not comply with the attendance requirements of this article. The school district may combine the notice and summons. If combined, the petition must state the date on which the school district will initiate proceedings, which date must not be less than five days after the date of the notice and summons. The notice must state the provisions of this article with which

compliance is required and must state that the school district will not initiate proceedings if the child complies with the identified provisions before the proceedings are filed.

(d) If a school district initiates court proceedings pursuant to this subsection (5), the school district, at a minimum, must submit to the court evidence of:

(I) The child's attendance record prior to and after the point at which the child was identified as habitually truant;

(II) Whether the child was identified as chronically absent and, if so, the strategies the school district used to improve the child's attendance;

(III) The interventions and strategies used to improve the child's attendance before school or school district personnel created the child's plan described in section 22-33-107 (3); and

(IV) The child's plan and the efforts of the child, the child's parent, and school or school district personnel to implement the plan.

(6) The court before which a proceeding to compel attendance is brought may issue, in its discretion, an order against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order must require the child and parent to cooperate with the school district in complying with the plan created for the child pursuant to section 22-33-107 (3).

(7)(a) If the child or youth does not comply with the valid court order issued against the child or youth or against both the parent and the child or youth, the court may order that an assessment for neglect as described in section 19-3-102 (1) be conducted as provided in section 19-3-501. In addition, the court may order the child or youth to show cause why he or she should not be held in contempt of court. When instituting contempt of court proceedings pursuant to this subsection (7), the court shall provide all procedural protections mandated in rule 107 of the Colorado rules of civil procedure, or any successor rule, concerning punitive sanctions for contempt.

(a.5) A judge or magistrate of any court may issue a warrant that authorizes the taking into temporary custody of a child or youth who has failed to appear for a court hearing for a truancy or contempt action; except that any such warrant must provide for release of the child or youth from temporary custody on an unsecured personal recognizance bond that is cosigned by the child's or youth's parent or legal guardian or, if the child or youth is in the custody of the department of human services, cosigning may be accomplished by a representative of the department of human services. In the alternative, the warrant may direct that the child or youth must only be arrested while court is in session and that he or she be taken directly to court for an appearance rather than booked into secure confinement.

(b) The court may impose sanctions after a finding of contempt that may include, but need not be limited to, community service to be performed by the child or youth, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having the goal of ensuring that the child or youth has an opportunity to obtain a quality education.

(c)(I) If the court finds that the child or youth has refused to comply with the plan created for the child or youth pursuant to section 22-33-107 (3), the court may impose on the child or youth, as a sanction for contempt of court, a sentence of detention for no more than forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402 and any rules promulgated by the Colorado supreme court. The court shall not sentence a child or youth to detention as a sanction for contempt of court unless the court finds that detention is in the best interest of the child or youth as well as the public. In making such a finding, the court shall consider the following factors, including that:

(A) The child or youth has violated a valid court order;

(B) National and Colorado-specific evidence shows that detaining children and youth for truancy alone is counterproductive and harmful to children and youth;

- (C) The legislative intent is that a child or youth who is truant must not be placed in secure confinement for truancy alone;
- (D) Detention is likely to have a detrimental effect on the child's or youth's school attendance; and
- (E) Detention is likely to have an effect on the child's or youth's future involvement with the criminal justice system.

(II) There is a rebuttable presumption that a child or youth must receive credit for time served if he or she is sentenced to detention pursuant to subsection (7)(c)(I) of this section for violating a valid court order to attend school. If the court rebuts this presumption, it shall explain its reasoning on the record.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

REGULATIONS

1 CCR 301-78. Section 1.00. Statement of basis and purpose.

1.00 Statement of Basis and Purpose

This regulation is adopted pursuant to the authority in section 22-33-104 (4)(c), C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA"), C.R.S.

This regulation shall govern the standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the number of students identified as habitually truant. Many research studies have concluded that truancy is a problem that impacts a student's ability to attain the maximum benefit from the education process. Families, schools and communities must work together to ensure regular daily and punctual school attendance. Students should be advised that each scheduled school day will count in their attendance records. Further, students are required to attend classes, unless excused for good reason, in accordance with the Colorado School Attendance Law (C.R.S. 22-33-101). The purpose of this regulation is to provide specificity for consistency in reporting attendance and truancy data across school districts and BOCES. This regulation intends to increase data accuracy by generating uniform indicators for aggregate excused and unexcused absences and habitually truant student numbers. Another purpose is

to allow the usage of these indicators to leverage resources to support the complete success of children and youth in school.

1 CCR 301-78. Section 2.00. Definitions.

2.00 Definitions

- (1) "Absences" means the scheduled school days or portions thereof missed by the student.
- (2) "Attendance Period" means the period of time in which student attendance is recorded.
- (3) "Attendance" is one collection of the Data Pipeline system to obtain attendance, excused and unexcused absences and habitually truant information.
- (4) "Data Pipeline" means the state reporting system to collect, through electronic transfer where possible, all student and public school performance data as required by 22-7-603 C.R.S.
- (5) "BOCES" means Boards of Cooperative Educational Services.
- (6) "Department" means the Colorado Department of Education.
- (7) "Excused Absence" means the student is absent for a reason as identified within the attendance policy set by local school board of education as declared in 22-33-104 (4)(a) C.R.S. which may include, but is not limited to, the following reasons: funerals, illness, injury, legal obligations, medical procedures and religious observations.
- (8) "Habitually Truant" means a student who is at least the age of six on or before August 1 of the school year in question and under the age of seventeen years having four total days of unexcused absences from public school in any one calendar month or ten total days of unexcused absences from public school during the reported school year in congruence with C.R.S. 22-33-107(3)(a).
- (9) "Level of Detail" means the most detailed data available for reporting purposes of attendance information.
- (10) "Month" means a named calendar month regardless of the number of school days within each month.
- (11) "Reported School Year" means the full school year as defined by the local school board of education.
- (12) "Tardies" may be defined by local school district/BOCES board policy, generally meaning a student entering classes after the scheduled start time.
- (13) "Truancy/Unexcused Absence" means a student is absent from school without a valid and verifiable excuse by the parent/guardian that is consistent with school or board policy as defined in 22-33-104 (4)(a) C.R.S. or the student leaves school or a class without permission of authorized school staff.
- (14) "Unexcused Absence/Truancy" means a student is absent from school without a valid and verifiable excuse by the parent/guardian that is consistent with school or board policy as defined in 22-33-104 (4)(a) C.R.S. or the student leaves school or a class without permission of authorized school staff.

1 CCR 301-78. Section 3.00. Standardized calculation for counting absences for students.

3.00 Standardized Calculation for Counting Absences of Students

3.01 District/BOCES Uphold Written Attendance Policy.

- (1) The local board of education shall adopt a written policy setting forth the district's or BOCES' attendance requirements. Said policy shall provide for Excused Absences, including those listed as exclusions from compulsory school attendance as declared in 22-33-104 (4)(a).
- (2) The school district or BOCES shall uphold its written attendance policy. To ensure consistency in reporting attendance and Truancy data, districts and BOCES shall enforce uniform interpretations of the

definitions of Excused Absences and Unexcused Absences across all schools within the school district or BOCES, according to the adopted district/BOCES attendance policy.

(3) The district/BOCES attendance policy shall be implemented in accordance with 22-33-107 C.R.S. which states that school district/BOCES policies shall include provisions for the development of a plan with the goal of assisting the child who is habitually truant to remain in school and when practicable, with the full participation of the child's parent, guardian or legal custodian.

3.02 Excused Versus Unexcused Absences.

3.02(1) Excused Absences.

(1)(a) Excused Absences occur when the student is absent for an acceptable reason as identified within the attendance policy set by local school board of education as declared in 22-33-104 (4)(a) C.R.S. which may include, but is not limited to, the following reasons: funeral, illness, injury, legal obligation, medical procedure and religious observation.

(1)(b) Local schools may require appropriate documentation to verify excused absences.

(1)(c) Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of calculating habitually truant students (22-33-107 (3)(a) C.R.S.).

(2) Unexcused Absences.

(2)(a) Unexcused Absences occur when the student is absent without a reason or for an unacceptable reason as identified within the attendance rules set by local school board of education policy as declared in 22-33-104 (4)(a) C.R.S.

(2)(b) If authorized school officials determine that the parent's excuse is not valid or verified, the absence shall be unexcused.

(2)(c) Unexcused Absences are used to calculate Truancy rates.

3.03 Aggregation of Absences.

(1) A district or BOCES, and its schools, shall report truancy/attendance data as specifically as its student information system (SIS) allows, i.e., by minutes, hours or by periods.

(2) At a minimum, attendance shall be recorded once during each scheduled school day.

(3) For Department reporting purposes, a student who is absent more than 50 percent of any Attendance Period during a scheduled school day shall be considered absent for that entire recorded and reported period. For the 2020-21 academic year, during any period during which students are participating in remote learning due to public health and safety requirements, students may be recorded as present when participating in that remote learning. Districts should record absences and attendance consistent with the district's attendance policy as it applies to these remote learning situations.

(4) For Department reporting purposes, a student who is present 50 percent or more of any Attendance Period during a scheduled school day shall be considered present for that entire recorded and reported period. For the 2020-21 academic year, during any period during which students are participating in remote learning due to public health and safety requirements, students may be recorded as present when participating in that remote learning. Districts should record absences and attendance consistent with the district's attendance policy as it applies to these remote learning situations.

(5) All units of time shall be summed and converted to the number of days absent for reporting to the Department.

(6) Student Excused Absences shall be totaled for each student utilizing the most specific Level of Detail collected and reported to the Department through the Attendance collection. When totaling this sum, the calculation shall include percentages of each student's scheduled instructional day as applicable.

(7) Student Unexcused Absences shall be totaled for each student utilizing the most specific Level of Detail collected and reported to the Department through the Attendance collection. When totaling this

sum, the calculation shall include percentages of each student's scheduled instructional day as applicable.

3.04 Days Suspended/Expelled.

(1) Days suspended or expelled shall be totaled within the student Total Days Excused reported to the Department in accordance with 22-33-107 C.R.S. through the Attendance collection.

(2) Absences due to suspension or expulsion of a student shall not be totaled into the student Total Days Unexcused reported to the Department through Attendance collection.

(3) For expelled students enrolled in a district-sponsored or BOCES-sponsored expulsion program, attendance shall be taken and counted toward the school that administers the program or the student's school of record at the discretion of the district/BOCES. Absences for students in such programs shall be determined to be excused or unexcused in accordance with the rules in this document.

1 CCR 301-78. Section 4.00. Format for reporting habitually truant student data to the department.

4.00 Format for Reporting Habitually Truant Student Data to the Department

4.01 Habitually Truant.

(1) A Habitually Truant student is one who is at least the age of six on or before August 1 of the year in question and under the age of seventeen years having four total days of Unexcused Absences from public school in any one calendar Month or ten total days of Unexcused Absences from public school during the Reported School Year.

4.02 Habitually Truant Status.

(1) The status of a Habitually Truant student is calculated using the sum of Unexcused Absences converted to days and fractions of days.

(2) A student shall be reported as a Habitually Truant student if, at any time during the Reported School Year, their Unexcused Absences from public school in any one calendar Month equals or exceeds four total days.

4.02

(1)[(3)] A student shall be reported as a Habitually Truant student, if at any time during the Reported School Year, their Unexcused Absences from public school equals or exceeds ten total days.

4.03 Days Suspended/ Expelled.

(1) Student Absences due to suspension or expulsion shall be considered excused for purposes of determining student Truancy status (22-33-107 (3)(a) C.R.S.) and as such, shall not be included in the calculation of Habitually Truant status.

4.04 Tardies.

(1) Tardies shall not be included in the calculation of Habitually Truant students for Department reporting purposes.

4.05 Reporting Categories.

4.05(1) Districts and BOCES shall report Habitually Truant students in each school during the entire Reported School Year. Each student will be reported only once in one of three categories.

(2) "Four or more days in any one month" indicates that the Habitually Truant student accrued four or more total days of Unexcused Absences from the reporting public school in any one calendar Month, but never accumulated ten or more total days Unexcused Absences from that public school during the Reported School Year.

(3) "Ten or more days in one school year" indicates that the Habitually Truant student accrued ten or more total days of Unexcused Absences from the reporting public school during the Reported School Year, but never accumulated four or more total days of Unexcused Absences from that public school in any one calendar Month.

4.05

(4) "Met both conditions" indicates that the Habitually Truant student accrued four or more total days of Unexcused Absences from the reporting public school in any one calendar Month and also accumulated ten or more total days Unexcused Absences from the same public school during the Reported School Year.

4.06 Data Collection.

(1) Districts and BOCES shall provide Habitually Truant student data in the Data Pipeline Attendance collection.

4.07 Beginning Date.

(1) Districts and BOCES shall provide Habitually Truant student data beginning with the 2009-2010 school year.

4.08 Duplication of Data.

(1) The Habitually Truant student counts provided may be duplicated across schools within a district or BOCES, and will be duplicated in state totals because of student mobility between schools and districts.

Substance Use

LAWS

22-12-104. Liability.

(1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

- (a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

22-25-102. Legislative declaration.

(1) The general assembly hereby finds and declares that comprehensive health education is an essential element of public education in the state of Colorado. The school system is a logical vehicle for conveying

to children and parents significant health information, developing an awareness of the value of good health to the individual and to the community, promoting healthy behavior and positive self-concepts, and providing means for dealing with peer and other pressures. It is further declared that many serious health problems in Colorado, including high-risk behaviors, are directly attributable to the insufficient health knowledge and motivation of the school-age population and the general public and that studies have demonstrated the effectiveness of a planned school curriculum throughout the elementary and secondary grades in developing healthy behavior. The purpose of this article is to foster healthy behaviors in our children and communities through a comprehensive educational plan which has as its goal not only the increase of health knowledge but also the modification of high-risk behaviors.

(2) Since the enactment of this article, the general assembly has further determined that the insidious attractions of gangs and substance abuse are endangering the youth of Colorado and, by doing so, are endangering all Colorado citizens. Accordingly, the general assembly finds and declares that the implementation of educational programs in the public schools, including facility schools, is necessary to assist young people in avoiding gang involvement and substance abuse.

(3) The general assembly further finds that:

(a) For students to reach their full potential, school communities need to address comprehensive issues of student wellness, including but not limited to addressing the physical, mental, emotional, and social needs of students;

(b) High-quality physical education programs taught by persons who are licensed and endorsed in physical education may be a factor in battling the rising incidence of obesity by ensuring not only that children receive a healthy level of physical activity but that they also learn skills and develop knowledge that will enable them to maintain a healthy level of activity throughout their lifetimes;

(c) It is therefore appropriate for the general assembly to expand the "Colorado Comprehensive Health Education Act" to include funding for local student wellness programs that are coordinated with local comprehensive health education programs in public schools, including facility schools.

22-25-103. Definitions.

As used in this article 25, unless the context otherwise requires:

(3) "Comprehensive health education" means a planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve that must include, but is not limited to, the following topics:

(e) Tobacco, alcohol, and other drug use

(4) "High-risk behaviors" means actions by children and adolescents which present a danger to their physical or mental health or which may impede their ability to lead healthy and productive lives. "High-risk behaviors" includes, but is not limited to, dropping out of school, incest and other sexual activity with adults, sexual activity by school aged children, physical and mental abuse, violence, and use of tobacco, alcohol, or other drugs.

22-25-104.5. Law-related education program - creation.

(1)(a) There is hereby created, within the Colorado department of education prevention initiatives unit, the Colorado law-related education program for the purpose of promoting behavior which will reduce through education the incidence of gang or other antisocial behavior and substance abuse by students in the public school system.

(b) Under the program, each school district and facility school in the state is strongly encouraged to implement a law-related education program pursuant to the requirements of this article, which program shall specifically address the development of resistance to antisocial gang behavior and substance abuse without compromising academics.

(2)(a) A law-related education program implemented by a school district or facility school may be designed to promote responsible citizenship and reduce antisocial behavior without compromising

academics. Specific grade levels should be determined by school districts and facility schools based on local curricular frameworks and review of what is known about existing and promising programs. All topics addressed in such law-related education program shall be taught in a manner which is appropriate for the ages of the students to be instructed.

(b) The topics for instruction in a law-related education program shall include instruction on the United States constitution and the declaration of independence and may include, but need not be limited to, the following:

- (I) The rights and responsibilities of citizenship;
- (II) The foundations and principles of American constitutional democracy;
- (III) The role of law in American society;
- (IV) The organization and purpose of legal and political systems;
- (V) The disposition to abide by law;
- (VI) The opportunities for responsible participation;
- (VII) The alternative dispute resolution approach including mediation and conflict resolution.

(c)(Deleted by amendment, L. 2000, p. 372, § 25, effective April 10, 2000.)

(3) and (4)(Deleted by amendment, L. 99, p. 106, § 1, effective March 24, 1999.)

(5)(a) The state board shall promulgate guidelines to provide grants to and to assist school districts and facility schools in the implementation of effective, comprehensive law-related education programs addressing gang awareness and substance abuse resistance. Such guidelines shall include, but shall not be limited to, the following:

- (I) Suggested topics for instruction;
- (II) Suggested texts and other instructional materials; and
- (III) The necessary training for instructors.

(b) The state board shall make such guidelines available to all school districts and facility schools for use in implementing law-related education programs.

(c) The department of education, through the coordinator and staff of the prevention initiatives unit, shall be responsible for implementation, monitoring, and administration of the program and shall maintain certifications and records and act as a statewide clearinghouse for information and assistance for the law-related education programs.

(6)(a) All school districts and facility schools are encouraged to create programs for the training of instructors and administrators in gang awareness and substance abuse resistance education in order to provide effective instruction to students concerning the dangers of gang involvement and substance abuse.

(b) Upon the request of school district officials, the state board shall assist school district officials in the preparation of plans for the creation by school districts of training programs for instructors and administrators in gang awareness and substance abuse resistance education.

(7)(a) Each school district and facility school may prepare an annual report concerning the progress of the school district or facility school in implementing a law-related education program. The report shall be filed with the state board on or before October 1 of each year.

(b) Each annual report prepared pursuant to paragraph (a) of this subsection (7) shall include, but shall not be limited to, an analysis by school district or facility school officials of the effect of the law-related education program on the incidence of gang involvement and substance abuse by the students in the school district or facility school.

22-32-109. Board of education - specific duties - definitions.

(1) In addition to any other duty required to be performed by law, each board of education has the following specific duties:

(bb)(I) To adopt a policy mandating a prohibition against the use of all tobacco products on school property and at school-sponsored activities by students, teachers, staff, and visitors pursuant to the provisions of section 25-14-103.5, C.R.S., and to adopt such rules as are necessary to enforce such prohibition; except that no such policy shall require the expulsion of any student solely for such tobacco use;

(II) To the extent funds are available, to operate and maintain an educational program to assist students, faculty, and staff to avoid and discontinue the use of tobacco at each school under the board's direction and control;

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. [...] The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, and in accordance with standardized methods and any revised reporting categories identified and adopted through the stakeholder process set forth in section 22-1-138, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year, including any disciplinary incident specified in subsection (2)(b)(iv)(e) or (2)(b)(iv)(k) of this section that requires additional reporting on the incident.

(IV) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C) Use, possession, or sale of a drug or controlled substance, other than marijuana, on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C.5) The unlawful use, possession, or sale of marijuana on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5).

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including the department of human services and the department of public health and environment; with community-based nonprofit and faith-based organizations; with nonpublic, nonparochial schools; with the department of military and veterans affairs; and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student, or the student's family, who is identified as being at risk of suspension or expulsion or who has been suspended or expelled. Any services provided pursuant to an agreement with a nonpublic, nonparochial school are subject to approval by the state board of education pursuant to section 22-2-107. Services provided through such agreements may include, but are not limited to:

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

(b) Counseling services;

(c) Substance use disorder treatment programs;

(d) Family preservation services.

(e) and (f)(Deleted by amendment, L. 98, p. 570, § 3, effective April 30, 1998.).

25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created - "Ethan's Law" - definitions - repeal.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.

25.5-1-206. School-based substance abuse prevention and intervention program - creation - reporting - legislative declaration - definitions.

(1)(a) The general assembly finds and declares that:

(I) The 2011 healthy kids Colorado survey indicates that the top three substances that high school students report they use are alcohol, marijuana, and prescription drugs;

(II) With the legalization of marijuana by citizen initiative in Colorado, there is an increased availability of marijuana in the community and, at the same time, a decreased perception of harm related to marijuana use;

(III) Evidence-based prevention and intervention programs and education awareness programs targeted to school children who are twelve to nineteen years of age are needed to:

(A) Increase the perceived risk of harm associated with marijuana and alcohol use and prescription drug misuse;

(B) Decrease the rates of youth marijuana and alcohol use and prescription drug misuse and delay the age of first-time use; and

(C) Decrease the number of drug- and alcohol-related violations, suspensions, and expulsions reported by schools.

(b) Therefore, the general assembly declares that it is appropriate to award grants to schools, community-based organizations, and health organizations to provide school-based prevention and intervention programs that use evidence-based strategies, practices, and approaches to reduce the risk of marijuana and alcohol use and prescription drug misuse by school-aged children. Successful school-based programs will lead to increased overall health, behavioral health, and educational outcomes for Colorado's youth.

(2) As used in this section, unless the context otherwise requires:

(a) "Entity" means a school, school district, board of cooperative services, a nonprofit or not-for-profit community-based organization, or a community-based behavioral health organization.

(b) "Grant program" means the school-based substance abuse prevention and intervention grant program created in subsection (3) of this section.

(3)(a) The school-based substance abuse prevention and intervention grant program is created within the state department. The purpose of the grant program is to award competitive grants to entities to provide school-based prevention and intervention programs for youth twelve to nineteen years of age primarily focused on reducing marijuana use, but including strategies and efforts to reduce alcohol use and prescription drug misuse.

(b) To be considered for a competitive grant, the entity must demonstrate in the grant proposal that:

(I) The grant will be used to implement evidence-based programs and strategies delivered in the school setting that are designed to improve overall health, behavioral health, and educational outcomes for youth who are twelve to nineteen years of age;

(II) The entity is delivering the program and strategies to at-risk youth, regardless of the youths' eligibility for Colorado's medical assistance program; and

(III) The evidence-based programs and strategies are designed to achieve the following outcomes:

(A) An increase in the perceived risk of harm associated with marijuana use, prescription drug misuse, and underage alcohol use among youth who are twelve to nineteen years of age;

(B) A decrease in the rates of youth marijuana use, alcohol use, and prescription drug misuse;

(C) A delay in the age of first use of marijuana, alcohol, or prescription drug misuse;

(D) A decrease in the rates of youth who have ever used marijuana or alcohol or misused prescription drugs in their lifetime; and

(E) A decrease in the number of drug- and alcohol-related violations on school property, suspensions, and expulsions reported by schools.

(4) On or before September 1, 2014, the state department shall establish procedures and timelines for grant applications, criteria for determining grant amounts and grantee reporting requirements, and any other grant program policies. The state department may amend these policies at any time.

(5) Subject to available appropriations, the state department shall award grants for the 2014-15 academic year and for each academic year thereafter. There is no limit on the number of grants that the state department may award, and the same entity may receive more than one grant if the state department considers the needs of at-risk students in communities throughout the state for school-based substance abuse prevention and intervention programs.

25-14-103.5. Prohibition against the use of tobacco products and retail marijuana on school property - legislative declaration - education program - special account - definitions.

(1) The general assembly finds that many of the schools in this state permit the use of tobacco products in and around school property. The general assembly further finds that secondhand smoke generated by such activity and the negative example set and frequently imitated by our school children are detrimental to the health and well-being of such children as well as to school teachers, staff, and visitors. Accordingly, the general assembly finds and declares that it is appropriate to create a safe and healthy school environment by prohibiting the use of tobacco products on all school property.

(2) As used in this section, unless the context otherwise requires:

(a) "School" means a public nursery school, day care center, child care facility, head start program, kindergarten, or elementary or secondary school through grade twelve.

(b) "School property" means all property, whether owned, leased, rented, or otherwise used by a school, including, but not limited to, the following:

(I) All interior portions of any building used for instruction, administration, support services, maintenance, and storage and any other structure used by a school; except that such term shall not apply to a building primarily used as a residence;

(II) All school grounds surrounding any building specified in subparagraph (I) of this paragraph (b) over which the school is authorized to exercise dominion and control. Such grounds shall include any playground, athletic field, recreation area, and parking area; and

(III) All vehicles used by the school for the purpose of transporting students, workers, visitors, or any other persons.

(c) "Tobacco product" shall have the same meaning as set forth in section 18-13-121 (5), C.R.S.

(d) "Use" means the lighting, chewing, smoking, ingestion, or application of any tobacco product.

(3)(a)(I) The board of education of each school district shall adopt appropriate policies and rules that mandate a prohibition against the use of all tobacco products and all retail marijuana or retail marijuana products authorized pursuant to article 10 of title 44 on all school property by students, teachers, staff, and visitors and that provide for the enforcement of such policies and rules.

(b) Signs regarding such prohibition and the consequences of violation shall be displayed prominently on all school property to ensure compliance no later than September 1, 1994.

(4) This section shall not be applicable to the use of a tobacco product in a limited classroom demonstration to show the health hazards of tobacco.

(5) The board of education of each school district is authorized to seek and accept gifts, donations, or grants of any kind from any private or charitable source or from any governmental agency to meet expenses required by this section. Such gifts, donations, and grants shall be accounted for separately, and, to the extent that such moneys are available, the board of education of each school district may

maintain and operate an educational program designed to assist students, faculty, and staff to avoid and discontinue the use of tobacco products. Such program shall be offered at each school under the board's direction and control.

(6) This section shall not prohibit any school from enacting more stringent policies or rules than required by this section.

25-20.5-503. School-based health center grant program - creation - funding - grants.

(1) There is hereby created, in the prevention services division of the department of public health and environment, the school-based health center grant program, referred to in this part 5 as the "grant program", for the purpose of assisting the establishment, expansion, and ongoing operations of school-based health centers in Colorado. The grant program shall be funded by moneys annually appropriated by the general assembly specifically for said program.

(2)(a) Operators of school-based health centers may apply for grants for the benefit of school-based health centers. The grant program shall provide grants for school-based health centers selected by the division. The division, in consultation with school-based health centers, shall develop criteria under which the grants are distributed and evaluated. In developing the criteria for grants, the division shall give priority to centers that serve a disproportionate number of uninsured children or a low-income population or both and may award grants to establish new school-based health centers; to expand primary health services, behavioral health services, including education, intervention, and prevention services for opioid, alcohol, and marijuana, and other substance use disorders, or oral health services offered by existing school-based health centers; to expand enrollment in the children's basic health plan; or to provide support for ongoing operations of school-based health centers. None of the grants shall be awarded to provide abortion services in violation of section 50 of article V of the state constitution.

(b)(I) On or before July 1, 2018, the general assembly shall appropriate seven hundred seventy-five thousand dollars to the department from the marijuana tax cash fund created in section 39-28.8-501 for the purposes of expanding behavioral health therapy, intervention, and prevention services for opioid, alcohol, and marijuana, and other substance use disorders pursuant to this subsection (2). The department shall prioritize funding to school-based health centers that serve communities with high-risk factors for substance abuse combined with limited access to treatment services according to state needs assessments, Colorado health indicator data, and national best practice trends.

(c) (I) For the 2022-23 budget year, the general assembly shall appropriate one million five hundred thousand dollars from the behavioral and mental health cash fund created pursuant to section 24-75-230 to the department to fund the grant program for the benefit of school-based health centers to respond to the COVID-19 pandemic and its negative public health impacts. The department or the grantees awarded money shall spend or obligate any money prior to December 31, 2024. any money obligated by December 31, 2024, must be expended by December 31, 2026.

(II) The department and the grantees shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226(5).

REGULATIONS

1 CCR 301-68. Rules for the administration of Medications

7.00. Policy for management of student possession and administration of prescription medication

7.05 A student shall not possess or self-administer controlled substances, including medical marijuana, as defined in section 27-80-203(7), C.R.S., on school grounds, on a school bus, or at any school sponsored event. Exceptions to the restriction against controlled substances, other than medical marijuana, may be determined by the school administrator and parents or legal guardian in consultation with the School Nurse. The sale or sharing of any drug or controlled substance may be grounds for suspension or expulsion according to section 22-33-106(1)(d)(I), C.R.S. 7.06

There shall be a process for the storage, possession, and administration of medical marijuana in a nonsmokeable form to a student who holds a valid recommendation for medical marijuana upon the grounds of the preschool or primary or secondary school in which the student is enrolled. For purposes of this rule, a public school shall treat a recommendation for a nonsmokeable form of medical marijuana from a licensed physician as medication that is prescribed by a licensed healthcare practitioner.

7.06(a) A primary caregiver may possess and administer to a student who holds a valid recommendation for medical marijuana, medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event. School personnel may volunteer to possess, administer, or assist in the administration of medical marijuana in a nonsmokeable form to any student with a valid recommendation for medical marijuana. The primary caregiver shall not administer the nonsmokeable medical marijuana in a manner that creates disruption to the educational environment or causes exposure to other students.

7.06(b) Nothing in this section requires the school district staff to administer medical marijuana.

7.06(c) A school district board of education or charter school may adopt policies regarding who may act as a primary caregiver pursuant to section 7.06 and the reasonable parameters of the administration and use of medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event.

7.06(d) This section 7.06 does not apply to a school district or charter school if:

7.06(d)(I) The school district or charter school loses or will lose federal funding as a result of implementing this section 7.06;

7.06(d)(II) The school district or charter school can demonstrate a reasonable, documented expectation of lost federal funding based on federal guidance or grant requirements directly as a result of implementing this section 7.06; and

7.06(d)(III) The school district or charter school posts on its website in a conspicuous place a statement regarding its decision not to comply with this section 7.06. \

7.06(e) Student possession, use, distribution, or sale or being under the influence of a cannabinoid product inconsistent with this section 7.06 is not permitted.

7.06(f) Notwithstanding the provision of section 22-33-106 (1)(d)(II) C.R.S., a school district or charter school may not discipline a student who holds a valid recommendation for medical marijuana solely because the student requires medical marijuana in a nonsmokeable form as authorized by 22-1-119.3, C.R.S.

7.06(g) A school district or charter school may not deny eligibility to attend school to a student who holds a valid recommendation for medical marijuana solely because the student requires medical marijuana in a nonsmokeable form as authorized by 22-1-119.3, C.R.S.

Gang-related Activity

LAWS

22-1-120. Rights of free expression for public school students.

(1) The general assembly declares that students of the public schools have the right to exercise freedom of speech and of the press, and no expression contained in a student publication, whether printed, broadcast, or online, and whether or not such publication is school-sponsored, is subject to prior restraint except for the types of expression described in subsection (3) of this section. An advisor may encourage expression consistent with high standards of English and journalism. [...]

(8) Nothing in this section shall be construed to limit the promulgation or enforcement of lawful school regulations designed to control gangs. For the purposes of this section, the definition of "gang" shall be the definition found in section 19-1-103 (52), C.R.S.

22-25-102. Legislative declaration.

(2) Since the enactment of this article, the general assembly has further determined that the insidious attractions of gangs and substance abuse are endangering the youth of Colorado and, by doing so, are endangering all Colorado citizens. Accordingly, the general assembly finds and declares that the implementation of educational programs in the public schools, including facility schools, is necessary to assist young people in avoiding gang involvement and substance abuse.

22-25-103. Definitions.

As used in this article 25, unless the context otherwise requires:

(3.5) "Gang" means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct, engaged in either collectively or individually.

22-25-104.5. Law-related education program - creation.

(1)(a) There is hereby created, within the Colorado department of education prevention initiatives unit, the Colorado law-related education program for the purpose of promoting behavior which will reduce through education the incidence of gang or other antisocial behavior and substance abuse by students in the public school system.

(b) Under the program, each school district and facility school in the state is strongly encouraged to implement a law-related education program pursuant to the requirements of this article, which program shall specifically address the development of resistance to antisocial gang behavior and substance abuse without compromising academics.

(2)(a) A law-related education program implemented by a school district or facility school may be designed to promote responsible citizenship and reduce antisocial behavior without compromising academics. Specific grade levels should be determined by school districts and facility schools based on local curricular frameworks and review of what is known about existing and promising programs. All topics addressed in such law-related education program shall be taught in a manner which is appropriate for the ages of the students to be instructed.

(b) The topics for instruction in a law-related education program shall include instruction on the United States constitution and the declaration of independence and may include, but need not be limited to, the following:

- (I) The rights and responsibilities of citizenship;
- (II) The foundations and principles of American constitutional democracy;
- (III) The role of law in American society;
- (IV) The organization and purpose of legal and political systems;
- (V) The disposition to abide by law;
- (VI) The opportunities for responsible participation;
- (VII) The alternative dispute resolution approach including mediation and conflict resolution.

(c) (Deleted by amendment, L. 2000, p. 372, § 25, effective April 10, 2000.)

(3) and (4)(Deleted by amendment, L. 99, p. 106, § 1, effective March 24, 1999.)

(5)(a) The state board shall promulgate guidelines to provide grants to and to assist school districts and facility schools in the implementation of effective, comprehensive law-related education programs addressing gang awareness and substance abuse resistance. Such guidelines shall include, but shall not be limited to, the following:

- (I) Suggested topics for instruction;
- (II) Suggested texts and other instructional materials; and
- (III) The necessary training for instructors.

(b) The state board shall make such guidelines available to all school districts and facility schools for use in implementing law-related education programs.

(c) The department of education, through the coordinator and staff of the prevention initiatives unit, shall be responsible for implementation, monitoring, and administration of the program and shall maintain certifications and records and act as a statewide clearinghouse for information and assistance for the law-related education programs.

(6)(a) All school districts and facility schools are encouraged to create programs for the training of instructors and administrators in gang awareness and substance abuse resistance education in order to provide effective instruction to students concerning the dangers of gang involvement and substance abuse.

(b) Upon the request of school district officials, the state board shall assist school district officials in the preparation of plans for the creation by school districts of training programs for instructors and administrators in gang awareness and substance abuse resistance education.

(7)(a) Each school district and facility school may prepare an annual report concerning the progress of the school district or facility school in implementing a law-related education program. The report shall be filed with the state board on or before October 1 of each year.

(b) Each annual report prepared pursuant to paragraph (a) of this subsection (7) shall include, but shall not be limited to, an analysis by school district or facility school officials of the effect of the law-related education program on the incidence of gang involvement and substance abuse by the students in the school district or facility school.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan.

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the preschool, elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

18-9-124. Hazing - penalties - legislative declaration.

(1)(a) The general assembly finds that, while some forms of initiation constitute acceptable behavior, hazing sometimes degenerates into a dangerous form of intimidation and degradation. The general assembly also recognizes that although certain criminal statutes cover the more egregious hazing activities, other activities that may not be covered by existing criminal statutes may threaten the health of students or, if not stopped early enough, may escalate into serious injury.

(b) In enacting this section, it is not the intent of the general assembly to change the penalty for any activity that is covered by any other criminal statute. It is rather the intent of the general assembly to define hazing activities not covered by any other criminal statute.

(2) As used in this section, unless the context otherwise requires:

(a) "Hazing" means any activity by which a person recklessly endangers the health or safety of or causes a risk of bodily injury to an individual for purposes of initiation or admission into or affiliation with any student organization; except that "hazing" does not include customary athletic events or other similar contests or competitions, or authorized training activities conducted by members of the armed forces of the state of Colorado or the United States.

(b) "Hazing" includes but is not limited to:

(I) Forced and prolonged physical activity;

(II) Forced consumption of any food, beverage, medication or controlled substance, whether or not prescribed, in excess of the usual amounts for human consumption or forced consumption of any substance not generally intended for human consumption;

(III) Prolonged deprivation of sleep, food, or drink.

(3) It shall be unlawful for any person to engage in hazing.

(4) Any person who violates subsection (3) of this section commits a class 3 misdemeanor.

22-2-144. Bullying prevention and education policies - short title - study.

(1) The short title of this section is "Ashawnty's Law".

(2)(a) The department shall research approaches, policies, and practices related to bullying prevention and education used by education providers in other states. On or before July 1, 2019, after consideration of the research conducted pursuant to this subsection (2)(a), the department, in consultation with the school safety resource center created in section 24-33.5-1803, shall develop a model bullying prevention and education policy. The research and model policy described in this subsection (2)(a) must be updated every three years. The department shall utilize a stakeholder process when updating the model bullying prevention and education policy, which process must include participation by the parents of students who have been bullied.

(b) On or before July 1, 2019, and every three years thereafter, the department shall publish the results of the research and model policy required by subsection (2)(a) of this section on its website as guidance for school districts, charter schools, and the charter school institute to consider when developing and implementing bullying prevention and education policies.

(3) At a minimum, the model policy developed pursuant to subsection (2)(a) of this section must:

(a) clearly differentiate between a conflict and bullying and between harassment and bullying; and

(b) clarify the role of cyberbullying during online instruction, which may occur on or off school property.

22-32-109. Board of education - specific duties - definitions.

(kk)(II)(I) To adopt written policies specifying that:

(A) The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services;

(B) Enrollment in a school in the district must be open to any child who resides within the state; except that a school is not required to make alterations in the structure of the facility used by the school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law; and

(C) Enrollment decisions shall be made in a nondiscriminatory manner.

(II) As used in this subsection (1)(II):

(A) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(B) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(b) "Bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1)(II)(I). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(2) Safe school plan. [...]

The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district shall ensure that the school district's policy, at a minimum, incorporates the approaches, policies, and practices outlined in the model bullying prevention and education policy developed pursuant to section 22-2-144.(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, and in accordance with standardized methods and any revised reporting categories identified and adopted through the stakeholder process set forth in section 22-1-138, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year, including any disciplinary incident specified in subsection (2)(b)(iv)(e) or (2)(b)(iv)(k) of this section that requires additional reporting on the incident. (IV) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to behavior that creates a threat of physical or emotional harm to the student or to other students;

(G.5) Bullying;

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school;

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs; al(c) Internet safety plan.

(b.5) In addition to the items specified in subsection (2)(b) of this section, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall annually review and submit data to the department of education concerning the number and types of disciplinary incidents and the disciplinary actions taken in response to such incidents. The department of education shall collect the data described in subsection (2)(b)(iv) of this section at the individual student level and report disaggregated student data on the type of disciplinary incidents and action taken. Such student data must be disaggregated by gender, grade level, race, ethnicity, disability, whether the student has federal section 504 accommodations or an individualized education plan, English language learner status, free and reduced-price lunch status, and homeless status, to the maximum extent possible in compliance with the "Colorado Privacy Act", established pursuant to part 13 of article 1 of title 6, the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and the "Student Data Transparency and Security Act", created in article 16 of this title 22. the department of education shall not publicly report individual student data for any purpose, shall include the application of data suppression policies to avoid the re-identification of any individual in any public reports, and shall ensure compliance with standards for reporting data for a student with a federal section 504 accommodation or an individualized education plan

(l) Each school district is encouraged to provide a comprehensive, age-appropriate curriculum that teaches safety in working and interacting on the internet in grades kindergarten through twelve. At a minimum, the curriculum may address the following topics:

- (A) Interaction with persons in the cybercommunity;
- (B) Personal safety in interacting with persons on the internet;
- (C) Recognition and avoidance of on-line bullying.

22-32-144. Restorative justice practices - legislative declaration.

(2)(a) Therefore, the general assembly supports and encourages the use of restorative justice as a school's first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, harassment and internet harassment, and attendance issues.

22-93-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1)(b).

22-93-102. School bullying prevention and education grant program - created.

(1) There is hereby created in the department the school bullying prevention and education grant program. Under the program, on and after July 1, 2012, or not more than ninety days after the promulgation of rules by the state board pursuant to section 22-93-104, whichever is later, a public school, a facility school, or a collaborative group of public schools or facility schools may apply for a grant to fund efforts to reduce the frequency of bullying incidents. The department shall administer the program in consultation with the school safety resource center created in section 24-33.5-1803, C.R.S.

(2) Notwithstanding any other provision of this article, the department shall not be required to implement the provisions of this article until sufficient moneys have been transferred or appropriated to the cash fund.

(3) The department is hereby authorized to hire any employees necessary to carry out the duties associated with the provisions of this article. The creation of any new positions of employment within the department pursuant to this article shall be subject to the availability of sufficient moneys in the cash fund

and shall be eliminated when sufficient moneys are no longer available in the cash fund. The department shall ensure that all position descriptions and notices to hire for positions created pursuant to this article clearly state that such positions are subject to the availability of sufficient moneys in the cash fund.

22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients.

(1) The department shall solicit and review applications from public schools and facility schools for grants pursuant to this section. The department may award grants to public schools, facility schools, and collaborative groups of public schools and facility schools for periods of one to three years.

(2) Each application, at a minimum, shall describe how the applicant public school, facility school, or collaborative group of public schools or facility schools will use any awarded grant moneys to reduce the frequency of bullying incidents. Each grant recipient shall use its grant moneys to supplement and not supplant any moneys currently being used by the grant recipient to reduce the frequency of bullying incidents.

(3) The department shall select those public schools, facility schools, and collaborative groups of public schools and facility schools that will receive grants pursuant to this section and the duration and amount of each grant. In selecting the grant recipients, the department, at a minimum, shall take into account the criteria established by rules promulgated by the state board pursuant to section 22-93-104 (1)(b).

(4) Notwithstanding section 24-1-136 (11)(a)(I), on or before a date specified by rule of the state board pursuant to section 22-93-104 (1)(d), the department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

- (a) The number of grant recipients that received grants under the program;
- (b) The amount of each grant awarded to each grant recipient;
- (c) The average amount of each grant awarded under the program;
- (d) The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and
- (e) The source and amount of each gift, grant, and donation received by the department for the implementation of this article pursuant to section 22-93-105 (3)(b).

(5) In selecting grant recipients, the department, to the extent possible, shall ensure that grants are awarded to public schools, facility schools, and collaborative groups of public schools and facility schools in a variety of geographic areas of the state.

(6) Each grant recipient shall submit a written report to the department not later than six months after the expiration of the term of the grant concerning the effectiveness or ineffectiveness of each use of grant moneys by the grant recipient in reducing the frequency of bullying incidents.

22-93-104. Rules.

(1) On or before April 1, 2012, or not more than ninety days after the department receives sufficient moneys to implement this article as described in section 22-93-102 (2), whichever is later, the state board shall promulgate rules for the administration of this article, including but not limited to:

- (a) Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants pursuant to this article;
- (b) Criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient, which criteria, at a minimum, shall require each grant recipient to:
 - (I) Use awarded grant moneys for purposes that are based upon evidence-based best practices for preventing bullying;

(II) Use at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education and the grant recipient's ongoing efforts to reduce the frequency of bullying incidents; and

(III) Adopt a specific policy concerning bullying education and prevention that includes:

(A) Provisions for the biennial administration of surveys of students' impressions of the severity of bullying in their schools, the administration of which surveys, at a minimum, shall satisfy the rules promulgated by the state board pursuant to paragraph (c) of this subsection (1); and

(B) The designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

(c) Rules for the administration of surveys of students' impressions of the severity of bullying in their schools, which procedures, at a minimum, shall include:

(I) Procedures for the distribution, collection, standardization, and analysis of data collected in each survey, which procedures shall ensure the confidentiality of each student's answers to the survey and clarify that the completion of a survey shall be voluntary and shall not be required of any student;

(II) Certain questions that each survey shall ask of each student concerning how frequently the student witnesses bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying; and

(III) Provisions to ensure that, to the extent practicable, a school district or school, including a district charter school or an institute charter school, may utilize existing forms and procedures in administering the surveys.

(d) The designation of a date by which the department shall annually submit to the state board and to the education committees of the senate and house of representatives, or any successor committees, the information described in section 22-93-103 (4).

22-93-105. School bullying prevention and education cash fund - created.

(1) There is hereby established in the state treasury the school bullying prevention and education cash fund. The cash fund shall consist of moneys transferred or appropriated thereto pursuant to subsection (3) of this section and any other moneys that may be made available by the general assembly. The moneys in the cash fund are continuously appropriated to the department for the direct and indirect costs associated with implementing this article. Any moneys not provided as grants may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the cash fund shall be credited to the cash fund. Any amount remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or to any other fund.

(2) No more than five percent of the moneys annually expended from the cash fund may be used for the expenses incurred by the department in administering this article.

(3)(a) The general assembly may appropriate money to the bullying prevention and education cash fund from the marijuana tax cash fund created in section 39-28.8-501.

(b) The department may seek, accept, and expend public or private gifts, grants, and donations from public and private sources to implement this article; except that the department shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with the provisions of this article or any other law of the state. The department shall transfer all private and public moneys received through gifts, grants, and donations to the state treasurer, who shall credit the same to the cash fund.

(4) Nothing in this section shall be interpreted to require the department to solicit moneys for the purposes of this article.

22-93-106. School bullying prevention and education - availability of best practices and other resources.

(1) On or before November 1, 2011, the department shall create a page on its public website at which the department shall continuously make publicly available evidence-based best practices and other resources for educators and other professionals engaged in bullying prevention and education.

(2) The department shall solicit evidence-based best practices and other resources from the school safety resource center created in section 24-33.5-1803, C.R.S.; from school districts; from the state charter school institute established in section 22-30.5-503; and from other state and federal agencies that are concerned with school bullying prevention and education. The department shall review materials that it receives and, as may be appropriate, make such materials available to the public on the website described in subsection (1) of this section.

REGULATIONS

1 CCR 301-99. Section 0.00. Statement of basis and purpose.

The Bullying Prevention and Education Program, 22-93-101 et. seq., C.R.S., requires the State Board of Education to promulgate rules to implement and administer the program. At a minimum, the rules must include: Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants; criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient.

CCR 301-99. Section 1.00. Definitions.

1.0 Definitions

1.01 For purposes of the bullying prevention and education grant program, "bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that a reasonable person would believe is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance; or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109(1)(II)(I). This definition is not intended to infringe upon any right guaranteed to any person by the First Amendment to the United States Constitution and shall not be used to prevent the expression of any religious, political, or philosophical views.

1.02 "Cash Fund" means the school bullying prevention and education cash fund created in section 22-93-105, C.R.S.

1.03 "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

1.04 "Evidence-based best practices" means that the bullying prevention practice is based on research that applies rigorous, systematic, and objective procedures to obtain valid knowledge that is relevant to bullying and bullying prevention.

1.05 "Facility Schools" means an approved facility school, as defined in section 22-2-402 (1), C.R.S.

1.06 "Program" means the school bullying prevention and education grant program created in section 22-93-102, C.R.S.

1.07 "Public School" means a school of a school district, a district charter school, an institute charter school, or a board of cooperative services, as defined in section 22-5-103, C.R.S.

1.08 "State Board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

1.09 "Website" means the Department of Education's Bullying Prevention Website as outlined in section 2.0., created pursuant to 22-93-106, C.R.S.

1 CCR 301-99. Section 2.00. Bullying prevention website.

2.0 Bullying Prevention Website

2.01 The department of education shall maintain a page on its public website pursuant to 22-93-106, C.R.S.

2.01.1 As a part of this website, the department continuously makes publicly available resources and evidence-based best practices in bullying prevention.

2.01.2 Using the website, the department will also continuously make publicly available procedures for the distribution, collection, standardization, and analysis of data collected from surveys of students' impressions of the severity of bullying in their schools for the Bullying Prevention and Education Grant Program.

2.01.2.1 These procedures shall include those to ensure the confidentiality of each student's answers to the survey and to clarify that the completion of a survey shall be voluntary and shall not be required of any student.

2.01.2.2 The website will also provide guidance on survey questions, such as the forms of bullying that the student has experienced, where those incidents occurred, how frequently the student witnessed bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying.

1 CCR 301-99. Section 3.00. Application requirements and timeline.

3.0 Application Requirements and Timeline

3.01 As legislated monies are available, the department shall solicit, review, and award grants to public schools, facility schools, and collaborative groups of public schools and facility schools for periods of one to three years.

3.02 On an annual basis on a date determined by the Department, public schools, facility schools, and collaborative groups of public schools and facility schools interested in obtaining funding shall submit a bullying prevention grant application electronically to the department, using the application form provided by the Department.

3.03 Each application submitted shall include, but need not be limited to the following:

3.03.1 A description of the evidence-based best practices for preventing bullying that applicants plan to implement using the grant moneys, including a description of the evidence supporting the chosen practices that have proven successful in other public schools in the country. These evidence-based practices for bullying prevention may be drawn from the department's bullying prevention website, pursuant to section 2.01.1;

3.03.2 A description of the methods that will be used to ensure sustained implementation of evidence-based best practices in bullying prevention that result in improved outcomes and reduced bullying over time and past the grant period;

3.03.3 A description of how grantees will use at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education, the grant recipient's ongoing efforts to reduce the frequency of bullying incidents, and the grant recipient's strategies for including families and the community in school bullying prevention.

3.03.4 A description of how grantees will include student leadership and voice in the creation and implementation of bullying prevention strategies.

3.03.5 A description of how the applicant will adopt specific policies concerning bullying education and prevention that includes:

3.03.5.1 Creation or revision of a district safe school plan as indicated in 22-32-109.1;

3.03.5.2 Provisions for the administration of surveys of students' impressions of the severity of bullying in their schools;

3.03.5.3 The designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents;

3.03.5.4 Provisions for adequate due processes and safeguards for students accused of engaging in bullying behaviors.

3.03.6 A description of the procedures for the distribution, collection, standardization, and analysis of student impression survey data collected, and procedures that ensure the confidentiality of each student's answers to the survey, and clarify that the completion of a survey shall be voluntary and shall not be required of any student.

3.03.6.1 A description of the survey that will be used to ask about how frequently the student witnesses bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying;

3.03.6.2 To the extent practicable, grantees may utilize existing forms and procedures, including those outlined on the Bullying Prevention website, to administer surveys;

3.03.6.3 Grantees may use a digital or paper and pencil version of the survey;

3.03.6.4 Grantees are required to implement an active opt in procedure for parents and students for any surveys used as a part of the grantee's program;

3.03.7 A description of the procedures for the distribution, collection, standardization, and analysis of implementation data that indicates the degree to which the school, leadership teams, and school staff implement the evidence-based bullying prevention best practices; and

3.03.8 An explanation of the cost of the bullying prevention program that the applicant(s) plan to implement using the grant moneys and an explanation of how grant funding will be used to supplement and not supplant any funding currently being used on bullying prevention practices already provided to the students, school, families, and community.

1 CCR 301-99. Section 4.00. Application evaluation criteria.

4.0 Application Evaluation Criteria

4.01 In reviewing grant applications to determine which applicants should receive grant funding and the duration and amount of each grant, the Department shall consider the following criteria:

4.01.1 The quality of the evidence-based best practices for preventing bullying that the applicant(s) plans to implement using the grant moneys, including the evidence supporting the chosen practices that have proven successful in other public schools in the country;

4.01.2 The quality of the methods that will be used to ensure sustained implementation of the best practices in bullying prevention that can result in improved outcomes and reduced bullying over time and beyond the grant period;

4.01.3 The quality of the plan for using at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education, the grant recipient's ongoing efforts to reduce the frequency of bullying incidents, and the grant recipient's strategies for including families and the community in school bullying prevention;

4.01.4 The quality of the plan for including student leadership and voice in the creation and implementation of bullying prevention strategies;

4.01.5 The quality of the plans to adopt specific policies concerning bullying education and prevention;

4.01.6 The rigor with which the applicant(s) intend(s) to monitor the distribution, collection, standardization, and analysis of survey data collected, and procedures that ensure the confidentiality of each student's answers to the survey and clarify that the completion of a survey shall be voluntary and shall not be required of any student;

4.01.7 The rigor with which the applicant(s) intend(s) to monitor the distribution, collection, standardization, and analysis of implementation data that indicates the degree to which the school, leadership teams, and school staff implement the evidence-based bullying prevention best practices; and

4.01.8 The cost of the bullying prevention best evidence-based practices that the applicant(s) plan to implement using the grant moneys.

1 CCR 301-99. Section 5.00. Data collection and reporting.

5.0 Data Collection and Reporting

5.01 Each public school, facility school, and collaborative group of public schools and facility schools funded through the Bullying Prevention and Education Grant Program shall submit annually information to the Department describing the following:

5.01.1 The evidence-based best practices in bullying prevention that the applicant(s) implemented using the grant moneys;

5.01.2 The number and grade levels of students who participated in each of the bullying prevention practices or services provided;

5.01.3 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in including family and community partnering in school bullying prevention strategies;

5.01.4 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in adopting specific policies concerning bullying education and prevention;

5.01.5 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in implementing the evidence-based best practices in bullying prevention with fidelity; and

5.01.6 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in reducing the frequency of bullying as indicated by school surveys and other relevant measures.

5.02 On or before May 1, 2017, and each year thereafter as long as monies are available, the Department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

5.02.1 The number of grant recipients that received grants under the program;

5.02.2 The amount of each grant awarded to each grant recipient;

5.02.3 The average amount of each grant awarded under the program;

5.02.4 The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and

5.02.5 The source and amount of each gift, grant, and donation received by the Department for the implementation of the bullying prevention program, pursuant to section 22-93-105 (3)(b), C.R.S.

Dating and Relationship Violence

LAWS

22-1-128. Comprehensive human sexuality education - legislative declaration - definitions - guidelines and content standards.

(b) The general assembly further finds and declares that:

(I) There is a need to continue and expand efforts to ensure that all young people in Colorado have access to evidence-based, medically accurate, culturally sensitive, and age-appropriate comprehensive sexuality education, information, and resources to guide them in making informed decisions about their health and relationships. Additionally, schools need to promote healthy relationships through age-appropriate, culturally sensitive, and comprehensive human sexuality education, including providing information and resources for early intervention and response strategies to teen dating violence.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

22-2-127.9. Mental health education literacy - resource bank - technical assistance.

(1) The department, with assistance from the office of suicide prevention created pursuant to section 25-1.5-101 (1)(w)(I), the Colorado youth advisory council created pursuant to section 2-2-1302, and the suicide prevention commission created pursuant to section 25-1.5-111, shall create and maintain a resource bank of evidence-based, research-based, and promising program materials and curricula pertaining to mental health and comprehensive suicide prevention, as that term is defined in section 25-1.5-112. these materials and curricula may be used in elementary and secondary schools in the state. The resource bank and curricula must be youth-friendly, culturally sensitive, and available in both English and Spanish. In creating the resource bank and curricula, the department may provide internet links to resources and materials pertaining to mental health available from other entities that the department finds reliable. Additionally, the department shall solicit input from persons, including youth, within and outside of the mental health profession, including both community and school mental health professionals. Subject to available appropriations, the department shall solicit requests for information and may contract for:

- (a) The organization and enhancement of the resource bank, including materials on the prevention of suicide, the after-effects of suicide attempts and suicide deaths, and postvention training, and education on mental and behavioral health;
- (b) The development of mental and behavioral health and suicide prevention, intervention, and postvention curricula for schools and providing such curricula to schools; and
- (c) Training for educators and school staff concerning mental and behavioral health and suicide prevention.

(2) On and after July 1, 2020, the department shall make material in the resource bank available without charge to school districts, charter schools, institute charter schools, boards of cooperative services, professional educators, parents or guardians of youth, students, and community providers. At the request of a school district, charter school, institute charter school, or board of cooperative services, the department shall provide technical assistance to the school district, charter school, institute charter school, or board of cooperative services in designing age-appropriate curricula pertaining to mental health.

(3) The materials and resources available to students must be developed and updated with input from youth.

(4) School districts, charter schools, institute charter schools, and boards of cooperative services are encouraged to report to the department on the effectiveness of the resource bank and curricula and to recommend changes to improve the resource bank or curricula. The department is encouraged to update the resource bank and curricula based on recommendations from school districts, charter schools, institute charter schools, boards of cooperative services, professional educators, parents or guardians of youth, students, and community providers.

22-102-103. Definitions.

As used in this article 102, unless the context otherwise requires:

- (1) "Department" means the department of education created and existing pursuant to section 24-1-115.
- (2) "Pilot program" means the K-5 social and emotional health pilot program, created in section 22-102-104.

(3) "Pilot school" means a school selected by the department to participate in the pilot program created in section 22-102-104 for students in kindergarten through fifth grade.

(4) "School counselor" means a counselor holding a master's degree in educational counseling and a professional special services license in Colorado with an endorsement in school counseling, including but not limited to the completion of course work in the areas of academic and social emotional development; assessment for social and emotional concerns, including suicide prevention and intervention; crisis intervention; social-emotional prevention programs, including character education and violence prevention; mental health, protective factors for at-risk students, and career awareness, exploration, and planning.

(5) "School district" means a school district organized and existing pursuant to law but does not include a local college district. "School district" includes the state charter school institute and a board of cooperative services that operates a school.

(6) "School mental health professional" means a school counselor, a school psychologist, or a school social worker.

(7) "School psychologist" means a school psychologist holding a master's degree and a professional special services license in Colorado with a school psychologist endorsement.

(8) "School social worker" means a social worker holding a master's degree and a professional special services license in Colorado with an endorsement in school social work, including but not limited to the completion of course work in the areas of school and special education law, including content covering functional behavior assessment and the development of behavior intervention plans.

22-102-104. K-5 social and emotional health pilot program - creation - selection of pilot schools - rules.

(1) There is created the K-5 social and emotional health pilot program in the department to determine the impact of dedicated school mental health professionals in kindergarten through fifth grade in elementary schools that have high-poverty, high-need students. The pilot program is implemented within the selected pilot schools and administered by the department as a pilot program for three consecutive school years, unless extended by the general assembly. Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, pursuant to section 22-102-106, the department shall employ or contract with a pilot program coordinator and contract for preliminary and final program evaluations of the pilot program. The department shall promulgate any rules necessary for the administration of the pilot program.

(2)(a) Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, no later than January 15 immediately preceding the first implementation year, the department shall select up to ten pilot schools to participate in the pilot program. If available appropriations and gifts, grants, or donations are insufficient to fully fund the pilot program, the department may select fewer than ten pilot schools to participate in the pilot program. The department shall select pilot schools that exhibit the characteristics set forth in subsection (2)(b) of this section and that are appropriate test schools to evaluate the impact and effectiveness of the pilot program. The pilot schools must demonstrate a willingness to participate in the pilot program and to collect the data and information necessary for the evaluation of the pilot program.

(b) The department shall select pilot schools, including rural, small, and geographically diverse schools, which schools shall be located in a school district that has a high rate of youth suicide, attempted suicide, or suicidal ideation; have a high-poverty student population and a high percentage of students

who experience or may experience food insecurity, as evidenced by the number or percentage of students in the school who are eligible for free and reduced-priced meals; and may include schools:

- (I) In large, metropolitan school districts;
- (II) That have significant ethnic, cultural, and language diversity within their student populations, which may include students from refugee populations;
- (III) That have a high number or density of youth who are students in out-of-home placement, as defined in section 22-32-138;
- (IV) That are in a school district that has a high percentage of students who are adjudicated delinquent; and
- (V) That are in a school district that has a plan in place to recruit, hire, and retain a diverse workforce that reflects the race, ethnicity, and other characteristics of the student body.

(c) Prior to a selected school implementing the pilot program pursuant to this article 102, the school must notify all parents or legal guardians of students at the school of the school's selection as a pilot school.

24-33.5-1803. School safety resource center - created - duties.

(1) There is hereby created within the department the school safety resource center to assist schools in preventing, preparing for, responding to, and recovering from emergencies and crisis situations and to foster positive learning environments. The director of the center shall be appointed by the executive director pursuant to section 13 of article XII of the state constitution.

(2) The center and the director shall exercise their powers and perform their duties and functions under the department and the executive director as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title.

(3) The center has the following duties:

- (a) To assist schools in developing and implementing safety and preparedness plans, including but not limited to any such plans that are required by state law or applicable rules of accreditation;
- (b) To assist schools in establishing practices and strategies for use in responding to an emergency or crisis situation;
- (c) To assist schools in developing and establishing prevention and intervention efforts to ensure safe and secure learning environments;
- (d) To conduct regular research and assessment projects to determine the efficacy of statewide and local policies and programming;
- (e) To make information and other resources available to all schools and school officials;

(f)(I) To select at least one but not more than five school districts or regions, with the consent of the affected school district boards of education, to serve as pilot sites during the first year of the center's operation. The center shall evaluate and develop enhanced school safety services to be provided by the center to the pilot sites.

- (II) In selecting the school districts or regions that shall serve as pilot sites pursuant to subparagraph (I) of this paragraph (f), the center shall designate at least one but not more than three schools within each of the pilot sites to participate in a cooperative effort by all such designated schools within the pilot sites to create a first responder school mapping system to provide first responders immediate electronic or digital access to maps of, and other schematic information about, school buildings at such designated schools in the event of an emergency at the designated schools. In creating the first responder school mapping system, the pilot sites may contract with one or more public or private entities with experience in creating first responder school mapping systems. Before entering into any

such contract or otherwise proceeding with plans for the creation of the first responder school mapping system, the pilot sites shall submit the contract or plans to the center to approve or disapprove. The department shall reimburse the pilot sites for the direct and indirect costs of creating the first responder school mapping system pursuant to this subparagraph (II).

(III) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, the development and creation of a first responder school mapping system, pursuant to subparagraph (II) of this paragraph (f), is an important element of improving student safety and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(g) To provide information and resources relating to school safety, school emergency response planning and training, and interoperable communications in schools, as determined by the center, to the division of fire prevention and control in the department of public safety to be distributed to school districts and schools pursuant to section 24-33.5-1213.4;

(h)(I) To consult with school districts, schools, and charter schools concerning evidence-based best practices for bullying prevention and education;

(II) To consult with the department of education concerning its administration of the school bullying prevention and education grant program created in section 22-93-102, C.R.S.; and

(III) To submit evidence-based best practices for bullying prevention and education to the department of education for the purposes of section 22-93-106, C.R.S.

(j) To provide information and resources relating to the development and maintenance of school resource officer programs, as determined by the center, to the division of fire prevention and control in the department of public safety for distribution to school districts and schools pursuant to section 24-33.5-1213.4 and to law enforcement agencies and other community partners, as described in section 22-32-109.1, C.R.S.;

(k) To provide suggestions for school resource officer training to the peace officers standards and training board, pursuant to section 24-31-312;

(l) To provide materials and training as described in section 24-33.5-1809 to personnel in school districts and charter schools, parents, and students regarding the awareness and prevention of child sexual abuse and assault, including human trafficking;

(m) By June 1, 2018, to make available a model program that conforms with section 22-1-128, regarding the risks and consequences of sexting for school districts to use, which curriculum must include information informing students of the provisions of section 18-7-109, including that, if a student receives a sexually explicit image in violation of section 18-7-109, the student can avoid adjudication as a juvenile delinquent by taking reasonable steps to either destroy or delete or report the initial viewing of the image within seventy-two hours after receiving the image; and

(n)(I) To act as a resource for school districts, public schools, charter schools, and institute charter schools concerning crisis and suicide prevention training; and

(II) To work collaboratively with the office of suicide prevention in the department of public health and environment concerning the crisis and suicide prevention training grant program created in section 25-1.5-113.

(4) Subject to the provisions of section 13 of article XII of the state constitution, the director shall appoint employees necessary to conduct an efficient center.

REGULATIONS

1 CCR 301-43. Rule for the administration of the expelled and at risk student services grant program

1.1 The statutory basis for these Rules is § 22-33-205.(2), C.R.S., Services for Expelled Students - Grants - Criteria. Statute requires the State Board of Education (state board) to promulgate rules to implement the

grant program, including the application timeline, application requirements, and criteria for determining awards

2.0 Eligibility

2.1 Eligible applicants for the Expelled and At-Risk Student Services Grant Program (grant) include school districts, charter schools, alternative education campuses (AECs) within school districts, nonpublic schools, boards of cooperative services (BOCES), and facility schools.

2.01(a) Nonpublic schools may apply for a grant only to fund educational services that have been approved by the state board pursuant to section 22-2-107(1)(s), C.R.S.

3.0 Application Timeline and Procedures

3.1 The Department of Education (department) shall annually post the application for funding under the grant on its website.

3.2 To be eligible for funding, applicants shall submit an application for the grant by a deadline specified by the department.

3.3 The department will annually make recommendations for funding to the state board, and the state board shall award funds.

4.0 Application requirements

Applications for funding under the grant program must include the following items.

4.1 The number of students at the applicant school or district during the school year preceding the school year who:

4.01(a) were expelled, as defined in [section 22-33-203\(2\), C.R.S.](#), from applicant district or school during the school year preceding the school year for which the grant is requested;

4.01(b) were identified as at risk of dropping out of school due to chronic absenteeism or disciplinary action as identified in [section 22-33-202\(1\), C.R.S.](#); and/or

4.01(c) were identified as truant pursuant to [sections 22-33-107\(3\) and 22-33-108\(5\), C.R.S.](#)

4.2 The applicant's plan to provide educational services, attendance supports, and behavior interventions. The plan must address:

4.02(a) disproportionate discipline practices, chronic absenteeism, and alternatives to suspension and expulsion; and

4.02(b) effective attendance and discipline systems, which may include multi-tiered systems of support, positive behavior intervention models, or restorative justice practices as described in [section 22-32-144, C.R.S.](#);

5.0 Grant requirements

The department and the state board shall use the following criteria in making recommendations for and awarding funding under the grant program.

5.1 The quality of student supports and services provided under the applicant's plan and the likelihood that the plan will achieve its intended results, including:

5.01(a) increasing academic success;

5.01(b) reducing chronic absenteeism;

5.01(c) decreasing conduct and discipline code violations;

5.01(d) increasing age-appropriate and developmentally appropriate discipline methods; and

5.01(e) increasing student and family engagement;

5.2 The number of expelled, at-risk, or chronically absent students who are receiving attendance and behavior interventions and educational services through the applicant under agreements entered into pursuant to the provisions of [section 22-33-204, C.R.S.](#), during the school year preceding the year for which the grant is requested;

- 5.3 The cost-effectiveness of the plan, including the amount of funding requested by the applicant in relation to the cost of the supports and services to be provided under the applicant's plan;
- 5.4 The cost-effectiveness and quality of the services that the applicant will provide under the plan to employees who support students at risk of dropping out of school due to chronic absenteeism or disciplinary action, pursuant to section 22-33-204(1.5), C.R.S.;
- 5.5 If the applicant is seeking to renew a grant or has been awarded a grant pursuant to this section in the previous five years, the demonstrated effectiveness of services funded by the previous grant; and
- 5.6 The need for services in rural, suburban, and urban communities

Multi-tiered Frameworks and Systems of Support

LAWS

22-7-304. Council - advisory duties - technical assistance - report.

(1) The council shall inform, at a minimum, the early childhood councils, public schools, school districts, the state charter school institute, the department, the state board, the department of higher education, the Colorado commission on higher education, and the governing boards for the state institutions of higher education concerning best practices and strategies, aligned with the national standards for family-school partnerships, for increasing parent involvement in public education and promoting family and school partnerships, including but not limited to best practices and strategies in the following areas:

(c) Involving parents in response to intervention programs in public schools and school districts.

22-102-105. Implementation of pilot program.

(5) Each pilot school's team of school mental health professionals shall participate in the school's or school district's multi-tiered systems of support process to assist in developing appropriate plans for the mental health and behavioral needs of individual students.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(l) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each

student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(II) (K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district shall ensure that the school district's policy, at a minimum, incorporates the approaches, policies, and practices outlined in the model bullying prevention and education policy developed pursuant to section 22-2-144. In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of title IX of the United States Code and other state and federal laws.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

22-14-109.5. Ninth-grade success grant program - created - criteria - use of grant money - report - rules - definitions - repeal.

(2)(a) There is created in the department the ninth-grade success grant program to provide funding to local education providers and charter schools to implement a ninth-grade success program, as described in subsection (5) of this section, to assist students enrolled in ninth grade to develop the skills they need to successfully persist to high school graduation and succeed in their education and professional careers. [...]

(5) A local education provider or charter school that receives a grant through the program must use the grant money to implement a ninth-grade success program that, at a minimum, must include the following elements:

(e) Providing instructional support for ninth-grade students including attendance support, content-specific academic interventions, tutoring, course-completion programs, social-emotional learning, and trauma-informed instruction.

22-25-103. Definitions.

As used in this article 25, unless the context otherwise requires:

(3) "Comprehensive health education" means a planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve that must include, but is not limited to, the following topics:

(h) Mental and emotional health.

22-29-101. Legislative declaration.

The general assembly finds and declares that, while parents are the primary and most important moral educators of their children, such efforts should be reinforced in the school and community environments. The general assembly further finds that research indicating that core character qualities such as family support, community involvement, positive peer influence, motivation to achieve, respect for person and property, common courtesy, conflict resolution, integrity, honesty, fairness, a sense of civil and personal responsibility, purpose, and self-respect help give youth the basic interpersonal skills and attributes that are critical building blocks for successful relationships. The general assembly recognizes each school district's authority to exercise control over the specific instruction of students, yet also recognizes and hereby asserts a significant statewide interest in providing direction to school districts with regard to the character education of Colorado's youth. Therefore, the general assembly hereby encourages school districts to develop and strengthen character education instruction to students. By enacting this article, the general assembly acknowledges the importance of character development and encourages school districts, parents, and communities to work together to prepare youth for positive relationships in today's society.

22-29-103. Character education - development - resource.

1) Each school district, either individually or through a board of cooperative services, is strongly encouraged to establish a character education program designed to help students cultivate honesty, respect, responsibility, courtesy, respect for and compliance with the law, integrity, respect for parents, home, and community, and the dignity and necessity of a strong work ethic, conflict resolution, and other skills, habits, and qualities of character that will promote an upright, moral, and desirable citizenry and better prepare students to become positive contributors to society. The program may include information concerning this country's founding documents and concerning religion in American history. Such character education program should be designed to stress the importance that each teacher model and promote the guidelines of behavior established in the character education program for youth to follow at all times, in every class.

(2) The general assembly encourages each school district to work with parents and legal guardians of students enrolled in the school district and the community in which the school district operates in the development of any character education program established pursuant to subsection (1) of this section.

22-102-101. Short title.

The short title of this article 102 is the "Colorado K-5 Social and Emotional Health Act".

22-102-102. Legislation declaration.

(1) The general assembly finds that:

(a) School mental health professionals, including school social workers, positively impact the school environment by working with young students and their families to identify safety-net insecurities, social and emotional skills deficits, instances of abuse and neglect, and mental health challenges;

(b) Identifying these student issues as early as possible increases the likelihood that problems can be resolved successfully and in a manner that decreases long-term problems with learning and other barriers to student success in the future;

(c) A pilot program that places a team of school mental health professionals in every pilot program school will allow the team, in partnership with classroom teachers, to provide needed support for young students and their families at a critical time in their education;

- (d) A significant goal of the pilot program is to ensure that students of elementary age receive the right level of necessary services, in the right place, and at the right time;
- (e) Receiving the right level of services, in the right place, and at the right time helps remove the burden placed on teachers to be everything to a student, from therapist to family counselor, and instead allows teachers to return to their primary task: Teaching; and
- (f) The pilot program will enable parents, students, teachers, administrators, and school mental health professionals to create a safe, positive, and successful school learning environment.

(2) Therefore, the general assembly declares that the creation and successful implementation of a Colorado K-5 social and emotional health pilot program could have a profound impact on the early educational and social experiences of kindergarten through fifth-grade students, resulting in those students graduating to middle and high school programs with fewer social, emotional, and behavioral issues; adverse childhood experiences; disciplinary referrals and delinquent conduct; school absences and truancy; and incidences of self-harm.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

22-60.5-110. Renewal of licenses.

(b) A professional licensee shall complete such ongoing professional development within the period of time for which such professional license is valid. Such professional development may include but need not be limited to in-service education programs, including training in preventing, identifying, and responding to child sexual abuse and assault; behavioral health training that is culturally responsive and trauma- and evidence-informed; and laws and practices relating to the education of students with disabilities in the classroom, including but not limited to child find and inclusive learning environments; college or university credit from an accepted institution of higher education or a community, technical, or local district college; educational travel that meets the requirements specified in subsection (3)(d) of this section; involvement in school reform; service as a mentor teacher for teacher candidates participating in clinical practice, as defined in section 23-78-103; internships; and ongoing professional development training and experiences. The state board of education, by rule, may establish minimum criteria for professional development

(c) In selecting professional development activities for the renewal of a professional license pursuant to this section, each licensee shall choose those activities that will aid the licensee in meeting the standards for a professional educator, including but not limited to the following goals:

(XI) Awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students and knowledge of the community resources available to enhance the health and safety of students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students. Training provided pursuant to this subsection (3)(c)(XI) must be provided using culturally responsive and trauma- and evidence-based practices. [...]

(f)(I) In selecting professional development activities for renewal of a professional teacher license only, in addition to the other requirements set forth in this section, except for those set forth for special services, principal, or administrator licenses in subsection (3)(b.7) of this section, the professional teacher licensee shall complete a minimum of ten clock hours of the professional development hours required during the term of any professional license in training relating to:

(A) Behavioral health training that is culturally responsive and trauma- and evidence-informed [...]

(V) The behavioral health training required pursuant to subsection (3)(f)(l) of this section may include programs such as:

(F) Training modules concerning child traumatic stress.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

22-2-127.9. Mental health education literacy - resource bank - technical assistance.

(1) The department, with assistance from the office of suicide prevention created pursuant to section 25-1.5-101 (1)(w)(l), the Colorado youth advisory council created pursuant to section 2-2-1302, and the suicide prevention commission created pursuant to section 25-1.5-111, shall create and maintain a resource bank of evidence-based, research-based, and promising program materials and curricula pertaining to mental health, which materials and curricula may be used in elementary and secondary schools in the state. The resource bank and curricula must be youth-friendly, culturally sensitive, and available in both English and Spanish. In creating the resource bank and curricula, the department may provide internet links to resources and materials pertaining to mental health available from other entities that the department finds reliable. Additionally, the department shall solicit input from persons, including youth, within and outside of the mental health profession, including both community and school mental health professionals. Subject to available appropriations, the department shall solicit requests for information and may contract for:

(c) Training for educators and school staff concerning mental health.

22-60.5-110. Renewal of licenses.

(b) A professional licensee shall complete such ongoing professional development within the period of time for which such professional license is valid. Such professional development may include but need not be limited to in-service education programs, including training in preventing, identifying, and responding to child sexual abuse and assault; behavioral health training that is culturally responsive and trauma- and evidence-informed; and laws and practices relating to the education of students with disabilities in the classroom, including but not limited to child find and inclusive learning environments; college or university credit from an accepted institution of higher education or a community, technical, or local district college; educational travel that meets the requirements specified in subsection (3)(d) of this section; involvement in school reform; service as a mentor teacher for teacher candidates participating in clinical practice, as defined in section 23-78-103; internships; and ongoing professional development training and experiences. The state board of education, by rule, may establish minimum criteria for professional development; except that such criteria shall not:

(IV) Require prior approval or supervision of professional development activities.

(c) In selecting professional development activities for the renewal of a professional license pursuant to this section, each licensee shall choose those activities that will aid the licensee in meeting the standards for a professional educator, including but not limited to the following goals:

(XI) Awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students and knowledge of the community resources available to enhance the health and safety of students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students. Training provided pursuant to this subsection (3)(c)(XI) must be provided using culturally responsive and trauma- and evidence-based practices [...]

(f)(I) In selecting professional development activities for renewal of a professional teacher license only, in addition to the other requirements set forth in this section, except for those set forth for special services, principal, or administrator licenses in subsection (3)(b.7) of this section, the professional teacher licensee shall complete a minimum of ten clock hours of the professional development hours required during the term of any professional license in training relating to:

(A) Behavioral health training that is culturally responsive and trauma- and evidence-informed [...]

(V) The behavioral health training required pursuant to subsection (3)(f)(I) of this section may include programs such as:

(A) Mental health first aid specific to youth and teens;

(B) Staff development training modules concerning how to prevent teen suicide;

(C) Interconnected systems framework for positive behavioral interventions and supports and mental health;

(D) Training approved or provided by the school district where the teacher is employed;

(E) Training concerning students with behavioral concerns or disabilities;

(F) Training modules concerning child traumatic stress; and

(G) Any other program or training that meets the requirements of this subsection (3)(f).

22-96-103. Behavioral health care professional matching grant program - created - rules.

(1)(a) There is created in the department the behavioral health care professional matching grant program, referred to in this article 96 as the "program", to provide funding to education providers for the following purposes:

(II) To provide training and resources for school staff on the implementation of evidence-based programming on behavioral health education for all students.

22-102-105. Implementation of pilot program.

(1) In the first and subsequent years of operation of the pilot program, each pilot school shall employ or contract with additional school mental health professionals so that each of grades one through five and the kindergarten program in each pilot school has a school mental health professional dedicated to each grade and the kindergarten program. If a single grade or the kindergarten program has more than two hundred fifty students, additional school mental health professionals must be added to the grade or kindergarten program to maintain a ratio of approximately one school mental health professional per two hundred fifty students, as determined by the pilot school. A small pilot school shall maintain a ratio of approximately one school mental health professional per two hundred fifty students, as determined by the pilot school. At least one of the school mental health professionals at each pilot school must be a school social worker.

(2) The goal of the pilot program is for a school mental health professional to develop an ongoing relationship with pilot school students and to follow those students, to the extent possible, as the students advance through the grades at the pilot school. This will allow the school mental health professional to understand the needs of the students and their families over time and to help address those needs over time, if necessary. To achieve this goal, school mental health professionals may be assigned to a cohort of students by grade or, in a smaller school, by multiple grades. School mental health professionals in each pilot school shall work as a team to address the academic and social-emotional needs of the pilot school's students and to create a safe and positive school learning environment through additional behavioral health supports.

(3) For purposes of implementing this pilot program, the general assembly shall appropriate to the department for distribution to the pilot schools, or to the governing body for the pilot school, the amount of money necessary for the pilot schools to employ or contract with the number of additional school mental health professionals necessary to implement the pilot program, as described in subsection (1) of this section. Throughout the duration of the pilot program, the pilot school must employ or contract with, at the

pilot school's expense, the same number of school mental health professionals employed by or contracted with the pilot school during the 2019-20 school year, so that the appropriation to the pilot school for the pilot program supplements, but does not supplant, the pilot school's existing expenditures for school mental health professional positions prior to the operation of the pilot program.

(4)(a) In implementing the pilot program, the school mental health professionals shall work as a team, with each professional providing services to students and offering training and resources to school faculty and administrators that are authorized under the school mental health professional's special services license and endorsement.

REGULATIONS

1 CCR 301-97. Rules for the administration of the school health professional grant program.

1.00 Statement of Basis and Purpose.

The School Health Professional Grant Program, sections 22-96-101 through 22-96-105, C.R.S., requires the State Board of Education to promulgate rules for the implementation of the program, including but not limited to: the timeline for submitting applications to the Department; the form of the grant application and any information in addition to that specified in section 22-96-104 (2), C.R.S. to be included in the application; any criteria for awarding grants in addition to those specified in section 22-96-104 (3), C.R.S.; and any information to be included in the Department's program report in addition to that required in section 22-96-105, C.R.S. [...]

2.01 Implementation Procedures.

(1) Application Timeline. Grants will be awarded for an initial term of one year. Grantees may receive funds for up to two additional years, based on annual approval by the Department and available appropriations. Applications will be due to the Department on or before May 1 of each funding cycle, subject to available appropriations. The Department will make funding available to grantees on or before June 30 of the same fiscal year.

(2) Application Procedures. The Department will be the responsible agency for implementing the School Health Professional Grant Program. The Department will develop a Request for Proposal (RFP), pursuant to the Department's RFP process and pursuant to the requirements and timelines found in 22-96-104, C.R.S. If the Department determines an application is missing any information required by rule to be included with the application, the Department may contact the education provider to obtain the missing information. As applicable, each grant application, at a minimum, shall specify:

(2)(b) The education provider's plan for use of the grant moneys, including the extent to which the grant moneys will be used to increase the number of school health professionals at recipient schools and to provide behavioral health care services at recipient schools, including but not limited to screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues;

(3)(f) The extent to which the education provider prioritizes use of grant money for staff training related to behavioral health supports.

School-based Behavioral Health Programs

LAWS

22-96-101. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(h) School health professionals are in a unique position to educate, assess, and treat youth who have substance abuse or behavioral health issues.

(2) The general assembly further finds and declares that a program to provide matching grants to education providers to enhance the presence of school health professionals in schools throughout the

state will facilitate better screening, education, and referral care coordination for students with substance abuse and other behavioral health needs.

22-96-102. Definitions.

As used in this article 96, unless the context otherwise requires:

(3) "School health professional" means a state-licensed or state-certified school nurse, school psychologist, school social worker, school counselor, or other state-licensed or state-certified professional qualified under state law to provide support services to children and adolescents, including mental health professionals licensed pursuant to article 245 of title 12.

22-96-103. Behavioral health care professional matching grant program - created - rules.

(1)(a) There is created in the department the behavioral health care professional matching grant program, referred to in this article 96 as the "program", to provide funding to education providers for the following purposes:

- (I) To increase the presence of school health professionals in schools to provide behavioral health care to students who have mental health, substance use or misuse, or other behavioral health needs;
- (II) To provide training and resources for school staff on the implementation of evidence-based programming on behavioral health education for all students;
- (III) To allow school health professionals to connect students with services that are provided by community-based organizations for treatment and counseling for students who need behavioral health care; and
- (IV) To provide behavioral health care services at recipient schools, including but not limited to screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues.

(b) An education provider that receives a grant under the program shall use the money to increase the level of funding the education provider allocates to school health professionals to provide behavioral health care to students prior to receiving the grant and not to replace other funding sources allocated to provide school health professionals for students. The education provider may use the money to contract with a community partner for behavioral health care services, including hiring private health care professionals, training, screening, and preventive supports. Additionally, the education provider may use the money to provide direct services or consultation by a school health professional through telehealth technology. The department shall administer the program as provided in this article 96 and pursuant to rules adopted by the state board.

(2) The state board shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the program, including but not limited to rules regarding:

- (a) The timeline for submitting applications to the department;
- (b) The form of the grant application and any information in addition to that specified in section 22-96-104 (2) to be included in the application;
- (c) Any criteria for awarding grants in addition to those specified in section 22-96-104 (3); and
- (d) Any information to be included in the department's program report in addition to that required in section 22-96-105.

22-96-104. Behavioral health care professional matching grant program - application - criteria - grant awards.

(1) An education provider that seeks a grant from the program shall submit an application to the department in accordance with the rules adopted by the state board. The department shall review each application received from an education provider and make recommendations to the state board concerning whether a grant should be awarded to the education provider and the recommended amount of the grant. If the department determines an application is missing any information required by rule to be

included with the application, the department may contact the education provider to obtain the missing information.

(2) At a minimum, each grant application must specify:

- (a) The intended recipient schools, the number of health professionals employed by the education provider prior to receipt of a grant, and the ratio of students to school health providers in the schools operated by or receiving services from the education provider;
- (b) The education provider's plan for use of the grant money, including the extent to which the grant money will be used to increase the number of school health professionals at recipient schools and to provide behavioral health care services at recipient schools, including screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues;
- (c) The education provider's plan for involving leaders at the recipient schools and in the surrounding community and the faculty at recipient schools in increasing the capacity and effectiveness of the behavioral health care services provided to students enrolled in or receiving educational services from the education provider;
- (d) The extent to which the education provider has developed or plans to develop community partnerships to serve the behavioral health care needs of all of the students enrolled in or receiving educational services from the education provider;
- (e) The extent to which the education provider has seen increased incidence of disciplinary actions for drug use or selling drugs, suicide attempts, deaths by suicide, bullying, adverse childhood experiences, or other factors that affect students' mental well-being;
- (f) The extent to which the education provider has an existing program that can be expanded to increase the availability of school health professionals;
- (g) The amount of matching funds that the education provider intends to provide to augment any grant moneys received from the program and the anticipated amount and source of any matching funds; and
- (h) The education provider's plan for continuing to fund the increase in school health professional services following expiration of the grant.

(3) In reviewing applications and making recommendations, the department shall prioritize applications based on the following criteria and any other criteria adopted by rule of the state board:

- (a) The education provider's need for additional school health professionals in schools, demonstrated by the local school and community data regarding student alcohol or drug use, access to a behavioral health care provider, or other data showing the need for a school health professional;
- (b) The existence of a successful school health team in the education provider's school or schools;
- (c) The amount of the matching money that the education provider or a community partner is able to commit;
- (d) The education provider's emphasis and commitment to implement evidence-based and research-based programs and strategies;
- (e) The likelihood that the education provider or community partner will continue to fund the increases in the level of school health professional services following expiration of the grant; and
- (f) The extent to which an education provider prioritizes use of grant money for staff training related to behavioral health supports.

(4) The department and the state board shall consult with experts in the area of school health professional services when establishing any additional criteria for awarding grants and in reviewing applications and selecting grant recipients.

(5) Subject to available appropriations, the state board shall award grants to applying education providers pursuant to this section. The state board shall base the grant awards on the department's

recommendations. Each grant shall have an initial term of one year. In making the award, the state board shall specify the amount of each grant.

(6) The department may expend no more than three percent of the moneys annually appropriated for the program to offset the costs incurred in implementing the program.

(7) Grant applications and reporting will be designed to limit administrative burden on applicants and recipients.

22-96-105. Reporting.

(1) In any fiscal year in which the general assembly makes an appropriation to the department for the purposes of the program, each education provider that receives a grant through the program shall report the following information to the department each year during the term of the grant:

- (a) The number of school health professionals hired using grant moneys;
- (b) A list and explanation of the services provided using grant moneys; and
- (c) Any additional information that the state board, by rule, may require.

(2) On or before May 1, 2015, and on or before May 1 in each fiscal year thereafter in which the general assembly makes an appropriation to the department for the purposes of the program, the department shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report that, at a minimum, summarizes the information received by the department pursuant to subsection (1) of this section. The department shall also post the report to its website.

22-102-102. Legislation declaration.

(1) The general assembly finds that:

- (a) School mental health professionals, including school social workers, positively impact the school environment by working with young students and their families to identify safety-net insecurities, social and emotional skills deficits, instances of abuse and neglect, and mental health challenges;
- (b) Identifying these student issues as early as possible increases the likelihood that problems can be resolved successfully and in a manner that decreases long-term problems with learning and other barriers to student success in the future;
- (c) A pilot program that places a team of school mental health professionals in every pilot program school will allow the team, in partnership with classroom teachers, to provide needed support for young students and their families at a critical time in their education;
- (d) A significant goal of the pilot program is to ensure that students of elementary age receive the right level of necessary services, in the right place, and at the right time;
- (e) Receiving the right level of services, in the right place, and at the right time helps remove the burden placed on teachers to be everything to a student, from therapist to family counselor, and instead allows teachers to return to their primary task: Teaching; and
- (f) The pilot program will enable parents, students, teachers, administrators, and school mental health professionals to create a safe, positive, and successful school learning environment.

(2) Therefore, the general assembly declares that the creation and successful implementation of a Colorado K-5 social and emotional health pilot program could have a profound impact on the early educational and social experiences of kindergarten through fifth-grade students, resulting in those students graduating to middle and high school programs with fewer social, emotional, and behavioral issues; adverse childhood experiences; disciplinary referrals and delinquent conduct; school absences and truancy; and incidences of self-harm.

22-102-103. Definitions.

As used in this article 102, unless the context otherwise requires:

- (1) "Department" means the department of education created and existing pursuant to section 24-1-115.
- (2) "Pilot program" means the K-5 social and emotional health pilot program, created in section 22-102-104.
- (3) "Pilot school" means a school selected by the department to participate in the pilot program created in section 22-102-104 for students in kindergarten through fifth grade.
- (4) "School counselor" means a counselor holding a master's degree in educational counseling and a professional special services license in Colorado with an endorsement in school counseling, including but not limited to the completion of course work in the areas of academic and social emotional development; assessment for social and emotional concerns, including suicide prevention and intervention; crisis intervention; social-emotional prevention programs, including character education and violence prevention; mental health, protective factors for at-risk students, and career awareness, exploration, and planning.
- (5) "School district" means a school district organized and existing pursuant to law but does not include a local college district. "School district" includes the state charter school institute and a board of cooperative services that operates a school.
- (6) "School mental health professional" means a school counselor, a school psychologist, or a school social worker.
- (7) "School psychologist" means a school psychologist holding a master's degree and a professional special services license in Colorado with a school psychologist endorsement.
- (8) "School social worker" means a social worker holding a master's degree and a professional special services license in Colorado with an endorsement in school social work, including but not limited to the completion of course work in the areas of school and special education law, including content covering functional behavior assessment and the development of behavior intervention plans.

22-102-104. K-5 social and emotional health pilot program - creation - selection of pilot schools - rules.

- (1) There is created the K-5 social and emotional health pilot program in the department to determine the impact of dedicated school mental health professionals in kindergarten through fifth grade in elementary schools that have high-poverty, high-need students. The pilot program is implemented within the selected pilot schools and administered by the department as a pilot program for three consecutive school years, unless extended by the general assembly. Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, pursuant to section 22-102-106, the department shall employ or contract with a pilot program coordinator and contract for preliminary and final program evaluations of the pilot program. The department shall promulgate any rules necessary for the administration of the pilot program.
- (2)(a) Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, no later than January 15 immediately preceding the first implementation year, the department shall select up to ten pilot schools to participate in the pilot program. If available appropriations and gifts, grants, or donations are insufficient to fully fund the pilot program, the department may select fewer than ten pilot schools to participate in the pilot program. The department shall select pilot schools that exhibit the characteristics set forth in subsection (2)(b) of this section and that are appropriate test schools to evaluate the impact and effectiveness of the pilot program. The pilot schools must demonstrate a willingness to participate in the pilot program and to collect the data and information necessary for the evaluation of the pilot program.

(b) The department shall select pilot schools, including rural, small, and geographically diverse schools, which schools shall be located in a school district that has a high rate of youth suicide, attempted suicide, or suicidal ideation; have a high-poverty student population and a high percentage of students who experience or may experience food insecurity, as evidenced by the number or percentage of students in the school who are eligible for free and reduced-priced meals; and may include schools:

(I) In large, metropolitan school districts;

(II) That have significant ethnic, cultural, and language diversity within their student populations, which may include students from refugee populations;

(III) That have a high number or density of youth who are students in out-of-home placement, as defined in section 22-32-138;

(IV) That are in a school district that has a high percentage of students who are adjudicated delinquent; and

(V) That are in a school district that has a plan in place to recruit, hire, and retain a diverse workforce that reflects the race, ethnicity, and other characteristics of the student body.

(c) Prior to a selected school implementing the pilot program pursuant to this article 102, the school must notify all parents or legal guardians of students at the school of the school's selection as a pilot school.

22-102-105. Implementation of pilot program.

(1) In the first and subsequent years of operation of the pilot program, each pilot school shall employ or contract with additional school mental health professionals so that each of grades one through five and the kindergarten program in each pilot school has a school mental health professional dedicated to each grade and the kindergarten program. If a single grade or the kindergarten program has more than two hundred fifty students, additional school mental health professionals must be added to the grade or kindergarten program to maintain a ratio of approximately one school mental health professional per two hundred fifty students, as determined by the pilot school. A small pilot school shall maintain a ratio of approximately one school mental health professional per two hundred fifty students, as determined by the pilot school. At least one of the school mental health professionals at each pilot school must be a school social worker.

(2) The goal of the pilot program is for a school mental health professional to develop an ongoing relationship with pilot school students and to follow those students, to the extent possible, as the students advance through the grades at the pilot school. This will allow the school mental health professional to understand the needs of the students and their families over time and to help address those needs over time, if necessary. To achieve this goal, school mental health professionals may be assigned to a cohort of students by grade or, in a smaller school, by multiple grades. School mental health professionals in each pilot school shall work as a team to address the academic and social-emotional needs of the pilot school's students and to create a safe and positive school learning environment through additional behavioral health supports.

(3) Throughout the duration of the pilot program, the pilot school must employ or contract with, at the pilot school's expense, the same number of school mental health professionals employed by or contracted with the pilot school during the school year immediately preceding the first year of implementation of the pilot program so that additional money for the pilot program supplements, but does not supplant, the pilot school's existing expenditures for school mental health professional positions prior to the operation of the pilot program.

(4)(a) In implementing the pilot program, the school mental health professionals shall work as a team, with each professional providing services to students and offering training and resources to school faculty and administrators that are authorized under the school mental health professional's special services license and endorsement.

(b) In addition, school mental health professionals shall, consistent with the school mental health professional's job duties and licensure:

(I) Provide the school with resources to develop and improve the social and emotional health of students, including resources translated into the primary languages of the student population to the extent possible, and create a safe and positive learning environment through additional behavioral health supports; and

(II) Provide social and emotional skill building in the school and with students in the classroom.

(c) School mental health professionals may, consistent with the school mental health professional's job duties and licensure:

(I) Assist students and their families with applying for and obtaining necessary public benefits for which each student and the student's family is eligible;

(II) Provide services and supports to students who have an individualized education program, as provided in section 22-20-108;

(III) Consult and coordinate with other school professionals on behalf of students and support families accessing community-based resources as needed and appropriate; and

(IV) Identify food insecurity, homelessness, and other issues affecting students and make referrals to services within the community, bringing those services into the school setting where possible.

(d) As appropriate, and to the extent possible, the school mental health professional must provide services or arrange for services to be provided for students at the school and during school hours or when student busing is available.

(e) Services provided by the school mental health professional to the student must include the student's family and household, where appropriate. The school mental health professional is specifically authorized to make home visits when appropriate under the circumstances and consistent with licensure.

(5) Each pilot school's team of school mental health professionals shall participate in the school's or school district's multi-tiered systems of support process to assist in developing appropriate plans for the mental health and behavioral needs of individual students.

(6) Each pilot school, or each pilot school's governing body, where appropriate, shall collect, transmit, and retain any data and information necessary for the evaluation of the pilot program pursuant to section 22-102-106. Each pilot school shall record the unique student identifier, as defined in section 22-16-103, for all students enrolled in the pilot school.

(7) A student who is home-schooled but who participates in extracurricular activities or athletic programs at a school that is selected as a pilot school is excluded from any data collection or reporting requirements pursuant to this article 102.

22-102-106. Pilot program coordinator - evaluation of pilot program - student impacts and outcomes.

(1) The department shall employ or contract with a pilot program coordinator to oversee the implementation of the pilot program across the pilot schools. The pilot program coordinator must be a school social worker who shall work with each pilot school's team of school mental health professionals. The duties of the pilot program coordinator include, at a minimum:

- (a) Coordinating data collection and program evaluation requirements with the professional program evaluator retained pursuant to subsection (2) of this section;
- (b) Serving as a contact person and resource for teams of school mental health professionals in the pilot schools;
- (c) Helping pilot schools identify successful practices for recruiting and retaining mental health professionals;
- (d) Sharing best practices relating to the pilot program and its implementation at the pilot schools; and
- (e) Ensuring fidelity to the goals of the pilot program across the pilot schools.

(2)(a) The department shall select a professional program evaluator to complete a preliminary evaluation of the pilot program on or before September 1 of the second full school year of implementation of the pilot program and a final evaluation of the pilot program to be completed on or before September 1 immediately following the conclusion of the final school year of the pilot program. Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, the department shall contract with the evaluator in the school year prior to the implementation of the pilot program in the pilot schools to create a process for the collection and transmission of data and information to the evaluator to ensure that the evaluator has the data and information necessary to complete the preliminary and final reports concerning the impact and outcomes of the pilot program. The pilot program evaluator, in conjunction with the department, shall select a group of control schools that have school characteristics and student demographics similar to those of the pilot schools to serve as a control group for purposes of evaluating the impacts and outcomes of the pilot program on participating students and pilot schools. Data collected for pilot schools and control group schools must include data from school climate and healthy schools surveys for any grade in which such surveys have been created.

(b) The department shall select a professional program evaluator that has the knowledge and skills necessary to evaluate the effectiveness of services provided by the pilot program and the resulting impacts and outcomes of the pilot program on the student cohorts participating in the pilot program. The department is encouraged, but is not required, to contract with a state institution of higher education to complete the evaluation of the pilot program.

(c) The department and the pilot schools shall cooperate fully with the pilot program evaluator's collection and analysis of data and information relating to the pilot program's impact and outcomes. The department, pilot schools, the pilot program coordinator, and the contracted evaluator shall comply with all state and federal laws relating to the confidentiality of academic and medical records of students and shall provide aggregated data where appropriate.

(d) The pilot program evaluator shall determine the impact of the pilot program on students' academic, mental, social-emotional, and physical health and well-being. The evaluator shall collect and analyze data relating to student and school outcomes, which outcomes may include:

(I) The increase or decrease in students' disciplinary referrals, either within the pilot school, or pilot school's district, if relevant, or with law enforcement, and the increase or decrease in students adjudicated delinquent within the pilot school's district;

(II) The increase or decrease in students' lost instruction time due to disciplinary action or visits to the school nurse or school counselor;

(III) The increase or decrease in excused and unexcused absences and truancy;

(IV) The increase or decrease in overall student performance on statewide assessments, by grade;

(V) The increase or decrease in the student cohorts' grade point average, by grade;

- (VI) The increase in access to supportive services for students and their families, as evidenced by:
 - (A) An increase in the number or percentage of students identified as eligible for free or reduced-price meals, by grade;
 - (B) An increase in employment outcomes for students' families;
 - (C) An increase or decrease in students' food security as demonstrated by an increase or decrease in the number or percentage of students participating in the federal supplemental nutrition assistance program;
 - (D) An increase or decrease in the number or percentage of eligible students accessing public benefits;
 - (E) An increase or decrease in the pilot schools' awareness of or involvement with domestic violence or child abuse issues affecting students;
 - (F) Impact on the school's learning environment and changes to the school climate during the operation of the pilot program and evaluation of school climate;
 - (G) The reduction in adverse childhood experiences or the positive resolution of adverse childhood experiences, if available;
 - (H) The reduction in youth suicide and attempted suicide; and
- (VII) Any other relevant data and information relating to pilot program outcomes and impacts as determined by the pilot program evaluator.

25-20.5-501. Legislative declaration.

- (1) The general assembly hereby finds that:
 - (a) Access to school-based primary health care for children and adolescents has been shown to increase the use of primary care, reduce the use of emergency rooms, and result in fewer hospitalizations;
 - (b) High-risk students who use school-based health centers are more likely to stay in school and be available for instruction;
 - (c) School-based health centers are effective at managing health conditions, such as asthma;
 - (d) School-based health centers serve primarily low-income schools. The majority of students who attend schools with on-site health centers are from low-income families, are medically uninsured or underinsured, and qualify for free or reduced-cost school lunch.

25-20.5-502. Definitions.

As used in this part 5, unless the context otherwise requires:

- (1) "School-based health center" means a clinic established and operated within a public school building, including charter schools and state-sanctioned high school equivalency examination programs associated with a school district, or on public school property by the school district. School-based health centers are operated by school districts in cooperation with hospitals, public or private health care organizations, licensed medical providers, public health nurses, community health centers, and community mental health centers. The term "school-based health center" includes clinics or facilities authorized to provide clinic services pursuant to section 25.5-5-301, C.R.S., or authorized to apply for and receive medical assistance payments under a contract entered into pursuant to section 25.5-5-318, C.R.S.

25-20.5-503. School-based health center grant program - creation - funding - grants.

(1) There is hereby created, in the prevention services division of the department of public health and environment, the school-based health center grant program, referred to in this part 5 as the "grant program", for the purpose of assisting the establishment, expansion, and ongoing operations of school-based health centers in Colorado. The grant program shall be funded by moneys annually appropriated by the general assembly specifically for said program.

(2)(a) Operators of school-based health centers may apply for grants for the benefit of school-based health centers. The grant program shall provide grants for school-based health centers selected by the division. The division, in consultation with school-based health centers, shall develop criteria under which the grants are distributed and evaluated. In developing the criteria for grants, the division shall give priority to centers that serve a disproportionate number of uninsured children or a low-income population or both and may award grants to establish new school-based health centers; to expand primary health services, behavioral health services, including education, intervention, and prevention services for opioid, alcohol, and marijuana, and other substance use disorders, or oral health services offered by existing school-based health centers; to expand enrollment in the children's basic health plan; or to provide support for ongoing operations of school-based health centers. None of the grants shall be awarded to provide abortion services in violation of section 50 of article V of the state constitution.

(b)(I) On or before July 1, 2018, the general assembly shall appropriate seven hundred seventy-five thousand dollars to the department from the marijuana tax cash fund created in section 39-28.8-501 for the purposes of expanding behavioral health therapy, intervention, and prevention services for opioid, alcohol, and marijuana, and other substance use disorders pursuant to this subsection (2). The department shall prioritize funding to school-based health centers that serve communities with high-risk factors for substance abuse combined with limited access to treatment services according to state needs assessments, Colorado health indicator data, and national best practice trends.

(II) Any unencumbered and unexpended money from an appropriation made pursuant to this subsection (2)(b) remains available for expenditure by the department in the next two fiscal years without further appropriation.

(3) The division shall specify and provide to potential grant recipients the following information:

- (a) Procedures and timelines by which an operator of a school-based health center may apply for a grant;
- (b) Grant application contents;
- (c) Criteria for selection, reporting, evaluation, and other criteria as necessary;
- (d) Criteria for determining the amount and duration of the grants;
- (e) Reporting requirements for grant recipients; and
- (f) Any other information the division deems necessary.

(4) Grant recipients shall submit reports to the division as outlined in the reporting requirements summarizing the use of the grant moneys.

(5) A grant awarded by the division shall be used for the school-based health center for the purposes stated in this part 5. The grants shall supplement existing funding sources for the school-based health center, such as federal funds, patient fees, public and private insurance, and grants and donations, including in-kind donations received from community hospitals, foundations, local governments, and private sources.

REGULATIONS

1 CCR 301-97. Rules for the administration of the school health professional grant program.

1.00 Statement of Basis and Purpose.

The School Health Professional Grant Program, sections 22-96-101 through 22-96-105, C.R.S., requires the State Board of Education to promulgate rules for the implementation of the program, including but not limited to: the timeline for submitting applications to the Department; the form of the grant application and any information in addition to that specified in section 22-96-104 (2), C.R.S. to be included in the application; any criteria for awarding grants in addition to those specified in section 22-96-104 (3), C.R.S.; and any information to be included in the Department's program report in addition to that required in section 22-96-105, C.R.S.

2.00 Definitions.

2.00(1) Behavioral health care: Services to prevent, identify, and treat substance use disorders, substance misuse, and mental health disorders, including services to support social- emotional health.

(2) Department: The Department of Education created and existing pursuant to section 24-1-115, C.R.S.

(3) Education provider: A school district, a board of cooperative services, a charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 C.R.S., or a charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22 C.R.S.

(4) School health professional: A state-licensed or state-certified school nurse, school psychologist, school social worker, school counselor, or other state-licensed or state-certified professional qualified under state law to provide support services to children and adolescents, including mental health professionals licensed pursuant to article 245 of title 12, C.R.S.

(5) School: A public elementary, middle, junior high, or high school.

(6) State Board: The State Board of Education created pursuant to Section 1 of Article IX of the State Constitution.

2.01 Implementation Procedures.

(1) Application Timeline. Grants will be awarded for an initial term of one year. Grantees may receive funds for up to two additional years, based on annual approval by the Department and available appropriations. Applications will be due to the Department on or before May 1 of each funding cycle, subject to available appropriations. The Department will make funding available to grantees on or before June 30 of the same fiscal year.

(2) Application Procedures. The Department will be the responsible agency for implementing the School Health Professional Grant Program. The Department will develop a Request for Proposal (RFP), pursuant to the Department's RFP process and pursuant to the requirements and timelines found in 22-96-104, C.R.S. If the Department determines an application is missing any information required by rule to be included with the application, the Department may contact the education provider to obtain the missing information. As applicable, each grant application, at a minimum, shall specify:

(2)(a) The intended recipient schools, the number of health professionals employed by the education provider in schools prior to receipt of a grant, and the ratio of students to school health providers in the schools operated by or receiving services from the education provider;

(2)(b) The education provider's plan for use of the grant moneys, including the extent to which the grant moneys will be used to increase the number of school health professionals at recipient schools and to provide behavioral health care services at recipient schools, including but not limited to screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues;

(2)(c) The education provider's plan for involving leaders at the recipient schools and in the surrounding community and the faculty at recipient schools in increasing the capacity and

effectiveness of the behavioral health care services provided to school students enrolled in or receiving educational services from the education provider;

(2)(d) The extent to which the education provider has developed or plans to develop community partnerships to serve the behavioral health care needs of all of the students enrolled in or receiving educational services from the education provider;

(2)(e) The extent to which the education provider has seen increased incidence of disciplinary actions for drug use or selling drugs, suicide attempts, deaths by suicide, bullying, adverse childhood experiences, or other factors that affect students' mental well-being;

(2)(f) The extent to which the education provider has an existing program that can be expanded to increase the availability of school health professionals;

(2)(g) The amount of matching funds that the education provider intends to provide to augment any grant moneys received from the program and the anticipated amount and source of any matching funds; and

(2)(h) The education provider's plan for continuing to fund the increase in school health professional services following expiration of the grant.

(3) Application Priority Criteria. In reviewing applications and making recommendations to the State Board, the Department shall prioritize applications based on the following criteria:

(3)(a) The education provider's need for additional school health professionals in schools, demonstrated by the local school and community data regarding student alcohol or drug use, access to behavioral health care provider, or other data showing the need for a school health professional;

(3)(b) The existence of a successful school health team in the education provider's school or schools;

(3)(c) The amount of the matching money that the education provider or a community partner is able to commit;

(3)(d) The education provider's emphasis and commitment to implement evidence-based and research-based programs and strategies; and

(3)(e) The likelihood that the education provider or community partner will continue to fund the increases in the level of school health professional services following expiration of the grant;

(3)(f) The extent to which the education provider prioritizes use of grant money for staff training related to behavioral health supports; and

(3)(g) Whether the education provider has an established process for a parent or legal guardian to opt their child out of a health course, part of the health curriculum, or behavioral health services.

(4) Additional Review Criteria. The Department and the State Board shall consult with experts in the area of school health professional services when establishing any additional criteria for awarding grants and in reviewing applications and selecting grant recipients.

(5) Duration, Amount, and Use of Grant Funding. Subject to available appropriations, the State Board shall award grants to applying education providers pursuant to 22-96-104, C.R.S. The State Board shall base the grant awards on the Department's recommendations. Each grant shall have an initial term of one year and may be renewed for two subsequent years based on annual approval by the Department and available appropriation. In making the award, the State Board shall specify the amount of each grant.

(5)(a) An education provider that receives a grant under the program shall use the money to increase the level of funding the education provider allocates to school health professionals to provide behavioral health care to students prior to receiving the grant and not to replace other funding sources allocated to provide school health professionals for students in schools.

(5)(b) An education provider may use the money to contract with a community partner for behavioral healthcare services, including hiring private health care professionals, training, screening, and

preventive supports. Additionally, the education provider may use the money to provide direct services or consultation by a school health professional through telehealth technology.

(6) Reporting. In any fiscal year in which the general assembly makes an appropriation to the department for the purposes of the program, each education provider that receives a grant through the program shall report the following information to the department each year during the term of the grant:

(6)(a) The number of school health professionals hired using grant moneys; and

(6)(b) A list and explanation of the services provided using grant moneys.

(7) Evaluation of Program. On or before May 1, 2015, and on or before May 1 in each fiscal year thereafter in which the general assembly makes an appropriation to the Department for the purposes of the program, the Department shall submit to the Education Committees of the Senate and the House of Representatives, or any successor Committees, a report that, at a minimum, summarizes the information received by the department pursuant to subsection (1) of this 22-96-105, C.R.S. The Department shall also post the report to its web site.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

22-32-146. School use of on-site peace officers as school resource officers.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

22-33-107. Enforcement of compulsory school attendance - definitions.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

[...]

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of children who are habitually truant, as defined in section 22-33-102 (3.5), for the preceding academic year. The department shall post this information for each school district on its website for the public to access and may post additional information reported by school districts related to truancy.

(5) The department of education may post on its website information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe

school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that must be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and must be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code must include, but need not be limited to:

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

22-33-105. Suspension, expulsion, and denial of admission.

(3)(a) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of the pupil that the pupil has been suspended and of the grounds for the suspension, the period of the suspension, and the time and place for the parent, guardian, or legal custodian to meet with the suspending authority to review the suspension.

(6) When a pupil is expelled by a school district, the pupil's parent, guardian, or legal custodian is responsible for seeing that the pupil complies with the provisions of this article during the period of expulsion.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(c.5)(I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

22-33-107. Enforcement of compulsory school attendance - definitions.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district. It is the attendance officer's duty in appropriate cases to

counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(3)(a) As used in this subsection (3):

(II) "Local community services group" means the local juvenile services planning committee created pursuant to section 19-2-211, C.R.S., the local collaborative management group created by a memorandum of understanding entered into pursuant to section 24-1.9-102, C.R.S., or another local group of public agencies that collaborate with the school district to identify and provide support services for students.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning elementary and secondary school attendance, including but not limited to policies and procedures to work with children who are habitually truant. The policies and procedures must include provisions for the development of a plan. The plan must be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The appropriate school personnel are encouraged to work with the local community services group to develop the plan. The plan must be in compliance with section 22-33-108 (7) and include appropriate sanctions other than placement in a juvenile detention facility for a child who is habitually truant and who has refused to comply with the plan. The policies and procedures may also include but need not be limited to the following:

(I.5) Procedures to monitor the attendance of each child enrolled in the school district to identify each child who has a significant number of unexcused absences and to work with the local community services group and the child's parent to identify and address the likely issues underlying the child's truancy, including any nonacademic issues;

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of children who are habitually truant, as defined in section 22-33-102 (3.5), for the preceding academic year. The department shall post this information for each school district on its website for the public to access and may post additional information reported by school districts related to truancy.

(5) The department of education may post on its website information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

22-33-108. Judicial proceedings.

(5)(a) It is the intent of the general assembly that, in enforcing the compulsory school attendance requirements of this article, a school district shall employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.

(b) A school district shall initiate court proceedings to compel a child and the child's parent to comply with the attendance requirements specified in this article but only as a last-resort approach to address the child's truancy and only if a child continues to be habitually truant after school or school district personnel have created and implemented a plan pursuant to section 22-33-107 (3) to improve the child's school attendance.

(c) Before initiating court proceedings to compel compliance with the attendance requirements specified in this article, the school district shall give the child and the child's parent written notice that the school district will initiate proceedings if the child does not comply with the attendance requirements of this article. The school district may combine the notice and summons. If combined, the petition must state the date on which the school district will initiate proceedings, which date must not be less than five days after the date of the notice and summons. The notice must state the provisions of this article with which compliance is required and must state that the school district will not initiate proceedings if the child complies with the identified provisions before the proceedings are filed.

REGULATIONS

1 CCR 301-45. Section 2620-R-2.04. Documentation and notification requirements.

(1) If there is a reasonable probability that restraint might be used with a particular student, appropriate school staff must notify, in writing, the parents and, if appropriate, the student of the restraint procedures (including types of restraints) that might be used; specific circumstances in which restraint might be used; and staff involved. For students with disabilities, if the parents request a meeting with school personnel to discuss the notification, school personnel must ensure that the meeting is convened. This notification may occur at the meeting where the student's Behavior Plan or IEP is developed/reviewed.

(2) If restraints are used by any school employee or volunteer, a written report must be submitted within one (1) school day to school administration.

(3) The school principal or designee shall verbally notify the parents as soon as possible but no later than the end of the school day that the restraint was used.

(4) A written report based on the findings of the staff review referenced in Section 2.05(1)(a) of these Rules, must be emailed, faxed, or mailed to the parent within five (5) calendar days of the use of restraint. The written report of the use of restraint must include:

- (a) The antecedent to the student's behavior if known;
- (b) A description of the incident;
- (c) Efforts made to deescalate the situation;
- (d) Alternatives that were attempted;
- (e) The type and duration of the restraint used;
- (f) Injuries that occurred, if any; and
- (g) The staff present, and staff involved in administering the restraint.

(5) A copy of the written report on the use of restraint shall be placed in the student's confidential file.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

22-1-138. Information collected and posted on department website.

On or before August 31, 2023, the department of education shall standardize the reporting method that school districts, including charter schools of a school district and institute charter schools, use to collect and report data concerning suspensions and expulsions, arrests and referrals, chronic absenteeism, incidents of violence, and harassment and bullying, and the safe school reporting requirements set forth in section 22-32-109.1. In making its determination regarding the standardization, the department of education shall consult with school districts and school administrators, school board members, teachers, law enforcement representatives, school resource officers, K-12 advocates, and other relevant stakeholders. In making its determination, the department of education shall ensure all student-level data is kept confidential and reporting complies with the “Colorado Privacy Act”, established pursuant to part 13 of article 1 of title 6, the federal “Family Educational Rights And Privacy Act of 1974”, 20 U.S.C. Sec. 1232g, and the “Student Data Transparency and Security Act”, created pursuant to article 16 of this title 22, which must include the application of data suppression policies to avoid the re-identification of any individual in any public reports. As part of the process, the department of education may consider whether to adopt new reporting categories or require additional or different data to be collected to improve accuracy, consistency, and quality of data.

22-1-139. Accessible district profile reports, including school climate and safety data

(1)(a) On or before August 31, 2024, the department of education shall work to develop easily accessible, user-friendly profile reports for each school district and the charter school institute. The reports must be made easily accessible to the general public through a link on the department of education’s website; updated annually; and disaggregated by gender, grade level, ethnicity, disability, English language learner status, free and reduced-price lunch status, and homeless status to the maximum extent possible in compliance with the “Colorado Privacy Act”, established pursuant to part 13 of article 1 of title 6, the federal “Family educational rights and privacy rights act of 1974”, 20 U.S.C. Sec. 1232g, and the “Student Data Transparency and Security Act” created pursuant to article 16 of this title 22. To prepare the profile reports, the department of education shall collect the individual student data described in subsection (1)(b) of this section. The department of education shall maintain strict standards for student data privacy, comply with standards for reporting data for a student with an accommodation pursuant to section 504 of the federal “Rehabilitation Act of 1973”, 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations, or a student with an individualized education plan, and shall not publicly report individual student data for any purpose, including as part of the district profile reports.

(b) The profile reports must include, but are not limited to:

(I) Chronic absenteeism rates;

(II) The number of in-school and out-of-school suspensions;

(III) The number of expulsions;

(IV) The number of students handcuffed;

(V) The number of referrals to law enforcement. As used in this section, “referrals to law enforcement” means when a school employee proactively calls, summons, or requests a law enforcement official, including a school resource officer, to:

(A) Respond to an incident on school grounds involving a possible violation of local, state, or federal law;

(B) Engage with a student or third party on school grounds who is creating a potentially dangerous situation; or

(C) Enforce a local, state, or federal rule, regulation, or law on school grounds, in a school vehicle, or at a school activity or school-sanctioned event;

(VI) The number of school-related arrests, including an arrest that occurs on school grounds, in a school vehicle, or at a school activity or school-sanctioned event;

(VII) The number of students physically restrained; and

(VIII) The number of students placed in seclusion.

(2)(a) The district profiles must include data collected pursuant to section 22-2-112 (1)(u)(I) and any other existing district-level measures that the department of education determines relevant and related to school climate. In developing the profiles, the department of education shall consult with stakeholders, including members of the state advisory council for parent involvement in education, created in section 22-7-303; members of the Colorado special education advisory committee appointed pursuant to section 22-20-104 (2)(a); and stakeholders who represent the disability community; K-12 advocates and students; and representatives of associations representing school executives, school boards, special education directors, charter schools, and teachers.

(b) The department of education may consult with state and national organizations or other states with expertise in measuring and improving students' experiences at school. By December 31, 2023, the department of education may make recommendations to the state board of education and the general assembly for additional indicators to consider for inclusion in the district profile report, including, but not limited to, measures of student engagement, students' emotional and physical safety and sense of belonging, and teachers' perspectives of learning conditions. Recommendations may also leverage information learned from pilot and grant programs related to improving students' experiences in school.

(3) Beginning in the 2023-24 school year, the department of education shall annually collect information concerning school climate surveys administered to students or families, or school climate tools utilized by schools and school districts, including which survey or tool is used, if any, and how the results of such surveys are made publicly accessible, if at all. The department of education shall include this information in the district profile reports.

22-2-503. Teaching and learning conditions.

(1) Subject to available appropriations, the department shall administer a biennial teaching and learning conditions survey, referred to in this section as the "survey", to all preschool teachers, elementary teachers, secondary teachers, and education support professionals in public schools of the state. The survey must be designed to assess, at a minimum:

(d) The relationship, if any, between teaching and learning conditions and measures of school climate, as experienced by students and teachers.

(2) The survey results may be used by schools, school districts, the department, state policymakers, and researchers as a resource for:

(g) Improving ways to measure and improve school climate and teaching and learning environments.

22-14-105. Assessment of statewide student attendance data - report.

Beginning in the 2009-10 academic year, the office, with assistance from other divisions within the department, shall annually analyze data collected by the department from local education providers throughout the state concerning student attendance and the implementation of school attendance policies and practices and shall assess the overall incidence, causes, and effects of student dropout, engagement, and re-engagement in Colorado. On or before February 15, 2010, and on or before February 15 each year thereafter, the office shall provide to local education providers, the state board, the education committees of the senate and the house of representatives, or any successor committees, and the governor's office the assessment and any recommended strategies to address student dropout,

engagement, and re-engagement in Colorado. The office may combine this assessment and recommendation with the report required by section 22-14-111.

22-14-110. State board - rules.

(1) The state board shall promulgate, pursuant to the "State Administrative Procedure Act", article 4 of title 24, such rules as may be necessary to implement the provisions of this article 14. At a minimum, the rules must include:

- (a) The rules required pursuant to section 22-14-103 (4) to establish criteria for identifying high priority and priority local education providers;
- (b) The rules required pursuant to section 22-14-109 for the student re-engagement grant program;
- (b.5) The rules required pursuant to section 22-14-109.5 for the ninth-grade success grant program; and
- (c) Rules to define and calculate the following rates:
 - (I) The student dropout rate;
 - (II) The graduation rate;
 - (III) The completion rate;
 - (IV) The student re-engagement rate;
 - (V) The truancy rate;
 - (VI) The student mobility rate;
 - (VII) The student suspension rate; and
 - (VIII) The student expulsion rate.

(2) To the extent the state board, as of May 21, 2009, has already promulgated any of the rules specified in subsection (1) of this section, the state board shall review said rules and determine whether they should be revised based on the provisions of this article.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

- (b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, and in accordance with standardized methods and any revised reporting categories identified and adopted through the stakeholder process set forth in section 22-1-138, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year, including any disciplinary

incident specified in subsection (2)(b)(iv)(e) or (2)(b)(iv)(k) of this section that requires additional reporting on the incident.

- (I) The total enrollment for the school;
- (II) The average daily attendance rate at the school;
- (III) Dropout rates for grades seven through twelve, if such grades are taught at the school;
- (IV) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

- (A) Possessing a dangerous weapon on school grounds, in a school vehicle, or at a school activity or sanctioned event without the authorization of the school or the school district;

- (B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

- (C) Use, possession, or sale of a drug or controlled substance, other than marijuana, on school grounds, in a school vehicle, or at a school activity or sanctioned event;

- (C.5) The unlawful use, possession, or sale of marijuana on school grounds, in a school vehicle, or at a school activity or sanctioned event;

- (D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event;

- (E) Being willfully disobedient or openly and persistently defiant or repeatedly interfering with the school's ability to provide educational opportunities to, and a safe environment for, other students. In addition to providing information on such disciplinary incidents in the compiled report required by this subsection (2)(b), the report filing must include any additional information deemed necessary by the department of education pursuant to the process required pursuant to section 22-1-138. Information included in reporting for incidents currently categorized as disobedience or defiance may include, but is not limited to school and district code; location of incidents; description of the behaviors that constituted the violations; interventions or de-escalation strategies attempted leading up to the incident; and descriptive information of the student or students involved in the incidents, including, but not limited to, gender, grade level, ethnicity, race, and whether the student has federal section 504 accommodations or an individualized education plan. Information on the report must be submitted in accordance with the department of education's data privacy and reporting requirements;

- (F) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered first degree assault, as

described in section 18-3-202, C.R.S., second degree assault, as described in section 18-3-203, C.R.S., or vehicular assault, as described in section 18-3-205, C.R.S.;

- (G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to behavior that creates a threat of physical or emotional harm to the student or to other students;

- (G.5) Bullying;

- (H) Willful destruction or defacement of school property;

- (I) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered third degree assault, as described in section 18-3-204, C.R.S., or disorderly conduct, as described in section 18-9-106

(1)(d), C.R.S., but not disorderly conduct involving firearms or other deadly weapons, as described in section 18-9-106 (1)(e) and (1)(f), C.R.S.;

(J) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered robbery; and

(K) Other violations of the code of conduct and discipline that resulted in documentation of the conduct in a student's record. In addition to providing information on such disciplinary incidents in the compiled report required by this subsection (2)(b), the report filing must include any additional information deemed necessary by the department of education pursuant to the process required pursuant to section 22-1-138. Information included in reporting for incidents currently categorized as disobedience or defiance may include, but is not limited to, school and district code; location of the incidents; description of the behaviors that constituted the violations; interventions or de-escalation strategies attempted leading up to the incidents; and descriptive information of the student or students involved in the incidents, including, but not limited to, gender, grade level, ethnicity, race, and whether the student has federal section 504 accommodations or an individualized education plan. information on the report must be submitted in accordance with the department of education's data privacy and reporting requirements.

(V) and (VI)(Deleted by amendment, L. 2012.)

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school;

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs; and

(IX) The number of acts of sexual violence on school grounds, in a school vehicle, or at a school activity or sanctioned event. Any information provided as a part of this subparagraph (IX) for the safe school reporting requirements must be reported as aggregate data and must not include any personally identifying information. For the purposes of this subparagraph (IX), "sexual violence" means a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent.

(b.5) In addition to the items specified in subsection (2)(b) of this section, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall annually review and submit data to the department of education concerning the number and types of disciplinary incidents and the disciplinary actions taken in response to such incidents. The department of education shall collect the data described in subsection (2)(b)(iv) of this section at the individual student level and report disaggregated student data on the type of disciplinary incidents and action taken. Such student data must be disaggregated by gender, grade level, race, ethnicity, disability, whether the student has federal section 504 accommodations or an individualized education plan, English language learner status, free and reduced-price lunch status, and homeless status, to the maximum extent possible in compliance with the "Colorado Privacy Act", established pursuant to part 13 of article 1 of title 6, the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and the "Student Data Transparency and Security Act", created in article 16 of this title 22. the department of education shall not publicly report individual student data for any purpose, shall include the application of data suppression policies to avoid the re-identification of any individual in any public reports, and shall ensure compliance with standards for reporting data for a student with a federal section 504 accommodation or an individualized education plan.

22-32-146. School use of on-site peace officers as school resource officers.

(4) Commencing August 1, 2013, and continuing through August 1, 2014, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Failure to submit a timely report to the division of criminal justice pursuant to this subsection (4) does not relieve a law enforcement agency of its responsibility to file the report required by this subsection (4). A law enforcement agency that has failed to file a timely report shall file all such reports with the division of criminal justice no later than August 15, 2015. Each such report must include, at a minimum, the following information:

- (a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;
- (b) The number of students arrested by the officer, including the offense for which each such arrest was made;
- (c) The number of summonses or tickets issued by the officer to students; and
- (d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

(5)(a) On or before August 1, 2015, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in the formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred during the 2014-15 academic year, excluding incidents that occurred during the summer of 2014, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(b) Notwithstanding the provisions of section 19-1-303 (5), C.R.S., on or before August 1, 2016, and every August 1 thereafter, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred for the previous academic year, including incidents that occurred during the previous summer months, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(c) For each report required pursuant to paragraph (a) or (b) of this subsection (5), the law enforcement agency shall report:

- (I) The student's full name;
- (II) The student's date of birth;
- (III) The student's race, ethnicity, and gender;
- (IV) The name of the school where the incident occurred or the name of the school that operated the vehicle or held the activity or event;
- (V) The date of the arrest or taking of a student into custody;
- (VI) The date of the issuance of the summons or ticket;
- (VII) The arrest or incident report number as recorded by the law enforcement agency;

(VIII) The single most serious offense for which a student is arrested, issued a summons, or issued a ticket using the national crime information center (NCIC) crime code;

(IX) The type of weapon involved, if any, for offenses classified as group A offenses under the national incident-based reporting system; and

(X) The law enforcement agency's originating reporting identifier.

(d) A law enforcement agency may report the information required pursuant to this subsection (5) on a monthly, quarterly, or annual basis. The law enforcement agency shall inform the division of criminal justice of the reporting schedule it will follow.

22-32-147. Use of restraints on students - certain restraints prohibited - reports and review process - definitions - rules.

(1) As used in this section, unless the context otherwise requires:

(a) "Chemical restraint" has the same meaning as set forth in section 26-20-102 (2).

(b) "Mechanical restraint" has the same meaning as set forth in section 26-20-102 (4).

(b.7) "Physical restraint" has the same meaning as set forth in section 26-20-102 (5).

(c) "Prone position" means a face-down position.

(d) "Prone restraint" means a restraint in which the individual being restrained is secured in a prone position.

(e) "Restraint" has the same meaning as set forth in section 26-20-102 (6).

(2) Pursuant to section 26-20-111, the use of a chemical, mechanical, or prone restraint upon a student in a school or charter school of a school district or board of cooperative services is prohibited.

(3)(a) On and after August 9, 2017, each school district shall require any school employee or volunteer who uses any type of restraint on a student of the school district to submit a written report of the incident to the administration of the school not later than one school day after the incident occurred.

(b) On and after August 9, 2017, each school district shall establish a review process, conduct the review process at least annually, and document the results of each review process in writing. Each annual review process must include a review of each incident in which restraint was used on a student during the preceding year. The purpose of each annual review process is to ensure that the school district is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. Each annual review process must include but is not limited to:

(I) Analysis of incident reports, including consideration of procedures used during the restraint, preventative or alternative techniques attempted, documentation, and follow-up;

(II) Training needs of staff;

(III) Staff-to-student ratios; and

(IV) Environmental considerations, including physical space, student seating arrangements, and noise levels.

(b.5). If a physical restraint is more than one minute but less than five minutes, the notification requirement is a written notice to the parent on the day of the restraint. The written notice must include the date, the name of the student, and the number of restraints that day that lasted between one and five minutes.

(c) If a physical restraint is five minutes or more, the school administration shall mail, fax, or e-mail a written report of the incident to the parent or legal guardian of the student not more than five calendar days after the use of the restraint on the student. The written report must be placed in the student's confidential file and include:

(I) The antecedent of the student's behavior, if known;

(II) A description of the incident;

- (III) Any efforts made to de-escalate the situation;
- (IV) Any alternatives to the use of restraints that were attempted;
- (V) The type and duration of the restraint used;
- (VI) Any injuries that occurred; and
- (VII) The staff members who were present and staff members who were involved in administering the restraint.

(d) No later than June 30, 2023, and every June 30 thereafter, each school district shall submit the data from the annual review conducted pursuant to subsection (3)(b) of this section to the department of education pursuant to section 22-1-138.

(4) On or before November 1, 2017, the state board shall promulgate rules establishing a process by which a student or a parent or legal guardian of a student may formally complain about the use of restraint or seclusion by any employee or volunteer of any school or charter school of a school district or board of cooperative services. To the extent practicable, the process must reflect the complaint process for filing a state complaint under the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended.

22-33-105. Suspension, expulsion, and denial of admission.

Beginning in the 2009-10 academic year, the office, with assistance from other divisions within the department, shall annually analyze data collected by the department from local education providers throughout the state concerning student attendance and the implementation of school attendance policies and practices and shall assess the overall incidence, causes, and effects of student dropout, engagement, and re-engagement in Colorado. On or before February 15, 2010, and on or before February 15 each year thereafter, the office shall provide to local education providers, the state board, the education committees of the senate and the house of representatives, or any successor committees, and the governor's office the assessment and any recommended strategies to address student dropout, engagement, and re-engagement in Colorado. The office may combine this assessment and recommendation with the report required by section 22-14-111.

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Enrolling entity" means:

- (I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;
- (II) A school district; or
- (III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

- (I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

22-33-205. Services for expelled and at-risk students - grants - criteria.

(1)(a) There is hereby established in the department of education the expelled and at-risk student services grant program, referred to in this section as the "program". The program shall provide grants to school districts, to charter schools, to alternative schools within school districts, to nonpublic, nonparochial schools, to boards of cooperative services, to facility schools, and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services, and other services provided pursuant to section 22-33-204, to expelled students pursuant to section 22-33-203 (2), to students at risk of expulsion as identified pursuant to section 22-33-202 (1), and to truant students.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

(c) Grants awarded pursuant to this section shall be paid for out of any moneys appropriated to the department of education for implementation of the program.

(2)(a) The state board by rule shall establish application procedures by which a school district, a charter school, an alternative school within a school district, a nonpublic, nonparochial school, a board of cooperative services, a facility school, or a pilot school may annually apply for a grant under the program. At a minimum, the application shall include a plan for provision of educational services, including the type of educational services to be provided, the estimated cost of providing such educational services, and the criteria that will be used to evaluate the effectiveness of the educational services provided.

(b) The state board shall determine which of the applicants shall receive grants and the amount of each grant. In awarding grants, the state board shall consider the following criteria:

(I) The costs incurred by the applicant in providing educational services to expelled or at-risk students pursuant to the provisions of this part 2 during the school year preceding the school year for which the grant is requested;

(II) (Deleted by amendment, L. 98, p. 570, § 4, effective April 30, 1998.)

(III) The number of expelled, at-risk, or truant students who are receiving educational services through the applicant under agreements entered into pursuant to the provisions of this part 2 during the school year preceding the year for which the grant is requested;

(IV) The quality of educational services to be provided by the applicant under the plan;

(V) The cost-effectiveness of the educational services to be provided under the plan;

(VI) The amount of funding received by the applicant in relation to the cost of the educational services provided under the plan; and

(VII) If the applicant is seeking to renew a grant or has been awarded a grant pursuant to this section in the previous five years, the demonstrated effectiveness of the educational services funded by the previous grant.

(3) The state board shall annually award at least forty-five percent of any moneys appropriated for the program to applicants that provide educational services to students from more than one school district and at least one-half of any increase in the appropriation for the program for the 2009-10 fiscal year to applicants that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The service and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings.

(4) The department of education is authorized to retain up to one percent of any money appropriated for the program for the purpose of annually evaluating the program. The department of education is authorized and encouraged to retain up to an additional two percent of any money appropriated for the program for the purpose of partnering with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings. Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, or any successor committees, the evaluation findings on the outcomes and the effectiveness of the program related to school attendance, attachment, and achievement. The report shall also include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in truancy proceedings.

22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients.

(1) The department shall solicit and review applications from public schools and facility schools for grants pursuant to this section. The department may award grants to public schools, facility schools, and collaborative groups of public schools and facility schools for periods of one to three years.

(2) Each application, at a minimum, shall describe how the applicant public school, facility school, or collaborative group of public schools or facility schools will use any awarded grant moneys to reduce the frequency of bullying incidents. Each grant recipient shall use its grant moneys to supplement and not supplant any moneys currently being used by the grant recipient to reduce the frequency of bullying incidents.

(3) The department shall select those public schools, facility schools, and collaborative groups of public schools and facility schools that will receive grants pursuant to this section and the duration and amount

of each grant. In selecting the grant recipients, the department, at a minimum, shall take into account the criteria established by rules promulgated by the state board pursuant to section 22-93-104 (1)(b).

(4) Notwithstanding section 24-1-136 (11)(a)(I), on or before a date specified by rule of the state board pursuant to section 22-93-104 (1)(d), the department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

- (a) The number of grant recipients that received grants under the program;
- (b) The amount of each grant awarded to each grant recipient;
- (c) The average amount of each grant awarded under the program;
- (d) The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and
- (e) The source and amount of each gift, grant, and donation received by the department for the implementation of this article pursuant to section 22-93-105 (3)(b).

(5) In selecting grant recipients, the department, to the extent possible, shall ensure that grants are awarded to public schools, facility schools, and collaborative groups of public schools and facility schools in a variety of geographic areas of the state.

(6) Each grant recipient shall submit a written report to the department not later than six months after the expiration of the term of the grant concerning the effectiveness or ineffectiveness of each use of grant moneys by the grant recipient in reducing the frequency of bullying incidents.

22-93-104. Rules.

(1) On or before April 1, 2012, or not more than ninety days after the department receives sufficient moneys to implement this article as described in section 22-93-102 (2), whichever is later, the state board shall promulgate rules for the administration of this article, including but not limited to:

- (a) Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants pursuant to this article;
- (b) Criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient, which criteria, at a minimum, shall require each grant recipient to:
 - (I) Use awarded grant moneys for purposes that are based upon evidence-based best practices for preventing bullying;
 - (II) Use at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education and the grant recipient's ongoing efforts to reduce the frequency of bullying incidents; and
 - (III) Adopt a specific policy concerning bullying education and prevention that includes:
 - (A) Provisions for the biennial administration of surveys of students' impressions of the severity of bullying in their schools, the administration of which surveys, at a minimum, shall satisfy the rules promulgated by the state board pursuant to paragraph (c) of this subsection (1); and
 - (B) The designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

(c) Rules for the administration of surveys of students' impressions of the severity of bullying in their schools, which procedures, at a minimum, shall include:

(I) Procedures for the distribution, collection, standardization, and analysis of data collected in each survey, which procedures shall ensure the confidentiality of each student's answers to the survey and clarify that the completion of a survey shall be voluntary and shall not be required of any student;

(II) Certain questions that each survey shall ask of each student concerning how frequently the student witnesses bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying; and

(III) Provisions to ensure that, to the extent practicable, a school district or school, including a district charter school or an institute charter school, may utilize existing forms and procedures in administering the surveys.

(d) The designation of a date by which the department shall annually submit to the state board and to the education committees of the senate and house of representatives, or any successor committees, the information described in section 22-93-103 (4).

24-33.5-503. Duties of division.

(2)(a)(I) On or before April 1, 2016, and every April 1 thereafter, the division has the duty to compile and analyze the data reported by law enforcement agencies and prepare a report, without identifying information, concerning the total number of tickets, summons, or arrests that occurred on school grounds, in school vehicles, or at a school activity or sanctioned event and describe the final disposition of those tickets, summons, or arrests by reporting agency, school, and location. The report must analyze the data by race, age, gender, ethnicity, and the specific type of offense with all national crime information center crime codes. The division of criminal justice shall support law enforcement agencies in their efforts to submit the required data, actively reach out to agencies that have failed to submit the required data and provide a reasonable degree of training if necessary.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the division shall submit the report to the education and judiciary committees of the house of representatives and the senate, or any successor committees. The division shall provide the report to any member of the public upon request, in a manner that does not include any identifying information regarding any student. If the division provides the information to a member of the public upon request pursuant to this subsection (2)(a), the division may charge a fee to the person, which fee shall not exceed the direct and indirect costs incurred by the division in providing the information. If the division adheres to all state and federal privacy and confidentiality laws concerning student information, the division may provide the aggregate data gathered by a law enforcement agency to any independent research or community based organization working to analyze school-based criminal behavior and the response to that behavior by the juvenile and criminal justice systems. The data provided must not include any information that would identify any individual student.

(III) The division shall annually post the report on its website.

(b) The division has the duty to prepare a retroactive report meeting the requirements of paragraph (a) of this subsection (2) using existing data sources for the 2013-14 and 2014-15 school years.

(c) The division is only required to perform the duties of this subsection (2) if existing appropriations or resources are available.

26-20-106. Documentation requirements for restraint and seclusion - adults and youth.

(1) Each agency shall ensure that the use of restraint or seclusion is documented in the record of the individual who was restrained or secluded. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions specifying the documentation requirements for purposes of this section.

(2) The division of youth services shall maintain the following documentation each time a youth is placed in seclusion as a result of an emergency in any secure state-operated or state-owned facility:

(a) The date of the occurrence;

- (b) The race, age, and gender of the individual;
 - (c) The reason or reasons for seclusion, including a description of the emergency and the specific facts that demonstrate that the youth posed a serious, probable, and imminent threat of bodily harm to himself, herself, or others, and that there was a present ability to effect such bodily harm;
 - (d) A description of de-escalation measures taken by staff and the response, if any, of the youth in seclusion to those measures;
 - (e) An explanation of why less restrictive alternatives were unsuccessful;
 - (f) The total time in seclusion;
 - (g) Any incidents of self-harm or suicide that occurred while the youth was in seclusion;
 - (h) With respect to the interactions required by section 26-20-104.5, documentation of the justification for keeping the youth in seclusion and specific facts to demonstrate that the emergency was ongoing;
 - (i) The facility director or his or her designee's approval of continued seclusion at intervals as required by section 26-20-104.5;
 - (j) Documentation of notification within twelve hours to the parent, guardian, or legal custodian of the youth in seclusion as required by section 26-20-104.5; and
 - (k) The written approval by the director of the division of youth services for any seclusion that results from an emergency that extends beyond four consecutive hours, as required by section 26-20-104.5. This written approval must include documentation of specific facts to demonstrate that the emergency was ongoing and specific reasons why a referral to a mental health facility was not warranted.
- (3) The division of youth services shall maintain the following documentation each time one or more youths are placed in confinement for administrative reasons pursuant to section 26-20-104.5 (3) in a secure state-operated or state-owned facility:
- (a) The number of youth confined;
 - (b) The length of time the youth or youths were confined; and
 - (c) The reason or reasons for the confinement.
- (4) On or before January 1, 2017, and on or before July 1, 2017, and every January 1 and July 1 thereafter, the division of youth services shall report on its use of restraint or seclusion in any secure state-operated or state-owned facility to the youth restraint and seclusion working group established in section 26-20-110. The January report must include information from March 1 through August 31, and the July report must include information from September 1 through the last day of February. The reports must include the following:
- (a) An incident report on any use of seclusion on a youth due to an emergency for more than four consecutive hours, or for more than eight total hours in two consecutive calendar days. Each incident report must include length of seclusion, specific facts that demonstrate that the emergency was ongoing, any incidents of self-harm while in seclusion, the reasons why attempts to process the youth out of seclusion were unsuccessful, and any corrective measures taken to prevent lengthy or repeat periods of seclusion in the future. To protect the privacy of the youth, the division of youth services shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred.
 - (b) A report that lists the following aggregate information, both as combined totals and totals by facility for all secure state-operated or state-owned facilities:
 - (I) The total number of youths held in seclusion or restraint due to an emergency;
 - (II) The total number of incidents of seclusion or restraint due to an emergency;
 - (III) The average time in seclusion or restraint per incident;
 - (IV) An aggregate summary of race, age, and gender of youths held in seclusion or restraint; and
 - (V) The type of restraint or restraints used in each incident; and

(c) An incident report for any youth whom the division isolates from his or her peers for more than eight hours in two consecutive calendar days. Each incident report must include the age, race, and gender of the youth; the name of the facility; the length of time that the youth was isolated from his or her peers; and the justification for the isolation on an hour-by-hour basis. To protect the privacy of the youth, the division shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred. If the division has prepared an incident report of an incident involving seclusion pursuant to subsection (4)(a) of this section, the division is not required to include a report of the same incident pursuant to this subsection (4)(c).

(5) Reports prepared pursuant to this section must maintain the confidentiality of all youth. The reports made pursuant to this section are available to the public upon request.

(6) Prior to January 1, 2018, the division of youth services shall meet the requirements of this section to the extent that it is able using its current reporting mechanisms. The division of youth services shall fully comply with all requirements of this section on or before January 1, 2018.

26-20-107. Review of the use of restraint and seclusion.

An agency that utilizes restraint or seclusion shall ensure that a review process is established for the appropriate use of restraint or seclusion.

REGULATIONS

1 CCR 301-1. Section 11.0. Performance reporting.

11.05 Each school performance report shall include the following information concerning the operations and environment of the Public School that is the subject of the report:

(3) The occurrence of student conduct and discipline code violations reported pursuant to section 22-32-109.1(2)(b), C.R.S., expressed as a number and as a percentage of the total occurrences of violations reported.

1 CCR 301-78. Section 1.00. Statement of basis and purpose.

1.00 Statement of Basis and Purpose

This regulation is adopted pursuant to the authority in section 22-33-104 (4)(c), C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA"), C.R.S.

This regulation shall govern the standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the number of students identified as habitually truant. Many research studies have concluded that truancy is a problem that impacts a student's ability to attain the maximum benefit from the education process. Families, schools and communities must work together to ensure regular daily and punctual school attendance. Students should be advised that each scheduled school day will count in their attendance records. Further, students are required to attend classes, unless excused for good reason, in accordance with the Colorado School Attendance Law (C.R.S. 22-33-101). The purpose of this regulation is to provide specificity for consistency in reporting attendance and truancy data across school districts and BOCES. This regulation intends to increase data accuracy by generating uniform indicators for aggregate excused and unexcused absences and habitually truant student numbers. Another purpose is to allow the usage of these indicators to leverage resources to support the complete success of children and youth in school.

1 CCR 301-78. Section 2.00. Definitions.

2.00 Definitions

(1) "Absences" means the scheduled school days or portions thereof missed by the student.

(2) "Attendance Period" means the period of time in which student attendance is recorded.

- (3) "Attendance" is one collection of the Data Pipeline system to obtain attendance, excused and unexcused absences and habitually truant information.
- (4) "Data Pipeline" means the state reporting system to collect, through electronic transfer where possible, all student and public school performance data as required by 22-7-603 C.R.S.
- (5) "BOCES" means Boards of Cooperative Educational Services.
- (6) "Department" means the Colorado Department of Education.
- (7) "Excused Absence" means the student is absent for a reason as identified within the attendance policy set by local school board of education as declared in 22-33-104 (4)(a) C.R.S. which may include, but is not limited to, the following reasons: funerals, illness, injury, legal obligations, medical procedures and religious observations.
- (8) "Habitually Truant" means a student who is at least the age of six on or before August 1 of the school year in question and under the age of seventeen years having four total days of unexcused absences from public school in any one calendar month or ten total days of unexcused absences from public school during the reported school year in congruence with C.R.S. 22-33-107(3)(a).
- (9) "Level of Detail" means the most detailed data available for reporting purposes of attendance information.
- (10) "Month" means a named calendar month regardless of the number of school days within each month.
- (11) "Reported School Year" means the full school year as defined by the local school board of education.
- (12) "Tardies" may be defined by local school district/BOCES board policy, generally meaning a student entering classes after the scheduled start time.
- (13) "Truancy/Unexcused Absence" means a student is absent from school without a valid and verifiable excuse by the parent/guardian that is consistent with school or board policy as defined in 22-33-104 (4)(a) C.R.S. or the student leaves school or a class without permission of authorized school staff.
- (14) "Unexcused Absence/Truancy" means a student is absent from school without a valid and verifiable excuse by the parent/guardian that is consistent with school or board policy as defined in 22-33-104 (4)(a) C.R.S. or the student leaves school or a class without permission of authorized school staff.

1 CCR 301-78. Section 3.00. Standardized calculation for counting absences for students.

3.00 Standardized Calculation for Counting Absences of Students

3.01 District/BOCES Uphold Written Attendance Policy.

- (1) The local board of education shall adopt a written policy setting forth the district's or BOCES' attendance requirements. Said policy shall provide for Excused Absences, including those listed as exclusions from compulsory school attendance as declared in 22-33-104 (4)(a).
- (2) The school district or BOCES shall uphold its written attendance policy. To ensure consistency in reporting attendance and Truancy data, districts and BOCES shall enforce uniform interpretations of the definitions of Excused Absences and Unexcused Absences across all schools within the school district or BOCES, according to the adopted district/BOCES attendance policy.
- (3) The district/BOCES attendance policy shall be implemented in accordance with 22-33-107 C.R.S. which states that school district/BOCES policies shall include provisions for the development of a plan with the goal of assisting the child who is habitually truant to remain in school and when practicable, with the full participation of the child's parent, guardian or legal custodian.

3.02 Excused Versus Unexcused Absences.

3.02 (1) Excused Absences.

(1)(a) Excused Absences occur when the student is absent for an acceptable reason as identified within the attendance policy set by local school board of education as declared in 22-33-104 (4)(a) C.R.S.

which may include, but is not limited to, the following reasons: funeral, illness, injury, legal obligation, medical procedure and religious observation.

(1)(b) Local schools may require appropriate documentation to verify excused absences.

(1)(c) Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of calculating habitually truant students (22-33-107 (3)(a) C.R.S.).

(2) Unexcused Absences.

(2)(a) Unexcused Absences occur when the student is absent without a reason or for an unacceptable reason as identified within the attendance rules set by local school board of education policy as declared in 22-33-104 (4)(a) C.R.S.

(2)(b) If authorized school officials determine that the parent's excuse is not valid or verified, the absence shall be unexcused.

(2)(c) Unexcused Absences are used to calculate Truancy rates.

3.03 Aggregation of Absences.

(1) A district or BOCES, and its schools, shall report truancy/attendance data as specifically as its student information system (SIS) allows, i.e., by minutes, hours or by periods.

(2) At a minimum, attendance shall be recorded once during each scheduled school day.

(3) For Department reporting purposes, a student who is absent more than 50 percent of any Attendance Period during a scheduled school day shall be considered absent for that entire recorded and reported period. For the 2020-21 academic year, during any period during which students are participating in remote learning due to public health and safety requirements, students may be recorded as present when participating in that remote learning. Districts should record absences and attendance consistent with the district's attendance policy as it applies to these remote learning situations.

(4) For Department reporting purposes, a student who is present 50 percent or more of any Attendance Period during a scheduled school day shall be considered present for that entire recorded and reported period. For the 2020-21 academic year, during any period during which students are participating in remote learning due to public health and safety requirements, students may be recorded as present when participating in that remote learning. Districts should record absences and attendance consistent with the district's attendance policy as it applies to these remote learning situations.

(5) All units of time shall be summed and converted to the number of days absent for reporting to the Department.

(6) Student Excused Absences shall be totaled for each student utilizing the most specific Level of Detail collected and reported to the Department through the Attendance collection. When totaling this sum, the calculation shall include percentages of each student's scheduled instructional day as applicable.

(7) Student Unexcused Absences shall be totaled for each student utilizing the most specific Level of Detail collected and reported to the Department through the Attendance collection. When totaling this sum, the calculation shall include percentages of each student's scheduled instructional day as applicable.

3.04 Days Suspended/Expelled.

(1) Days suspended or expelled shall be totaled within the student Total Days Excused reported to the Department in accordance with 22-33-107 C.R.S. through the Attendance collection.

(2) Absences due to suspension or expulsion of a student shall not be totaled into the student Total Days Unexcused reported to the Department through Attendance collection.

(3) For expelled students enrolled in a district-sponsored or BOCES-sponsored expulsion program, attendance shall be taken and counted toward the school that administers the program or the student's school of record at the discretion of the district/BOCES. Absences for students in such programs shall be determined to be excused or unexcused in accordance with the rules in this document.

1 CCR 301-78. Section 4.00. Format for reporting habitually truant student data to the department.

4.00 Format for Reporting Habitually Truant Student Data to the Department

4.01 Habitually Truant.

(1) A Habitually Truant student is one who is at least the age of six on or before August 1 of the year in question and under the age of seventeen years having four total days of Unexcused Absences from public school in any one calendar Month or ten total days of Unexcused Absences from public school during the Reported School Year.

4.02 Habitually Truant Status.

(1) The status of a Habitually Truant student is calculated using the sum of Unexcused Absences converted to days and fractions of days.

(2) A student shall be reported as a Habitually Truant student if, at any time during the Reported School Year, their Unexcused Absences from public school in any one calendar Month equals or exceeds four total days. [...]

(3) A student shall be reported as a Habitually Truant student, if at any time during the Reported School Year, their Unexcused Absences from public school equals or exceeds ten total days.

4.03 Days Suspended/ Expelled.

(1) Student Absences due to suspension or expulsion shall be considered excused for purposes of determining student Truancy status (22-33-107 (3)(a) C.R.S.) and as such, shall not be included in the calculation of Habitually Truant status.

4.04 Tardies.

(1) Tardies shall not be included in the calculation of Habitually Truant students for Department reporting purposes.

4.05 Reporting Categories.

4.05 (1) Districts and BOCES shall report Habitually Truant students in each school during the entire Reported School Year. Each student will be reported only once in one of three categories.

(2) "Four or more days in any one month" indicates that the Habitually Truant student accrued four or more total days of Unexcused Absences from the reporting public school in any one calendar Month, but never accumulated ten or more total days Unexcused Absences from that public school during the Reported School Year.

(3) "Ten or more days in one school year" indicates that the Habitually Truant student accrued ten or more total days of Unexcused Absences from the reporting public school during the Reported School Year, but never accumulated four or more total days of Unexcused Absences from that public school in any one calendar Month.

(4) "Met both conditions" indicates that the Habitually Truant student accrued four or more total days of Unexcused Absences from the reporting public school in any one calendar Month and also accumulated ten or more total days Unexcused Absences from the same public school during the Reported School Year.

4.06 Data Collection.

(1) Districts and BOCES shall provide Habitually Truant student data in the Data Pipeline Attendance collection.

4.07 Beginning Date.

(1) Districts and BOCES shall provide Habitually Truant student data beginning with the 2009-2010 school year.

4.08 Duplication of Data.

(1) The Habitually Truant student counts provided may be duplicated across schools within a district or BOCES, and will be duplicated in state totals because of student mobility between schools and districts.

1 CCR 301-99. Section 5.00. Data collection and reporting.

5.0 Data Collection and Reporting

5.01 Each public school, facility school, and collaborative group of public schools and facility schools funded through the Bullying Prevention and Education Grant Program shall submit annually information to the Department describing the following:

5.01.1 The evidence-based best practices in bullying prevention that the applicant(s) implemented using the grant moneys;

5.01.2 The number and grade levels of students who participated in each of the bullying prevention practices or services provided;

5.01.3 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in including family and community partnering in school bullying prevention strategies;

5.01.4 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in adopting specific policies concerning bullying education and prevention;

5.01.5 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in implementing the evidence-based best practices in bullying prevention with fidelity; and

5.01.6 The progress made by the participating public schools, facility schools, and collaborative groups of public schools and facility schools in reducing the frequency of bullying as indicated by school surveys and other relevant measures.

5.02 On or before May 1, 2017, and each year thereafter as long as monies are available, the Department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

5.02.1 The number of grant recipients that received grants under the program;

5.02.2 The amount of each grant awarded to each grant recipient;

5.02.3 The average amount of each grant awarded under the program;

5.02.4 The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and

5.02.5 The source and amount of each gift, grant, and donation received by the Department for the implementation of the bullying prevention program, pursuant to section 22-93-105 (3)(b), C.R.S.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

13-3-116. Restorative justice coordinating council - establishment - membership.

(1)(a) A council to provide assistance and education related to restorative justice programs is hereby established. The council shall be known as the "restorative justice coordinating council" and shall be established in the state judicial department within the office of the state court administrator. To the extent that resources permit, the restorative justice coordinating council shall support the development of restorative justice programs, serve as a central repository for information, assist in the development and provision of related education and training, and provide technical assistance to entities engaged in or wishing to develop restorative justice programs.

(b) In order to assess the efficacy of restorative justice practices in providing satisfaction to participants, the council shall develop a uniform restorative justice satisfaction evaluation by September 1, 2013. The evaluation must be based on research principles. The evaluation must include a preconference questionnaire for the offender and participating victims, if practicable, to establish a baseline and a postconference questionnaire that is suitable to administer to restorative justice participants, including community members, participating victims, and offenders.

(c)(I) The council shall develop a database of existing restorative justice programs in the state by December 31, 2013, and update it annually by December 31 of each year.

(II) The database must consist of the following information:

(A) The location of the restorative justice program;

(B) The types of restorative justice practices used in the program and the costs and fees associated with the practices; and

(C) The background, training, and restorative justice experience of the facilitators in the restorative justice program.

(2) The restorative justice coordinating council includes, at a minimum, the following:

(a) A member who represents a statewide juvenile justice council who shall be appointed by the executive director of the department of public safety;

(b) A representative from the division of youth services in the department of human services who is appointed by the executive director of the department of human services;

(c) A representative from the department of public safety who shall be appointed by the executive director of the department of public safety;

(d) A representative from the judicial department who shall be appointed by the state court administrator;

(e) Two representatives from a statewide organization or organizations whose primary purpose is related to the development and implementation of restorative justice programs and who shall be appointed by the executive director of the department of public safety;

(f) A district attorney with juvenile justice experience who shall be appointed by the executive director of the Colorado district attorneys' council;

(g) A victim's representative within the judicial department with restorative justice experience who shall be appointed by the state court administrator;

(h) A representative from the department of education who shall be appointed by the commissioner of education;

- (i) A representative from the state board of parole appointed by the chair of the parole board;
- (j) A representative from the department of corrections appointed by the executive director of the department of corrections;
- (k) A representative from a nongovernment statewide organization representing victims appointed by the executive director of the department of public safety;
- (l) Three restorative justice practitioners appointed by the state court administrator;
- (m) A representative of the juvenile parole board appointed by the chair of the juvenile parole board;
- (n) The state public defender or his or her designee;
- (o) A judge appointed by the chief justice of the Colorado supreme court; and
- (p) A representative of law enforcement appointed by the state court administrator based upon a recommendation from the restorative justice coordinating council.

(3) The restorative justice coordinating council shall select a chairperson from among the members of the council who shall serve a term to be determined by the council. The chairperson shall be responsible for convening the council at a frequency that shall be determined by the council.

(4) Members of the restorative justice coordinating council serve without compensation but may be reimbursed for expenses incurred while serving on the council.

(4.5) The restorative justice coordinating council may accept money from trainings and conferences and gifts, grants, or donations from any private or public source for the purpose of supporting restorative justice practices. All private and public money received by the restorative justice coordinating council from gifts, grants, or donations or any other source must be transmitted to the state treasurer, who shall credit the same to the restorative justice surcharge fund created pursuant to section 18-25-101, in addition to any money that may be appropriated to the fund directly by the general assembly.

22-1-126. Safe2tell program.

As described in section 24-31-606, C.R.S., there is established the safe2tell program with the primary purpose of providing students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials.

22-12-104. Liability.

(1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

- (a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;
- (c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(V) Referral to law enforcement; or

(VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b.5) "Community partners" means, collectively, local fire departments, state and local law enforcement, local 911 agencies, interoperable communications providers, the safe2tell program described in section 24-31-606, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, local or regional homeland security personnel, and school resource officers. [...]

(e.5) "Law enforcement" includes any law enforcement agency, law enforcement officer, or school resource officer.

(f)(I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and law enforcement that:

(A) Is initiated by the school administrator, teacher, or other school employee; and

(B) Concerns behavior by a student that the school administrator, teacher, or other school employee believes may constitute a violation of the school conduct and discipline code or a criminal or delinquent offense and for which the school administrator, teacher, or other school employee requests an investigation or other involvement by law enforcement.

(II) "Referral to law enforcement" does not include:

(A) Contact with law enforcement that is made for the purpose of education, prevention, or intervention regarding a student's behavior;

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and law enforcement; or

(C) Any incident or communication that is initiated by law enforcement.

(g.5) "School resource officer" means a peace officer, as described in section 16-2.5-101, C.R.S., who has specialized training, as described in section 24-31-312, C.R.S., to work with school staff and students and who is assigned to a public school or charter school for the purpose of creating a safe learning environment and responding to all-hazard threats that may impact the school. [...]

(3) Agreements with state agencies. Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education

shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(c) The school administration shall report the incident to the district attorney or appropriate local law enforcement, which shall, upon receiving such report, investigate the incident to determine the appropriateness of filing criminal charges or initiating delinquency proceedings.

22-32-146. School use of on-site peace officers as school resource officers.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

(3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.

(4) Commencing August 1, 2013, and continuing through August 1, 2014, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Failure to submit a timely report to the division of criminal justice pursuant to this subsection (4) does not relieve a law enforcement agency of its responsibility to file the report required by this subsection (4). A law enforcement agency that has failed to file a timely report shall file all such reports with the division of criminal justice no later than August 15, 2015. Each such report must include, at a minimum, the following information:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

(5)(a) On or before August 1, 2015, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in the formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summonses, or arrests that occurred during the 2014-15 academic year,

excluding incidents that occurred during the summer of 2014, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(b) Notwithstanding the provisions of section 19-1-303 (5), C.R.S., on or before August 1, 2016, and every August 1 thereafter, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred for the previous academic year, including incidents that occurred during the previous summer months, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(c) For each report required pursuant to paragraph (a) or (b) of this subsection (5), the law enforcement agency shall report:

- (I) The student's full name;
- (II) The student's date of birth;
- (III) The student's race, ethnicity, and gender;
- (IV) The name of the school where the incident occurred or the name of the school that operated the vehicle or held the activity or event;
- (V) The date of the arrest or taking of a student into custody;
- (VI) The date of the issuance of the summons or ticket;
- (VII) The arrest or incident report number as recorded by the law enforcement agency;
- (VIII) The single most serious offense for which a student is arrested, issued a summons, or issued a ticket using the national crime information center (NCIC) crime code;
- (IX) The type of weapon involved, if any, for offenses classified as group A offenses under the national incident-based reporting system; and
- (X) The law enforcement agency's originating reporting identifier.

(d) A law enforcement agency may report the information required pursuant to this subsection (5) on a monthly, quarterly, or annual basis. The law enforcement agency shall inform the division of criminal justice of the reporting schedule it will follow.

22-33-105. Suspension, expulsion, and denial of admission.

(5)(a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4)(h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the

expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

22-33-106.5. Information concerning offenses committed by students.

(1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1)(d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

(2) Upon adjudication or conviction of a person under the age of eighteen years for an offense that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., or for an offense involving controlled substances, or, for a person under eighteen years of age but at least twelve years of age, for an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult the adjudicating or convicting court shall notify the school district in which the person is enrolled of the person's adjudication or conviction.

22-33-107.5. Notice of failure to attend.

(1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day where the school district has received notice from the court or parole board:

(a) Pursuant to section 19-2-508 (3)(a)(X) that the student is required to attend school as a condition of release pending an adjudicatory trial;

(b) Pursuant to section 17-22.5-404, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (9), or 19-2-1002 (1) or (3) that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or

(c) Pursuant to section 13-10-113 (8), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by a municipal court.

(2) If the school district has notice that a student who is required to attend school as a condition of release or as a condition of or in connection with any sentence imposed by a court, including a condition of probation or parole, has enrolled in a nonpublic home-based educational program, pursuant to section 22-33-104.5, or in an independent or parochial school, the school district shall notify the appropriate court or parole board and shall no longer be required to notify the court or parole board, pursuant to subsection (1) of this section, if the student fails to attend.

22-33-108. Judicial proceedings.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a)(4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy

proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5)(a) It is the intent of the general assembly that, in enforcing the compulsory school attendance requirements of this article, a school district shall employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.

(b) A school district shall initiate court proceedings to compel a child and the child's parent to comply with the attendance requirements specified in this article but only as a last-resort approach to address the child's truancy and only if a child continues to be habitually truant after school or school district personnel have created and implemented a plan pursuant to section 22-33-107 (3) to improve the child's school attendance.

(c) Before initiating court proceedings to compel compliance with the attendance requirements specified in this article, the school district shall give the child and the child's parent written notice that the school district will initiate proceedings if the child does not comply with the attendance requirements of this article. The school district may combine the notice and summons. If combined, the petition must state the date on which the school district will initiate proceedings, which date must not be less than five days after the date of the notice and summons. The notice must state the provisions of this article with which compliance is required and must state that the school district will not initiate proceedings if the child complies with the identified provisions before the proceedings are filed.

(d) If a school district initiates court proceedings pursuant to this subsection (5), the school district, at a minimum, must submit to the court evidence of:

(I) The child's attendance record prior to and after the point at which the child was identified as habitually truant;

(II) Whether the child was identified as chronically absent and, if so, the strategies the school district used to improve the child's attendance;

(III) The interventions and strategies used to improve the child's attendance before school or school district personnel created the child's plan described in section 22-33-107 (3); and

(IV) The child's plan and the efforts of the child, the child's parent, and school or school district personnel to implement the plan.

(6) The court before which a proceeding to compel attendance is brought may issue, in its discretion, an order against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order must require the child and parent to cooperate with the school district in complying with the plan created for the child pursuant to section 22-33-107 (3).

(7)(a) If the child or youth does not comply with the valid court order issued against the child or youth or against both the parent and the child or youth, the court may order that an assessment for neglect as described in section 19-3-102 (1) be conducted as provided in section 19-3-501. In addition, the court may order the child or youth to show cause why he or she should not be held in contempt of court. When instituting contempt of court proceedings pursuant to this subsection (7), the court shall provide all procedural protections mandated in rule 107 of the Colorado rules of civil procedure, or any successor rule, concerning punitive sanctions for contempt.

(a.5) A judge or magistrate of any court may issue a warrant that authorizes the taking into temporary custody of a child or youth who has failed to appear for a court hearing for a truancy or contempt action; except that any such warrant must provide for release of the child or youth from temporary custody on an unsecured personal recognizance bond that is cosigned by the child's or youth's parent or legal guardian or, if the child or youth is in the custody of the department of human services, cosigning may be accomplished by a representative of the department of human services. In the alternative, the warrant

may direct that the child or youth must only be arrested while court is in session and that he or she be taken directly to court for an appearance rather than booked into secure confinement.

(b) The court may impose sanctions after a finding of contempt that may include, but need not be limited to, community service to be performed by the child or youth, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having the goal of ensuring that the child or youth has an opportunity to obtain a quality education.

(c)(I) If the court finds that the child or youth has refused to comply with the plan created for the child or youth pursuant to section 22-33-107 (3), the court may impose on the child or youth, as a sanction for contempt of court, a sentence of detention for no more than forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402 and any rules promulgated by the Colorado supreme court. The court shall not sentence a child or youth to detention as a sanction for contempt of court unless the court finds that detention is in the best interest of the child or youth as well as the public. In making such a finding, the court shall consider the following factors, including that:

(A) The child or youth has violated a valid court order;

(B) National and Colorado-specific evidence shows that detaining children and youth for truancy alone is counterproductive and harmful to children and youth;

(C) The legislative intent is that a child or youth who is truant must not be placed in secure confinement for truancy alone;

(D) Detention is likely to have a detrimental effect on the child's or youth's school attendance; and

(E) Detention is likely to have an effect on the child's or youth's future involvement with the criminal justice system.

(II) There is a rebuttable presumption that a child or youth must receive credit for time served if he or she is sentenced to detention pursuant to subsection (7)(c)(I) of this section for violating a valid court order to attend school. If the court rebuts this presumption, it shall explain its reasoning on the record.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

24-10-106.3. Immunity and partial waiver - claims for serious bodily injury or death on public school property or at school-sponsored events resulting from incidents of school violence - short title - definitions.

(1) This section shall be known and may be cited as the "Claire Davis School Safety Act".

(2) Definitions. For purposes of this section, unless the context otherwise requires:

(a) "Charter school" means a charter school or an institute charter school established pursuant to article 30.5 of title 22, C.R.S.

(b) "Crime of violence" means that the person committed, conspired to commit, or attempted to commit one of the following crimes:

(I) Murder;

(II) First degree assault; or

(III) A felony sexual assault, as defined in section 18-3-402, C.R.S.

(c) "Incident of school violence" means an occurrence at a public school or public school-sponsored activity in which a person:

(I) Engaged in a crime of violence; and

(II) The actions described in subparagraph (I) of this paragraph (c) by that person caused serious bodily injury or death to any other person.

- (d) "Public school" has the same meaning as provided in section 22-1-101, C.R.S., and includes a charter school or institute charter school.
- (e) "School district" means a school district organized pursuant to article 30 of title 22, C.R.S., and the charter school institute established pursuant to section 22-30.5-503, C.R.S.
- (f) "Serious bodily injury" means bodily injury that, either at the time of the actual injury or a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.
- (3) Recognition of duty of care. All school districts and charter schools and their employees in this state have a duty to exercise reasonable care to protect all students, faculty, and staff from harm from acts committed by another person when the harm is reasonably foreseeable, while such students, faculty, and staff are within the school facilities or are participating in school-sponsored activities.
- (4) Limited waiver of sovereign immunity. Notwithstanding any other provision of this article, a public school district or charter school is immune from liability in all claims for injury that lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as otherwise provided in this section or in this article. In addition to any other claims for which the "Colorado Governmental Immunity Act" waives sovereign immunity in this article, sovereign immunity is waived under the "Colorado Governmental Immunity Act" with respect to school districts and charter schools for a claim of a breach of the duty of care established in subsection (3) of this section by the school district, a charter school, or an employee of the school district or charter school arising from an incident of school violence on or after June 3, 2015, and, with respect to such claims, the provisions of article 12 of title 22, C.R.S., do not apply to school districts and charter schools. An employee of a public school, school district, or a charter school is not subject to suit under this section in his or her individual capacity unless the employee's actions or omissions are willful and wanton.
- (5) A public school, school district, or charter school shall not be found negligent under this section solely as a result of not expelling or suspending any student.
- (6) Nothing in this section shall be construed to constitute a waiver of sovereign immunity by a school district or charter school if the injury arises from any act, or failure to act, of an employee of the school district or charter school if the act is the type of act for which the school district or charter school employee would be or heretofore has been personally immune from liability.
- (7) In addition to the immunity provided under this section, the school district and charter school shall also have the same immunity as a school district or charter school employee for any act or failure to act for which a school district or charter school employee would be or heretofore has been personally immune from liability.
- (8) No rule of law imposing absolute or strict liability shall be applied in any action filed against a school district or charter school pursuant to this section for serious bodily injury or death caused by a breach of the duty of care, established pursuant to subsection (3) of this section. No liability shall be imposed in any such action unless negligence is proven.
- (9)(a) Except as provided in paragraph (b) of this subsection (9), the maximum amount of damages that may be recovered under this article in any single occurrence from a school district or charter school for a claim brought under this section is governed by the limits set forth in section 24-10-114 (1).
- (10) In order to promote vigorous discovery of events leading to an incident of school violence in any action brought under this section, an offer of judgment by a defendant under section 13-17-202, C.R.S., prior to the completion of discovery, is not deemed rejected if not accepted until fourteen days after the completion of discovery, and the plaintiff is not liable for costs due to not accepting such an offer of judgment until fourteen days after the completion of discovery. If a defendant refuses to answer a complaint, or a default judgment is entered against a defendant for failure to answer a complaint, or a defendant confesses liability in an action brought under this section, the court shall allow full discovery upon request of the plaintiff.

24-31-606. Safe2tell program - creation - duties.

- (1) There is created, within the department, the safe2tell program.
- (2) The program must:
 - (a) Establish and maintain methods of anonymous reporting concerning unsafe, potentially harmful, dangerous, violent, or criminal activities in schools or the threat of those activities;
 - (b) Establish methods and procedures to ensure that the identity of the reporting parties remains unknown to all persons and entities, including law enforcement officers and employees operating the program;
 - (c) Establish methods and procedures so that information obtained from a reporting party who voluntarily discloses his or her identity and verifies that he or she is willing to be identified may be shared with law enforcement officers, employees operating the program, and school officials;
 - (d) Establish methods and procedures to ensure that a reporting party's identity that becomes known through any means other than voluntary disclosure is not further disclosed;
 - (e) Promptly forward information received by the program to the appropriate law enforcement or public safety agency or school officials. The program is not required to forward information if the call was transferred to the statewide behavioral crisis response system created pursuant to section 27-60-103.
 - (f) Train law enforcement dispatch centers, school districts, individual schools, and other entities determined by the attorney general on appropriate awareness and response to safe2tell tips. Training materials outlining appropriate response to safe2tell tips may be developed in collaboration with stakeholders to ensure standardized messaging.
 - (g) Provide safe2tell awareness and educational materials to all elementary and secondary schools in Colorado with a primary focus on targeting marketing materials to Colorado school-age children, teachers, administrators, education professionals, and, subject to available funds, other youth-related organizations, including boys and girls clubs and 4-H extension offices, at no charge to the school or recipient;
 - (h) Provide safe2tell awareness and education materials to Boys Girls Clubs and 4-H extension offices in Colorado at no charge to the Boys Girls Clubs and 4-H extension offices on or before June 30, 2017, and annually each fiscal year thereafter;
 - (i) Develop training curriculum and teaching materials for a train the trainer program;
 - (j) Annually organize, host, and conduct training in all geographic regions of the state and provide related materials to persons who attend the training at no charge to the attendee;
 - (k) Provide training and support to all elementary and secondary schools and school districts in Colorado regarding school safety related to the safe2tell program, including answering questions and discussing reports received by the program;
 - (l) Provide educational materials to all elementary and secondary schools in Colorado aimed at preventing misuse of the program;
 - (m) Provide technical assistance and support to law enforcement officials and school officials when there is misuse of the program; and
 - (n) Analyze and follow up with law enforcement and schools to determine the outcome of a report made to the program, including actions taken on the report.
- (3) On or before February 1, 2021, the department, in collaboration with stakeholders, shall devise a process and develop standardized protocols so that any communication related to mental health or substance use received by safe2tell, including any communication related to another person, may be transferred, as appropriate, to the statewide behavioral crisis response system created pursuant to section 27-60-103.

24-33.5-503. Duties of division.

(2)(a)(I) On or before April 1, 2016, and every April 1 thereafter, the division has the duty to compile and analyze the data reported by law enforcement agencies and prepare a report, without identifying information, concerning the total number of tickets, summons, or arrests that occurred on school grounds, in school vehicles, or at a school activity or sanctioned event and describe the final disposition of those tickets, summons, or arrests by reporting agency, school, and location. The report must analyze the data by race, age, gender, ethnicity, and the specific type of offense with all national crime information center crime codes. The division of criminal justice shall support law enforcement agencies in their efforts to submit the required data, actively reach out to agencies that have failed to submit the required data and provide a reasonable degree of training if necessary.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the division shall submit the report to the education and judiciary committees of the house of representatives and the senate, or any successor committees. The division shall provide the report to any member of the public upon request, in a manner that does not include any identifying information regarding any student. If the division provides the information to a member of the public upon request pursuant to this subsection (2)(a), the division may charge a fee to the person, which fee shall not exceed the direct and indirect costs incurred by the division in providing the information. If the division adheres to all state and federal privacy and confidentiality laws concerning student information, the division may provide the aggregate data gathered by a law enforcement agency to any independent research or community based organization working to analyze school-based criminal behavior and the response to that behavior by the juvenile and criminal justice systems. The data provided must not include any information that would identify any individual student.

(III) The division shall annually post the report on its website.

(b) The division has the duty to prepare a retroactive report meeting the requirements of paragraph (a) of this subsection (2) using existing data sources for the 2013-14 and 2014-15 school years.

(c) The division is only required to perform the duties of this subsection (2) if existing appropriations or resources are available.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.

(1)(g.5) "School resource officer" means a peace officer, as described in section 16-2.5-101, C.R.S., who has specialized training, as described in section 24-31-312, C.R.S., to work with school staff and students and who is assigned to a public school or charter school for the purpose of creating a safe learning environment and responding to all-hazard threats that may impact the school.

24-31-303. Duties - powers of the P.O.S.T. board.

(1) The P.O.S.T. board has the following duties:

(j) To establish standards for training of school resource officers, as described in section 24-31-312.

24-31-312. School resource officer training.

(1) On or before January 1, 2014, the P.O.S.T. board shall identify a school resource officer training curriculum to prepare peace officers.

(2) To the extent practicable, the training curriculum described in subsection (1) of this section shall incorporate the suggestions of relevant stakeholders and advocates.

(3)(a) In assigning peace officers to serve as school resource officers pursuant to section 22-32-146, C.R.S., each law enforcement agency is encouraged to ensure that such peace officers have successfully completed the school resource officer training curriculum described in subsection (1) of this section, or will complete said training within six months after beginning the assignment.

(b) On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the training curriculum described in subsection (1) of this section.

(4) For the purposes of section 22-32-146, C.R.S., the training curriculum provided pursuant to subsection (1) of this section shall include a means of recognizing and identifying peace officers who successfully complete the training curriculum.

(5) In providing the training curriculum described in subsection (1) of this section, the P.O.S.T. board may include provisions to allow for the awarding of credit to a peace officer who has successfully completed a school resource officer certification curriculum offered by one or more public or private entities, which entities shall be identified by the P.O.S.T. board.

(6) The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum described in subsection (1) of this section. The amount of the fee shall not exceed the direct and indirect costs incurred by the P.O.S.T. board in providing the curriculum.

(7) The P.O.S.T. board, with respect to the hiring, training, and evaluation of school resource officers and professionalizing a school-police partnership, shall create a model policy for selecting school resource officers pursuant to the general duties and responsibilities granted to the P.O.S.T. board pursuant to section 24-31-303. The P.O.S.T. board shall consult with school board members, school resource officers, K-12 advocates, and other relevant stakeholders, including student groups, in the development of the model policy. The department of education shall post the model policy on its website and distribute the policy to school districts, charter schools, and institute charter schools for consideration and possible adoption. The model policy may be used by school districts, charter schools, institute charter schools, and police departments. The model policy must, at a minimum, require that:

- (a) Once selected, school resource officers must be fully trained in standard best practices, as set forth by a national association of school resource officers;
- (b) A candidate demonstrate, whenever possible, a record of experience developing positive relationships with youth, which may include participation in youth or community policing programs;
- (c) A candidate voluntarily apply to serve as a school resource officer; and
- (d) The employing law enforcement agency and school district jointly create an evaluation process to evaluate school resource officers.

24-33.5-1803. School safety resource center - created - duties.

(1) There is hereby created within the department the school safety resource center to assist schools in preventing, preparing for, responding to, and recovering from emergencies and crisis situations and to foster positive learning environments. The director of the center shall be appointed by the executive director pursuant to section 13 of article XII of the state constitution. [...]

(3) The center has the following duties:

(k) To provide suggestions for school resource officer training to the peace officers standards and training board, pursuant to section 24-31-312.

24-33.5-1810. School security disbursement program - created - rules - definitions - repeal.

(1) as used in this section, unless the context otherwise requires:

(a) "disbursement program" means the school security disbursement program created in subsection (2) of this section.

(b) "eligible entity" means a local education provider or an eligible nonprofit organization.

(c) "eligible nonprofit organization" means a nonprofit organization that is exempt from taxation under section 501 (c)(3) of the federal "internal revenue code of 1986", as amended, that applies to work with specific local education providers or first responders, and that:

- (i) has experience providing training for school safety incident response;
- (ii) has experience working with law enforcement agencies and other first responders;
- (iii) has experience working with school districts, school personnel, and students on issues related to school safety incident response; and
- (iv) identifies in its application local education providers or first responders that will participate in school safety incident response training or programs.

(d) "local education provider" means a school district, a charter school that is authorized pursuant to part 1 of article 30.5 of title 22, an institute charter school that is authorized pursuant to part 5 of article 30.5 of title 22, or a board of cooperative services as defined in section 22-5-103.

(2) (a) there is created in the department the school security disbursement program to provide disbursements to eligible entities to use for the purposes described in subsection (3) of this section to improve security within public schools.

(b) subject to available appropriations, the department shall disburse money to applicants as provided in subsection (5) of this section from money credited to the school security disbursement cash fund, created in section 24-33.5-1811. It is the intent of the general assembly that the department distribute the money credited to the school security disbursement cash fund as quickly as practicable based on the receipt of qualifying applications.

(3) an eligible entity that receives a disbursement from the disbursement program may use the disbursed money only for the following purposes:

(a) capital construction that improves the security of a public school facility or public school vehicle, including but not limited to any structure or installed hardware, device, or equipment that protects a public school facility or public school vehicle and the students, educators, and other individuals who attend, work in, or visit a public school facility or are transported in a public school vehicle from threats of physical harm including but not limited to any structure or installed hardware, device, or equipment that:

- (i) prevents the entry of unauthorized individuals into a public school facility or a protected space within a public school facility or onto a public school vehicle; or
- (ii) can be used to expedite communication when a threat is present;

(b) training in student threat assessment for all school building staff who have contact with students, which must include best practices for conducting threat assessments, such as instruction on how to prevent bias when conducting a threat assessment;

(c) in collaboration with local law enforcement agencies, providing the training for peace officers on interactions with students at school;

(d) school emergency response training for all school building staff;

(e) programs to help students become more resilient in meeting the daily challenges they face without resorting to violence against themselves or others, including addressing the fundamental causes of violence and aggression and helping students become responsible members of their schools, neighborhoods, communities, and families;

(f) developing and providing training programs, curriculums, and seminars related to school safety incident response; and

(g) developing best practices and protocols related to school safety incident response.

(4) an eligible entity, including any combination of eligible entities that wish to apply together as a single, regional applicant, may apply for a disbursement from the disbursement program by submitting an application to the department that includes the following information:

(a) the purpose or purposes described in subsection (3) of this section for which the applicant is requesting the disbursement;

(b) the amount of disbursed money requested based on an itemized estimate of the expected cost of the purpose or purposes for which the applicant is requesting the disbursement and taking into account any matching money, if applicable, pursuant to subsection (5) of this section;

(c) evidence of the availability of and commitment of the applicant to use financial resources to match the amount of the disbursement;

(d) the applicant's commitment to provide information to the department as required for the annual report described in subsection (6) of this section;

(e) if the eligible entity is a charter school that is authorized pursuant to part 1 of article 30.5 of title 22, located within a school district facility, and participating in the school district's safety and security services, information demonstrating that the charter school has collaborated with the school district in preparing and submitting the application; and

(f) any additional information, as specified by rule of the executive director, that is necessary for the department to evaluate the likely effectiveness of the applicant's use of the disbursed money in improving security in public school facilities or vehicles.

(5) the department shall review each application received pursuant to subsection (4) of this section. Subject to available appropriations, the department shall disburse money to the applicant if the department determines that the application meets the requirements specified in subsection (4) of this section and the purpose or purposes for which the applicant intends to use the disbursed money are likely to improve security in public school facilities or vehicles and are not likely to exacerbate identified student disciplinary disparities. The department shall give priority to applicants that commit to providing financial resources to match the amount of the disbursement. The department shall determine the disbursement amount taking into account the amount identified in the application.

(6) (a) on or before august 1, 2023, and on or before august 1 each year thereafter, each eligible entity that received a disbursement in the preceding school year shall submit a report to the department specifying the amount received; the source and amount of matching money provided, if applicable; and the purpose or purposes for which the eligible entity used the disbursed money, including an itemized accounting of how the money was expended.

(b) beginning with the annual presentation in 2024 provided by the department to the committees of reference pursuant to section 2-7-203, the department shall include in the annual presentation a summary of the reports received pursuant to subsection (6)(a) of this section. Notwithstanding section 24-1-136 (11)(a)(i), beginning in January 2024, and every January thereafter, the department shall submit a summary of the reports received pursuant to subsection (6)(a) of this section to the education committees of the senate and the house of representatives, or any successor committees.

(7) the executive director shall promulgate rules pursuant to the "state administrative procedure act", article 4 of this title 24, to establish the time frames for submitting disbursement applications and awarding disbursements and to specify any additional information that must be included in disbursement applications as described in subsection (4)(f) of this section.

(8) this section is repealed, effective July 1, 2032.

REGULATIONS

8 CCR 1507-45. School security disbursement program.

5. Program Requirements

5.1 Eligibility

C. The program funds may only be used for the following purposes:

3. Training related to school security for on-site school resource officers employed by the local education provider.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

22-32-146. School use of on-site peace officers as school resource officers.

- (1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.
- (2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.
- (3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.
- (4) Commencing August 1, 2013, and continuing through August 1, 2014, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Failure to submit a timely report to the division of criminal justice pursuant to this subsection (4) does not relieve a law enforcement agency of its responsibility to file the report required by this subsection (4). A law enforcement agency that has failed to file a timely report shall file all such reports with the division of criminal justice no later than August 15, 2015. Each such report must include, at a minimum, the following information:
 - (a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;
 - (b) The number of students arrested by the officer, including the offense for which each such arrest was made;
 - (c) The number of summonses or tickets issued by the officer to students; and
 - (d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.
- (5)(a) On or before August 1, 2015, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in the formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred during the 2014-15 academic year, excluding incidents that occurred during the summer of 2014, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.
 - (b) Notwithstanding the provisions of section 19-1-303 (5), C.R.S., on or before August 1, 2016, and every August 1 thereafter, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in formats developed by the division in conjunction with local law

enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred for the previous academic year, including incidents that occurred during the previous summer months, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(c) For each report required pursuant to paragraph (a) or (b) of this subsection (5), the law enforcement agency shall report:

- (I) The student's full name;
- (II) The student's date of birth;
- (III) The student's race, ethnicity, and gender;
- (IV) The name of the school where the incident occurred or the name of the school that operated the vehicle or held the activity or event;
- (V) The date of the arrest or taking of a student into custody;
- (VI) The date of the issuance of the summons or ticket;
- (VII) The arrest or incident report number as recorded by the law enforcement agency;
- (VIII) The single most serious offense for which a student is arrested, issued a summons, or issued a ticket using the national crime information center (NCIC) crime code;
- (IX) The type of weapon involved, if any, for offenses classified as group A offenses under the national incident-based reporting system; and
- (X) The law enforcement agency's originating reporting identifier.

(d) A law enforcement agency may report the information required pursuant to this subsection (5) on a monthly, quarterly, or annual basis. The law enforcement agency shall inform the division of criminal justice of the reporting schedule it will follow.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

24-33.5-1810. School security disbursement program - created - rules - definitions - repeal.

(1) As used in this section, unless the context otherwise requires:

- (a) "Disbursement program" means the school security disbursement program created in subsection (2) of this section.

"Eligible entity" means a local education provider or an eligible nonprofit organization. (2a) There is created in the department the school security disbursement program to provide disbursements to eligible entities to use for the purposes described in subsection (3) of this section to improve security within public schools.

(b) Subject to available appropriations, the department shall disburse money to applicants as provided in subsection (5) of this section from money credited to the school security disbursement cash fund, created in section 24-33.5-1811. It is the intent of the general assembly that the department distribute the money credited to the school security disbursement cash fund as quickly as practicable based on the receipt of qualifying applications..

(3) An eligible entity that receives a disbursement from the disbursement program may use the disbursed money only for the following purposes:

- (a) capital construction that improves the security of a public school facility or public school vehicle, including but not limited to any structure or installed hardware, device, or equipment that protects a public school facility or public school vehicle and the students, educators, and other individuals who attend, work

in, or visit a public school facility or are transported in a public school vehicle from threats of physical harm including but not limited to any structure or installed hardware, device, or equipment that:

- (i) prevents the entry of unauthorized individuals into a public school facility or a protected space within a public school facility or onto a public school vehicle; or
 - (ii) can be used to expedite communication when a threat is present;
- (b) training in student threat assessment for all school building staff who have contact with students, which must include best practices for conducting threat assessments, such as instruction on how to prevent bias when conducting a threat assessment;
- (g) developing best practices and protocols related to school safety incident response.

REGULATIONS

8 CCR 1507-45. School security disbursement program.

5. Program Requirements

5.1 Eligibility

C. The program funds may only be used for the following purposes:

- 2. Training in student threat assessment, which training is provided to all school building staff who have contact with students.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Colorado provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention and Education, Colorado Department of Education (CDOE)	Provides comprehensive resources and materials addressing bullying prevention and education, including current research, best practices, model policies, information on state funding opportunities, and other tools and other supplemental resources.	http://www.cde.state.co.us/mtss/bullying
Colorado School Safety Resource Center (CSSRC), Colorado Department of Public Safety	Provides resources and materials to assist educators, emergency responders, community organizations, school mental health professionals, parents and students to create safe, positive and successful school environments for Colorado students in all pre K-12 and higher education schools.	https://www.colorado.gov/pacific/cssrc/resources-1
Dropout Prevention and Student Re-Engagement, CDOE	Provides comprehensive resources and materials supporting efforts to reduce the dropout rate and increase graduation rates, including training and supports for dropout prevention, School Attendance Task Force recommendations, and links to other related resources.	http://www.cde.state.co.us/dropoutprevention
Expelled and At-Risk Student Services (EARSS) Resources, CDOE	Provides links to resources addressing race/ethnic disparities in discipline, Alternatives-to Exclusionary school discipline, school climate and support school discipline, and School Resource Officer (SRO) duties, training and expectations.	https://www.cde.state.co.us/dropoutprevention/earss_resources

Title	Description	Website address (if applicable)
Multi-Tiered Systems of Support (MTSS), CDOE	Provides comprehensive resources and materials to support district and school implementation of MTSS, include definitions of key components, instructional videos, and supplemental resources.	http://www.cde.state.co.us/mtss
Positive Behavioral Interventions and Supports (PBIS), CDOE	Provides comprehensive resources and materials supporting school implementation of PBIS, including training materials, implementation supports, and other resources.	http://www.cde.state.co.us/mtss/pbis
Documents		
Best Practice Guide for Dropout Prevention, CDOE	Best practice guide that provides educational administration and dropout prevention specialists with updated tools to better address the needs of students in danger of school failure or dropout, in conjunction with the Colorado Department of Education's Dropout Prevention Framework.	http://www.cde.state.co.us/dropoutprevention/bpguide
Colorado Model Bullying Prevention and Education Policy, CDOE	State model policy providing guidance to school districts on developing bullying prevention and education policies. The draft policy will be finalized by July 2019 following a period of public comment.	http://www.cde.state.co.us/mtss/model_bullying_prevention_policy
Other Resources		
Colorado Suspension and Expulsion Statistics, 2021-22, CDOE	Exportable data file containing current and past statistics on disciplinary incidents and actions taken, by race/ethnicity and gender by district.	Suspension/Expulsion Statistics for 2021-2022 CDE (state.co.us)
Safe2Tell Colorado	Safe2Tell is an anonymous tip line that can get help to students and schools immediately.	https://safe2tell.org/
SchoolView® Data Center, CDOE	Data dashboard providing annual statistics on student enrollment, attendance and truancy, and conduct disaggregated by school level, ethnicity and gender.	www.schoolview.org



Connecticut Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

10-221. Boards of education to prescribe rules, policies and procedures.

(b) Boards of education shall prescribe rules for the management, studies, classification and discipline of the public schools and, subject to the control of the State Board of Education, the textbooks to be used; shall make rules for the control, within their respective jurisdictions, of school library media centers, including Internet access and content, and approve the selection of books and other educational media therefor, and shall approve plans for public school buildings and superintend any high or graded school in the manner specified in this title.

(c) Each local and regional board of education shall develop, adopt and implement written policies concerning homework, attendance, promotion and retention. The Department of Education shall make available model policies and guidelines to assist local and regional boards of education in meeting the responsibilities enumerated in this subsection.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by

the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-

awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified

program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

REGULATIONS

No relevant regulations found.

Scope

LAWS

10-221. Boards of education to prescribe rules, policies and procedures.

(e) Each local and regional board of education shall develop, adopt and implement policies and procedures in conformity with section 10-154a for (1) dealing with the use, sale or possession of alcohol or controlled drugs, as defined in section 21a-240, as amended by this act, by public school students on school property, including a process for coordination with, and referral of such students to, appropriate agencies, and (2) cooperating with law enforcement officials. On and after January 1, 2022, no such policies and procedures shall result in a student facing greater discipline, punishment or sanction for use, sale or possession of cannabis than a student would face for the use, sale or possession of alcohol.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall:

(16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school. [...]

10-233a. Definitions.

Whenever used in sections 10-233a to 10-233g, inclusive:

(a) "Exclusion" means any denial of public school privileges to a pupil for disciplinary purposes.

(b) "Removal" means an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety minutes.

(c) "In-school suspension" means an exclusion from regular classroom activity for no more than ten consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed.

(d) "Suspension" means an exclusion from school privileges or from transportation services only for no more than ten consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.

(e) "Expulsion" means an exclusion from school privileges for more than ten consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such pupil was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one calendar year.

(f) "Emergency" means a situation under which the continued presence of the pupil in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such pupil as possible.

(g) "School" means any school under the direction of a local or regional board of education or any school for which one or more such boards of education pays eighty per cent or more of the tuition costs for students enrolled in such school.

(h) "School-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or

regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-233e. Notice as to disciplinary policies and action.

Each local or regional board of education shall inform all pupils within its jurisdiction and their parents, guardians and surrogate parents, if appointed pursuant to section 10-94g, at least annually, of the board policies governing student conduct and school discipline. Each board shall further provide an effective means of notifying the parents, guardian or surrogate parent, if appointed, of any minor pupil against whom the disciplinary action authorized by the provisions of this section and sections 10-233a to 10-233d, inclusive, has been taken. Such notice shall be given within twenty-four hours of the time such pupil has been excluded.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

10-233a. Definitions.

Whenever used in sections 10-233a to 10-233g, inclusive:

- (a) "Exclusion" means any denial of public school privileges to a pupil for disciplinary purposes.
- (b) "Removal" means an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety minutes.
- (c) "In-school suspension" means an exclusion from regular classroom activity for no more than ten consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed.
- (d) "Suspension" means an exclusion from school privileges or from transportation services only for no more than ten consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.
- (e) "Expulsion" means an exclusion from school privileges for more than ten consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such pupil was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one calendar year.
- (f) "Emergency" means a situation under which the continued presence of the pupil in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such pupil as possible.
- (g) "School" means any school under the direction of a local or regional board of education or any school for which one or more such boards of education pays eighty per cent or more of the tuition costs for students enrolled in such school.
- (h) "School-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.

10-233b. Removal of pupils from class.

(a) Any local or regional board of education may authorize teachers in its employ to remove a pupil from class when such pupil deliberately causes a serious disruption of the educational process within the classroom, provided no pupil shall be removed from class more than six times in any school year nor more than twice in one week unless such pupil is referred to the building principal or such principal's designee and granted an informal hearing in accordance with the provisions of section 10-233c.

(b) Whenever any teacher removes a pupil from the classroom, such teacher shall send such pupil to a designated area and shall immediately inform the building principal or such principal's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefore.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

10-233a. Definitions.

Whenever used in sections 10-233a to 10-233g, inclusive:

- (a) "Exclusion" means any denial of public school privileges to a pupil for disciplinary purposes.
- (b) "Removal" means an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety minutes.
- (c) "In-school suspension" means an exclusion from regular classroom activity for no more than ten consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed.
- (d) "Suspension" means an exclusion from school privileges or from transportation services only for no more than ten consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.
- (e) "Expulsion" means an exclusion from school privileges for more than ten consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such pupil was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one calendar year.
- (f) "Emergency" means a situation under which the continued presence of the pupil in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such pupil as possible.
- (g) "School" means any school under the direction of a local or regional board of education or any school for which one or more such boards of education pays eighty per cent or more of the tuition costs for students enrolled in such school.
- (h) "School-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a

school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such

pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a

member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion of a pupil in grades nine to twelve, inclusive, based on possession of a firearm or deadly weapon as described in subsection (a) of this section, (1) shall be expunged from the cumulative educational record by the local or regional board of education if a pupil

graduates from high school, or (2) may be expunged from the cumulative educational record by the local or regional board of education before a pupil graduates from high school if (A) in the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such board determines that an expungement is warranted at the time such pupil completes the board-specified program and meets any other conditions required by such board pursuant to subdivision (2) of subsection (c) of this section, or (B) such pupil has demonstrated to such board that the conduct and behavior of such pupil in the years following such expulsion warrants an expungement. A local or regional board of education, in determining whether to expunge such notice under subparagraph (B) of this subdivision, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

10-221u. Boards to adopt policies addressing the use of physical activity as discipline.

Not later than October 1, 2013, each local and regional board of education shall adopt a policy, as the board deems appropriate, concerning the issue regarding any school employee being involved in requiring any student enrolled in grades kindergarten to twelve, inclusive, to engage in physical activity as a form of discipline during the regular school day. For purposes of this section, "school employee" means

(1) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, school counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or working in a public elementary, middle or high school; or (2) any other individual who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle or high school, pursuant to a contract with the local or regional board of education.

53a-18. Use of reasonable physical force or deadly physical force generally.

(a) The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person, except a person entrusted with the care and supervision of a minor for school purposes as described in subdivision (6) of this section, may use reasonable physical force upon such minor or incompetent person when and to the extent that he or she reasonably believes such to be necessary to maintain discipline or to promote the welfare of such minor or incompetent person.

(2) An authorized official of a correctional institution or facility may, in order to maintain order and discipline, use such physical force as is reasonable and authorized by the rules and regulations of the Department of Correction.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his or her direction, may use reasonable physical force when and to the extent that he or she reasonably believes such to be necessary to maintain order, but he or she may use deadly physical force only when he or she reasonably believes such to be necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself or herself may use reasonable physical force upon such person to the extent that he or she reasonably believes such to be necessary to thwart such result.

(5) A duly licensed physician or psychologist, or a person acting under his or her direction, may use reasonable physical force for the purpose of administering a recognized form of treatment which he or she reasonably believes to be adapted to promoting the physical or mental health of the patient, provided the treatment (A) is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his or her parent, guardian or other person entrusted with his or her care and supervision, or (B) is administered in an emergency when the physician or psychologist reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(6) A teacher or other person entrusted with the care and supervision of a minor for school purposes may use reasonable physical force upon such minor when and to the extent such teacher or other person reasonably believes such force to be necessary to (A) protect himself or herself or others from immediate physical injury, (B) obtain possession of a dangerous instrument or controlled substance, as

defined in subdivision (9) of section 21a-240, upon or within the control of such minor, (C) protect property from physical damage or (D) restrain such minor or remove such minor to another area, to maintain order.

(b) No person is justified in using force upon another person which would otherwise constitute an offense based solely on the discovery of, knowledge about or potential disclosure of the victim's actual or perceived sex, sexual orientation or gender identity or expression, including under circumstances in which the victim made an unwanted, nonforcible, romantic or sexual advance toward the defendant, or if the defendant and victim dated or had a romantic relationship.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

54-33n. Search of school lockers and property.

All local and regional boards of education and all private elementary and secondary schools may authorize the search by school or law enforcement officials of lockers and other school property available for use by students for the presence of weapons, contraband or the fruits of a crime if (1) the search is justified at its inception and (2) the search as actually conducted is reasonably related in scope to the circumstances which justified the interference in the first place. A search is justified at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. A search is reasonably related in scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

10-76b. State supervision of special education programs and services. Regulations. Coordinating agency.

(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to section 10-236b, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of the commissioner in accordance with regulations adopted by the State Board of Education concerning requirements for such programs and accommodations.

10-236b. Physical restraint and seclusion of students by school employees.

(a) For purposes of this section:

(1) "Life-threatening physical restraint" means any physical restraint or hold of a person that (A) restricts the flow of air into a person's lungs, whether by chest compression or any other means, or (B)

immobilizes or reduces the free movement of a person's arms, legs or head while the person is in the prone position;

(2) "Psychopharmacologic agent" means any medication that affects the central nervous system, influencing thinking, emotion or behavior;

(3) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head, including, but not limited to, carrying or forcibly moving a person from one location to another. The term does not include: (A) Briefly holding a person in order to calm or comfort the person; (B) restraint involving the minimum contact necessary to safely escort a person from one area to another; (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; (E) helmets, mitts and similar devices used to prevent self-injury when the device is (i) part of a documented treatment plan or individualized education program pursuant to section 10-76d, or (ii) prescribed or recommended by a medical professional, as defined in section 38a-976, and is the least restrictive means available to prevent such self-injury; or (F) an exclusionary time out;

(4) "School employee" has the same meaning as provided in subsection (b) of section 10-221o;

(5) "Seclusion" means the involuntary confinement of a student in a room from which the student is physically prevented from leaving. "Seclusion" does not include an exclusionary time out;

(6) "Student" means a child (A) enrolled in grades kindergarten to twelve, inclusive, in a public school under the jurisdiction of a local or regional board of education, (B) receiving special education and related services in an institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d, (C) enrolled in a program or school administered by a regional education service center established pursuant to section 10-66a, or (D) receiving special education and related services from an approved private special education program, but shall not include any child receiving educational services from (i) Unified School District #2, established pursuant to section 17a-37, or (ii) the Department of Mental Health and Addiction Services; and

(7) "Exclusionary time out" means a temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior.

(b) No school employee shall use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.

(c) No school employee shall use a life-threatening physical restraint on a student. This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under sections 53a-18 to 53a-22, inclusive.

(d)(1) No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative. (2) No student shall be placed in seclusion unless (A) such student is monitored by a school employee during the period of such student's seclusion pursuant to subsection (m) of this section, and (B) the area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion. (3) Seclusion shall not be utilized as a planned intervention in a student's behavioral intervention plan, individualized education program or plan pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time.

(e) No school employee may use a psychopharmacologic agent on a student without that student's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the student or to others, or (2) as an integral part of the student's established medical or behavioral support or

educational plan, as developed consistent with section 17a-543 or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(f) If any instance of physical restraint or seclusion of a student otherwise permissible under subsection (b) or (d) of this section exceeds fifteen minutes, (1) an administrator, as defined in section 10-144e, or such administrator's designee, (2) a school health or mental health personnel, as defined in subsection (a) of section 10-212b, or (3) a board certified behavioral analyst, who has received training in the use of physical restraint and seclusion pursuant to subsection (o) of this section, shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

(g) In the event that physical restraint or seclusion is used on a student four or more times within twenty school days:

(1) An administrator, one or more of such student's teachers, a parent or guardian of such student and, if any, a mental health professional, as defined in section 10-76t, shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, (B) creating or revising any applicable behavioral intervention plan, and (C) determining whether such student may require special education pursuant to section 10-76ff; or

(2) If such student is a child requiring special education, as described in subparagraph (A) of subdivision (5) of section 10-76a, or a child being evaluated for eligibility for special education pursuant to section 10-76d and awaiting a determination, such student's planning and placement team shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, and (B) creating or revising any applicable behavioral intervention plan, including, but not limited to, such student's individualized education plan.

(h) Each local or regional board of education shall notify a parent or guardian of a student who is placed in physical restraint or seclusion not later than twenty-four hours after the student was placed in physical restraint or seclusion and shall make a reasonable effort to provide such notification immediately after such physical restraint or seclusion is initiated.

(i) No school employee shall use a physical restraint on a student or place a student in seclusion unless such school employee has received training on the proper means for performing such physical restraint or seclusion pursuant to subsection (o) of this section.

(j)(1) On and after July 1, 2016, each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, shall (A) record each instance of the use of physical restraint or seclusion on a student, (B) specify whether the use of seclusion was in accordance with an individualized education program, (C) specify the nature of the emergency that necessitated the use of such physical restraint or seclusion, and

(D) include such information in an annual compilation on its use of such restraint and seclusion on students. Each local or regional board of education and such institutions or facilities operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program shall provide such annual compilation to the Department of Education for the purposes of the pilot program established pursuant to subdivision (2) of this subsection to examine incidents of physical restraint and seclusion in schools and to the State Board of Education for the purposes of subsection (k) of this section. Local or regional boards of education and such institutions and facilities that provide special education for children shall not be required to report instances of in-school suspensions, as defined in subsection (c) of section 10-233a.

(2) The Department of Education shall establish a pilot program for the school year commencing July 1, 2015. Such pilot program shall be implemented in various districts, including, but not limited to, an alliance district, a regional school district and a regional education service center. Under the pilot program, the Department of Education shall examine incidents of physical restraint and seclusion in schools and shall compile and analyze data regarding such incidents to enable the department to better understand and respond to incidents of physical restraint and seclusion on students in the state.

(k) The State Board of Education shall review the annual compilation of each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, and shall produce an annual summary report specifying (1) the frequency of use of physical restraint or seclusion on students, (2) whether any student subjected to such restraint or seclusion was a special education student, and (3) if any such student was a special education student, whether the use of such seclusion was in accordance with an individualized education program or whether the use of such seclusion was an emergency intervention to prevent immediate or imminent injury to the student or to others. Such report shall be submitted not later than January 15, 2017, and annually thereafter, to the joint standing committees of the General Assembly having cognizance of matters relating to children and education for inclusion in the annual report card prepared pursuant to section 2-53m.

(l) Any use of physical restraint or seclusion on a student shall be documented in the student's educational record. The documentation shall include (1) the nature of the emergency and what other steps, including attempts at verbal deescalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, the duration of such restraint or seclusion and the effect of such restraint or seclusion on the student's established educational plan.

(m) Any student who is physically restrained shall be continually monitored by a school employee. Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee. Each student so restrained or in seclusion shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in the student's educational record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

(n) If the use of such restraint or seclusion results in physical injury to the student, the local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, shall report the incident to the State Board of Education, which shall include such incident in the report required pursuant to subsection (k) of this section. The State Board of Education shall report any incidence of serious injury or death to the nonprofit entity designated by the Governor in accordance with section 46a-10b to serve as the Connecticut protection and advocacy system, as required by the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 USC 15041, et seq., as amended from time to time, and any regulations promulgated thereunder, and as required by the Protection and Advocacy for Individuals with Mental Illness Act, 42 USC 10801 et seq., as amended from time to time, and any regulations promulgated thereunder, and, if appropriate, to the Child Advocate of the Office of the Child Advocate.

(o)(1) Each local or regional board of education shall provide training regarding the physical restraint and seclusion of students to the members of the crisis intervention team for each school in the district, identified pursuant to subdivision (2) of this subsection. A local or regional board of education may provide such training to any teacher, as defined in section 10-144d, administrator, as defined in section 10-144e, school paraprofessional or other school employee, as defined in section 10-222d, designated by the school principal and who has direct contact with students. Such training shall be provided during

the school year commencing July 1, 2017, and each school year thereafter, and shall include, but not be limited to:

(A) An overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students and the proper uses of physical restraint and seclusion. For the school year commencing July 1, 2017, and annually thereafter, such overview shall be provided by the Department of Education, in a manner and form as prescribed by the Commissioner of Education;

(B) The creation of a plan by which each local and regional board of education shall provide training regarding the prevention of incidents requiring physical restraint or seclusion of students. Such plan shall be implemented not later than July 1, 2018. The Department of Education may, within available appropriations, provide ongoing monitoring and support to local or regional boards of education regarding the formulation and implementation of the plan; and

(C) The creation of a plan by which each local or regional board of education shall provide training regarding the proper means of physical restraint or seclusion of a student, including, but not limited to, (i) various types of physical restraint and seclusion; (ii) the differences between life-threatening physical restraint and other varying levels of physical restraint; (iii) the differences between permissible physical restraint and pain compliance techniques; and (iv) monitoring methods to prevent harm to a student who is physically restrained or in seclusion. Such plan shall be implemented not later than July 1, 2018;

(2) For the school year commencing July 1, 2017, and each school year thereafter, each local and regional board of education shall require each school in the district to identify a crisis intervention team consisting of any teacher, as defined in section 10-144d, administrator, as defined in section 10-144e, school paraprofessional or other school employee, as defined in section 10-222d, designated by the school principal and who has direct contact with students. Such teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others. Each member of the crisis intervention team shall be recertified in the use of physical restraint and seclusion pursuant to subparagraph (C) of subdivision (1) of this subsection or chapter 814e on an annual basis. Each local and regional board of education shall maintain a list of the members of the crisis intervention team for each school.

(p) Each local or regional board of education shall develop policies and procedures that establish monitoring and internal reporting of the use of physical restraint and seclusion on students and shall make such policies and procedures available on such local or regional board of education's Internet web site and in such local or regional board of education's procedures manual.

(q) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official while in the performance of such official's duties.

(r) The State Board of Education shall adopt or revise regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to this section. Not later than sixty days after the adoption or revision of such regulations, each local or regional board of education shall update any applicable policies and procedures regarding the physical restraint and seclusion of students and shall make such updated policies and procedures available in a manner consistent with the provisions of subsection (p) of this section.

(s) Not later than January 1, 2019, each local or regional board of education shall establish a policy regarding the use of an exclusionary time out. Such policy shall include, but need not be limited to, a requirement that (1) exclusionary time outs are not to be used as a form of discipline, (2) at least one school employee remain with the student, or be immediately available to the student such that the student and school employee are able to communicate verbally, throughout the exclusionary time out, (3) the space used for an exclusionary time out is clean, safe, sanitary and appropriate for the purpose of calming such student or deescalating such student's behavior, (4) the exclusionary time out period terminate as soon as possible, and (5) if such student is a child requiring special education, as defined in section 10-76a, or a child being evaluated for special education, pursuant to section 10-76d, and awaiting

a determination, and the interventions or strategies are unsuccessful in addressing such student's problematic behavior, such student's planning and placement team shall convene as soon as is practicable to determine alternative interventions or strategies.

17a-22bb. Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement. Children and youth in secure detention or correctional confinement. Records re instances of physical restraint and seclusion.

(f) On or before October 1, 2017, and annually thereafter, the Commissioner of Correction shall compile records regarding the frequency and use of physical restraint and seclusion, as defined in section 46a-150, on children and youth twenty years of age or younger who are in the custody of the commissioner at the John R. Manson Youth Institution, Cheshire, and shall submit a report summarizing such records, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to children. Such report shall address the prior year and shall indicate, at a minimum, the frequency that (1) physical restraint was used as (A) an emergency intervention, and (B) a nonemergency intervention, and (2) restricted housing or other types of administrative segregation or seclusion were used at such facility.

46a-150. Definitions.

For purposes of this section and sections 46a-151 to 46a-154, inclusive:

(5) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head. The term does not include: (A) Briefly holding a person in order to calm or comfort the person; (B) restraint involving the minimum contact necessary to safely escort a person from one area to another; (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; or (E) helmets, mitts and similar devices used to prevent self injury when the device is part of a documented treatment plan and is the least restrictive means available to prevent such self-injury. [...]

(7) "Seclusion" means the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving, except that in the case of seclusion at Long Lane School, the term does not include the placing of a single child or youth in a secure room for the purpose of sleeping.

46a-151. Life-threatening physical restraint prohibited.

No provider of care or supervision of a person at risk and no assistant provider may use a life-threatening physical restraint on a person at risk. This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under sections 53a-18 to 53a-22, inclusive.

46a-152. Physical restraint, seclusion and use of psychopharmacologic agents restricted. Notification of parent or guardian of physical restraint or seclusion of child required. Monitoring and documentation required.

(a) No provider or assistant may use involuntary physical restraint on a person at risk except (1) as an emergency intervention to prevent immediate or imminent injury to the person at risk or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative, (2) as necessary and appropriate, as determined on an individual basis by the person's treatment team and consistent with sections 17a-540 to 17a-550, inclusive, for the transportation of a person under the jurisdiction of the Whiting Forensic Hospital of the Department of Mental Health and Addiction Services.

(b) No provider or assistant may involuntarily place a person at risk in seclusion except as an emergency intervention to prevent immediate or imminent injury to the person or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.

(c) No provider or assistant may use a psychopharmacologic agent on a person at risk without that person's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the person or to others, or (2) as an integral part of the person's established medical or behavioral support plan, as developed consistent with section 17a-543 or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(d) Any use of physical restraint or seclusion on a person at risk shall be documented in the person's medical record. The documentation shall include (1) in the case of emergency use, the nature of the emergency and what other steps, including attempts at verbal deescalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, its duration and its effect on the person's established medical or behavioral support plan.

(e) Any person at risk who is physically restrained shall be continually monitored by a provider or assistant. Any person at risk who is involuntarily placed in seclusion shall be frequently monitored by a provider or assistant. Each person so restrained or in seclusion shall be regularly evaluated by a provider or assistant for indications of physical distress. The provider or assistant conducting the evaluation shall enter each evaluation in the person's medical record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

(f) Nothing in this section shall be construed as limiting any rights a person may have under sections 17a-540 to 17a-550, inclusive, section 17a-566 or section 54-56d.

(g) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official or an employee of the Board of Pardons and Paroles or the Department of Correction responsible for the supervision of persons released on parole while in the performance of such official's or employee's duties.

(h)(1) Nothing in this section shall be construed as prohibiting the use of mechanical physical restraint in transporting any person (A) who is receiving services from the Department of Mental Health and Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive, 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d, or (B) who is committed to the department by a court of competent jurisdiction and has a pending criminal charge for which bail or a bond has not been posted, from a department facility to another location and, if applicable, back to such facility. Any such use of mechanical physical restraint shall be determined on an individualized basis by the head of the facility, or by a designee of the head of the facility, to be necessary and appropriate to protect the public safety.

(2) Any use of mechanical physical restraint under this subsection shall be documented in the medical record of the person who is transported. Such documentation shall include, but not be limited to, (A) the reason for the use of such restraint, including the risk of flight, the risk to public safety and the person's clinical condition, and (B) a detailed description of the nature of such restraint and its duration. If the use of any such restraint results in serious physical injury or death to such person, the head of the facility shall report such injury or death to the Commissioner of Mental Health and Addiction Services. The commissioner, upon receiving any such report, shall inform the executive director of the nonprofit entity designated by the Governor in accordance with section 46a-10b, to serve as the Connecticut protection and advocacy system, as required by the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 USC 15041 et seq., as amended from time to time, and any regulations promulgated thereunder and as required by the Protection and Advocacy for Individuals with Mental Illness Act, 42 USC 10801 et seq., as amended from time to time, and any regulations promulgated thereunder, of such injury or death.

46a-153. Recording and annual compilation of use of restraint and seclusion. Review of annual compilation by state agencies. Reports.

(a) Each institution or facility that provides direct care or supervision of persons at risk shall (1) record each instance of the use of physical restraint or seclusion on a person at risk and the nature of the emergency that necessitated its use, and (2) include such information in an annual compilation on its use of such restraint and seclusion. The commissioner of the state agency that has jurisdiction or supervisory control over each institution or facility shall review the annual compilation prior to renewing a license for or a contract with such institution or facility.

(b) If the use of such restraint or seclusion results in physical injury to the person, the institution or facility shall report the incident to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility. The commissioner receiving a report of such an incident shall report any incidence of serious injury or death to the executive director of the nonprofit entity designated by the Governor in accordance with section 46a-10b to serve as the Connecticut protection and advocacy system, as required by the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 USC 15041 et seq., as amended from time to time, and any regulations promulgated thereunder, and as required by the Protection and Advocacy for Individuals with Mental Illness Act, 42 USC 10801 et seq., as amended from time to time, and any regulations promulgated thereunder, and, if appropriate, to the Child Advocate of the Office of the Child Advocate.

46a-154. Internal monitoring, training and development of policies and procedures required and subject to state agency inspection.

(a) Each institution or facility that provides direct care or supervision of a person at risk shall develop policies and procedures that (1) establish monitoring and internal reporting of the use of physical restraint and seclusion on persons at risk, and (2) require training of all providers and assistant providers of care or supervision of persons at risk in the use of physical restraint and seclusion on persons at risk. Such training shall include, but not be limited to: Verbal defusing or deescalation; prevention strategies; types of physical restraint; the differences between life-threatening physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques; monitoring to prevent harm to a person physically restrained or in seclusion and recording and reporting procedures on the use of restraints and seclusion.

(b) Each institution or facility required to develop policies and procedures under subsection (a) of this section shall make such policies and procedures available upon request to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility.

REGULATIONS

10-76b-5. Use of physical restraint and seclusion in public schools. Definitions.

For the purposes of sections 10-76b-6 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Assistant" means "assistant" as defined in section 46a-150 of the General Statutes;
- (2) "Behavior intervention" means supports and other strategies developed by the planning and placement team to address the behavior of a person at risk which impedes the learning of the person at risk or the learning of others;
- (3) "Business day" means "business day" as defined in subsection (a) of section 10-76h-1 of the Regulations of Connecticut State Agencies;
- (4) "Individualized education plan" or "IEP" means "individualized education plan" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;
- (5) "Parent" or "parents," means "parents" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;

(6) "Person at risk" means "person at risk" as defined in subparagraph (A) of subdivision (3) of section 46a-150 of the Connecticut General Statutes;

(7) "Physical restraint" means "physical restraint" as defined in section 46a-150 of the Connecticut General Statutes;

(8) "Planning and placement team" or "PPT" means "planning and placement team" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;

(9) "Provider" means "provider" as defined in section 46a-150 of the Connecticut General Statutes; and

(10) "Seclusion" means "seclusion" as defined in section 46a-150 of the Connecticut General Statutes, provided seclusion does not include any confinement of a person at risk in which the person is physically able to leave the area of confinement including, but not limited to, in-school suspension and time-out.

10-76b-6. Use of physical restraint and seclusion in public schools.

No provider or assistant shall (1) use involuntary physical restraint on a person at risk or (2) involuntarily place a person at risk in seclusion, unless such use conforms to the requirements of sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes, and the requirements of sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies.

10-76b-7. Use of physical restraint and seclusion in public schools, exceptions.

Nothing in sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes or sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies shall be construed to interfere with the responsibility of local or regional boards of education to maintain a safe school setting in accordance with section 10-220 of the Connecticut General Statutes or to supersede the provisions of subdivision (6) of section 53a-18 of the Connecticut General Statutes concerning the use of reasonable physical force.

10-76b-8. Use of seclusion in public schools, requirements.

(a) Except for an emergency intervention to prevent immediate or imminent injury to the person or to others conforming to the requirements of subsection (b) of section 46a-152 of the Connecticut General Statutes, seclusion may only be used if (1) this action is specified in the IEP of the person at risk in accordance with the provisions of subsection (b) of this section and (2) if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by the person at risk have been implemented but were ineffective.

(b) If the PPT of a person at risk determines, based upon the results of a functional behavioral assessment and other information determined relevant by the PPT, that use of seclusion is an appropriate behavior intervention, the PPT shall include the assessment data and other relevant information in the IEP of the person at risk as the basis upon which a decision was made to include the use of seclusion as a behavior intervention. In such a case, the IEP shall specify (1) the location of seclusion, which may be multiple locations within a school building, (2) the maximum length of any period of seclusion, in accordance with subsection (d) of this section, (3) the number of times during a single day that the person at risk may be placed in seclusion, (4) the frequency of monitoring required for the person at risk while in seclusion, and (5) any other relevant matter agreed to by the PPT taking into consideration the age, disability and behaviors of the child that might subject the child to the use of seclusion.

(c) In the event the parent disagrees with the use of seclusion in the IEP of the person at risk, the parent shall have a right to the hearing and appeal process provided for in section 10-76h of the Connecticut General Statutes.

(d) Any period of seclusion (1) shall be limited to that time necessary to allow the person at risk to compose him or herself and return to the educational environment and (2) shall not exceed one hour. The use of seclusion may be continued with written authorization of the building principal or designee to prevent immediate or imminent injury to the person at risk or to others. In the case where transportation of

the person at risk is necessary, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the person at risk or to others is a concern.

(e) The PPT shall, at least annually, review the continued use of seclusion as a behavior intervention for the person at risk. When the use of seclusion as an emergency intervention to prevent immediate or imminent injury to the person at risk or to others is repeated more than two times in any marking period, the PPT (1) shall convene to review the IEP of the person at risk, provided the PPT may agree to waive this meeting, (2) may consider additional evaluations or assessments to address the child's behaviors, and (3) may revise the child's IEP, as appropriate.

(f) The PPT shall inquire as to whether there are any known medical or psychological conditions that would be directly and adversely impacted by the use of seclusion as a behavior intervention. A person at risk shall not be placed in seclusion if such person is known to have any medical or psychological condition that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion. For purposes of this subsection, a "licensed health care provider" means (1) a legally qualified practitioner of medicine, (2) an advanced practice registered nurse, (3) a registered nurse licensed pursuant to chapter 378 of the Connecticut General Statutes, or (4) a physician assistant licensed pursuant to chapter 370 of the Connecticut General Statutes. Such licensed health care provider may be the person at risk's licensed health care provider or a licensed health care provider utilized by the public schools to provide an evaluation of the person at risk for purposes of determining the appropriate use of seclusion as a behavior intervention in the person at risk's IEP. As part of the assessments described in subsection (b) of this section, the PPT may request a medical or psychological evaluation of the child for purposes of determining whether there is a medical or psychological condition that will be directly and adversely impacted by the use of seclusion as a behavior intervention. The parent may provide that information to the PPT. Any written statement provided by a licensed health care provider shall be included in the educational record of the person at risk.

(g) A person at risk in seclusion shall be monitored as described in the child's IEP by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures including, but not limited to, training to recognize health and safety issues for children placed in seclusion to ensure the safe use of seclusion as a behavior intervention.

(h) Any room used for the seclusion of a person at risk shall:

- (1) Be of a size that is appropriate to the chronological and developmental age, size and behavior of the person at risk;
- (2) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located;
- (3) Be equipped with heating, cooling, ventilation and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located;
- (4) Be free of any object that poses a danger to the person at risk who is being placed in the room;
- (5) Conform to applicable building code requirements. If the door or doors to a room used for seclusion are to be locked, latched or otherwise secured, a modification from the State Fire Marshal's office shall be secured prior to the installation of a locking mechanism. If a door locking mechanism is used, the person at risk shall be constantly monitored notwithstanding any other provisions of the Connecticut General Statutes or Regulations to the contrary. The locking mechanism to be used shall be a device that shall be readily released by staff as soon as possible but in no case longer than within two minutes of the onset of an emergency and is connected to the fire alarm system so that the locking mechanism is released automatically when a fire alarm is sounded. An "emergency" for purposes of this subdivision includes, but is not limited to, (A) the need to provide direct and immediate medical attention to the person at risk, (B) fire, (C) the need to remove the person at risk to a safe location during a building lockdown, or (D) other critical situations that may require immediate removal of the person at risk from seclusion to a safe location; and

(6) Have an unbreakable observation window located in a wall or door to permit frequent visual monitoring of the person at risk and any provider or assistant in such room. The requirement for an unbreakable observation window does not apply if it is necessary to clear and use a classroom or other room in the school building as a seclusion room for a person at risk.

10-76b-9. Parental notification of physical restraint, seclusion.

(a) If a person at risk is physically restrained or placed in seclusion, an attempt shall be made to notify the parent on the day of, or within twenty-four hours after, physical restraint or seclusion is used with the child as an emergency intervention to prevent immediate or imminent injury to the person or others, as permitted under sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes. Such notification shall be made by phone, e-mail or other method which may include, but is not limited to, sending a note home with the child. The parent of such child, regardless of whether he or she received such notification, shall be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion. The incident report shall contain, at a minimum, the information required under subsection (d) of section 46a-152 of the Connecticut General Statutes.

(b) Where seclusion is included in the IEP of a person at risk, the PPT and the parents shall determine a timeframe and manner of notification of each incident of seclusion.

(c) The Department of Education shall develop a plain language notice for use in the public schools to advise parents of the laws and regulations concerning the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP. On and after October 1, 2009, this notice shall be provided to the child's parent at the first PPT meeting following the child's referral for special education. For children who were eligible for special education prior to October 1, 2009, the notice shall be provided to the parent at the first PPT meeting convened after October 1, 2009. The notice shall also be provided to a child's parent at the first PPT meeting at which the use of seclusion as a behavior intervention is included in the child's IEP.

10-76b-10. Required training for providers or assistants on the use of physical restraint or seclusion.

A person at risk may be physically restrained or removed to seclusion only by a provider or assistant who has received training in physical management, physical restraint and seclusion procedures. Providers or assistants shall also be provided with training as described in subdivision (2) of subsection (a) of section 46a-154 of the Connecticut General Statutes.

10-76b-11. Reports of physical restraint, seclusion.

The recording and reporting of instances of physical restraint or seclusion and the compilation of this information shall be in accordance with section 46a-153 of the Connecticut General Statutes. The recording of such instances shall be done on an incident report that contains the information and documentation required by sections 46a-152 and 46a-153 of the Connecticut General Statutes. Such reports shall be completed no later than the school day following the incident. The Department of Education shall develop and make available a model incident report.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by

the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance,

provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational

opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion of a pupil in grades nine to twelve, inclusive, based on possession of a firearm or deadly weapon as described in subsection (a) of this section, (1) shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or (2) may be expunged from the cumulative educational record by the local or regional board of education before a pupil graduates from high school if (A) in the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such board determines that an expungement is warranted at the time such pupil completes the board-specified program and meets any other conditions required by such board pursuant to subdivision (2) of subsection (c) of this section, or (B) such pupil has demonstrated to such board that the conduct and behavior of such pupil in the years following such expulsion warrants an expungement. A local or regional board of education, in determining whether to expunge such notice under subparagraph (B) of this subdivision, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education

program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

10-233a. Definitions.

Whenever used in sections 10-233a to 10-233g, inclusive:

- (a) "Exclusion" means any denial of public school privileges to a pupil for disciplinary purposes.
- (b) "Removal" means an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety minutes.
- (c) "In-school suspension" means an exclusion from regular classroom activity for no more than ten consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed.
- (d) "Suspension" means an exclusion from school privileges or from transportation services only for no more than ten consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.
- (e) "Expulsion" means an exclusion from school privileges for more than ten consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such pupil was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one calendar year.

(f) "Emergency" means a situation under which the continued presence of the pupil in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such pupil as possible.

(g) "School" means any school under the direction of a local or regional board of education or any school for which one or more such boards of education pays eighty per cent or more of the tuition costs for students enrolled in such school.

(h) "School-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to

subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such

a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational

opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion of a pupil in grades nine to twelve, inclusive, based on possession of a firearm or deadly weapon as described in subsection (a) of this section, (1) shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or (2) may be expunged from the cumulative educational record by the local or regional board of education before a pupil graduates from high school if (A) in the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such board determines that an expungement is warranted at the time such pupil completes the board-specified program and meets any other conditions required by such board pursuant to subdivision (2) of subsection (c) of this section, or (B) such pupil has demonstrated to such board that the conduct and behavior of such pupil in the years following such expulsion warrants an expungement. A local or regional board of education, in determining whether to expunge such notice under subparagraph (B) of this subdivision, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education

program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the

educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and

(ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain

representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program. [...]

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

10-233h. Commissioner's network of schools. Turnaround committees. Operations and instructional audit. Turnaround plans. Reports.

If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Emergency Services and Public Protection that made such arrest shall, not later than the end of the weekday following such arrest, orally notify the superintendent of schools of the school district in which such person resides or attends school of the identity of such person and the offense or offenses for which he was arrested and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124. The superintendent may disclose such information only to the principal of the school in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day. If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at

such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under eighteen years of age shall be confidential in accordance with sections 46b-124 and 54-76l, and shall only be disclosed as provided in this section and shall not be further disclosed.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

10-233d. Expulsion of pupils.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233i. Students placed on probation by a court.

A student placed on probation by a court may return to school on a conditional basis, within the limits prescribed by the court, provided the court has requested, from the superintendent of schools of the school district in which the student resides, and considered (1) information on the student's school attendance, adjustment and behavior and (2) any recommendations for conditions for disposition or sentencing. Superintendents of schools shall provide such information to the court in a timely manner.

10-233k. Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from residential centers.

(a) If the Department of Children and Families believes, in good faith, that there is a risk of imminent personal injury to the person or other individuals from a child in its custody who has been adjudicated a serious juvenile offender, the department shall notify the superintendent of schools for the school district in which such child may be returning to attend school or was attending prior to the adjudication of such determination, prior to the child's return. The superintendent of schools shall notify the principal at the school the child will be attending that the child is potentially dangerous. The principal may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purpose of assessing the risk of danger posed by such child to himself, other students,

school employees or school property and effectuating an appropriate modification of such child's educational plan or placement and for disciplinary reasons.

(b) The Department of Children and Families and the Judicial Department or the local or regional board of education shall provide to the superintendent of schools any educational records within their custody of a child seeking to enter or return to a school district from a juvenile residential center or any other residential placement prior to the child's entry or return. The agencies shall also require any contracting entity that holds custody of such records to provide them to the superintendent of schools prior to the child's entry or return. Receipt of the educational records shall not delay a child from enrolling in school. The superintendent of schools shall provide such information to the principal at the school the child will be attending. The principal shall disclose such information to appropriate staff as is necessary to the education or care of the child.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

10-74j. Alternative education.

(a) As used in this section, "alternative education" means a school or program maintained and operated by a local or regional board of education that is offered to students in a nontraditional educational setting and addresses the social, emotional, behavioral and academic needs of such students.

(b) A local or regional board of education may provide alternative education to students, in accordance with guidelines established by the State Board of Education pursuant to section 10-74k. A local or regional board of education may use space in an existing school or establish a new school for the purposes of providing alternative education to students. Alternative education shall be provided in accordance with the provisions of sections 10-15 and 10-16 and shall be subject to all federal and state laws governing public schools.

(c) Each local and regional board of education shall make available on its Internet web site information relating to alternative education offered under this section, including, but not limited to, the purpose, location, contact information, staff directory and enrollment criteria for such alternative education.

10-74k. Alternative education guidelines. Identification and organization codes.

(a) The Department of Education shall develop guidelines for the provision of alternative education, as defined in section 10-74j. Such guidelines shall include, but not be limited to, a description of the purpose and expectations of alternative education, criteria for who is eligible to receive alternative education and criteria for how and when a student may enter or exit alternative education.

(b) The department shall assign an identification code and organization code to each school or program of alternative education provided by a local or regional board of education for purposes of collecting, tracking and monitoring such alternative education in the public school information system, pursuant to section 10-10a.

10-233d. Expulsion of pupils.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a

firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section. [...]

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section. [...]

(j) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

10-233f. In-school suspension of pupils. Reassignment.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

10-233o. Standards re alternative educational opportunities.

Not later than August 15, 2017, the State Board of Education shall adopt standards for the provision of an adequate alternative educational opportunity, offered pursuant to subsection (d) of section 10-233d. Such standards shall include, but need not be limited to, the kind of instruction and number of hours to be provided to a student enrolled in an alternative educational opportunity.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or

distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to

section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion of a pupil in grades nine to twelve, inclusive, based on possession of a firearm or deadly weapon as described in subsection (a) of this section, (1) shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or (2) may be expunged from the cumulative educational record by the local or regional board of education before a pupil graduates from high school if (A) in the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such board determines that an expungement is warranted at the time such pupil completes the board-specified program and meets any other conditions required by such board pursuant to subdivision (2) of subsection (c) of this section, or (B) such pupil has demonstrated to such board that the conduct and behavior of such pupil in the years following such expulsion warrants an expungement. A local or regional board of education, in determining whether to expunge such notice under subparagraph (B) of this subdivision, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation

services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(d) Any pupil who is suspended shall be given an opportunity to complete any classwork including, but not limited to, examinations which such pupil missed during the period of suspension.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

(g) On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board. Nothing in this

section shall limit a person's duty as a mandated reporter pursuant to section 17-101a to report suspected child abuse or neglect.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(c)(1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, except for a pupil who has been expelled based on possession of a firearm or deadly weapon as described in subsection (a) of this section, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(d) No local or regional board of education is required to offer an alternative educational opportunity, except in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education, as defined by section 10-74j, with an individualized learning plan, if such board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education, pursuant to section 10-233o, during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative educational opportunity shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered such an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least seventeen years of age in an adult education program pursuant to section 10-69. Any pupil participating in any such adult education program during a period of expulsion shall not be required to withdraw from school under section 10-184. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion of a pupil in grades nine to twelve, inclusive, based on possession of a firearm or deadly weapon as described in subsection (a) of this section, (1) shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or (2) may be expunged from the cumulative educational record by the local or regional board of education before a pupil graduates from high school if (A) in the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such board determines that an expungement is warranted

at the time such pupil completes the board-specified program and meets any other conditions required by such board pursuant to subdivision (2) of subsection (c) of this section, or (B) such pupil has demonstrated to such board that the conduct and behavior of such pupil in the years following such expulsion warrants an expungement. A local or regional board of education, in determining whether to expunge such notice under subparagraph (B) of this subdivision, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of such pupil.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

(l)(1) Any student who commits an expellable offense and is subsequently placed in a juvenile residential center or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of placement in a juvenile residential center or other residential placement.

(2) If a student who committed an expellable offense seeks to return to a school district after participating in a diversionary program or having been placed in a juvenile residential center or any other residential placement and such student has not been expelled by the local or regional board of education for such offense under subdivision (1) of this subsection, the local or regional board of education for the school district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

10-198a. Policies and procedures concerning truants.

(a) For purposes of this section and sections 10-198c and 10-220, "truant" means a child age five to eighteen, inclusive, who is enrolled in a public or private school and has four unexcused absences from school in any one month or ten unexcused absences from school in any school year.

(b) Each local and regional board of education shall adopt and implement policies and procedures concerning truants who are enrolled in schools under the jurisdiction of such board of education. Such policies and procedures shall include, but need not be limited to, the following: (1) The holding of a meeting with the parent of each child who is a truant, or other person having control of such child, and appropriate school personnel to review and evaluate the reasons for the child being a truant, provided such meeting shall be held not later than ten school days after the child's fourth unexcused absence in a month or tenth unexcused absence in a school year, (2) coordinating services with and referrals of children to community agencies providing child and family services, (3) annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent or other person having control of each child enrolled in a grade from kindergarten to eight, inclusive, in the public schools in writing of the obligations of the parent or such other person pursuant to section 10-184, (4) annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent or other person having control of each child in a grade from kindergarten to eight, inclusive, a telephone number or other means of contacting such parent or such other person during the school day, (5) (A) on or before August 15, 2018, the implementation of a truancy intervention model identified by the Department of Education pursuant to subsection (A) of section 10-198e, as amended by this act, for any school under its jurisdiction that has a disproportionately high rate of truancy, as determined by the Commissioner of Education, and (B) on or before September 1, 2023, the adoption and implementation of a truancy intervention model developed by the department of education pursuant to subsection (B) of section 10-198e, as amended by this act, that accounts for mental and behavioral health, or a similar truancy intervention plan that meets all of the requirements for a truancy intervention model set forth in subsection (b) of said section, (6) a system of monitoring individual unexcused absences of children in grades kindergarten to eight, inclusive, which shall provide that whenever a child enrolled in school in any

such grade fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the child's parent or other person having control of the child is aware of the pupil's absence, a reasonable effort to notify, by telephone and by mail, the parent or such other person shall be made by school personnel or volunteers under the direction of school personnel, (7) providing notice to the parent or guardian of child who is a truant of the information concerning the existence and availability of the 2-1-1 Infoline program, and other pediatric mental and behavioral health screening services and tools described in section 17a-22rt, and (8) on and after July 1, 2023, a requirement that an appropriate school mental health specialist, as defined in section 12 of this act, conduct an evaluation of each child who is a truant to determine if additional behavioral health interventions are necessary for the well-being of the child. Any person who, in good faith, gives or fails to give notice pursuant to subdivision (6) of this subsection shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

10-198b. State Board of Education to define "excused absence", "unexcused absence" and "disciplinary absence".

The State Board of Education shall define "excused absence", "unexcused absence" and "disciplinary absence" for use by local and regional boards of education for the purposes of carrying out the provisions of section 10-198a, reporting truancy, pursuant to subsection (c) of section 10-220, and calculating the district chronic absenteeism rate and the school chronic absenteeism rate pursuant to section 10-198c. On or before July 1, 2021, the State Board of Education shall amend the definitions of "excused absence" and "unexcused absence" to exclude a student's engagement in (1) virtual classes, (2) virtual meetings, (3) activities on time-logged electronic systems, and (4) the completion and submission of assignments, if such engagement accounts for not less than one-half of the school day during remote learning authorized pursuant to section 10-4w. As used in this section, "remote learning" means instruction by means of one or more Internet-based software platforms as part of a remote learning model.

10-198c. Attendance review teams.

(a) As used in this section:

- (1) "Chronically absent child" means a child who is enrolled in a school under the jurisdiction of a local or regional board of education and whose total number of absences at any time during a school year is equal to or greater than ten per cent of the total number of days that such student has been enrolled at such school during such school year;
- (2) "Absence" means an excused absence, unexcused absence or disciplinary absence, as those terms are defined by the State Board of Education pursuant to section 10-198b;
- (3) "District chronic absenteeism rate" means the total number of chronically absent children under the jurisdiction of a local or regional board of education in the previous school year divided by the total number of children under the jurisdiction of such board for such school year; and
- (4) "School chronic absenteeism rate" means the total number of chronically absent children for a school in the previous school year divided by the total number of children enrolled in such school for such school year.

(b)(1) Each local and regional board of education that (A) has a district chronic absenteeism rate of ten per cent or higher shall establish an attendance review team for the school district, (B) has a school under the jurisdiction of the board with a school chronic absenteeism rate of fifteen per cent or higher shall establish an attendance review team at such school, (C) has more than one school under the jurisdiction of the board with a school chronic absenteeism rate of fifteen per cent or higher shall establish an attendance review team for the school district or at each such school, or (D) has a district chronic absenteeism rate of ten per cent or higher and one or more schools under the jurisdiction of the board with a school chronic absenteeism rate of fifteen per cent or higher shall establish an attendance

review team for the school district or at each such school. Such attendance review teams shall be established to address chronic absenteeism in the school district or at the school or schools.

(2) Any attendance review team established under this subsection may consist of school administrators, guidance counselors, school counselors, school social workers, teachers and representatives from community-based programs who address issues related to student attendance by providing programs and services to truants, as defined in section 10-198a, and chronically absent children and their parents or guardians. Each attendance review team shall be responsible for reviewing the cases of truants and chronically absent children, discussing school interventions and community referrals for such truants and chronically absent children and making any additional recommendations for such truants and chronically absent children and their parents or guardians. Each attendance review team shall meet at least monthly.

10-198d. Chronic absenteeism prevention and intervention plan.

(a) Not later than January 1, 2016, the Department of Education, in consultation with the Interagency Council for Ending the Achievement Gap established pursuant to section 10-16nn, shall develop a chronic absenteeism prevention and intervention plan for use by local and regional boards of education to reduce chronic absenteeism in the school district.

(b)(1) The chronic absenteeism prevention and intervention plan shall include, but need not be limited to, the following: (A) Information that describes (i) chronic absenteeism, including, but not limited to, the definition of a chronically absent child under section 10-198c, and the causes of chronic absenteeism, such as poverty, violence, poor health and lack of access to transportation, (ii) the effect of chronic absenteeism on a student's academic performance, and (iii) how family and school partnerships with community resources, including, but not limited to, family resource centers and youth service bureaus, can reduce chronic absenteeism and improve student attendance, and (B) a means of collecting and analyzing data relating to student attendance, truancy and chronic absenteeism for the purpose of (i) disaggregating such data by school district, school, grade and subgroups, such as race, ethnicity, gender, eligibility for free or reduced priced lunches, students whose primary language is not English and students with disabilities, and (ii) assisting local and regional boards of education in (I) tracking chronic absenteeism over multiple years and for the current school year, (II) developing indicators to identify students who are at risk of being chronically absent children, (III) monitoring students' attendance over time, and (IV) making adjustments to interventions as they are being implemented.

(2) The chronic absenteeism prevention and intervention plan may include, but need not be limited to, the following: (A) A research-based and data-driven mentorship model that addresses and attempts to reduce chronic absenteeism through the use of mentors, such as students, teachers, administrators, intramural and interscholastic athletic coaches, school resource officers and community partners, and (B) incentives and rewards that recognize schools and students that improve attendance and reduce the school chronic absenteeism rate.

10-198e. Identification of truancy intervention models.

(a) The Department of Education shall identify effective truancy intervention models for implementation by local and regional boards of education pursuant to subsection (b) of section 10-198a, including intervention models that address the needs of students with disabilities. Not later than August 15, 2018, a listing of such approved models shall be available for implementation by local and regional boards of education pursuant to said subsection (b).

(b) Not later than September 1, 2023, the Department of Education shall develop and make available for implementation by local and regional boards of education described in subparagraph (B) of subdivision (5) of subsection (b) of section 10-198a, a truancy intervention model that accounts for mental and behavioral health.

(c) Not later than September 1, 2023, the Department of Education, in collaboration with the Department of Children and Families, shall issue guidance to local and regional boards of education on best practices relating to intervention in certain behavioral health situations and when it is appropriate to contact the 2-1-1 Infoline program or use alternative interventions

10-199. Attendance officers. Duties.

Any local or regional board of education may appoint one or more persons, who shall be authorized to prosecute for violations of the laws relating to attendance of children and their employment. All warrants issued upon such prosecutions shall be returnable before any court having jurisdiction. Each attendance officer shall be sworn to the faithful performance of his or her duties and shall be under the direction of the principal or superintendent of schools of the board of education by which he or she is employed. He shall investigate the absence of pupils from or the irregular attendance of pupils at school, cause such pupils as are absent or irregular in attendance to attend school regularly and present cases requiring prosecution for violation of the school laws to prosecuting officers.

10-200. Habitual truants.

Each city and town may adopt ordinances concerning habitual truants from school and children between the ages of five and eighteen years wandering about its streets or public places, having no lawful occupation and not attending school, and may make such ordinances respecting such children as shall conduce to their welfare and to public order, imposing penalties, not exceeding twenty dollars, for any one breach thereof. The police in any town, city or borough, bailiffs and constables in their respective precincts shall arrest all such children found anywhere beyond the proper control of their parents or guardians, during the usual school hours of the school terms, and may stop any child under eighteen years of age during such hours and ascertain whether such child is a truant from school, and, if such child is, shall send such child to school. For purposes of this section, "habitual truant" means a child age five to eighteen, inclusive, who is enrolled in a public or private school and has twenty unexcused absences within a school year.

10-221. Boards of education to prescribe rules, policies and procedures.

(c) Each local and regional board of education shall develop, adopt and implement written policies concerning homework, attendance, promotion and retention. The Department of Education shall make available model policies and guidelines to assist local and regional boards of education in meeting the responsibilities enumerated in this subsection.

45a-8c. Truancy clinic. Administration. Policies and procedures. Report.

(a) The Probate Court Administrator may, within available appropriations, establish a truancy clinic within (1) any Regional Children's Probate Court that serves a town designated as an alliance district pursuant to section 10-262u, or (2) any Probate Court that serves a town designated as an alliance district that is not served by a Regional Children's Probate Court. The administrative judge of the Regional Children's Probate Court or the probate judge, as the case may be, or the designee of such administrative judge or such probate judge, shall administer the truancy clinic for such administrative judge's or such probate judge's respective court.

(b) If the Probate Court Administrator establishes truancy clinics pursuant to subsection (a) of this section, the principal of any elementary or middle school located in a town designated as an alliance district, or the principal's designee, may refer to a truancy clinic a parent or guardian with a child enrolled in such school who is a truant, as defined in section 10-198a, or at risk of becoming a truant. Upon receiving such referral, the truancy clinic shall prepare a citation and summons for the parent or guardian of the child to appear at the clinic. An attendance officer authorized pursuant to section 10-199, or a police officer authorized pursuant to section 10-200, shall deliver the citation and summons and a copy of the referral to the parent or guardian.

(c) The administrative judge of the Regional Children's Probate Court that serves a town designated as an alliance district or the probate judge that serves a town designated as an alliance district, as the case may be, may refer any matter referred to a truancy clinic to a probate magistrate or attorney probate referee assigned by the Probate Court Administrator pursuant to section 45a-123a to hear the matter.

(d) The truancy clinics shall operate for the purpose of identifying and resolving the cause of a child's truancy using nonpunitive procedures. After the initial appearance made pursuant to the summons described in subsection (b) of this section, the participation of a parent or guardian in the truancy clinic shall be voluntary. The truancy clinics shall establish protocols for clinic participation and shall establish programs and relationships with schools, individuals, public and private agencies, and other organizations to provide services and support for parents, guardians and children participating in the clinics.

(e) The Probate Court Administrator shall establish policies and procedures to implement the truancy clinics and measure the effectiveness of the truancy clinics.

(f) Not later than September 1, 2015, and annually thereafter, each administrative judge of a Regional Children's Probate Court that serves a town designated as an alliance district in which a truancy clinic has been established and each probate judge that serves a town designated as an alliance district in which a truancy clinic has been established shall file a report with the Probate Court Administrator assessing the effectiveness of each truancy clinic in such administrative judge's or such probate judge's respective court.

(g) Not later than January 1, 2016, the Probate Court Administrator shall submit, in accordance with section 11-4a, a report assessing the effectiveness of the truancy clinics to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary and education.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

10-221. Boards of education to prescribe rules, policies and procedures.

(b) Boards of education shall prescribe rules for the management, studies, classification and discipline of the public schools and, subject to the control of the State Board of Education, the textbooks to be used; shall make rules for the control, within their respective jurisdictions, of school library media centers, including Internet access and content, and approve the selection of books and other educational media therefor, and shall approve plans for public school buildings and superintend any high or graded school in the manner specified in this title.

(e) Each local and regional board of education shall develop, adopt and implement policies and procedures in conformity with section 10-154a for (1) dealing with the use, sale or possession of alcohol or controlled drugs, as defined in subdivision 21a-240, as amended by this act, by public school students on school property, including a process for coordination with, and referral of such students to, appropriate agencies, and (2) cooperating with law enforcement officials. On and after January 1, 2022, no such policies and procedures shall result in a student facing greater discipline, punishment or sanction for use, sale or possession of cannabis than a student would face for the use, sale or possession of alcohol.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of

such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the

notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible. [...]

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

7-294x. Council to provide training to public school security personnel.

The Police Officer Standards and Training Council established under section 7-294b shall provide training to security personnel employed in the public schools by a local or regional board of education. Such training shall include drug detection and gang identification.

10-16b. Prescribed courses of study.

(a) In the public schools the program of instruction offered shall include at least the following subject matter, as taught by legally qualified teachers, the arts; career education; consumer education; health and safety, including, but not limited to, human growth and development, nutrition, first aid, including cardiopulmonary resuscitation training in accordance with the provisions of section 10-16qq, disease prevention and cancer awareness, including, but not limited to, age and developmentally appropriate instruction in performing self-examinations for the purposes of screening for breast cancer and testicular cancer, community and consumer health, physical, mental and emotional health, including youth suicide prevention, substance abuse prevention, including instruction relating to opioid use and related disorders, safety, which shall include the safe use of social media, as defined in section 9-601, and may include the dangers of gang membership, and accident prevention; language arts, including reading, writing, grammar, speaking and spelling; mathematics; physical education; science, which shall include the climate change curriculum described in subsection (d) of this section; social studies, including, but not limited to, citizenship, economics, geography, government, history and Holocaust and genocide education and awareness in accordance with the provisions of section 10-18f; African-American and black studies in accordance with the provisions of section 10-16ss; Puerto Rican and Latino studies in accordance with the provisions of section 10-16ss; Native American studies, in accordance with the provisions of section 10-16vv; computer programming instruction; and in addition, on at least the secondary level, one or more world languages; vocational education; and the black and Latino studies course in accordance with the provisions of sections 10-16tt and 10-16uu. For purposes of this

subsection, world languages shall include American Sign Language, provided such subject matter is taught by a qualified instructor under the supervision of a teacher who holds a certificate issued by the State Board of Education. For purposes of this subsection, the "arts" means any form of visual or performing arts, which may include, but not be limited to, dance, music, art and theatre.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol. Any such board may authorize the administration to suspend transportation services for a pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

10-145a. (Formerly Sec. 10-146). Specific components of teacher preparation programs.

(c) Any candidate in a program of teacher preparation leading to professional certification shall complete a school violence, bullying, as defined in section 10-222d, and suicide prevention and conflict resolution component of such a program.

10-145o. Teacher education and mentoring program. Administration. Three-year plan. Instructional modules. Data system. Guidelines.

(e)(1) Beginning teachers shall satisfactorily complete instructional modules in the following areas: (A) Classroom management and climate, which shall include training regarding the prevention, identification and response to school bullying, as defined in section 10-222d, and the prevention of and response to youth suicide; (B) lesson planning and unit design; (C) delivering instruction; (D) assessing student learning; and (E) professional practice. Beginning teachers shall complete two modules in their first year in the program and three modules in their second year in the program, except as otherwise provided by the Commissioner of Education, or as provided for in subsection (h) of this section.

10-220a. In-service training. Professional development and evaluation committees. Institutes for educators. Cooperating teacher program, regulations.

(a) Each local or regional board of education shall provide an in-service training program for its teachers, administrators and pupil personnel who hold the initial educator, provisional educator or professional educator certificate. Such program shall provide such teachers, administrators and pupil personnel with information on (1) the nature and the relationship of alcohol and drugs, as defined in subdivision (17) of section 21a-240, to health and personality development, and procedures for discouraging their abuse, (2) health and mental health risk reduction education that includes, but need not be limited to, the prevention of risk-taking behavior by children and the relationship of such behavior to substance abuse, pregnancy, sexually transmitted diseases, including HIV-infection and AIDS, as defined in section 19a-581, violence, teen dating violence, domestic violence and child abuse, (3) school violence prevention, conflict resolution, the prevention of and response to youth suicide and the identification and prevention of and response to bullying, as defined in subsection (a) of section 10-222d, except that those boards of education that implement any evidence-based model approach that is approved by the Department of Education and is consistent with subsection (c) of section 10-145a, sections 10-222d, 10-222g and 10-222h, subsection (g) of section 10-233c and sections 1 and 3 of public act 08-160, shall not be required to provide in-service training on the identification and prevention of and response to bullying, (4) cardiopulmonary resuscitation and other emergency life saving procedures, (5) the requirements and obligations of a mandated reporter, (6) the detection and recognition of, and evidence-based structured literacy interventions for, students with dyslexia, as defined in section 10-3d, (7) culturally responsive pedagogy and practice, including, but not limited to, the video training module relating to implicit bias and anti-bias in the hiring process in accordance with the provisions of section 10-156hh, (8) the principles and practices of social-emotional learning and restorative practices. (9) the laws governing the implementation of planning and placement team meetings and concerning plans pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time, and (10) an annual update of new state and federal policies concerning special education, recommendations and best practices. Each local or regional board of education may allow any school paraprofessional or noncertified employee to participate, on a voluntary basis, in any in-service training program provided pursuant to this section.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(a) As used in this section, sections 10-222g to 10-222i, inclusive, and section 10-222k:

(1) "Bullying" means (A) the repeated use by one or more students of a written, oral or electronic communication, such as cyberbullying, directed at or referring to another student attending school in the same school district, or (B) a physical act or gesture by one or more students repeatedly directed at another student attending school in the same school district, that: (i) Causes physical or emotional harm to such student or damage to such student's property, (ii) places such student in reasonable fear of harm to himself or herself, or of damage to his or her property, (iii) creates a hostile environment at

school for such student, (iv) infringes on the rights of such student at school, or (v) substantially disrupts the education process or the orderly operation of a school. "Bullying" shall include, but not be limited to, a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics;

(2) "Cyberbullying" means any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications;

(6) "Hostile environment" means a situation in which bullying among students is sufficiently severe or pervasive to alter the conditions of the school climate;

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local

law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools. School climate assessment instruments.

(a) The Department of Education shall, within available appropriations, (1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying, (2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes, (3) develop or recommend model safe school climate plans for grades kindergarten to twelve, inclusive, and (4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments, approved by the department, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. Such school climate assessment instruments shall (A) include surveys that contain uniform grade-level appropriate questions that collect information about students' perspectives and opinions about the school climate at the school, and (B) allow students to complete and submit such assessment and survey anonymously.

(b) On or before February 1, 2014, and annually thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts, an analysis of student responses on the uniform grade-level appropriate questions described in subparagraph (A) of subdivision (4) of subsection (a) of this section and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committees of the General Assembly having cognizance of matters relating to education and children and to the speaker of the House of Representatives, the president pro tempore of the Senate and the majority and minority leaders of the House of Representatives and the Senate.

(c) The department may accept private donations for the purposes of this section.

10-222i. State-wide safe school climate resource network.

(a) The Department of Education, in consultation with the State Education Resource Center, established pursuant to section 10-357a, the Governor's Prevention Partnership, the Commission on Women, Children, Seniors, Equity and Opportunity and the Connecticut Coalition Against Domestic Violence, shall establish, within available appropriations, a state-wide safe school climate resource network for the identification, prevention and education of school bullying and teen dating violence in the state. Such state-wide safe school climate resource network shall make available to all schools information, training opportunities and resource materials to improve the school climate to diminish bullying and teen dating violence.

(b) The department may seek federal, state and municipal funding and may accept private donations for the administration of the state-wide safe school climate resource network.

10-222j. Training re prevention, identification and response to school bullying, teen dating violence and youth suicide.

The Department of Education shall provide, within available appropriations, annual training to school employees, as defined in section 10-222d, except those school employees who hold professional certification pursuant to section 10-145b unless such school employee who holds professional certification is the district safe school climate coordinator, the safe school climate specialist or a member of the safe school climate committee, as described in section 10-222k, on the prevention, identification and response to school bullying and teen dating violence, as defined in section 10-222d, and the prevention of and response to youth suicide. Such training may include, but not be limited to, (1) developmentally appropriate strategies to prevent bullying and teen dating violence among students in school and outside of the school setting, (2) developmentally appropriate strategies for immediate and effective interventions to stop bullying and teen dating violence, (3) information regarding the interaction

and relationship between students committing acts of bullying and teen dating violence, students against whom such acts of bullying and teen dating violence are directed and witnesses of such acts of bullying and teen dating violence, (4) research findings on bullying and teen dating violence, such as information about the types of students who have been shown to be at-risk for bullying and teen dating violence in the school setting, (5) information on the incidence and nature of cyberbullying, as defined in section 10-222d, (6) Internet safety issues as they relate to cyberbullying, or (7) information on the incidence of youth suicide, methods of identifying youths at risk of suicide and developmentally appropriate strategies for effective interventions to prevent youth suicide. Such training may be presented in person by mentors, offered in state-wide workshops or through on-line courses.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall: (1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d, (2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district, (3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c)(1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal and for the school year commencing July 1, 2021, and each school year thereafter, such committee shall also include (A) school personnel, including, but not limited to, at least one teacher selected by the exclusive bargaining representative for certified employees chosen pursuant to section 10-153b, (B) medical and mental health personnel assigned to such school, and (C) in the case of a committee for a high school, at least one student enrolled at such high school who is selected by the students of such school in a manner determined by the school principal. Any such committee shall: (A) Receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) implement the provisions of the school security and safety plan, developed pursuant to section 10-222m, regarding the collection, evaluation and reporting of information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying, (D) review and amend school policies relating to bullying, (E) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (F) educate students, school employees and parents and guardians of students on issues relating to bullying, (G) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (H)

perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

- (2) Any parent, guardian or student serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) to (C), inclusive, of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-222i. Immunity of school employees, students, parents or guardians, individuals and boards of education from liability for certain actions relating to reporting, investigating and responding to school bullying and teen dating violence.

(a) No claim for damages shall be made against a school employee, as defined in section 10-222d, who reports, investigates and responds to bullying or teen dating violence, as defined in section 10-222d, in accordance with the provisions of the safe school climate plan, described in section 10-222d, if such school employee was acting in good faith in the discharge of his or her duties or within the scope of his or her employment. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(b) No claim for damages shall be made against a student, parent or guardian of a student or any other individual who reports an act of bullying or teen dating violence to a school employee, in accordance with the provisions of the safe school climate plan described in section 10-222d, if such individual was acting in good faith. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(c) No claim for damages shall be made against a local or regional board of education that implements the safe school climate plan, described in section 10-222d, and reports, investigates and responds to bullying or teen dating violence, as defined in section 10-222d, if such local or regional board of education was acting in good faith in the discharge of its duties. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

10-222n. School security and safety plan standards.

(a) Not later than January 1, 2014, the Department of Emergency Services and Public Protection, in consultation with the Department of Education, shall develop school security and safety plan standards. Not later than January 1, 2020, and every three years thereafter, the Department of Emergency Services and Public Protection, in consultation with the Department of Education, shall reevaluate and update the school security and safety plan standards. The school security and safety plan standards shall be an all-hazards approach to emergencies at public schools and shall include, but not be limited to, (1) involvement of local officials, including the chief executive officer of the municipality, the superintendent of schools, law enforcement, fire, public health, emergency management and emergency medical services, in the development of school security and safety plans, (2) a command center organization structure based on the federal National Incident Management System and a description of the responsibilities of such command center organization, (3) a requirement that a school security and safety committee be established at each school, in accordance with the provisions of section 10-222m, (4) crisis management procedures, (5) a requirement that local law enforcement and other local public safety officials evaluate, score and provide feedback on fire drills and crisis response drills, conducted pursuant to section 10-231, (6) a requirement that local and regional boards of education annually submit reports to the Department of Emergency Services and Public Protection regarding such fire drills and crisis response drills, (7) procedures for managing various types of emergencies, (8) a requirement that each local and regional board of education conduct a security and vulnerability assessment for each school under the jurisdiction of such board every two years and develop a school security and safety plan for each such school, in accordance with the provisions of section 10-222m, based on the results of such assessment, (9) a requirement that the safe school climate committee for each school, established pursuant to section 10-222k, collect and evaluate information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying, as defined in section 10-222d, and report such information, as necessary, to the district safe school climate coordinator, described in section 10-222k, and the school

security and safety committee for the school, established pursuant to section 10-222m, and (10) a requirement that the school security and safety plan for each school provide an orientation on such school security and safety plan to each school employee, as defined in section 10-222d, at such school and provide violence prevention training in a manner prescribed in such school security and safety plan. The Department of Emergency Services and Public Protection shall make such standards available to local officials, including local and regional boards of education, and the Department of Education shall distribute such standards to all public schools within the state.

10-222s. Provision of training materials re prevention of and intervention in discrimination and harassment against students.

Each local and regional board of education, in consultation with the Department of Education and the social and emotional learning and school climate advisory collaborative established pursuant to section 10-222q, shall provide on the Internet web site of the department training materials to school administrators regarding the prevention of and intervention in discrimination against and targeted harassment of students based on such students' (1) actual or perceived differentiating characteristics, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance or mental, physical, developmental or sensory disability, or (2) association with individuals or groups who have or are perceived to have one or more of such characteristics. Such training materials may be developed in consultation with or provided by one or more organizations offering training on identifying, preventing and intervening in discrimination.

10-263e. Safe learning grant program.

(a) The Department of Education shall establish, within available appropriations, a competitive safe learning grant program to assist school districts in (1) developing a school environment where children learn in safety without fear of physical or verbal harm or intimidation, (2) activities that encourage respect for each student, (3) decreasing early youth aggression, (4) establishing student conflict and intervention policies and strategies, (5) eliminating bullying behaviors among students, (6) extending safe school environment programs to extracurricular activities, (7) after school programs, and (8) the development of crisis and violence prevention policies and strategies which make school environments safe. Each local and regional board of education may apply for a grant at such time and in such manner as the Commissioner of Education prescribes.

53-23a. Hazing.

(a) For purposes of this section:

(1) "Hazing" means any action which recklessly or intentionally endangers the health or safety of a person for the purpose of initiation, admission into or affiliation with, or as a condition for continued membership in a student organization. The term shall include, but not be limited to:

- (A) Requiring indecent exposure of the body;
- (B) Requiring any activity that would subject the person to extreme mental stress, such as sleep deprivation or extended isolation from social contact;
- (C) Confinement of the person to unreasonably small, unventilated, unsanitary or unlighted areas;
- (D) Any assault upon the person; or
- (E) Requiring the ingestion of any substance or any other physical activity which could adversely affect the health or safety of the individual. The term shall not include an action sponsored by an institution of higher education which requires any athletic practice, conditioning, or competition or curricular activity.

(2) "Student organization" means a fraternity, sorority or any other organization organized or operating at an institution of higher education.

(b) No student organization or member of a student organization shall engage in hazing any member or person pledged to be a member of the organization. The implied or express consent of the victim shall not be a defense in any action brought under this section.

(c) A student organization which violates subsection (b) of this section (1) shall be subject to a fine of not more than one thousand five hundred dollars and (2) shall forfeit for a period of not less than one year all of the rights and privileges of being an organization organized or operating at an institution of higher education.

(d) A member of a student organization who violates subsection (b) of this section shall be subject to a fine of not more than one thousand dollars.

(e) This section shall not in any manner limit or exclude prosecution or punishment for any crime or any civil remedy.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

10-148c. Subject matter to be made available to boards of education for in-service training programs.

The State Board of Education, within available appropriations and utilizing available materials, shall make the following subject matter available to local and regional boards of education: (1) Holocaust and genocide education and awareness; (2) the historical events surrounding the Great Famine in Ireland; (3) African-American history; (4) Puerto Rican history; (5) Native American history; (6) personal financial management; (7) domestic violence and teen dating violence; (8) mental health first aid training; (9) trauma-informed practices for the school setting to enable teachers, administrators and pupil personnel to more adequately respond to students with mental, emotional or behavioral health needs; (10) second language acquisition, including, but not limited to, language development and culturally responsive pedagogy; and (11) topics approved by the state board upon the request of local or regional boards of education as part of in-service training programs pursuant to this subsection. A local or regional board of education may include any of the items described in subdivisions (1) to (11), inclusive, of this section in the in-service training program provided by such board, pursuant to section 10-220a.

10-220a. In-service training. Professional development and evaluation committees. Institutes for educators. Cooperating teacher program, regulations.

(a) Each local or regional board of education shall provide an in-service training program for its teachers, administrators and pupil personnel who hold the initial educator, provisional educator or professional educator certificate. Such program shall provide such teachers, administrators and pupil personnel with information on (1) the nature and the relationship of alcohol and drugs, as defined in subdivision (17) of section 21a-240, to health and personality development, and procedures for discouraging their abuse, (2) health and mental health risk reduction education that includes, but need not be limited to, the prevention of risk-taking behavior by children and the relationship of such behavior to substance abuse, pregnancy, sexually transmitted diseases, including HIV-infection and AIDS, as defined in section 19a-581, violence, teen dating violence, domestic violence and child abuse, (3) school violence prevention, conflict resolution, the prevention of and response to youth suicide and the identification and prevention of and response to bullying, as defined in subsection (a) of section 10-222d, except that those boards of education that implement any evidence-based model approach that is approved by the Department of Education and is consistent with subsection (c) of section 10-145a, sections 10-222d, 10-222g and 10-222h, subsection (g) of section 10-233c and sections 1 and 3 of public act 08-160, shall not be required to provide in-service training on the identification and prevention of and response to bullying, (4) cardiopulmonary resuscitation and other emergency life saving procedures, (5) the requirements and

obligations of a mandated reporter, (6) the detection and recognition of, and evidence-based structured literacy interventions for, students with dyslexia, as defined in section 10-3d, (7) culturally responsive pedagogy and practice, including, but not limited to, the video training module relating to implicit bias and anti-bias in the hiring process in accordance with the provisions of section 10-156hh, (8) the principles and practices of social-emotional learning and restorative practices. (9) the laws governing the implementation of planning and placement team meetings and concerning plans pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time, and (10) an annual update of new state and federal policies concerning special education, recommendations and best practices. Each local or regional board of education may allow any school paraprofessional or noncertified employee to participate, on a voluntary basis, in any in-service training program provided pursuant to this section.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(a) As used in this section, sections 10-222g to 10-222i, inclusive, and section 10-222k:

(3) "Teen dating violence" means any act of physical, emotional or sexual abuse, including stalking, harassing and threatening, that occurs between two students who are currently in or who have recently been in a dating relationship;

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and

retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist

or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

10-222i. State-wide safe school climate resource network.

(a) The Department of Education, in consultation with the State Education Resource Center, established pursuant to section 10-357a, the Governor's Prevention Partnership, the Commission on Women, Children, Seniors, Equity and Opportunity and the Connecticut Coalition Against Domestic Violence, shall establish, within available appropriations, a state-wide safe school climate resource network for the identification, prevention and education of school bullying and teen dating violence in the state. Such state-wide safe school climate resource network shall make available to all schools information, training opportunities and resource materials to improve the school climate to diminish bullying and teen dating violence.

(b) The department may seek federal, state and municipal funding and may accept private donations for the administration of the state-wide safe school climate resource network.

10-222j. Training re prevention, identification and response to school bullying, teen dating violence and youth suicide.

The Department of Education shall provide, within available appropriations, annual training to school employees, as defined in section 10-222d, except those school employees who hold professional certification pursuant to section 10-145b unless such school employee who holds professional certification is the district safe school climate coordinator, the safe school climate specialist or a member of the safe school climate committee, as described in section 10-222k, on the prevention, identification and response to school bullying and teen dating violence, as defined in section 10-222d, and the prevention of and response to youth suicide. Such training may include, but not be limited to, (1) developmentally appropriate strategies to prevent bullying and teen dating violence among students in school and outside of the school setting, (2) developmentally appropriate strategies for immediate and effective interventions to stop bullying and teen dating violence, (3) information regarding the interaction and relationship between students committing acts of bullying and teen dating violence, students against whom such acts of bullying and teen dating violence are directed and witnesses of such acts of bullying and teen dating violence, (4) research findings on bullying and teen dating violence, such as information about the types of students who have been shown to be at-risk for bullying and teen dating violence in the school setting, (5) information on the incidence and nature of cyberbullying, as defined in section 10-222d, (6) Internet safety issues as they relate to cyberbullying, or (7) information on the incidence of youth suicide, methods of identifying youths at risk of suicide and developmentally appropriate strategies for effective interventions to prevent youth suicide. Such training may be presented in person by mentors, offered in state-wide workshops or through on-line courses.

10-222i. Immunity of school employees, students, parents or guardians, individuals and boards of education from liability for certain actions relating to reporting, investigating and responding to school bullying and teen dating violence.

(a) No claim for damages shall be made against a school employee, as defined in section 10-222d, who reports, investigates and responds to bullying or teen dating violence, as defined in section 10-222d, in accordance with the provisions of the safe school climate plan, described in section 10-222d, if such school employee was acting in good faith in the discharge of his or her duties or within the scope of his or her employment. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(b) No claim for damages shall be made against a student, parent or guardian of a student or any other individual who reports an act of bullying or teen dating violence to a school employee, in accordance with the provisions of the safe school climate plan described in section 10-222d, if such individual was acting in good faith. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(c) No claim for damages shall be made against a local or regional board of education that implements the safe school climate plan, described in section 10-222d, and reports, investigates and responds to bullying or teen dating violence, as defined in section 10-222d, if such local or regional board of education was acting in good faith in the discharge of its duties. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

10-76w. Duties of department re primary mental health program.

(a) The department shall: (1) Coordinate school-based early detection and prevention programs funded under sections 10-76u to 10-76x, inclusive; and (2) in conjunction with the Department of Children and Families and local mental health agencies, provide training, consultation, and technical assistance to local and regional boards of education in early detection, intervention techniques, screening, staffing, program management and evaluation.

(b) The department may contract with consultants to aid in the conduct of training and the provision of consultation and technical assistance to early detection and prevention programs funded under the provisions of sections 10-76u to 10-76x, inclusive.

10-198d. Chronic absenteeism prevention and intervention plan.

(a) Not later than January 1, 2016, the Department of Education, in consultation with the Interagency Council for Ending the Achievement Gap established pursuant to section 10-16nn, shall develop a chronic absenteeism prevention and intervention plan for use by local and regional boards of education to reduce chronic absenteeism in the school district.

(b)(1) The chronic absenteeism prevention and intervention plan shall include, but need not be limited to, the following: (A) Information that describes (i) chronic absenteeism, including, but not limited to, the definition of a chronically absent child under section 10-198c, and the causes of chronic absenteeism, such as poverty, violence, poor health and lack of access to transportation, (ii) the effect of chronic absenteeism on a student's academic performance, and (iii) how family and school partnerships with community resources, including, but not limited to, family resource centers and youth service bureaus, can reduce chronic absenteeism and improve student attendance, and (B) a means of collecting and analyzing data relating to student attendance, truancy and chronic absenteeism for the purpose of (i) disaggregating such data by school district, school, grade and subgroups, such as race, ethnicity, gender, eligibility for free or reduced priced lunches, students whose primary language is not English and students with disabilities, and (ii) assisting local and regional boards of education in (I) tracking chronic absenteeism over multiple years and for the current school year, (II) developing indicators to identify students who are at risk of being chronically absent children, (III) monitoring students' attendance over time, and (IV) making adjustments to interventions as they are being implemented.

(2) The chronic absenteeism prevention and intervention plan may include, but need not be limited to, the following: (A) A research-based and data-driven mentorship model that addresses and attempts to reduce chronic absenteeism through the use of mentors, such as students, teachers, administrators, intramural and interscholastic athletic coaches, school resource officers and community partners, and (B) incentives and rewards that recognize schools and students that improve attendance and reduce the school chronic absenteeism rate.

10-198e. Identification of truancy intervention models.

The Department of Education shall identify effective truancy intervention models for implementation by local and regional boards of education pursuant to subsection (b) of section 10-198a, including intervention models that address the needs of students with disabilities. Not later than August 15, 2018, a listing of such approved models shall be available for implementation by local and regional boards of education pursuant to said subsection (b).

(b) Not later than September 1, 2023, the Department of Education shall develop and make available for implementation by local and regional boards of education described in subparagraph (B) of subdivision (5) of subsection (b) of section 10-198a, a truancy intervention model that accounts for mental and behavioral health.

(c) Not later than September 1, 2023, the Department of Education, in collaboration with the Department of Children and Families, shall issue guidance to local and regional boards of education on best practices relating to intervention in certain behavioral health situations and when it is appropriate to contact the 2-1-1 Infoline program or use alternative interventions

10-221. Boards of education to prescribe rules, policies and procedures.

(b) Boards of education shall prescribe rules for the management, studies, classification and discipline of the public schools and, subject to the control of the State Board of Education, the textbooks to be used; shall make rules for the control, within their respective jurisdictions, of school library media centers, including Internet access and content, and approve the selection of books and other educational media therefor, and shall approve plans for public school buildings and superintend any high or graded school in the manner specified in this title.

(c) Each local and regional board of education shall develop, adopt and implement written policies concerning homework, attendance, promotion and retention. The Department of Education shall make available model policies and guidelines to assist local and regional boards of education in meeting the responsibilities enumerated in this subsection.

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools. School climate assessment instruments.

(a) The Department of Education shall, within available appropriations, (1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying, (2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes, (3) develop or recommend model safe school climate plans for grades kindergarten to twelve, inclusive, and (4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments, approved by the department, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. Such school climate assessment instruments shall (A) include surveys that contain uniform grade-level appropriate questions that collect information about students' perspectives and opinions about the school climate at the school, and (B) allow students to complete and submit such assessment and survey anonymously.

(b) On or before February 1, 2014, and annually thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts, an analysis of student responses on the uniform grade-level appropriate questions described in subparagraph (A) of subdivision (4) of subsection (a) of this section and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committees of the General Assembly having cognizance of matters relating to education and children and to the speaker of the House of Representatives, the president pro tempore of the Senate and the majority and minority leaders of the House of Representatives and the Senate.

(c) The department may accept private donations for the purposes of this section.

10-222i. State-wide safe school climate resource network.

(a) The Department of Education, in consultation with the State Education Resource Center, established pursuant to section 10-357a, the Governor's Prevention Partnership, the Commission on Women, Children, Seniors, Equity and Opportunity and the Connecticut Coalition Against Domestic Violence, shall

establish, within available appropriations, a state-wide safe school climate resource network for the identification, prevention and education of school bullying and teen dating violence in the state. Such state-wide safe school climate resource network shall make available to all schools information, training opportunities and resource materials to improve the school climate to diminish bullying and teen dating violence.

(b) The department may seek federal, state and municipal funding and may accept private donations for the administration of the state-wide safe school climate resource network.

10-222p. Review of safe school climate plans by Department of Education. Approval or rejection.

(a) The Department of Education shall receive each safe school climate plan submitted pursuant to subsection (c) of section 10-222d and review each such plan for compliance with the provisions of subsection (b) of section 10-222d. Not later than thirty calendar days after receiving such plan, the department shall approve or reject such plan. If the department rejects a safe school climate plan, the department shall provide notice of such rejection and the reasons for such rejection to the local or regional board of education that submitted such plan. Such local or regional board of education shall redevelop and resubmit a safe school climate plan to the department for approval not later than thirty calendar days after receipt of notice of such rejection. Not later than thirty calendar days after receiving such resubmitted plan, the department shall approve or reject such plan. If the department rejects a resubmitted safe school climate plan, the department shall provide notice of such rejection to the local or regional board of education that resubmitted such plan. Not later than thirty calendar days after receiving notice of such rejection and the reasons for such rejection, such local or regional board of education shall adopt an appropriate model safe school climate plan, developed or recommended by the department pursuant to subdivision (3) of subsection (a) of section 10-222h.

(b) The Department of Education shall make available on the department's Internet web site (1) each safe school climate plan that has been approved by the department, (2) a list of the school districts that have an approved safe school climate plan, and (3) a list of the school districts whose safe school climate plans have been rejected and that are in the process of resubmitting their safe school climate plans for approval by the department.

10-222q. Social and emotional learning and school climate advisory collaborative.

(a) There is established a social and emotional learning and school climate advisory collaborative. The collaborative shall (1) collect information concerning the school climate improvement efforts of local and regional boards of education, (2) document any needs articulated by local and regional boards of education for technical assistance and training relating to fostering positive school climates, (3) identify best practices for promoting positive school climates, (4) direct resources to support state-wide and local initiatives on issues relating to fostering and improving positive school climates and improving access to social and emotional learning in schools, (5) develop an assessment for screening students in grades three to twelve, inclusive, to determine whether such students are at risk for suicide, (6) develop a biennial state-wide school climate survey, as described in subsection (c) of section 2 of public act 19-166, (7) develop a model positive school climate policy, as described in subsection (a) of section 2 of public act 19-166, (8) develop a plain language explanation of the rights and remedies available under sections 10-4a and 10-4b for distribution to parents and guardians pursuant to subdivision (2) of subsection (c) of section 10-222d, and provide such explanation to each local and regional board of education not later than January 1, 2021, and (9) perform other functions concerning social and emotional learning and fostering positive school climates.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

10-76v. Program components. Duties of mental health professionals. Parental consent required.

- (a) Early detection and prevention programs funded under the provisions of sections 10-76u to 10-76x, inclusive, shall include (1) a component for systematic early detection and screening to identify children experiencing behavioral, disciplinary or early school adjustment problems, and (2) services that address such problems for children so identified.
- (b) Mental health professionals shall: (1) Supervise the acceptance of children into the program; and (2) utilize school and community resources to serve children not accepted for direct service.
- (c) Mental health professionals shall select, train and supervise paraprofessionals and community volunteers in program implementation.
- (d) Parental consent shall be obtained before a child may be accepted into an early detection and prevention program.

10-76w. Duties of department re primary mental health program.

- (a) The department shall: (1) Coordinate school-based early detection and prevention programs funded under sections 10-76u to 10-76x, inclusive; and (2) in conjunction with the Department of Children and Families and local mental health agencies, provide training, consultation, and technical assistance to local and regional boards of education in early detection, intervention techniques, screening, staffing, program management and evaluation.
- (b) The department may contract with consultants to aid in the conduct of training and the provision of consultation and technical assistance to early detection and prevention programs funded under the provisions of sections 10-76u to 10-76x, inclusive.

(c) The department shall identify specific goals and objectives for the program prior to the solicitation of applications for participation in such program and shall define in advance what specific measures it shall employ to measure the attainment of the goals and objectives. Utilizing these measures, the department shall evaluate the effectiveness of the programs funded under sections 10-76u to 10-76x, inclusive. The Commissioner of Education shall report to the joint standing committee of the General Assembly having cognizance of matters relating to education not later than January 1, 1986, on the evaluation of said programs.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of

education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall: (1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d, (2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district, (3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school and for the school year commencing July 1, 2021, and each school year thereafter, such committee shall also include (A) school personnel, including, but not limited to, at least one teacher selected by the exclusive bargaining representative for certified employees chosen pursuant to section 10-153b, (B) medical and mental health personnel assigned to such school, and (C) in the case of a committee for a high school, at least one student enrolled at such high school who is selected by the students of such school in a manner determined by the school principal.

(c)(1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal.

(2) Any such committee shall: (A) Receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) implement the provisions of the school security and safety plan, developed pursuant to section 10-222m, regarding the collection, evaluation and reporting of information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying, (D) review and amend school policies relating to bullying, (E) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (F) educate students, school employees and parents and guardians of students on issues relating to bullying, (G) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (H) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian or student serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) to (C), inclusive, of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-222n. School security and safety plan standards.

(a) Not later than January 1, 2014, the Department of Emergency Services and Public Protection, in consultation with the Department of Education, shall develop school security and safety plan standards. Not later than January 1, 2020, and every three years thereafter, the Department of Emergency Services and Public Protection, in consultation with the Department of Education, shall reevaluate and update the school security and safety plan standards. The school security and safety plan standards shall be an all-hazards approach to emergencies at public schools and shall include, but not be limited to, (10) a requirement that the school security and safety plan for each school provide an orientation on such school security and safety plan to each school employee, as defined in section 10-222d, at such school and provide violence prevention training in a manner prescribed in such school security and safety plan. The Department of Emergency Services and Public Protection shall make such standards available to local officials, including local and regional boards of education, and the Department of Education shall distribute such standards to all public schools within the state.

10-222q. Social and emotional learning and school climate advisory collaborative.

(a) There is established a social and emotional learning and school climate advisory collaborative. The collaborative shall (1) collect information concerning the school climate improvement efforts of local and regional boards of education, (2) document any needs articulated by local and regional boards of education for technical assistance and training relating to fostering positive school climates, (3) identify best practices for promoting positive school climates, (4) direct resources to support state-wide and local initiatives on issues relating to fostering and improving positive school climates and improving access to social and emotional learning in schools, (5) develop an assessment for screening students in grades three to twelve, inclusive, to determine whether such students are at risk for suicide, (6) develop a biennial state-wide school climate survey, as described in subsection (c) of section 2 of public act 19-166, (7) develop a model positive school climate policy, as described in subsection (a) of section 2 of public act 19-166, (8) develop a plain language explanation of the rights and remedies available under sections 10-4a and 10-4b for distribution to parents and guardians pursuant to subdivision (2) of subsection (c) of section 10-222d, and provide such explanation to each local and regional board of education not later than January 1, 2021, and (9) perform other functions concerning social and emotional learning and fostering positive school climates.

10-263e. Safe learning grant program.

(a) The Department of Education shall establish, within available appropriations, a competitive safe learning grant program to assist school districts in (1) developing a school environment where children learn in safety without fear of physical or verbal harm or intimidation, (2) activities that encourage respect for each student, (3) decreasing early youth aggression, (4) establishing student conflict and intervention policies and strategies, (5) eliminating bullying behaviors among students, (6) extending safe school environment programs to extracurricular activities, (7) after school programs, and (8) the development of crisis and violence prevention policies and strategies which make school environments safe. Each local and regional board of education may apply for a grant at such time and in such manner as the Commissioner of Education prescribes.

17a-22bb. Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement. Children and youth in secure detention or correctional confinement. Records re instances of physical restraint and seclusion.

(a) The Commissioner of Children and Families, in consultation with representatives of the children and families served by the department, including children at increased risk of involvement with the juvenile justice system, providers of mental, emotional or behavioral health services for such children and families, advocates, and others interested in the well-being of children and families in this state, shall develop a comprehensive implementation plan, across agency and policy areas, for meeting the mental, emotional and behavioral health needs of all children in the state, and preventing or reducing the long-term negative impact of mental, emotional and behavioral health issues on children. In developing the implementation plan, the department shall include, at a minimum, the following strategies to prevent or reduce the long-term negative impact of mental, emotional and behavioral health issues on children:

- (1) Employing prevention-focused techniques, with an emphasis on early identification and intervention;
- (2) Ensuring access to developmentally-appropriate services;
- (3) Offering comprehensive care within a continuum of services;
- (4) Engaging communities, families and youths in the planning, delivery and evaluation of mental, emotional and behavioral health care services;
- (5) Being sensitive to diversity by reflecting awareness of race, culture, religion, language and ability;
- (6) Establishing results-based accountability measures to track progress towards the goals and objectives outlined in this section, sections 17a-22cc, 17a-22dd and 17a-248h and section 7 of public act 13-178;
- (7) Applying data-informed quality assurance strategies to address mental, emotional and behavioral health issues in children;
- (8) Improving the integration of school and community-based mental health services;
- (9) Enhancing early interventions, consumer input and public information and accountability by (A) in collaboration with the Department of Public Health, increasing family and youth engagement in medical homes; (B) in collaboration with the Department of Social Services, increasing awareness of the 2-1-1 Infoline program; and (C) in collaboration with each program that addresses the mental, emotional or behavioral health of children within the state, insofar as they receive public funds from the state, increasing the collection of data on the results of each program, including information on issues related to response times for treatment, provider availability and access to treatment options; and
- (10) Identifying and addressing any increased risk of involvement in the juvenile and criminal justice system attributable to unmet mental, emotional and behavioral health needs of children.

(b) Emergency mobile psychiatric service providers shall collaborate with community-based mental health care agencies, school-based health centers and the contracting authority for each local or regional board of education throughout the state, utilizing a variety of methods, including, but not limited to, memoranda

of understanding, policy and protocols regarding referrals and outreach and liaison between the respective entities. These methods shall be designed to (1) improve coordination and communication in order to enable such entities to promptly identify and refer children with mental, emotional or behavioral health issues to the appropriate treatment program, and (2) plan for any appropriate follow-up with the child and family.

(c) Local law enforcement agencies and local and regional boards of education that employ or engage school resource officers shall, provided federal funds are available, train school resource officers in nationally recognized best practices to prevent students with mental health issues from being victimized or disproportionately referred to the juvenile justice system as a result of their mental health issues.

(d) The Department of Children and Families, in collaboration with agencies that provide training for mental health care providers in urban, suburban and rural areas, shall provide phased-in, ongoing training for mental health care providers in evidence-based and trauma-informed interventions and practices.

(e) The state shall seek existing public or private reimbursement for (1) mental, emotional and behavioral health care services delivered in the home and in elementary and secondary schools, and (2) mental, emotional and behavioral health care services offered through the Department of Social Services pursuant to the federal Early and Periodic Screening, Diagnosis and Treatment Program under 42 USC 1396d.

(f) On or before October 1, 2017,

and annually thereafter, the Commissioner of Correction shall compile records regarding the frequency and use of physical restraint and seclusion, as defined in section 46a-150, on children and youth twenty years of age or younger who are in the custody of the commissioner at the John R. Manson Youth Institution, Cheshire, and shall submit a report summarizing such records, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to children. Such report shall address the prior year and shall indicate, at a minimum, the frequency that (1) physical restraint was used as (A) an emergency intervention, and (B) a nonemergency intervention, and (2) restricted housing or other types of administrative segregation or seclusion were used at such facility.

(g) On or before October 1, 2018, the Department of Children and Families, in collaboration with the Children's Mental, Emotional and Behavioral Health Plan Implementation Advisory Board, established pursuant to section 17a-22f, shall submit recommendations for addressing any unmet mental, emotional and behavioral health needs of children that are attributed to an increased risk of involvement in the juvenile and criminal justice systems, in accordance with section 11-4a, to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to children and appropriations.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

10-19. Teaching about alcohol, nicotine or tobacco, drugs and acquired immune deficiency syndrome. Training of personnel.

(a) The knowledge, skills and attitudes required to understand and avoid the effects of alcohol, of nicotine or tobacco and of drugs, as defined in subdivision (17) of section 21a-240, on health, character, citizenship and personality development shall be taught every academic year to pupils in all grades in the public schools; and, in teaching such subjects, textbooks and such other materials as are necessary shall be used. Annually, at such time and in such manner as the Commissioner of Education shall request, each local and regional board of education shall attest to the State Board of Education that all

pupils enrolled in its schools have been taught such subjects pursuant to this subsection and in accordance with a planned, ongoing and systematic program of instruction. The content and scheduling of instruction shall be within the discretion of the local or regional board of education. Institutions of higher education approved by the State Board of Education to train teachers shall give instruction on the subjects prescribed in this section and concerning the best methods of teaching the same. The State Board of Education and the Board of Regents for Higher Education in consultation with the Commissioner of Mental Health and Addiction Services and the Commissioner of Public Health shall develop health education or other programs for elementary and secondary schools and for the training of teachers, administrators and guidance personnel with reference to understanding and avoiding the effects of nicotine or tobacco, alcohol and drugs.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(a) As used in this section, sections 10-222g to 10-222i, inclusive, section 10-222k, section 10-222q and section 2 of public act 19-166:

(12) "Social and emotional learning" means the process through which children and adults achieve emotional intelligence through the competencies of self-awareness, self-management, social awareness, relationship skills and responsible decision-making.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

10-222q. Social and emotional learning and school climate advisory collaborative.

(a) There is established a social and emotional learning and school climate advisory collaborative. The collaborative shall (1) collect information concerning the school climate improvement efforts of local and regional boards of education, (2) document any needs articulated by local and regional boards of education for technical assistance and training relating to fostering positive school climates, (3) identify best practices for promoting positive school climates, (4) direct resources to support state-wide and local initiatives on issues relating to fostering and improving positive school climates and improving access to social and emotional learning in schools, (5) develop an assessment for screening students in grades three to twelve, inclusive, to determine whether such students are at risk for suicide, (6) develop a biennial state-wide school climate survey, as described in subsection (c) of section 2 of public act 19-166,

(7) develop a model positive school climate policy, as described in subsection (a) of section 2 of public act 19-166, (8) develop a plain language explanation of the rights and remedies available under sections

10-4a and 10-4b for distribution to parents and guardians pursuant to subdivision (2) of subsection (c) of section 10-222d, and provide such explanation to each local and regional board of education not later than January 1, 2021, and (9) perform other functions concerning social and emotional learning and fostering positive school climates.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

10-148c. Subject matter to be made available to boards of education for in-service training programs.

The State Board of Education, within available appropriations and utilizing available materials, shall make the following subject matter available to local and regional boards of education: (1) Holocaust and genocide education and awareness; (2) the historical events surrounding the Great Famine in Ireland; (3) African-American history; (4) Puerto Rican history; (5) Native American history; (6) personal financial management; (7) domestic violence and teen dating violence; (8) mental health first aid training; (9) trauma-informed practices for the school setting to enable teachers, administrators and pupil personnel to more adequately respond to students with mental, emotional or behavioral health needs; (10) second language acquisition, including, but not limited to, language development and culturally responsive pedagogy; and (11) topics approved by the state board upon the request of local or regional boards of education as part of in-service training programs pursuant to this subsection. A local or regional board of education may include any of the items described in subdivisions (1) to (11), inclusive, of this section in the in-service training program provided by such board, pursuant to section 10-220a.

17a-22bb. Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement. Children and youth in secure detention or correctional confinement. Records re instances of physical restraint and seclusion.

(d) The Department of Children and Families, in collaboration with agencies that provide training for mental health care providers in urban, suburban and rural areas, shall provide phased-in, ongoing training for mental health care providers in evidence-based and trauma-informed interventions and practices.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

10-145a. (Formerly Sec. 10-146). Specific components of teacher preparation programs.

(b) Any candidate in a program of teacher preparation leading to professional certification shall be encouraged to complete a (1) health component of such a program, which includes, but need not be limited to, human growth and development, nutrition, first aid, disease prevention and community and consumer health, and (2) mental health component of such a program, which includes, but need not be limited to, youth suicide, child abuse and alcohol and drug abuse.

10-148c. Subject matter to be made available to boards of education for in-service training programs.

The State Board of Education, within available appropriations and utilizing available materials, shall make the following subject matter available to local and regional boards of education: (1) Holocaust and genocide education and awareness; (2) the historical events surrounding the Great Famine in Ireland; (3)

African-American history; (4) Puerto Rican history; (5) Native American history; (6) personal financial management; (7) domestic violence and teen dating violence; (8) mental health first aid training; (9) trauma-informed practices for the school setting to enable teachers, administrators and pupil personnel to more adequately respond to students with mental, emotional or behavioral health needs; (10) second language acquisition, including, but not limited to, language development and culturally responsive pedagogy; and (11) topics approved by the state board upon the request of local or regional boards of education as part of in-service training programs pursuant to this subsection. A local or regional board of education may include any of the items described in subdivisions (1) to (11), inclusive, of this section in the in-service training program provided by such board, pursuant to section 10-220a.

10-220a. In-service training. Professional development and evaluation committees. Institutes for educators. Cooperating teacher program, regulations.

(a) Each local or regional board of education shall provide an in-service training program for its teachers, administrators and pupil personnel who hold the initial educator, provisional educator or professional educator certificate. Such program shall provide such teachers, administrators and pupil personnel with information on (1) the nature and the relationship of alcohol and drugs, as defined in subdivision (17) of section 21a-240, to health and personality development, and procedures for discouraging their abuse, (2) health and mental health risk reduction education that includes, but need not be limited to, the prevention of risk-taking behavior by children and the relationship of such behavior to substance abuse, pregnancy, sexually transmitted diseases, including HIV-infection and AIDS, as defined in section 19a-581, violence, teen dating violence, domestic violence and child abuse, (3) school violence prevention, conflict resolution, the prevention of and response to youth suicide and the identification and prevention of and response to bullying, as defined in subsection (a) of section 10-222d, except that those boards of education that implement any evidence-based model approach that is approved by the Department of Education and is consistent with subsection (c) of section 10-145a, sections 10-222d, 10-222g and 10-222h, subsection (g) of section 10-233c and sections 1 and 3 of public act 08-160, shall not be required to provide in-service training on the identification and prevention of and response to bullying, (4) cardiopulmonary resuscitation and other emergency life saving procedures, (5) the requirements and obligations of a mandated reporter, (6) the detection and recognition of, and evidence-based structured literacy interventions for, students with dyslexia, as defined in section 10-3d, (7) culturally responsive pedagogy and practice, including, but not limited to, the video training module relating to implicit bias and anti-bias in the hiring process in accordance with the provisions of section 10-156hh, (8) the principles and practices of social-emotional learning and restorative practices. (9) the laws governing the implementation of planning and placement team meetings and concerning plans pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time, and (10) an annual update of new state and federal policies concerning special education, recommendations and best practices. Each local or regional board of education may allow any school paraprofessional or noncertified employee to participate, on a voluntary basis, in any in-service training program provided pursuant to this section.

17a-453h. Mental health first aid training program.

(a) The Commissioner of Mental Health and Addiction Services, in consultation with the Commissioner of Education, shall administer a mental health first aid training program. Said program shall: (1) Help persons attending the training program recognize the signs of mental disorders in children and young adults; and (2) connect children and young adults who show signs of having a mental disorder with a professional who offers the appropriate services.

(b) Said commissioners may seek federal and state funding and may accept private donations for the administration of, and providing for persons to participate in, the mental health first aid training program.

(c)(1) For the school year commencing July 1, 2014, the Commissioner of Mental Health and Addiction Services shall provide mental health first aid training to any person appointed to serve as the district safe school climate coordinator, pursuant to section 10-222k. Each such district safe school climate coordinator shall successfully complete such mental health first aid training.

(2) For the school year commencing July 1, 2015, the Commissioner of Mental Health and Addiction Services shall provide mental health and first aid training to any person appointed to serve as the district safe school climate coordinator for such school year and who did not serve as the district safe school climate coordinator for the prior school year or did not otherwise successfully complete such training. Each such district safe school climate coordinator shall successfully complete such mental health first aid training.

(3) No district safe school climate coordinator shall be required to successfully complete such mental health first aid training more than once.

(d) Each local and regional board of education may require teachers, school nurses, counselors and other school employees to participate in mental health first aid training.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

10-76u. School-based primary mental health programs established. Grants to boards of education.

(a) In each fiscal year for which funds are appropriated for purposes of the primary mental health program, the department shall establish a grant program for the purpose of providing funds to local and regional boards of education for the establishment of school-based programs for the detection and prevention of emotional, behavioral and learning problems in public school children primarily in grades kindergarten through grade three.

10-76v. Program components. Duties of mental health professionals. Parental consent required.

(c) Mental health professionals shall select, train and supervise paraprofessionals and community volunteers in program implementation.

10-76w. Duties of department re primary mental health program.

(a) The department shall: (1) Coordinate school-based early detection and prevention programs funded under sections 10-76u to 10-76x, inclusive; and (2) in conjunction with the Department of Children and Families and local mental health agencies, provide training, consultation, and technical assistance to local and regional boards of education in early detection, intervention techniques, screening, staffing, program management and evaluation.

(b) The department may contract with consultants to aid in the conduct of training and the provision of consultation and technical assistance to early detection and prevention programs funded under the provisions of sections 10-76u to 10-76x, inclusive.

(c) The department shall identify specific goals and objectives for the program prior to the solicitation of applications for participation in such program and shall define in advance what specific measures it shall employ to measure the attainment of the goals and objectives. Utilizing these measures, the department shall evaluate the effectiveness of the programs funded under sections 10-76u to 10-76x, inclusive. The Commissioner of Education shall report to the joint standing committee of the General Assembly having cognizance of matters relating to education not later than January 1, 1986, on the evaluation of said programs.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating

violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

17a-22bb. Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement. Children and youth in secure detention or correctional confinement. Records re instances of physical restraint and seclusion.

(a) The Commissioner of Children and Families, in consultation with representatives of the children and families served by the department, including children at increased risk of involvement with the juvenile justice system, providers of mental, emotional or behavioral health services for such children and families, advocates, and others interested in the well-being of children and families in this state, shall develop a comprehensive implementation plan, across agency and policy areas, for meeting the mental, emotional and behavioral health needs of all children in the state, and preventing or reducing the long-term negative impact of mental, emotional and behavioral health issues on children. In developing the implementation plan, the department shall include, at a minimum, the following strategies to prevent or reduce the long-term negative impact of mental, emotional and behavioral health issues on children:

- (1) Employing prevention-focused techniques, with an emphasis on early identification and intervention;
- (2) Ensuring access to developmentally-appropriate services;
- (3) Offering comprehensive care within a continuum of services;
- (4) Engaging communities, families and youths in the planning, delivery and evaluation of mental, emotional and behavioral health care services;
- (5) Being sensitive to diversity by reflecting awareness of race, culture, religion, language and ability;
- (6) Establishing results-based accountability measures to track progress towards the goals and objectives outlined in this section, sections 17a-22cc, 17a-22dd and 17a-248h and section 7 of public act 13-178;
- (7) Applying data-informed quality assurance strategies to address mental, emotional and behavioral health issues in children;
- (8) Improving the integration of school and community-based mental health services;
- (9) Enhancing early interventions, consumer input and public information and accountability by (A) in collaboration with the Department of Public Health, increasing family and youth engagement in medical homes; (B) in collaboration with the Department of Social Services, increasing awareness of the 2-1-1 Infoline program; and (C) in collaboration with each program that addresses the mental, emotional or behavioral health of children within the state, insofar as they receive public funds from the state, increasing the collection of data on the results of each program, including information on issues related to response times for treatment, provider availability and access to treatment options; and

(10) Identifying and addressing any increased risk of involvement in the juvenile and criminal justice system attributable to unmet mental, emotional and behavioral health needs of children.

(b) Emergency mobile psychiatric service providers shall collaborate with community-based mental health care agencies, school-based health centers and the contracting authority for each local or regional board of education throughout the state, utilizing a variety of methods, including, but not limited to, memoranda of understanding, policy and protocols regarding referrals and outreach and liaison between the respective entities. These methods shall be designed to (1) improve coordination and communication in order to enable such entities to promptly identify and refer children with mental, emotional or behavioral health issues to the appropriate treatment program, and (2) plan for any appropriate follow-up with the child and family.

(c) Local law enforcement agencies and local and regional boards of education that employ or engage school resource officers shall, provided federal funds are available, train school resource officers in nationally recognized best practices to prevent students with mental health issues from being victimized or disproportionately referred to the juvenile justice system as a result of their mental health issues.

(d) The Department of Children and Families, in collaboration with agencies that provide training for mental health care providers in urban, suburban and rural areas, shall provide phased-in, ongoing training for mental health care providers in evidence-based and trauma-informed interventions and practices.

(e) The state shall seek existing public or private reimbursement for (1) mental, emotional and behavioral health care services delivered in the home and in elementary and secondary schools, and (2) mental, emotional and behavioral health care services offered through the Department of Social Services pursuant to the federal Early and Periodic Screening, Diagnosis and Treatment Program under 42 USC 1396d.

(f) On or before October 1, 2017,

and annually thereafter, the Commissioner of Correction shall compile records regarding the frequency and use of physical restraint and seclusion, as defined in section 46a-150, on children and youth twenty years of age or younger who are in the custody of the commissioner at the John R. Manson Youth Institution, Cheshire, and shall submit a report summarizing such records, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to children. Such report shall address the prior year and shall indicate, at a minimum, the frequency that (1) physical restraint was used as (A) an emergency intervention, and (B) a nonemergency intervention, and (2) restricted housing or other types of administrative segregation or seclusion were used at such facility.

(g) On or before October 1, 2018, the Department of Children and Families, in collaboration with the Children's Mental, Emotional and Behavioral Health Plan Implementation Advisory Board, established pursuant to section 17a-22f, shall submit recommendations for addressing any unmet mental, emotional and behavioral health needs of children that are attributed to an increased risk of involvement in the juvenile and criminal justice systems, in accordance with section 11-4a, to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to children and appropriations.

19a-6p. School-based health centers. Hours. Services. Reimbursement for services.

Any school-based health center may (1) extend its hours of operation, (2) provide services to students who do not reside in the school district that such school-based health center is located, (3) provide behavioral health services, (4) expand the health care services provided by such school-based health center, (5) conduct community outreach relating to services provided by such school-based health center, and (6) receive reimbursement for services from private insurance. Any services provided by a school-based health center under this section shall be provided in accordance with the terms of any license issued by the Department of Public Health to such school-based health center.

19a-6r. School-based health centers and expanded school health sites. Definitions. Use of title. Regulations.

(a) As used in sections 19a-6i, 19a-7d and 19a-638:

(1) "School-based health center" means a health center that: (A) Is located in, or on the grounds of, a school facility of a school district or school board or of an Indian tribe or tribal organization; (B) is organized through school, community and health provider relationships; (C) is administered by a sponsoring facility; and (D) provides comprehensive on-site medical and behavioral health services to children and adolescents in accordance with state and local law, including laws relating to licensure and certification.

(2) "Expanded school health site" means a health center that: (A) Is located in, or on the grounds of, a school facility of a school district or school board; (B) is organized through school, community and health provider relationships; (C) is administered by a sponsoring facility; and (D) provides medical or behavioral services, including, but not limited to, dental services, counseling, health education, health screening and prevention services, to children and adolescents in accordance with state and local law, including laws relating to licensure and certification.

(3) "Sponsoring facility" means a: (A) Hospital; (B) public health department; (C) community health center; (D) nonprofit health or human services agency; (E) school or school system; or (F) program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization.

(b) No person or entity shall use the term "school-based health center" to describe a facility or make use of any words, letters or abbreviations that may reasonably be confused with said term unless the facility meets the definition of a school-based health center in subsection (a) of this section.

(c) The Department of Public Health may adopt regulations, in accordance with the provisions of chapter 54, to establish minimum quality standards for school-based health centers, as defined in subsection (a) of this section.

46b-121n. Juvenile justice policy and oversight committee. Reports.

(k) Not later than January 1, 2017, the committee shall submit a report, in accordance with section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, the judiciary, human services and children and the Secretary of the Office of Policy and Management, regarding a plan that includes cost options for the development of a community-based diversion system. Such plan shall include recommendations to address issues concerning mental health and juvenile justice. The plan shall include recommendations regarding the following:

(12) Recommendations to promote the use of common behavioral health screening tools in schools and communities.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic

mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall: (1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d, (2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district, (3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c)(1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be

responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal and for the school year commencing July 1, 2021, and each school year thereafter, such committee shall also include (A) school personnel, including, but not limited to, at least one teacher selected by the exclusive bargaining representative for certified employees chosen pursuant to section 10-153b, (B) medical and mental health personnel assigned to such school, and (C) in the case of a committee for a high school, at least one student enrolled at such high school who is selected by the students of such school in a manner determined by the school principal.

(2) Any such committee shall: (A) Receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) implement the provisions of the school security and safety plan, developed pursuant to section 10-222m, regarding the collection, evaluation and reporting of information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying, (D) review and amend school policies relating to bullying, (E) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (F) educate students, school employees and parents and guardians of students on issues relating to bullying, (G) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (H) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian or student serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) to (C), inclusive, of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-233b. Removal of pupils from class.

(a) Any local or regional board of education may authorize teachers in its employ to remove a pupil from class when such pupil deliberately causes a serious disruption of the educational process within the classroom, provided no pupil shall be removed from class more than six times in any school year nor more than twice in one week unless such pupil is referred to the building principal or such principal's designee and granted an informal hearing in accordance with the provisions of section 10-233c.

(b) Whenever any teacher removes a pupil from the classroom, such teacher shall send such pupil to a designated area and shall immediately inform the building principal or such principal's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

10-233d. Expulsion of pupils.

(e) If a pupil is expelled pursuant to this section for possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical education and career school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

REGULATIONS

10-76b-11. Reports of physical restraint, seclusion.

The recording and reporting of instances of physical restraint or seclusion and the compilation of this information shall be in accordance with section 46a-153 of the Connecticut General Statutes. The

recording of such instances shall be done on an incident report that contains the information and documentation required by sections 46a-152 and 46a-153 of the Connecticut General Statutes. Such reports shall be completed no later than the school day following the incident. The Department of Education shall develop and make available a model incident report.

Parental Notification

LAWS

10-198a. Policies and procedures concerning truants.

(a) For purposes of this section and sections 10-198c and 10-220, "truant" means a child age five to eighteen, inclusive, who is enrolled in a public or private school and has four unexcused absences from school in any one month or ten unexcused absences from school in any school year.

(b) Each local and regional board of education shall adopt and implement policies and procedures concerning truants who are enrolled in schools under the jurisdiction of such board of education. Such policies and procedures shall include, but need not be limited to, the following: (1) The holding of a meeting with the parent of each child who is a truant, or other person having control of such child, and appropriate school personnel to review and evaluate the reasons for the child being a truant, provided such meeting shall be held not later than ten school days after the child's fourth unexcused absence in a month or tenth unexcused absence in a school year, (2) coordinating services with and referrals of children to community agencies providing child and family services, (3) annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent or other person having control of each child enrolled in a grade from kindergarten to eight, inclusive, in the public schools in writing of the obligations of the parent or such other person pursuant to section 10-184, (4) annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent or other person having control of each child in a grade from kindergarten to eight, inclusive, a telephone number or other means of contacting such parent or such other person during the school day, (5) (A) on or before August 15, 2018, the implementation of a truancy intervention model identified by the Department of Education pursuant to subsection (a) of section 10-198e, as amended by this act, for any school under its jurisdiction that has a disproportionately high rate of truancy, as determined by the Commissioner of Education, and (B) on or before September 1, 2023, the adoption and implementation of a truancy intervention model developed by the Department of Education pursuant to subsection (b) of section 10-198e, as amended by this act, that accounts for mental and behavioral health, or a similar truancy intervention plan that meets all of the requirements for a truancy intervention model set forth in subsection (b) of said section, (6) a system of monitoring individual unexcused absences of children in grades kindergarten to eight, inclusive, which shall provide that whenever a child enrolled in school in any such grade fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the child's parent or other person having control of the child is aware of the pupil's absence, a reasonable effort to notify, by telephone and by mail, the parent or such other person shall be made by school personnel or volunteers under the direction of school personnel. (7) providing notice to the parent or guardian of a child who is a truant of the information concerning the existence and availability of the 2-1-1 Infoline program, and other pediatric mental and behavioral health screening services and tools described in section 17a-22rt, and (8) on and after July 1, 2023, a requirement that an appropriate school mental health specialist, as defined in section 12 of this act, conduct an evaluation of each child who is a truant to determine if additional behavioral health interventions are necessary for the well-being of the child. Any person who, in good faith, gives or fails to give notice pursuant to subdivision (6) of this subsection shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

(c) Nothing in subsections (a) and (b) of this section shall preclude a local or regional board of education from adopting policies and procedures pursuant to this section which exceed the requirements of said subsections.

(d) The provisions of this section shall not apply to any child receiving equivalent instruction pursuant to section 10-184.

(e) A child, age five to eighteen, inclusive, who is enrolled in a public or private school and whose parent or legal guardian is an active duty member of the armed forces, as defined in section 27-103, and has been called to duty for, is on leave from or has immediately returned from deployment to a combat zone or combat support posting, shall be granted ten days of excused absences in any school year and, at the discretion of the local or regional board of education, additional excused absences to visit such child's parent or legal guardian with respect to such leave or deployment of the parent or legal guardian. In the case of excused absences pursuant to this subsection, such child and parent or legal guardian shall be responsible for obtaining assignments from the student's teacher prior to any period of excused absence, and for ensuring that such assignments are completed by such child prior to his or her return to school from such period of excused absence.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single

individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

10-222g. Prevention and intervention strategy re bullying and teen dating violence.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying and teen dating violence identified by the Department of Education, (2) school rules prohibiting bullying, teen dating violence, harassment and intimidation and establishing appropriate consequences for those who engage in such acts, (3) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying or teen dating violence is likely to occur, (4) inclusion of grade-appropriate bullying and teen dating violence education and prevention curricula in kindergarten through high school, (5) individual interventions with the bully, parents and school employees, and interventions with the bullied child, parents and school employees, (6) school-wide training related to safe school climate, (7) student peer training, education and support, (8) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions, and (9) culturally competent school-based curriculum focusing on social-emotional learning, self-awareness and self-regulation. Funding for the school-based bullying intervention and school climate improvement strategy may originate from public, private, federal or philanthropic sources. For purposes of this section, "interventions with the bullied child" includes referrals to a school counselor, psychologist or other appropriate social or mental health service, and periodic follow-up by the safe school climate specialist with the bullied child.

10-233d. Expulsion of pupils.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil in grades three to twelve, inclusive, whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board and is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may

consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section, shall be required for any pupil in grades kindergarten to twelve, inclusive, whenever there is reason to believe that any pupil (A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case-by-case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil at least five business days before such hearing. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning the parent's or guardian's and the pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services. An attorney or other advocate may represent any pupil subject to expulsion proceedings. The parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

10-233e. Notice as to disciplinary policies and action.

Each local or regional board of education shall inform all pupils within its jurisdiction and their parents, guardians and surrogate parents, if appointed pursuant to section 10-94g, at least annually, of the board policies governing student conduct and school discipline. Each board shall further provide an effective means of notifying the parents, guardian or surrogate parent, if appointed, of any minor pupil against whom the disciplinary action authorized by the provisions of this section and sections 10-233a to 10-233d, inclusive, has been taken. Such notice shall be given within twenty-four hours of the time such pupil has been excluded.

10-236b. Physical restraint and seclusion of students by school employees.

(h) Each local or regional board of education shall notify a parent or guardian of a student who is placed in physical restraint or seclusion not later than twenty-four hours after the student was placed in physical restraint or seclusion and shall make a reasonable effort to provide such notification immediately after such physical restraint or seclusion is initiated.

45a-8c. Truancy clinic. Administration. Policies and procedures. Report.

(b) If the Probate Court Administrator establishes truancy clinics pursuant to subsection (a) of this section, the principal of any elementary or middle school located in a town designated as an alliance district, or the principal's designee, may refer to a truancy clinic a parent or guardian with a child

enrolled in such school who is a truant, as defined in section 10-198a, or at risk of becoming a truant. Upon receiving such referral, the truancy clinic shall prepare a citation and summons for the parent or guardian of the child to appear at the clinic. An attendance officer authorized pursuant to section 10-199, or a police officer authorized pursuant to section 10-200, shall deliver the citation and summons and a copy of the referral to the parent or guardian.

(c) The administrative judge of the Regional Children's Probate Court that serves a town designated as an alliance district or the probate judge that serves a town designated as an alliance district, as the case may be, may refer any matter referred to a truancy clinic to a probate magistrate or attorney probate referee assigned by the Probate Court Administrator pursuant to section 45a-123a to hear the matter.

(d) The truancy clinics shall operate for the purpose of identifying and resolving the cause of a child's truancy using nonpunitive procedures. After the initial appearance made pursuant to the summons described in subsection (b) of this section, the participation of a parent or guardian in the truancy clinic shall be voluntary. The truancy clinics shall establish protocols for clinic participation and shall establish programs and relationships with schools, individuals, public and private agencies, and other organizations to provide services and support for parents, guardians and children participating in the clinics.

REGULATIONS

10-76b-9. Parental notification of physical restraint, seclusion.

(a) If a person at risk is physically restrained or placed in seclusion, an attempt shall be made to notify the parent on the day of, or within twenty-four hours after, physical restraint or seclusion is used with the child as an emergency intervention to prevent immediate or imminent injury to the person or others, as permitted under sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes. Such notification shall be made by phone, e-mail or other method which may include, but is not limited to, sending a note home with the child. The parent of such child, regardless of whether he or she received such notification, shall be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion. The incident report shall contain, at a minimum, the information required under subsection (d) of section 46a-152 of the Connecticut General Statutes.

(b) Where seclusion is included in the IEP of a person at risk, the PPT and the parents shall determine a timeframe and manner of notification of each incident of seclusion.

(c) The Department of Education shall develop a plain language notice for use in the public schools to advise parents of the laws and regulations concerning the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP. On and after October 1, 2009, this notice shall be provided to the child's parent at the first PPT meeting following the child's referral for special education. For children who were eligible for special education prior to October 1, 2009, the notice shall be provided to the parent at the first PPT meeting convened after October 1, 2009. The notice shall also be provided to a child's parent at the first PPT meeting at which the use of seclusion as a behavior intervention is included in the child's IEP.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

10-4s. Reports and evaluations re school governance councils and reconstituted schools.

(a) On or before December 1, 2011, and biennially thereafter, the Department of Education shall report, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to education on the number of school governance councils established pursuant to section 10-223j. On or before December 1, 2013, and biennially thereafter, the department shall include in the report described in subsection (a) of this section an

evaluation of the establishment and effectiveness of the school governance councils established pursuant to section 10-223j.

(b) On or before December 1, 2015, and biennially thereafter, the department shall include in the report described in subsection (a) of this section: (1) The number of school governance councils that have recommended reconstitution pursuant to section 10-223j ; (2) the number of such school governance councils that have initiated reconstitution pursuant to section 10-223j , and the reconstitution models adopted; and (3) recommendations whether to continue to allow school governance councils to recommend reconstitution pursuant to section 10-223j.

(c) On or before December 1, 2017, and biennially thereafter, the department shall include in the report described in subsection (a) of this section an evaluation of those schools that have reconstituted pursuant to section 10-223j. Such evaluation shall determine whether such schools have demonstrated progress with regard to the following indicators: (1) The reconstitution model adopted by the school; (2) the length of the school day and school year; (3) the number and type of disciplinary incidents; (4) the number of truants; (5) the dropout rate; (6) the student attendance rate; (7) the average scale scores on the state-wide mastery examination pursuant to section 10-14n; (8) for high schools, the number and percentage of students completing advanced placement coursework; (9) the teacher attendance rate; and (10) the existence and size of the parent-teacher organization for the school.

10-10a. Public school information system. Definitions. Development and implementation. Types of data collected. Access to data maintained under system.

(a) As used in this section:

(1) "Teacher" means any certified professional employee below the rank of superintendent employed by a board of education for at least ninety days in a position requiring a certificate issued by the State Board of Education;

(2) "Teacher preparation program" means a program designed to qualify an individual for professional certification as an educator provided by institutions of higher education or other providers approved by the Department of Education, including, but not limited to, an alternate route to certification program.

(b) The Department of Education shall develop and implement a state-wide public school information system. The system shall be designed for the purpose of establishing a standardized electronic data collection and reporting protocol that will facilitate compliance with state and federal reporting requirements, improve school-to-school and district-to-district information exchanges, and maintain the confidentiality of individual student and staff data. The initial design shall focus on student information, provided the system shall be created to allow for future compatibility with financial, facility and staff data. The system shall provide for the tracking of the performance of individual students on each of the state-wide mastery examinations under section 10-14n in order to allow the department to compare the progress of the same cohort of students who take each examination and to better analyze school performance. The department shall assign a unique student identifier to each student prior to tracking the performance of a student in the public school information system.

(c) The state-wide public school information system shall:

(1) Track and report data relating to student, teacher and school and district performance growth and make such information available to local and regional boards of education for use in evaluating educational performance and growth of teachers and students enrolled in public schools in the state. Such information shall be collected or calculated based on information received from local and regional boards of education and other relevant sources. Such information shall include, but not be limited to:

(A) In addition to performance on state-wide mastery examinations pursuant to subsection (b) of this section, data relating to students shall include, but not be limited to, (i) the primary language spoken at the home of a student, (ii) student transcripts, (iii) student attendance and student mobility, (iv) reliable, valid assessments of a student's readiness to enter public school at the kindergarten level, and (v) data collected, if any, from the preschool experience survey, described in section 10-515;

(B) Data relating to teachers shall include, but not be limited to, (i) teacher credentials, such as master's degrees, teacher preparation programs completed and certification levels and endorsement areas, (ii) teacher assessments, such as whether a teacher is deemed highly qualified pursuant to the No Child Left Behind Act, P.L. 107-110, or deemed to meet such other designations as may be established by federal law or regulations for the purposes of tracking the equitable distribution of instructional staff, (iii) the presence of substitute teachers in a teacher's classroom, (iv) class size, (v) numbers relating to absenteeism in a teacher's classroom, and (vi) the presence of a teacher's aide. The department shall assign a unique teacher identifier to each teacher prior to collecting such data in the public school information system;

(C) Data relating to schools and districts shall include, but not be limited to, (i) school population, (ii) annual student graduation rates, (iii) annual teacher retention rates, (iv) school disciplinary records, such as data relating to suspensions, expulsions and other disciplinary actions, (v) the percentage of students whose primary language is not English, (vi) the number of and professional credentials of support personnel, (vii) information relating to instructional technology, such as access to computers, and (viii) disaggregated measures of school-based arrests pursuant to section 10-233n.

(2) Collect data relating to student enrollment in and graduation from institutions of higher education for any student who had been assigned a unique student identifier pursuant to subsection (b) of this section, provided such data is available.

(3) Develop means for access to and data sharing with the data systems of public institutions of higher education in the state.

(d) On or before July 1, 2011, and each year thereafter until July 1, 2013, the Commissioner of Education shall report, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to education on the progress of the department's efforts to expand the state-wide public school information system pursuant to subsection (c) of this section. The report shall include a full statement of those data elements that are currently included in the system and those data elements that will be added on or before July 1, 2013.

(e) The system database of student information shall not be considered a public record for the purposes of section 1-210. Nothing in this section shall be construed to limit the ability of a full-time permanent employee of a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and that is organized and operated for educational purposes, to obtain information in accordance with the provisions of subsection (h) of this section.

(f) All school districts shall participate in the system, and report all necessary information required by this section, provided the department provides for technical assistance and training of school staff in the use of the system.

10-220. Duties of boards of education.

(c) Annually, each local and regional board of education shall submit to the Commissioner of Education a strategic school profile report for each school and school or program of alternative education, as defined in section 10-74j, under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each November first. The profile report shall provide information on measures of (1) student needs, including, but not limited to, a needs assessment that identifies resources necessary to address student trauma impacting students and staff in each school and adequately respond to students with mental, emotional or behavioral health needs, (2) school resources, including technological resources and utilization of such resources and infrastructure, (3) student and school performance, including in-school suspensions, out-of-school suspensions and expulsions, the number of truants, as defined in section 10-198a, and chronically absent children, as defined in section 10-198c, (4) the number of students enrolled in an adult high school credit diploma

program, pursuant to section 10-69, operated by a local or regional board of education or a regional educational service center, (5) equitable allocation of resources among its schools, (6) reduction of racial, ethnic and economic isolation, (7) special education, and (8) school-based arrests, as defined in section 10-233n For purposes of this subsection, measures of special education include (A) special education identification rates by disability, (B) rates at which special education students are exempted from mastery testing pursuant to section 10-14q, (C) expenditures for special education, including such expenditures as a percentage of total expenditures, (D) achievement data for special education students, (E) rates at which students identified as requiring special education are no longer identified as requiring special education, (F) the availability of supplemental educational services for students lacking basic educational skills, (G) the amount of special education student instructional time with nondisabled peers, (H) the number of students placed out-of-district, and (I) the actions taken by the school district to improve special education programs, as indicated by analyses of the local data provided in subparagraphs (A) to (H), inclusive, of this subdivision. The superintendent shall include in the narrative portion of the report information about parental involvement and any measures the district has taken to improve parental involvement, including, but not limited to, employment of methods to engage parents in the planning and improvement of school programs and methods to increase support to parents working at home with their children on learning activities. For purposes of this subsection, measures of truancy include the type of data that is required to be collected by the Department of Education regarding attendance and unexcused absences in order for the department to comply with federal reporting requirements and the actions taken by the local or regional board of education to reduce truancy in the school district. Such truancy data shall be considered a public record, as defined in section 1-200.

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools. School climate assessment instruments.

(a) The Department of Education shall, within available appropriations, (1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying, (2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes, (3) develop or recommend model safe school climate plans for grades kindergarten to twelve, inclusive, and (4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments, approved by the department, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. Such school climate assessment instruments shall (A) include surveys that contain uniform grade-level appropriate questions that collect information about students' perspectives and opinions about the school climate at the school, and (B) allow students to complete and submit such assessment and survey anonymously.

(b) On or before February 1, 2014, and annually thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts, an analysis of student responses on the uniform grade-level appropriate questions described in subparagraph (A) of subdivision (4) of subsection (a) of this section and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committees of the General Assembly having cognizance of matters relating to education and children and to the speaker of the House of Representatives, the president pro tempore of the Senate and the majority and minority leaders of the House of Representatives and the Senate.

(c) The department may accept private donations for the purposes of this section.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall: (1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d, (2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district, (3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c)(1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal and for the school year commencing July 1, 2021, and each school year thereafter, such committee shall also include (A) school personnel, including, but not limited to, at least one teacher selected by the exclusive bargaining representative for certified employees chosen pursuant to section 10-153b, (B) medical and mental health personnel assigned to such school, and (C) in the case of a committee for a high school, at least one student enrolled at such high school who is selected by the students of such school in a manner determined by the school principal.

(2) Any such committee shall: (A) Receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) implement the provisions of the school security and safety plan, developed pursuant to section 10-222m, regarding the collection, evaluation and reporting of information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying, (D) review and amend school policies relating to bullying, (E) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (F) educate students, school employees and parents and guardians of students on issues relating to bullying, (G) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (H) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian or student serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) to (C), inclusive, of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-233n. Report re disaggregated school discipline data.

(a) As used in this section:

(1) "Student" means a person who is enrolled in a school under the jurisdiction of a local or regional board of education;

(2) "School property" means the real property comprising a public elementary or secondary school under the jurisdiction of a local or regional board of education;

(3) "School day" means the hours in which a school is open to students for regular classroom instruction, intramural or interscholastic athletics, or extracurricular activities;

(4) "School-sponsored event" means any school activity conducted on or off school property regardless of when such school activity is conducted; and

(5) "School-based arrest" means an arrest of a student for conduct of such student on school property or at a school-sponsored event.

(b) The Department of Education shall annually examine data relating to in-school suspensions, out-of-school suspensions, expulsions and school-based arrests that has been submitted as part of the strategic school profile report pursuant to section 10-220, and shall disaggregate such data by school, race, ethnicity, gender, age, students with disabilities, English language learners, as defined in section 10-76kk, students who are eligible for free or reduced priced lunch pursuant to federal law and regulations, and type of offense for which the school-based arrests were made and the number of arrests made annually at each school within the school district. The department shall annually submit a report to the State Board of Education regarding the examination and disaggregation of such data and make the report available on the department's Internet web site.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

10-200. Habitual truants.

Each city and town may adopt ordinances concerning habitual truants from school and children between the ages of five and eighteen years wandering about its streets or public places, having no lawful occupation and not attending school, and may make such ordinances respecting such children as shall conduce to their welfare and to public order, imposing penalties, not exceeding twenty dollars, for any one breach thereof. The police in any town, city or borough, bailiffs and constables in their respective precincts shall arrest all such children found anywhere beyond the proper control of their parents or guardians, during the usual school hours of the school terms, and may stop any child under eighteen years of age during such hours and ascertain whether such child is a truant from school, and, if such child is, shall send such child to school. For purposes of this section, "habitual truant" means a child age five to eighteen, inclusive, who is enrolled in a public or private school and has twenty unexcused absences within a school year.

10-221. Boards of education to prescribe rules, policies and procedures.

(b) Boards of education shall prescribe rules for the management, studies, classification and discipline of the public schools and, subject to the control of the State Board of Education, the textbooks to be used; shall make rules for the control, within their respective jurisdictions, of school library media centers, including Internet access and content, and approve the selection of books and other educational media therefor, and shall approve plans for public school buildings and superintend any high or graded school in the manner specified in this title.

(e) Each local and regional board of education shall develop, adopt and implement policies and procedures in conformity with section 10-154a for (1) dealing with the use, sale or possession of alcohol or controlled drugs, as defined in section 21a-240, by as amended by this act, by public school students on school property, including a process for coordination with, and referral of such students to, appropriate agencies, and (2) cooperating with law enforcement officials. On and after January 1, 2022, no such policies and procedures shall result in a student facing greater discipline, punishment or sanction for use, sale or possession of cannabis than a student would face for the use, sale or possession of alcohol.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools. Such plan shall: (1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified at the beginning of each school year of the process by which students may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report, (4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section and that the parents or guardians of the student alleged to have committed an act or acts of bullying and the parents or guardians of the student against whom such alleged act or acts were directed receive prompt notice that such investigation

has commenced, (5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying and teen dating violence, (7) provide for the inclusion of language in student codes of conduct concerning bullying, (8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection, (9) require each school to invite the parents or guardians of a student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and policies and procedures in place to prevent further acts of bullying, (10) require each school to invite the parents or guardians of a student who commits any verified act of bullying to a meeting, separate and distinct from the meeting required in subdivision (9) of this subsection, to discuss specific interventions undertaken by the school to prevent further acts of bullying, (11) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education, (12) direct the development of case-by- case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, (13) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying, (14) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying, (15) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct, (16) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, or (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school, (17) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and (18) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

(c) Not later than September 1, 2014, each local and regional board of education that has not had a safe school climate plan, developed pursuant to this section, previously reviewed and approved by the Department of Education shall submit a safe school climate plan to the department for review and approval in accordance with the provisions of section 10-222p. Not later than thirty calendar days after approval by the department of such safe school climate plan, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to

section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-233g. Reports of principals to police authority concerning physical assaults upon school employees by students.

(a) Where there is a physical assault made by a student upon a teacher or other school employee on school property or in performance of school duties and such teacher or employee files a written report with the school principal based upon such assault, the school building principal shall report such physical assault to the local police authority.

(b) No school administrator shall interfere with the right of a teacher or other employee of a board of education to file a complaint with the local police authority in cases of threats of physical violence and in cases of physical assaults by a student against such teacher or employee.

10-233h. Commissioner's network of schools. Turnaround committees. Operations and instructional audit. Turnaround plans. Reports.

If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Emergency Services and Public Protection that made such arrest shall, not later than the end of the weekday following such arrest, orally notify the superintendent of schools of the school district in which such person resides or attends school of the identity of such person and the offense or offenses for which he was arrested and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124. The superintendent may disclose such information only to the principal of the school in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day. If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under eighteen years of age shall be confidential in accordance with sections 46b-124 and 54-76l, and shall only be disclosed as provided in this section and shall not be further disclosed.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

7-294x. Council to provide training to public school security personnel.

The Police Officer Standards and Training Council established under section 7-294b shall provide training to security personnel employed in the public schools by a local or regional board of education. Such training shall include drug detection and gang identification.

17a-22bb. Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement. Children and youth in secure detention or correctional confinement. Records re instances of physical restraint and seclusion.

(c) Local law enforcement agencies and local and regional boards of education that employ or engage school resource officers shall, provided federal funds are available, train school resource officers in nationally recognized best practices to prevent students with mental health issues from being victimized or disproportionately referred to the juvenile justice system as a result of their mental health issues.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

10-233m. Memorandum of understanding re school resource officers.

Each local or regional board of education that assigns a school resource officer to any school under the jurisdiction of such board shall enter into a memorandum of understanding with a local law enforcement agency regarding the role and responsibility of such school resource officer. Such memorandum of understanding shall include provisions addressing daily interactions between students and school personnel with school resource officers and shall include a graduated response model for student discipline. Any such memorandum of understanding entered into, extended, updated or amended on or after July 1, 2021, shall include a provision that requires all school resource officers to complete, while in the performance of their duties as school resource officers and during periods when such school resource officers are assigned to be at the school, any separate training specifically related to social-emotional learning and restorative practices provided to certified employees of the school pursuant to sections 10-148a and 10-220a, as amended by this act. For the purposes of this section, "school resource officer" means a sworn police officer of a local law enforcement agency who has been assigned to a school pursuant to an agreement between the local or regional board of education and the chief of police of a local law enforcement agency.

10-244a. Employment of persons to provide security services in a public school while in possession of a firearm.

(a) For the school year commencing July 1, 2013, and each school year thereafter, no municipality or local or regional board of education may employ or enter into an agreement, as described in subdivision (2) of subsection (b) of section 53a-217b, with any person, other than a sworn member of an organized local police department or a retired police officer as provided in subsection (b) of this section, to provide security services in a public school if such person will possess a firearm, as defined in section 53a-3, while in the performance of his or her duties.

(b) A municipality or a local or regional board of education may employ or enter into an agreement with a retired police officer to provide security services in a public school if such retired police officer is a qualified retired law enforcement officer, as defined in 18 USC 926C, as amended from time to time. Such retired police officer shall receive annual training pursuant to section 7-294x and shall successfully complete annual firearms training provided by a certified firearms instructor that meets or exceeds the standards of the Police Officer Standards and Training Council or 18 USC 926C, as amended from time to time. Such retired police officer shall not be subject to the licensing requirements of part II of chapter 534.

(c) For the purposes of subsection (b) of this section, "retired police officer" means (1) a sworn member of an organized local police department who was certified by the Police Officer Standards and Training Council and retired or separated in good standing from such department or a sworn member of the Division of State Police within the Department of Emergency Services and Public Protection who retired or separated in good standing from said division, (2) a sworn federal law enforcement agent who retired

or separated in good standing from such federal law enforcement service and who meets or exceeds the standards of the Police Officer Standards and Training Council for certification in this state, or (3) a sworn officer of an organized police department in another state who was certified under standards that meet or exceed the standards of the Police Officer Standards and Training Council for certification in this state and who retired or separated in good standing from such department.

46b-121n. Juvenile justice policy and oversight committee. Reports.

(k) Not later than January 1, 2017, the committee shall submit a report, in accordance with section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, the judiciary, human services and children and the Secretary of the Office of Policy and Management, regarding a plan that includes cost options for the development of a community-based diversion system. Such plan shall include recommendations to address issues concerning mental health and juvenile justice. The plan shall include recommendations regarding the following:

- (8) Expansion of the use of memoranda of understanding between local and regional boards of education and community providers for provision of community-based services.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Connecticut provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Websites		
Bullying and Harassment, Connecticut State Department of Education (CSDE)	Provides links to how-to resources for schools to address bullying and harassment; documents and forms; related resources; laws and regulations; and contact information.	https://portal.ct.gov/SDE/School-Climate/Bullying-and-Harassment
Chronic Absence, CSDE	Provides links to how-to resources for schools to address chronic absenteeism; documents and forms; related resources; laws and regulations; and contact information.	https://portal.ct.gov/SDE/Chronic-Absence/Chronic-Absence
Connecticut Comprehensive School Counseling Framework	The list of beneficial outcomes from implementing a comprehensive school counseling framework is extensive and well researched. Students experience improved academic performance and success, better social relationships, improved decision-making and problem-solving skills, and a better understanding of careers and postsecondary options.	https://portal.ct.gov/SDE/School-Counseling/Comprehensive-K-12-School-Counseling-Framework
Discipline in Schools, CSDE	Provides an overview of the Connecticut School Discipline Collaborative' strategies to transform school discipline to reduce the overall and disproportionate use of exclusionary discipline. Provides links to how-to resources for schools addressing academic and instructional supports, school climate and culture, parent engagement, and other content areas; documents and forms; related resources; laws and regulations; and contact information for the Office of Student Supports.	https://portal.ct.gov/SDE/Discipline-in-Schools
Full, Equal and Equitable Partnerships with Families	Creating full, equal and equitable partnerships is a shared responsibility that requires systemic change in policy, resources, and practice.	https://portal.ct.gov/SDE/Publications/Full-Equal-and-Equitable-Partnerships-with-Families

Title	Description	Website address (if applicable)
Guidelines for Alternative Education Settings, CSDE	Guidance and best practices document supporting the operation of alternative school programs offered by local and regional boards of education in compliance with Public Act 15-133.	https://portal.ct.gov/SDE/Publications/Guidelines-for-Alternative-Education-Settings
Practice Guidelines for Delivery of School Social Work Services, CSDE	Guidelines developed to assist school social workers in identifying their scope of services; developing and implementing programs and interventions to assist students in meeting their academic goals; and guiding the decision making necessary to meaningfully assess circumstances and prepare supports addressing needs within the school community.	https://portal.ct.gov/SDE/Publications/Delivery-of-School-Social-Work-Services
Reducing Chronic Absence in Connecticut's Schools: A Prevention and Intervention Guide for Schools and Districts (April 2017), CSDE	Prevention and intervention guide providing a framework for local and regional school district administrators to strategically plan and implement prevention and interventions leading to reductions in chronic absence.	https://portal.ct.gov/SDE/Publications/Reducing-Chronic-Absence-in-Connecticuts-Schools
Related Resources, CSDE	Provides links to related resources for bullying and harassment, including school climate assessment instruments, CSDE Trend survey resources, and school climate.	https://portal.ct.gov/SDE/School-Climate/Bullying-and-Harassment/Related-Resources
School Safety and Security	The Connecticut State Department of Education (CSDE) seeks to ensure that every student experiences a safe and supportive environment to ensure their best academic performance.	https://portal.ct.gov/SDE/School-Safety-and-Security/School-Safety-and-Security/Documents
Social-Emotional Learning (SEL)	Social-emotional development contributes to academic and career success by helping students understand and respect themselves and others, acquire effective interpersonal skills, understand safety and resilience skills, and develop into contributing members of society.	https://portal.ct.gov/SDE/Social-Emotional-Learning/Social-Emotional-Learning/Documents
Standards for Education Opportunities for Students Who Have Been Expelled, CSDE	State standards for the provision of alternative educational opportunities for students who have been expelled from school.	https://portal.ct.gov/SDE/Publications/Standards-for-Educational-Opportunities-for-Students-Who-Have-Been-Expelled
Truancy, CSDE	Provides links to how-to resources for schools to address truancy; documents and forms; related resources; laws and regulations; and contact information.	https://portal.ct.gov/SDE/Truancy/Truancy
Documents		

Title	Description	Website address (if applicable)
Alternative Educational Opportunities For Students Who Have Been Expelled	Best Practice Guidelines for Program Implementation	https://portal.ct.gov/-/media/SDE/Discipline/Best_Practice_Guidelines_Students_Expelled.pdf
Guidance Regarding Student Expulsions	Expulsion Overview	https://portal.ct.gov/-/media/SDE/Digest/2018-19/Expulsions-Guidance-August-2018.pdf
Guidelines for Identifying and Educating Students with Emotional Disability	These guidelines are intended to provide guidance to school teams, including parents, guardians, surrogate parents and mental health professionals, to make appropriate decisions regarding eligibility and specialized services for students with ED as defined in the IDEA 2004.	https://portal.ct.gov/-/media/SDE/Publications/edguide/ed_guidelines.pdf
Position Statement on Culturally Responsive Education	This position statement reflects the Board's ongoing understanding of the importance of culturally responsive education as a critical component of all curriculum, activities, and services.	https://portal.ct.gov/-/media/SDE/Board/Culturally_Responsive_Ed.pdf
Family Guides	<ol style="list-style-type: none"> 1. When a Child Is Suspended from School: A Fact Sheet for Connecticut Families 2. When a Child Is Suspended from School: A Fact Sheet for Connecticut Families 	https://portal.ct.gov/-/media/SDE/Discipline/Suspension_Family_Guide.pdf https://portal.ct.gov/-/media/SDE/Discipline/Expulsion_Family_Guide.pdf
Model School Climate Policy (2014), Connecticut Association of Schools	Model policy providing a framework to guide schools in establishing an effective school climate improvement process that promotes conditions for creating, maintaining, and nurturing positive school climate.	http://www.casciac.org/pdfs/Model_CT_SC_Policy.pdf
Position Statement on Reducing Disproportionality in Suspensions and Expulsions (Exclusionary Discipline), CSDE	Position statement outlining guidelines for policymakers on how to build a comprehensive learning system that explicitly supports the reduction of disproportionality in suspensions and expulsions.	https://portal.ct.gov/-/media/SDE/Board/Position_Statement_Reducing_Disproportionality_in_Suspensions_and_Expulsions.pdf
Report on Student Discipline in Connecticut Public Schools April 2023	Summary report presenting analyses of trends in student disciplinary behaviors in Connecticut public schools.	https://portal.ct.gov/-/media/SDE/Board/BoardMaterials/040523/2021_2022_Report_on_Student_Discipline_in_Connecticut_Public_Schools.pdf

Title	Description	Website address (if applicable)
Truant or Defiant of School Rules	Create a Community-based System of Supports and Services for Students who are Truant or Defiant of School Rules	https://portal.ct.gov/-/media/SDE/Truancy/Youth_Service_Bureau_Referral_Memo.pdf
Other Resources		
EdSight Insight into Education, CSDE	Education data dashboard including district and school report cards providing a summary of metrics, including enrollment, absenteeism, and suspension/expulsion.	http://edsight.ct.gov/SASPortal/main.do
A Parent's Guide to Special Education in Connecticut 2021	This document provides information for parents, guardians and other family members about laws, regulations, and policies affecting special education programs and services.	https://portal.ct.gov/-/media/SDE/Special-Education/Parents_Guide_SE.pdf
Promising Practices to Reduce Chronic Absence On-line Catalog, CSDE	On-line catalog of resources related to chronic absenteeism. Includes chronic absence data in Connecticut, legal definitions used for attendance, and promising examples of prevention or interventions that have been implemented in Connecticut schools to address issues underlying truancy or chronic absenteeism.	https://portal.ct.gov/SDE/Publications/Promising-Practices-to-Reduce-Chronic-Absence



Delaware Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

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

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

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

14 Del.C. §1049. Policy making.

(a) The school board of each reorganized school district, subject to this title and in accordance with the policies, rules and regulations of the State, shall, in addition to other duties:

(2) Determine the educational policies of the reorganized school district and prescribe rules and regulations for the conduct and management of the schools.

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

(b) Prohibition of bullying. -

(1) Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.

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

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

b. A definition of bullying no less inclusive than that in § 4161 of this title.

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.

e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying must immediately report it to the administration.

f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was targeted or reports being targeted wholly or in part due to the target's race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.

- g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan must provide for the review and exchange of information regarding nonclassroom areas.
- h. An identification of an appropriate range of consequences for bullying.
- i. A procedure for a student or parent to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.
- j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent's right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section.
- k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.
- l. A statement prohibiting retaliation following a report of bullying.
- m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.
- n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

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

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

REGULATIONS

14 DE Admin. Code §603. Compliance with the Gun Free Schools Act.

1.0 Written Policy Required

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

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

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

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

14 DE Admin. Code §605. Student rights and responsibilities.

1.0 Required Policy

All local school districts and charter schools shall have their own policies on student rights and responsibilities. These policies shall be based on the most current version or reauthorization of Delaware Code, Delaware Administrative Code, federal legislation such as, but not limited to, Individuals with Disabilities Education Act (IDEA), Civil Rights Act, Elementary and Secondary Education Act (ESEA),

Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA), and the Patsy T. Mink Equal Opportunity in Education Act (Title IX).

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

1.0 Purpose

The purpose of this regulation is to outline the minimum requirements to be included in all public school district and charter school policies on the Possession, Use, or Distribution of Drugs and Alcohol.

14 DE Admin. Code §615. School attendance.

1.0 Required Attendance Policy

Each school district and charter school shall have an attendance policy that complies with 14 Del.C. Ch. 27 and which defines and describes the district's or charter school's rules concerning attendance for students K to 12.

14 DE Admin. Code §1150. School transportation.

9.0 Pupil Conduct on School Buses

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

9.1.18 Do not use tobacco or vaping products, use profanity, eat or drink on the bus.

9.1.21 Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.

Scope

LAWS

11 Del.C. §1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

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

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

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

14 Del.C. §4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. - Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16; or

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe

that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

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

(b) Prohibition of bullying. -

(1) Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.

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

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

REGULATIONS

14 DE Admin. Code §877. Tobacco and smoking policy.

3.0 Required Policy

3.1 To improve the health of students, school personnel, and visitors, each school district and charter school in Delaware shall have a Tobacco and Smoking Policy which at a minimum:

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

Communication of Policy

LAWS

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

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

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

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

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

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

14 Del.C. §4131. Notification of provisions pertaining to school crimes.

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

- (1) The provisions of § 621 of title 11 which prohibit making a false statement which causes evacuation of a school or other place of assembly and the penalties for such an offense;
- (2) The provisions of § 4110 of this title, which prohibit disturbing schools or destroying school property and the penalties for such offenses;
- (3) The provisions of § 4112 of this title, which require the reporting of school crimes.

As used in this section, "parent" means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age.

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

(c) Dissemination of policy and accountability. -

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

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

REGULATIONS

14 DE Admin. Code §605. Student rights and responsibilities.

2.0 Distribution of Student Rights and Responsibilities Policy

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

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

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

14 DE Admin. Code §615. School attendance.

2.0 Distribution of Attendance Policy

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

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

2.3 Each district or charter school shall post the attendance policy on its website and notify a parent, guardian or relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or relative caregiver upon request.

14 DE Admin. Code §624. School district/charter school policy prohibiting cyberbullying.

1.0 Cyberbullying Forbidden

In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del.C. §§ 4161 and 4164, each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each school district and charter school in the same manner as incidents of bullying, and notice of each school district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty in the same manner as notice of the school district's and charter school's policy against bullying.

14 DE Admin. Code §877. Tobacco and smoking policy.

3.0 Required Policy

3.1 To improve the health of students, school personnel, and visitors, each school district and charter school in Delaware shall have a Tobacco and Smoking Policy which at a minimum:

3.1.2 Includes procedures for communicating the policy to students, school staff, parents, guardians or relative caregivers, families, visitors and the community at large.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

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

(a) As used in this chapter:

(1) "Department" means the Department of Education.

(2) "Disruptive behavior" means conduct that is so unruly, disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(3) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.

(4) "School" means a traditional public school, vocational technical school, or charter school.

(5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged students, children with disabilities, and English learners.

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

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

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

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

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

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

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

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

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

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

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

14 Del.C. §703. Student discipline report; school discipline improvement plan.

(b) If a school is identified as meeting a threshold under paragraph (a)(4) of this section for 3 consecutive school years, the Department shall notify the school of this status by December 1 and the school must do all of the following:

(2) If a school has already implemented restorative justice practices, the school must review the interventions being used to assure research-based quality, scope of training provided, and follow-up support to assure proper implementation. Restorative justice practices program improvements should be made based on this review.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

14 Del.C. §702. Corporal punishment.

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

(b) No public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment.

(c) Subsection (b) of this section does not prohibit a public school teacher, administrator, official employee or agent of a school board from:

- (1) Using reasonable and necessary force to quell a disturbance, including but not limited to a physical altercation, or prevent an act that threatens imminent bodily harm to any person;
- (2) Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a student's control;
- (3) Using reasonable and necessary force for the purpose of self-defense or the defense of others under §§ 464 and 465 of Title 11;
- (4) Using reasonable and necessary force for the protection of property under § 466 of Title 11;
- (5) Using reasonable and necessary force to prevent a student from imminently inflicting bodily harm on that student's own self;
- (6) Using reasonable and necessary force to protect the bodily safety of others; or
- (7) Using incidental or minor physical contact necessary to maintain order and control.

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

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

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

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

14 Del.C. §4119. Metal detectors.

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

14 Del.C. §4121. Video cameras on public school property.

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

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

REGULATIONS

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

3.0 General Provisions

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

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

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

4.1 Each school district and charter school shall have a policy on file and update it periodically.

The policy shall include, at a minimum, the following:

4.1.5 A written policy on search and seizure.

Restraint and Seclusion

LAWS

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

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

(2) The defendant is a teacher or a person otherwise entrusted with the care or supervision of a child for a special purpose, and:

a. The defendant believes the force used is necessary to further the special purpose, including the maintenance of reasonable discipline in a school, class or other group, and that the use of force is consistent with the welfare of the child.

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

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

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

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

a. Restraints for medical immobilization;

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

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

- a. Helps a student respond or complete a task;
- b. Is needed to administer an authorized health-related service or procedure; or
- c. Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

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

- a. A law-enforcement officer as defined in § 9200(b) of Title 11; or
- b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

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

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

(b) Prohibition and restriction on use. -

(1) Public school personnel are prohibited from imposing on any student the following:

- a. Chemical restraint; and
- b. Subject to waiver authorized pursuant to paragraph (c)(4) of this section, mechanical restraint and seclusion.

(2) Public school personnel may impose physical restraint only in conformity with all of the following standards:

- a. The student's behavior presents a significant and imminent risk of bodily harm to self or others;
- b. The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication;
- c. The physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck;
- d. The physical restraint does not recklessly exacerbate a medical or physical condition of the student;
- e. Less restrictive interventions have been ineffective in stopping the imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including, without limitation, intervening in a student initiated physical assault or altercation;

- f. For a student with a disability as defined in Chapter 31 of this title or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student;
- g. Personnel use only the amount of force necessary to protect the student or others from the threatened harm;
- h. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents an imminent risk of bodily harm to the student or others;
- i. The physical restraint is within the scope of force authorized by § 468 of Title 11; and
- j. The physical restraint conforms to applicable regulations promulgated by the Department of Education.

(c) Department of Education role; regulations. -

(1) The Department of Education shall promulgate regulations implementing this section.

Such regulations shall include, but not be limited to, the following:

- a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any;
- b. Requirement of timely parental notice in event of use of physical restraint;
- c. Special procedures and safeguards applicable to use of physical restraint for students with disabilities as defined in Chapter 31 of this title or 34 C.F.R. Part 104; and
- d. Recommended or required training of public school personnel in implementing this section.

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

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

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

14 Del.C. §4140. Delaware school safety and security fund [Effective upon fulfillment of the contingency in 81 Del. Laws, c. 427, § 2].

(b) The Department of Education shall administer the Delaware School Safety and Security fund to provide funding to school districts, vocational technical schools, or charter schools (LEAs) for certain expenses incurred on or after the effective date of this section for projects intended to improve school safety or security. The LEA, in conjunction with the Department of Education and Department of Safety and Homeland Security, shall determine which items to apply such funds to and the following expenses for the purposes of this section shall be considered minor capital expenditures and shall be eligible for such funds:

- (14) Restraint training.

REGULATIONS

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

1.0 Purpose and Authority

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

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

2.0 Definitions

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

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

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

"Individualized Education Program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Sections 7.0 through 11.0 of 14 DE Admin. Code 925.

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

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

(Authority: 14 Del.C. § 4112F(a)(2))

"Parent" means:

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

The biological or adoptive parent, when attempting to act as the parent under these regulations, and when more than one party is qualified under this definition to act as a parent, must be presumed to be the parent for purposes of this definition unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this definition.

(Authority: 20 U.S.C. 1401(23); 14 Del.C. § 3110)

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

- Helps a student respond or complete a task;
- Is needed to administer an authorized health-related service or procedure; or
- Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(Authority: 14 Del.C. § 4112F(a)(3))

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

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

"Public school personnel" means an employee or contractor of a public school district or charter school.

"Public school personnel" does not include the following:

- A law enforcement officer as defined in § 9200(b) of Title 11; unless the law enforcement officer meets the definition of a School Resource Officer/SRO; or
- An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility. (Authority: 14 Del.C. § 4112F(a)(4))

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

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

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

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

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

3.0 Use of Restraints

3.1 Public school personnel, private program personnel, and alternative program personnel are prohibited from imposing on any student:

3.1.1 Chemical restraint; and

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

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

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

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

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

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

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

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

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

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

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

(Authority: 14 Del.C. § 4112F(b))

4.0 Training of Personnel

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

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

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

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

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

4.2 Any public school personnel responsible for reporting the physical restraint of a student to the Department of Education shall complete training on the reporting process approved by the Department of Education and any additional training that the Department of Education may prescribe.

4.2.1 The approved training shall be provided using a web-based platform through the Department of Education's Professional Development Management System (PDMS) or similar system. The training will be provided on an annual basis and made available throughout each school year.

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

5.0 Parental Notification of Use of Physical Restraint

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

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

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

6.0 Uniform Data Collection

6.1 When an incident of physical restraint of a student by public school personnel, private program personnel, and charter school personnel occurs:

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

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

6.1.3 The written report shall include, at a minimum:

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

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

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

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

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

6.1.3.4.2 School or local education agency policy or procedure; or

6.1.3.4.3 Additional staff training.

7.0 Annual Reporting Requirement

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

8.0 Waiver

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

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

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

8.1.2.1 A detailed description of the proposed continual visual staff monitoring of student;

8.1.2.2 A requirement that the parent be notified of each use of mechanical restraint or seclusion which conforms to the procedure set forth in Section 5.0 for reporting physical restraint except that the provisions of subsection 5.1.1 shall not apply herein; and

8.1.2.3 A detailed description of the physical space within which the seclusion will occur, or of the type of mechanical restraints to be utilized, whichever is applicable.

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

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

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

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

8.3.1 A summary of the compelling justification based on the documentation submitted in support of the waiver requested;

8.3.2 Recommendations to include any specific conditions and safeguards, and a brief statement of the reasons therefore;

8.3.3 A requirement that, where a waiver is issued, there be continual visual monitoring, parental notice of each use of mechanical restraint or seclusion, and collection of data to include the number of times the student was subject to mechanical restraint or seclusion, the duration of each mechanical restraint or seclusion, and any other data as required by the Department of Education;

8.3.4 A statement as to the duration of the waiver, not to exceed a period of one calendar year.

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

8.5 The Secretary's decision shall be final.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

11 Del.C. §1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

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

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

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

REGULATIONS

14 DE Admin. Code §603. Compliance with the Gun Free Schools Act.

1.0 Written Policy Required

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

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

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

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

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

1.0 Purpose

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

2.0 Definitions

Since some definitions of Section 2.0 may not be age appropriate, this section shall not be required to be published in a district or charter school's Student Code of Conduct. The district/charter school shall publish an internet link to this entire regulation in the Student Code of Conduct and provide a paper copy

of the regulation upon request of a member of the public. In this regulation, the following terms shall have the meanings indicated below:

"Alcohol" shall have the same definition as provided in 4 Del.C. § 101(1).

"Alcohol Liquor" shall have the same definition as provided in 4 Del.C. § 101(2).

"Charter School" means a charter school board established pursuant to 14 Del.C. Ch. 5.

"Commission by a student" means that a student has engaged in behavior equivalent to that which is prohibited by law regardless of whether the student has been criminally convicted of the same.

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

"Dangerous Instrument" shall have the same definition as provided in 11 Del.C. § 222(4).

"Deadly Weapon" shall have the same definition as provided in 11 Del.C. § 222(5).

"Distribute", "Distributing" or "Distribution" means the transfer or attempted transfer of Alcohol, a Drug, a Look Alike Substance, a Drug Like Substance, or Drug Paraphernalia to any other person with or without the exchange of money or other valuable consideration.

"District" means a reorganized school district or vocational technical school district established pursuant to 14 Del.C. Ch. 10.

"Drug" means any "controlled substance" or "counterfeit controlled substance" as defined in 16 Del.C. § 4701.

"Drug Like Substance" means any non-controlled and non-prescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of Drug Like Substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco Policy.

"Drug Paraphernalia" shall have the same definition as provided in 16 Del.C. § 4701.

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

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

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

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

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

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

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

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

"Sexual Intercourse" shall have the same definition as provided in 11 Del.C. § 761.

"Sexual Offense" means any offense defined by 11 Del.C. §§ 763 through 780B and §§ 1108 through 1112B, and 1352 through 1353.

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

"Theft" means those acts described in 11 Del.C. §§ 841 through 847 inclusive.

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

3.0 Uniform Definitions for Student Conduct

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

"Arson" means a person recklessly or intentionally damages a building by intentionally starting a fire or causing an explosion.

"Assault III" means: (1) A person intentionally or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a Deadly Weapon or a Dangerous Instrument.

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

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

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

"Criminal Deadly Weapons/Dangerous Instrument Offense, Commission of" means the Commission by a student of an offense prohibited by 11 Del.C. §§ 1442 through 1460 inclusive.

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

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

"Criminal Sexual Offense, Commission of" means the Commission by a student of an offense prohibited by 11 Del.C. §§ 763 through 780B and §§ 1108, 1112B and § 1352 through § 1353.

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

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

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

"Deadly Weapon Possession/Concealment/Sale" means the possession, concealment, or sale of a Deadly Weapon in the School Environment.

"Defiance of School Authority" means: (1) A verbal or non-verbal refusal to immediately comply with a reasonable request from school personnel, or refusal to identify oneself at the request of school personnel, and/or refusal to comply with disciplinary action; or (2) A verbal or non-verbal display of disrespect and/or uncivil behavior toward school personnel which either causes a substantial disruption or material interference with school activities.

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

"Distribution of Drugs and/or Alcohol and/or Drug Paraphernalia" means the sale, transfer, or distribution in school, on school property, or on school field trip of drugs or alcohol.

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

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

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

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

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

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

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

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

"Misuse of Technology" means:

The use of school technology equipment in:

Soliciting, using, receiving or sending pornographic or obscene material;
or Accessing unauthorized email; or

The unauthorized downloading and/or installing of files; or

Intentionally damaging technology equipment in the School Environment; or

A situation in which a student deliberately:

Tampers with, damages, alters, accesses, crashes, or corrupts the computer/communications system in the School Environment resulting in the loss or corruption of information or the ability of the system to operate; or

In any way disrupts or degrades the school or District's technology infrastructure.

"Offensive Touching" means intentionally touching another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm to such other person; or Intentionally striking another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.

"Pornography" means the possession, sharing, or production of any known obscene material in the School Environment.

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

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

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

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

"Sexual Misconduct" means a consensual sexual act or acts between individuals within the School Environment.

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

"Steroids Possession and/or Use" means the unlawful use or possession of steroids.

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

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

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

"Terroristic Threatening - Security Threat" means when a person makes a false statement or statements:

(1) Knowing that the statement or statements are likely to cause evacuation in the School Environment; (2) Knowing that the statement or statements are likely to cause serious inconvenience in the School Environment; or (3) In reckless disregard of the risk of causing terror or serious inconvenience in the School Environment.

"Unlawful Sexual Contact III" means when a student has sexual contact with another person or causes the victim to have sexual contact with the student or a third person and the student knows that the contact is either offensive to the victim or occurs without the victim's consent.

"Use and/or Possession of a Drug and/or Alcohol and/or Drug Paraphernalia" means that in the School Environment a student unlawfully possesses, uses or is under the influence of Alcohol, a Drug, Drug Paraphernalia, or any substance or paraphernalia consistent with the definitions of these substances or paraphernalia.

"Violation of Behavior Contract" means the failure of a student to comply with the provisions of any behavior contract between the student, the student's legal guardian, and the school.

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

5.0 Suspensions

5.1 Short-term Suspension

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

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

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

5.2 Long-term Suspension

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

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

5.4 When a student receives a Suspension from school (in or out-of-school), reasonable attempts to provide verbal notification to the Parent shall be made by the Principal prior to the Suspension being served. Written notification of the Suspension and information regarding the districts/charters appeal

or Grievance process shall be given or sent to the Parent as soon as practicable, but no later than three business days. The notification shall state the cause and duration of the Suspension.

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

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

Limitations or Conditions on Exclusionary Discipline

LAWS

14 Del.C. §703. Student discipline report; school discipline improvement plan.

(b) If a school is identified as meeting a threshold under paragraph (a)(4) of this section for 3 consecutive school years, the Department shall notify the school of this status by December 1 and the school must do all of the following:

(3) Submit a plan to the Department that identifies the strategies the school will implement beginning in the following school year to reduce the use of exclusionary disciplinary practices or disproportionate use of exclusionary disciplinary practices with racial subgroups or students with disabilities, or both.

11 Del.C. §1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

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

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

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

REGULATIONS

14 DE Admin. Code §603. Compliance with the Gun Free Schools Act.

1.0 Written Policy Required

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

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

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

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

Due Process

LAWS

14 Del.C. §122. Rules and regulations.

(b) The Department shall prescribe rules and regulations:

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

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

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

14 Del.C. §2702. Compulsory attendance requirements; evaluation of readiness; exit interview.

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and court proceedings set out in subchapter II of this chapter.

14 Del.C. §2732. Appeals.

(a) A parent convicted within the Justice of the Peace Court of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court of Common Pleas shall make a de novo determination. [...]

(c) A student who has been adjudicated truant within the Justice of the Peace Court pursuant to § 2730 of this title may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Family Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

14 Del.C. §4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

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

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

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

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

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

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

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

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

REGULATIONS

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

3.0 Preliminary Discipline Investigation & Reporting Requirements

3.1 Investigatory Procedures & Timeline

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

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

4.2.1 of this regulation shall be provided. [...]

4.0 Initial Due Process

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

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

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

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

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

4.2 Due Process Delay Provision

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

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

5.0 Suspensions

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

10.3 Expulsion Hearings

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

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

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

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

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

10.3.4.1 The reason(s) for the recommendation;

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

10.3.4.3 Copies of information that may be submitted as evidence.

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

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

10.3.7 The Board of Education or Hearing Officer shall have full authority to admit or exclude evidence.

10.3.7.1 Evidence presented at the Expulsion hearing may include, but is not limited to, witness statements, police or Attorney General's Reports, and photocopies of evidence.

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

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

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

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

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

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

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

10.3.11 The student shall have the following rights:

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

10.3.11.2 To cross-examine witnesses;

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

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

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

Return to School Following Removal

LAWS

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

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

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

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

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

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

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

(c) Any student who has been expelled from a public school in this State or in any other state shall, prior to enrollment in any public school in this State, completely fulfill the terms of that expulsion.

(d) The provisions of subsections (a), (b) and (c) of this section shall not apply to any case in which a student is seeking to enroll in the James H. Grove High School or in any alternative educational or other related program developed to provide educational services to children who have discipline problems.

REGULATIONS

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

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

4.1 Each school district and charter school shall have a policy on file and update it periodically.

The policy shall include, at a minimum, the following:

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

5.0 Suspensions

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

9.0 Procedures for Student Return to the Regular School Program

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

Alternative Placements

LAWS

14 Del.C. §122. Rules and regulations.

(b) The Department shall prescribe rules and regulations:

(24) Defining eligibility for supportive instruction for school district and charter school students. Such regulations shall identify the licensed professionals authorized to certify eligibility for supportive instruction and provide that the certification of an advanced practice nurse, who is employed by or who has a collaborative agreement with a licensed physician, be accepted on the same basis as a physician certification. For purposes of this paragraph, "supportive instruction" means an alternative educational program provided in a home, hospital, or other setting for students temporarily unable to attend their school of enrollment on a full-time basis due to sudden illness, injury, accident, episodic flare up of a chronic condition, or other basis authorized by the Department of Education through regulation; [...]

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

14 Del.C. §1604. Treatment of severe discipline problems component.

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

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline

Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school.

Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

14 Del.C. §1604A. Site selection for alternative educational facilities.

(a) New alternative school programs funded on or after July 1, 2002, or alternative school programs except for those located on school property currently funded pursuant to § 1604 of this title that change locations on or after July 1, 2002, shall be subject to the following process:

(1) The school district or consortium of school districts shall notify by mail the Secretary of Education and every property owner located within 200 feet of the site's boundary lines that there is a plan to establish an alternative educational facility for children exhibiting discipline problems on the site. The notice must include the date, time and location of an informational meeting that will explain the details of the site, facility and program plans.

14 Del.C. §1605. School and district level component.

The Department of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short- or long-term assistance.

Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of § 1604 of this title. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

14 Del.C. §2730. Failure to attend; penalties.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

(9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title.

14 Del.C. §2733. Jurisdiction; venue.

(d) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the Family Court or Justice of the Peace Court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

REGULATIONS

14 DE Admin. Code §611. Consortium discipline alternative programs for treatment of severe discipline problems.

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

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

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

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

1.3.1 Such disruptions are chronic and repetitive; and

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

5.0 Grade Levels to be Served

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

6.0 Placement at Consortium Discipline Alternative Program Sites

6.1 Each district shall establish an Alternative Placement Team to review each case and prescribe the appropriate placement for students. The Placement Team, in concert with the Consortium Discipline Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both students and their families. The ISP shall include a tentative transition plan.

6.1.1 The Alternative Placement Team shall be composed of a representative of the Consortium Discipline Alternative Program staff; a district-level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's custodial adult; guidance counselor or school social worker; and a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs as appropriate. Other individuals may be invited as determined by the placement team.

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

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

7.0 September 30 Enrollment Count

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

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

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

8.0 Consortium Discipline Alternative Program Setting

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

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

9.0 Consortium Discipline Alternative Program Design

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

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

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

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

10.0 Staffing

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

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

1.0 Purpose

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

1.0 Purpose

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

5.0 Suspensions

5.1 Short-term Suspension

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

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

7.0 Assignment to an Alternative Program

7.1 Procedures for Student Referral

7.1.1 Criteria for student referral to an Alternative Placement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.3 Alternative Placement Meeting for Districts/Charter Schools

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

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

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

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

7.4 Student Assignment to an Alternative Program

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

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

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

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

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

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

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

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

8.0 Procedures for Student Monitoring while in Alternative Placement

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

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

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

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

11 Del.C. §1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

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

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

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

14 Del.C. §4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. - Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16; or

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

REGULATIONS

14 DE Admin. Code §603. Compliance with the Gun Free Schools Act.

1.0 Written Policy Required

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

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

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

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

14 DE Admin. Code §611. Consortium discipline alternative programs for treatment of severe discipline problems.

1.0 Eligible Students

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

2.0 Ineligible Students

2.1 Any student expelled or suspended pending expulsion for behavior equivalent to a violation of the following is not eligible for, and may not be placed at a Consortium Discipline Alternative Program site.

2.1.2 11 Del.C. § 1457. Possession of a Weapon in a Safe School and Recreation Zone; class D, E, or F: class A or B misdemeanor.

Students with Chronic Disciplinary Issues

LAWS

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

(a) As used in this chapter:

(1) "Department" means the Department of Education.

(2) "Disruptive behavior" means conduct that is so unruly, disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(3) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.

(4) "School" means a traditional public school, vocational technical school, or charter school.

(5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged students, children with disabilities, and English learners.

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

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

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

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be

readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

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

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

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

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

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

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

14 Del.C. §1604. Treatment of severe discipline problems component.

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

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

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

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

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

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

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

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

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

14 Del.C. §1605. School and district level component.

The Department of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short- or long-term assistance. Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of § 1604 of this title. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

(2) In the event that a school district uses personnel authorized under various sections of this title to establish and operate a program for disruptive students, the district may elect to employ 2 service paraprofessionals or 2 instructional paraprofessionals, paid in accordance with § 1324 of this title, in lieu of 1 staff member paid in accordance with § 1305 of this title.

(3) Any school which either enrolls pupils in at least 2 of the grades 3 through 12 or enrolls pupils solely in 1 or more of grades K through 3, and which establishes a program for disruptive students in accordance with the provisions of this section and the rules and regulations of the Department of Education may make application to the Department for an incentive grant to help defray the cost of operating such program. No school may qualify for more than 1 incentive grant per fiscal year, and all applications for such grants must have the prior approval of the board of education of the school district in which the applicant school is located. The maximum dollar value of an incentive grant shall be specified in the annual budget appropriation bill. Funds available to the Department of Education shall be allocated on a competitive basis if in any fiscal year more schools are eligible for funding than there are funds appropriated for the incentive grants.

REGULATIONS

14 DE Admin. Code §609. District and school based intervention services.

1.0 Provision of Services

Each school district shall provide services for students whose behavior disrupts the classroom setting and creates distractions that impede the learning process, but who are not eligible for placement in an alternative program pursuant to 14 DE Admin. Code 611. School districts may offer such services based

on the identified needs of the district and its individual schools, subject to the requirements of this regulation.

2.0 Application for Funding

2.1 Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.

2.2 Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.

3.0 Student Population to be Served

Services funded under this regulation may be provided to any student in grades K to 12, subject to the terms of the district's approved LEA Consolidated Application. Notwithstanding any of the provisions to the contrary, IDEA-identified students with disabilities shall be served pursuant to the provisions in 14 DE Admin. Code 925 and students with disabilities identified under Section 504 of the Rehabilitation Act shall be served in conformity with 34 C.F.R. Part 104.

4.0 School Based Intervention Programs

4.1 If a district, through its LEA Consolidated Application, provides a School Based Intervention Program as part of the services provided to disruptive students, such Program shall meet the following requirements:

4.2 A School Based Intervention Program shall include both short term and long term intervention strategies. Such strategies may include character education, short or long term counseling to improve behavior which impacts educational performance, and methods to identify the need to refer students for additional services either within the district or to other agencies. The Program shall also include support services to provide a smooth transition for students who are returning to their regular school from a Consortium Discipline Alternative Program or from a Department of Services to Children, Youth and their Families (DSCYF) setting.

4.3 The decision to place a student in the School Based Intervention Program shall be made by the student's Intervention Team. The Intervention Team shall include the building principal or assistant principal, school nurse, counselor, social worker (if the student receives social work services), and a teacher familiar with the student. Other individuals, including parents, guardians or Relative Caregivers, may be invited as appropriate.

4.4 When placing an IDEA-identified student with a disability in a School Based Intervention Program, the Intervention Team and a student's IEP team may be the same as long as the membership of the Intervention Team also meets the requirements of 14 DE Admin. Code 925. When placing a student with a disability identified under Section 504 of the Rehabilitation Act, the Intervention Team may be the same as a multidisciplinary team authorized to make placement decisions as long the Intervention Team also meets the requirements of 34 C.F.R. 104.35

5.0 Evaluation of Services

Any local school district receiving a grant pursuant to this regulation shall submit an annual evaluation report on the effectiveness of its District and School Based Intervention Services. Such report shall be submitted as part of the LEA Consolidated Application process and shall conform to content and format standards.

14 DE Admin. Code §611. Consortium discipline alternative programs for treatment of severe discipline problems.

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

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

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

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

1.3.1 Such disruptions are chronic and repetitive; and

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

7.0 Assignment to an Alternative Program

7.1 Procedures for Student Referral

7.1.1 Criteria for student referral to an Alternative Placement.

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

Chronic Absenteeism and Truancy

LAWS

14 Del.C. §203. Special programs.

The Department with the approval of the State Board of Education and the school board of any local reorganized school district, either separately or jointly, may establish special programs for children who are in need of education not provided for in regular classes or schools. Such special programs may include, but are not limited to, bilingual programs, programs for persons who are truant or insubordinate or programs for pregnant students.

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

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

14 Del.C. §2702. Compulsory attendance requirements; evaluation of readiness; exit interview.

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and court proceedings set out in subchapter II of this chapter.

14 Del.C. §2721. Definitions.

In this chapter:

(7) "Truant" means a student who has been absent from school without valid excuse for more than 3 school days during a school year.

14 Del.C. §2722. Absences and truancy.

(a) Subject to the rules and regulations of the local school board, pupils enrolled in the free public schools may be excused by the superintendent of schools or persons authorized by the superintendent. Pupils enrolled in charter schools may be excused by the principal of the school or persons authorized by the principal, subject to rules and regulations promulgated by the board of directors of the charter school.

(b) No pupil who could otherwise legally fail to attend school pursuant to § 2702(a) of this title may do so without the written consent of such person or persons having legal control of that pupil.

14 Del.C. §2723. Responsibility of police officers.

(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

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

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

14 Del.C. §2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse 1 or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal shall schedule a truancy conference with the student, the student's parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of § 2702 of this title; provided however, that the principal shall refer the case for prosecution following the twentieth day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this title, and may refer the case before the twentieth day of unexcused absence if the principal determines it is appropriate to do so.

(d) The fact that a student or student's parent attended or failed to attend a truancy conference does not bar the principal from filing a complaint with the Justice of the Peace Court.

14 Del.C. §2726. Procedure for truancy conferences.

The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the

conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

14 Del.C. §2727. Notice of violation and compliance.

No person shall be prosecuted for violation of § 2702 of this title if that person, within 3 days from the time that the person is notified by the superintendent of schools or persons authorized by the superintendent, presents an excuse in writing satisfactory to such superintendent of schools, and complies with the requirements of such § 2702 of this title. The mailing of a notice to the usual address of the offending party shall be sufficient notification.

14 Del.C. §2728. Procedure for court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

14 Del.C. §2730. Failure to attend; penalties.

(a) The school may file a civil charge of truancy against the student in the Justice of the Peace Court if:

- (1) The student is age 12 or older; and/or
- (2) The Court determines that a parent who is charged with violating § 2702 of this title has a valid affirmative defense under § 2729(b) of this title.

(b) The court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this title.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

- (1) Community service;
- (2) Counseling;
- (3) Substance abuse evaluation and treatment;
- (4) Mental health evaluation and treatment;
- (5) A curfew with hours set by the court;
- (6), (7) [Repealed.]
- (8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;
- (9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and
- (10) Such other action as is permitted by statute or by court rule.

14 Del.C. §2731. Enforcement of court order.

(a) The court with jurisdiction over the matter shall retain jurisdiction until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if it is alleged that a student has not complied with the terms of the court's order, the noncompliant student may be charged with criminal contempt pursuant to § 1271 of Title 11, which shall, in the first instance, be brought in the Family Court.

(c) A juvenile against whom criminal contempt proceedings pursuant to this section and § 1271 of Title 11 have been initiated shall have the right to counsel at all stages.

14 Del.C. §2732. Appeals.

(a) A parent convicted within the Justice of the Peace Court of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court of Common Pleas shall make a de novo determination. [...]

(c) A student who has been adjudicated truant within the Justice of the Peace Court pursuant to § 2730 of this title may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Family Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

14 Del.C. §2733. Jurisdiction; venue.

(a) The Justice of the Peace Court and the Family Court shall have concurrent jurisdiction of complaints filed pursuant to this subchapter.

(b) All complaints under this subchapter shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

(c) The matter shall proceed within the Justice of the Peace Court unless that Court determines, upon the complaint's filing, that the matter shall be transferred to the Family Court due to the existence of any of the following conditions:

- (1) Pending delinquency proceedings involving the child;
- (2) Pending civil proceedings involving a determination of the child's best interests pursuant to § 722 of Title 13;
- (3) Pending proceedings with involvement by the Department of Services for Children, Youth and Their Families with the child's family; or
- (4) Any other condition exists related to the child that reasonably warrants transfer to Family Court.

(d) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the Family Court or Justice of the Peace Court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

REGULATIONS

14 DE Admin. Code §615. School attendance.

1.0 Required Attendance Policy

Each school district and charter school shall have an attendance policy that complies with 14 Del.C. Ch. 27 and which defines and describes the district's or charter school's rules concerning attendance for students K to 12.

2.0 Distribution of Attendance Policy

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

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

2.3 Each district or charter school shall post the attendance policy on its website and notify a parent, guardian or relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or relative caregiver upon request.

3.0 Reporting Requirements and Timelines

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

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

Substance Use

LAWS

14 Del.C. §2730. Failure to attend; penalties.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

(3) Substance abuse evaluation and treatment.

14 Del.C. §3801. Declaration of purpose.

The General Assembly finds and declares that a substantial drug and alcohol trafficking and abuse problem exists in this State among school age children, in schools and on school campuses, parks and playgrounds. It is the purpose of this chapter to support increased efforts by local law enforcement agencies, working in conjunction with school districts and with state and local drug and alcohol prevention agencies, to suppress trafficking, and to prevent drug and alcohol abuse among school-age children in schools and on school campuses, through the development of innovative and model programs jointly undertaken by local law-enforcement agencies and school districts. Further, it is the intent of the General Assembly to establish a program of financial and technical assistance for local law enforcement and school districts, and to formulate a joint policy of pursuing both demand reduction (through education and prevention programs), and supply reduction (through law enforcement).

14 Del.C. §3802. Definitions.

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

(1) "Division" shall mean the Division of Substance Abuse and Mental Health.

(2) "Enhanced apprehension, prevention and education efforts" shall mean projects and programs which do not compete with, but which supplement and improve currently existing substance abuse prevention and education programs.

(3) "Entity" shall mean any committee, agency or group approved by the Division; any law-enforcement committee, agency or group approved by the Department of Safety and Homeland Security; or any committee, agency or group composed of public school teachers and/or administrators.

14 Del.C. §3803. Division of substance abuse and mental health.

(a) The Division of Substance Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in § 3801 and elsewhere in this chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law-enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law-enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the Administrative Procedures Act [Chapter 101 of Title 29], and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing state laws.

(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.

14 Del.C. §3804. State drug-free school advisory committee.

(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

14 Del.C. §3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

- (1) One local law enforcement officer;
- (2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;
- (3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;
- (4) One parent who has a son or daughter enrolled in the school;
- (5) Three high school students;
- (6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.

14 Del.C. §3806. Utilization of funds.

(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law-enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this chapter are supplemental to and shall not supplant local funds which would, in the absence of this chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school age children, or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.

(b) When applying for funds under this chapter, the local law-enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.

(c) Funds disbursed under the provisions of this chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts, and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:

- (1) Drug and alcohol trafficking intervention programs;
- (2) School and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law-enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;
- (3) Family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;
- (4) Development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;
- (5) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;
- (6) Development of a coordinated intervention system that identifies "at-risk" students, and students with chronic drug and alcohol abuse problems.

14 Del.C. §3807. State board of education; Department of public safety.

The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

14 Del.C. §4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. - Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

- (1) Any controlled substance prohibited by Title 16; or
- (2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

14 Del.C. §4117. Substance abuse.

- (a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.
- (b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

16 Del. C. §2205. Duties of Office.

The Office of Substance Abuse Services, as a component of the Department of Health and Social Services, shall:

- (2) Cooperate with the Department of Education, law-enforcement officials, and other public and private agencies to assist with the development and dissemination of substance abuse prevention materials for use at all levels of school education.

REGULATIONS

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

1.0 Purpose

The purpose of this regulation is to outline the minimum requirements to be included in all public school district and charter school policies on the Possession, Use, or Distribution of Drugs and Alcohol.

2.0 Definitions

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

"Alcohol" means alcohol or any alcoholic liquor capable of being consumed by a human being, as defined in 4 Del.C. § 101 including alcohol, spirits, wine and beer.

"Designated Caregiver" means, pursuant to 16 Del.C. § 4902A(5), a person who is at least twenty-one (21) years of age unless the person is the parent or legal guardian of a minor who is a qualifying patient; has agreed to assist with a patient's medical use of marijuana; has not been convicted of an excluded felony offense; and assists no more than five (5) qualifying patients with their medical use of marijuana.

"Distribute", "Distributing" or "Distribution" means the transfer or attempted transfer of Alcohol, a Drug, a Drug Like Substance, or Drug Paraphernalia to any other person with or without the exchange of money or other valuable consideration.

"Drug" means any controlled substance or counterfeit substance as defined in 16 Del.C. § 4701 including, for example, narcotic Drugs such as heroin or cocaine, amphetamines, anabolic steroids, and

marijuana, and shall include any prescription substance which has been given to or prescribed for a person other than the student in whose possession it is found.

"Drug Like Substance" means any noncontrolled and nonprescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of Drug Like Substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco and Smoking Policy.

"Drug Paraphernalia" means all equipment, products and materials as defined in 16 Del.C. § 4701 including, for example, roach clips, miniature cocaine spoons and containers for packaging Drugs.

"Hand Sanitizer" means a commercially available health care topical antiseptic product with at least 60% ethanol or 70% isopropyl alcohol content.

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

"Medical Marijuana Oil" means as defined in 16 Del.C. § 4902A(10).

"Nonprescription medication" means any over the counter medication that can be sold legally without a prescription. This definition may include a Drug Like Substance but excludes Hand Sanitizer.

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

"Prescription medication" means a legal drug that has a written order for a student by a licensed health care provider licensed to prescribe medication.

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

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

3.0 General Provisions

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

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

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

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

3.1.4 All Alcohol, Drugs, Drug Like Substances, Look Alike Substances and Drug Paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed

and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

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

4.1 Each school district and charter school shall have a policy on file and update it periodically.

The policy shall include, at a minimum, the following:

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

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

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

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

4.1.5 A written policy on search and seizure.

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

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

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

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

4.2 Notwithstanding any of the foregoing to the contrary, all policies adopted by public school districts or charter schools relating to the possession or use of Drugs shall permit a student's discretionary use and possession of an asthmatic quick relief inhaler with an individual prescription label, an autoinjectable epinephrine with individual prescription label, or an insulin pump for continuous subcutaneous insulin infusion ("insulin pump") or Hand Sanitizer; provided, nevertheless, that the student uses the inhaler, autoinjectable epinephrine, or an insulin pump pursuant to prescription or written direction from a state licensed health care practitioner; a copy of which shall be provided to the school district or charter school; and further provided that the parents or legal custodians of such student provide the school district or charter school with written authorization for the student to possess and use the inhaler, autoinjectable epinephrine, or an insulin pump at such student's discretion or under the school nurse's supervision, together with a form of release satisfactory to the school district or charter school releasing the school district or charter school and its employees from any and all liability resulting or arising from the student's discretionary use and possession of the inhaler, autoinjectable epinephrine, or an insulin pump, and further provided that the school nurse may impose reasonable limitations or restrictions upon the student's use and possession of the inhaler, autoinjectable epinephrine, or an insulin pump based upon the student's age, level of maturity, behavior, or other relevant considerations.

4.2.1 Parents or legal custodians shall not be required to provide or sign a form of release where the student's use and possession of an asthmatic quick relief inhaler, autoinjectable epinephrine, or insulin pump is determined by the student's IEP or Section 504 Team to be necessary for the student's educational placement.

4.2.2 Except as provided for in a student's Section 504 Plan or IEP, the school nurse may not unilaterally impose limitations or restrictions on a student's use and possession of an asthmatic quick relief inhaler, autoinjectable epinephrine, or an insulin pump if a Section 504 or IEP Team has determined the use of the medication is necessary for the student's educational placement.

(For students who use prescribed asthmatic quick relief inhalers, autoinjectable epinephrine, or an insulin pump for continuous subcutaneous insulin therapy or Hand Sanitizer, see 14 DE Admin. Code 817, Administration of Medications and Treatments.)

4.3 A Designated Caregiver may possess for the purpose of administering and may administer to a minor qualifying patient Medical Marijuana Oil in a school bus and on the grounds or property of the preschool, or primary or secondary school in which a minor qualifying patient is enrolled. The Designated Caregiver shall not be a school nurse or other school employee hired or contracted by a school unless he or she is a parent or legal guardian of the minor qualifying patient, and said parent or legal guardian possesses no more than the number of doses prescribed per day of Medical Marijuana Oil which is kept at all times on their person.

5.0 Reporting Requirements and Timelines

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

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

14 DE Admin. Code §851. K to 12 comprehensive health education program.

2.1 Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive Health Education Program based on the Delaware Health Education Standards. The program shall establish a foundation of understanding the relationship between personal behavior and health outcomes, and shall include at a minimum the following:

2.1.7 Inclusion of an Evidence-based tobacco, alcohol, drug and interpersonal violence prevention program. Promising Practices may be used to supplement instruction.

2.1.7.1 The Department shall prepare and distribute on its website a list of Evidence-based and Promising Practices for tobacco, alcohol, drug, and interpersonal violence prevention programs and resources that may be used by school districts or charter schools.

2.1.7.2 A description of the method or methods used to implement and review for the effectiveness of the program or programs shall be reported to the Department no later than August 2021.

14 DE Admin. Code §877. Tobacco and smoking policy.

1.0 Purpose

1.1 The purpose of this regulation is to specify for district and charter schools the elements of a required Tobacco and Smoking Policy, including specifying areas where the policy is in effect, and outlining reporting requirements and timelines.

1.2 This regulation aligns with 16 Del.C., Chapter 29, Delaware's Clean Indoor Air Act, and 11 Del.C., Chapter 5, Subchapter V.

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

"Electronic Smoking Device" means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate Smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether

manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor or as this term may be amended by 16 Del.C. § 2902.

"Smoking" means:

- a. The burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco; or
- b. The use of an Electronic Smoking Device which creates an aerosol or vapor, in any manner or in any form or as this term may be amended by 16 Del.C. § 2902.

"Tobacco Product" means:

- a. Any product that is made from or derived from tobacco or that contains nicotine, including: cigarettes, cigars, pipe tobacco, hookah tobacco, chewing tobacco, snuff, snus, or smokeless tobacco and is intended for human consumption by any means including Smoking, heating, chewing, absorbing, dissolving, inhaling, or ingesting as this term may be amended by 11 Del.C. § 1115.; or
- b. A component or accessory used in the consumption of a Tobacco Product, including filters, rolling papers, and pipes or as this term may be amended by 11 Del.C. § 1115.

Tobacco Product does not mean a drug, device, or combination product authorized for sale by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301. et seq.) or as this term may be amended by 11 Del.C. § 1115.

"Tobacco Substitute" means:

- a. An Electronic Smoking Device employing a mechanical heating element, battery, or circuit to produce aerosol or vapor for inhalation into the body of an individual or as this term may be amended by 11 Del.C. § 1115., or
- b. A liquid used in a device under paragraph a. above, including liquids that contain nicotine and liquids that do not contain nicotine or as this term may be amended by 11 Del.C. § 1115.

Tobacco Substitute does not mean a drug, device, or combination product authorized for sale by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301. et seq.) or as this term may be amended by 11 Del.C. § 1115.

3.0 Required Policy

3.1 To improve the health of students, school personnel, and visitors, each school district and charter school in Delaware shall have a Tobacco and Smoking Policy which at a minimum:

- 3.1.1 Prohibits smoking and the use of or distribution of tobacco products and electronic smoking devices in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.
- 3.1.2 Includes procedures for communicating the policy to students, school staff, parents, guardians or relative caregivers, families, visitors and the community at large.
- 3.1.3 Makes provisions for or refers individuals to voluntary cessation education and support programs that address the physical and social issues associated with nicotine addiction.

4.0 The Tobacco and Smoking Policy Shall Apply to

4.1 Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.

4.1.1 School bus operators under contract shall be considered staff for this policy.

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

4.3 Any non-educational groups utilizing school buildings or other educational assets.

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

5.0 No School or School District Property May Be Used for the Advertising of any Tobacco Product, Tobacco Substitute or Electronic Smoking Device

6.0 Reporting Requirements and Timelines

6.1 Each school district and charter school shall have an electronic copy of its current Tobacco and Smoking Policy on file with the Department of Education.

6.2 Each school district and charter school shall provide an electronic copy of any Tobacco and Smoking Policy within ninety (90) days of such revisions regardless of whether said revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies.

Gang-related Activity

LAWS

14 Del.C. §4162. Child safety awareness, prevention, and other nonacademic trainings.

(a) Each school district and charter school shall require its employees to receive 12.5 hours of training every 3 years consisting of all of the following:

(2) Three hours of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.

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

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

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

14 Del.C. §402. Definitions.

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

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

14 Del.C. §407. Duration of enrollment in receiving district.

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

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

14 Del.C. §4112A. Office of School Criminal Offense and Bullying Ombudsperson.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in § 4164 of this title.

(c) The Ombudsperson shall have the power to:

- (1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;
- (2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under § 4164 of this title;
- (3) Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and
- (4) Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

14 Del.C. §4112B. Ombudsperson access.

(b) The Ombudsperson may initiate an investigation of any criminal offense committed on school property or any incident of bullying independent of the receipt of a specific complaint.

14 Del.C. §4161. Definitions.

For purposes of this subchapter:

- (1) "Bullying" means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:
 - a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student's, volunteer's, or employee's emotional or physical well-being or substantial damages to the student's, volunteer's, or employee's property.
 - b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.
 - c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
 - d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

14 Del.C. §4162. Child safety awareness, prevention, and other nonacademic trainings.

(a) Each school district and charter school shall require its employees to receive 12.5 hours of training every 3 years consisting of all of the following:

- (2) Three hours of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.

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

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

(b) Prohibition of bullying. -

- (1) Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.
- (2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:
 - a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" mean as defined in § 4112 of this title.
 - b. A definition of bullying no less inclusive than that in § 4161 of this title.
 - c. Direction to develop a school-wide bullying prevention program.
 - d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.
 - e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying must immediately report it to the administration.
 - f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was targeted or reports being targeted wholly or in part due to the target's race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.
 - g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan must provide for the review and exchange of information regarding nonclassroom areas.
 - h. An identification of an appropriate range of consequences for bullying.
 - i. A procedure for a student or parent to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.
 - j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent's right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section.
 - k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under

Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

l. A statement prohibiting retaliation following a report of bullying.

m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

(c) Dissemination of policy and accountability. -

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

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

(3) [Repealed.]

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

(d) Duties of the Department of Education. -

(1) The Department of Education shall collaborate with the Department of Justice to identify and maintain a model policy that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. Each school district and charter school shall adopt the Department's uniform cyberbullying policy within 90 days of the policy becoming final.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is available, the Department of Education shall provide for an award system for schools with exemplary programs based on criteria promulgated by the Department.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually in the report required by paragraph (c)(4) of this section.

(e) Immunity. - A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person using the procedures specified in the school district's or charter school's bullying prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, wilful, or intentional conduct.

(f) Other defenses. -

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

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

(g) Relationship to reporting requirements. - An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

14 Del.C. §9301. Short title.

This chapter shall be known and may be cited as the "Anti-Hazing Law."

14 Del.C. §9302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student or which wilfully destroys or removes public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any organization operating under the sanction of or recognized as an organization by an institution of higher learning. The term shall include, but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual, and shall include any activity which would subject the individual to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual, or any willful destruction or removal of public or private property. For purposes of this definition, any activity as described in this definition upon which the admission or initiation into or affiliation with or continued membership in an organization is directly or indirectly conditioned shall be presumed to be "forced" activity, the willingness of an individual to participate in such activity notwithstanding.

14 Del.C. §9303. Hazing prohibited.

Any person who causes or participates in hazing commits a class B misdemeanor.

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

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

(b) Enforcement and penalties. -

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

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

(3) In the case of an organization which authorizes hazing in blatant disregard of such rules, penalties may also include rescission of permission for that organization to operate on campus property or to otherwise operate under the sanction or recognition of the institution.

(4) All penalties imposed under the authority of this section shall be in addition to any penalty imposed for violation of paragraph (b)(3) of this section or any of the criminal laws of this State or for violation of any other institutional rule to which the violator may be subject.

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

REGULATIONS

14 DE Admin. Code §103. Accountability for schools, districts and the state.

7.0 Accountability for Schools that are Under Improvement

7.6.2.4.2.9 Extend learning time and create community-oriented schools, by

7.6.2.4.2.9.3 Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment.

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

3.0 Uniform Definitions for Student Conduct

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

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

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

considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community. [...]

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

14 DE Admin. Code §624. School district/charter school policy prohibiting cyberbullying.

1.0 Cyberbullying Forbidden

In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del.C. §§ 4161 and 4164, each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each school district and charter school in the same manner as incidents of bullying, and notice of each school district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty in the same manner as notice of the school district's and charter school's policy against bullying.

2.0 Definition of Cyberbullying

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

2.2 Whether speech constitutes cyberbullying will be determined from the standpoint of a reasonable student of the same grade and other circumstances as the victim.

2.3 The place of origin of speech otherwise constituting cyberbullying is not material to whether it is considered cyberbullying under this policy, nor is the use of school district or charter school materials.

2.4 Upon implementation of this policy, and again at the beginning of each academic year, each school district and charter school shall inform students in writing of mediums where the posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. Postings on Facebook, Twitter, MySpace, YouTube, and Pinterest shall be included in each district's and charter school's list of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. Postings on social media sites or forums similar to the enumerated examples above will also be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings.

2.5 Nothing in this policy shall limit in any way a school district's or charter school's ability to regulate student conduct, including bullying, in any manner provided for by existing law, regulation, or policy.

14 DE Admin. Code §1007. DIAA Sportsmanship.

1.2.1.5.1 The School Administrator and Athletic Director shall:

1.2.1.5.1.8 Develop and implement policies for their interscholastic athletic programs to discourage acts of bullying, hazing, and taunting.

14 DE Admin. Code §1150. School transportation.

9.0 Pupil Conduct on School Buses

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

9.1.21 Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.

Dating and Relationship Violence

LAWS14 Del.C. §4161. Definitions.

For purposes of this subchapter:

(14) "Teen dating violence" means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

14 Del.C. §4162. Child safety awareness, prevention, and other nonacademic trainings.

(b) Each school district and charter school shall require a school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 to receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title every 3 years. This training may be included in paragraph (a)(4) of this section.

14 Del.C. §4166. Teen dating violence and sexual assault awareness and prevention.

(a) Teen dating violence and sexual assault training program. - The Delaware Domestic Violence Coordinating Council shall identify and maintain a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving 1 or more of the grades in grades 7 through 12.

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

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

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

(3) A protocol for responding to incidents of teen dating violence and sexual assault which includes all of the following:

- a. Procedures regarding initial response.
- b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required.
- c. Procedures for the documentation of incidents.
- d. Procedures for working with victims.
- e. Procedures for working with perpetrators.

(c) [Repealed.]

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the health standards adopted by the Department of Education as approved by the State Board of Education, is provided in health education programs or

related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) Dissemination of policy and accountability. -

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

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

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

(f) Immunity. - A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence or sexual assault in good faith and to the appropriate person using the procedures specified in the school district's or charter school's teen dating violence and sexual assault policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, wilful, or intentional conduct.

(g) Relationship to reporting requirements. - Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. For purposes of this subsection, "school property" and "school function" mean as defined in § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h), (i) [Repealed.]

(j) Short title. - This section shall be known and may be cited as the "Liane Sorenson Act."

REGULATIONS

14 DE Admin. Code §601. Schools and law enforcement agencies.

5.0 Reporting of Crimes to the Delaware Department of Education

5.1 The principal or head administrator of each school, charter school, and Alternative Program or the principal's or head administrator's designee, shall ensure each school within the principal's or head administrator's jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. § 4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

6.0 Reporting Specific Incidents of Misconduct

6.1 In addition to those school crimes required to be reported to law enforcement pursuant to 14 Del.C. § 4112, the principal or head administrator of each school, charter school, and Alternative Program, or the principal's or head administrator's designee, shall report to the Department of Education when any incidents of misconduct 6.1.1 through 6.1.14 occur on school property or at a school function except subsections 6.1.6.1 which must be reported to the Department of Education regardless of origin of the speech. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.

6.1.13 Teen Dating Violence.

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

3.0 Uniform Definitions for Student Conduct

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

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

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

14 Del.C. §3801. Declaration of purpose.

The General Assembly finds and declares that a substantial drug and alcohol trafficking and abuse problem exists in this State among school age children, in schools and on school campuses, parks and playgrounds. It is the purpose of this chapter to support increased efforts by local law enforcement agencies, working in conjunction with school districts and with state and local drug and alcohol prevention agencies, to suppress trafficking, and to prevent drug and alcohol abuse among school-age children in schools and on school campuses, through the development of innovative and model programs jointly undertaken by local law-enforcement agencies and school districts. Further, it is the intent of the General Assembly to establish a program of financial and technical assistance for local law enforcement and school districts, and to formulate a joint policy of pursuing both demand reduction (through education and prevention programs), and supply reduction (through law enforcement).

14 Del.C. §3807. State board of education; Department of public safety.

The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

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

(7) Department of Education role and regulations. -

- a. The Department of Education shall develop, promulgate, and update regulations for this subsection in collaboration with the Governor's Advisory Council for Exceptional Citizens (GACEC).
- b. Timelines for implementation and training shall be primarily based on protecting the health and welfare of children with disabilities.
- c. To the greatest extent practical and appropriate, such regulations shall be consistent with and integrated with the regulations for the remainder of this section.

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

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

(d) Duties of the Department of Education. -

- (1) The Department of Education shall collaborate with the Department of Justice to identify and maintain a model policy that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. Each school district and charter school shall adopt the Department's uniform cyberbullying policy within 90 days of the policy becoming final.

16 Del. C. §2205. Duties of Office.

The Office of Substance Abuse Services, as a component of the Department of Health and Social Services, shall:

(2) Cooperate with the Department of Education, law-enforcement officials, and other public and private agencies to assist with the development and dissemination of substance abuse prevention materials for use at all levels of school education.

REGULATIONS

14 DE Admin. Code §601. Schools and law enforcement agencies.

3.0 Written Policy and Memorandum of Agreement (MOA)

3.1 All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a MOA with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and revised as needed by the Department of Education.

3.2 The Department of Education shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

14 DE Admin. Code §103. Accountability for schools, districts and the state.

7.6.2.4.2 A district may:

7.6.2.4.2.5 Implement a schoolwide "response-to-intervention" model.

Prevention

LAWS

14 Del.C. § 4146. Media literacy

(a) For purposes of this section:

(1) "Media literacy" means the ability to access, analyze, evaluate, create, and take action with all forms of communication, and encompasses the foundational skills of digital citizenship and internet safety including the norms of appropriate, responsible, ethical, and healthy behavior, and cyberbullying prevention.

(b) (1) The Department of Education (Department) shall adopt evidence-based, media literacy standards (standards) for use by each school district and charter school serving students in 1 or more of the grades kindergarten through 12.

(c) The standards and instructional materials must be age-appropriate and must address appropriate, responsible, and healthy online behavior, including all of the following:

(2) Understanding the negative impact of inappropriate technology use, including online bullying and harassment, hacking, intentional virus setting, invasion of privacy, and piracy of software, music, video, and other media.

14 Del.C. §1602. Appropriation.

The General Assembly shall annually provide an appropriation for the operation of the Comprehensive School Discipline Improvement Program in the budget appropriation bill. From the funds appropriated, the Department may allocate funds to the public school districts for the financial support of various components of the program.

14 Del.C. §1603. Rules and regulations.

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

14 Del.C. §1605A. Prevention component.

The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools. Within the limits of appropriations made for this purpose, the Council shall provide rules and regulations for the award of prevention grants and the conduct of prevention programs authorized under this section, subject to the following limitations:

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(2) Applications for funding pursuant to this section shall be made by school districts in accordance with procedures and standards established by the Council. Each applicant shall set forth an integrated plan to provide prevention services consistent with paragraph (1) of this section. To avoid duplication of effort, maximize the impact of limited resources, and increase the effect of efforts by state, local, community and private, nonprofit agencies through increased coordination and cooperation, the Council shall give preference to applications which:

- a. Are submitted by 2 or more school districts working in concert, where appropriate;
- b. Include private, nonprofit agencies and community organizations as partners in the application, and identify the roles those agencies and organizations are to play in delivering prevention services in the community;
- c. Indicate how grants from the federal government and foundations will be used or sought to help deliver prevention services in the community; and
- d. Identify the roles state and local agencies are to play in delivering prevention services in the community.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

(4) The Council shall establish a timetable for the award of grants pursuant to this section which shall provide, at minimum, for a period of 1 month for joint planning between the Council and the applicants that the Council selects as finalists eligible for a funding award. During such joint planning, the Council and the applicant shall refine the applicant's prevention plan, ensure that the plan makes cost-effective use of the resources and services of state, local, community and private, nonprofit agencies, and consider the incorporation of successful elements of other districts' prevention programs into the applicant's plans. Final awards shall be made by the Council on or before January 15 of each year for the subsequent school year, contingent upon the appropriation of funds for such purpose in the annual appropriations act.

14 Del.C. §1723. Comprehensive school discipline improvement programs.

In addition to the funds appropriated to school districts by other sections of this chapter, school districts shall be eligible to make application to the Department of Education for the development and implementation of school discipline improvement programs as specified in Chapter 16 of this title.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

14 Del.C. §122. Rules and regulations.

(29) Establishing mandatory instruction in age- and developmentally-appropriate social emotional learning and mental health content in all public schools no later than the 2023-2024 school year. Recommended high quality evidence-based or evidence-informed educational programming resources to be identified by the Department of Education in collaboration with, but not limited to, district and charter school educators, Department of Health and Social Services, Department of Services for Children, Youth and their Families, and National Alliance on Mental Illness Delaware (NAMI Delaware).

REGULATIONS

14 DE Admin. Code §609. District and school based intervention services.

4.0 School Based Intervention Programs
4.2 A School Based Intervention Program shall include both short term and long term intervention strategies. Such strategies may include character education, short or long term counseling to improve behavior which impacts educational performance, and methods to identify the need to refer students for additional services either within the district or to other agencies. The Program shall also include support services to provide a smooth transition for students who are returning to their regular school from a Consortium Discipline Alternative Program or from a Department of Services to Children, Youth and their Families (DSCYF) setting.

Trauma-informed Practices

LAWS

14 Del.C. §703. Student discipline report; school discipline improvement plan.

(b)(3)c. The plan may increase or improve professional development opportunities for educators, administrators, and staff. Components of such professional development may include 1 or more of the following:

- 2. Trauma informed care.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

14 Del.C. §4116A. Mental health educational programs.

- (a) For purposes of this section:
 - (1) "Charter school" means as defined under section 4161 of this title
 - (2) "Contracted school year" means the period defined under section 1305(e) of this title
 - (3) "Grade" means kindergarten through grade 12.

- (4) "School district" means as defined under section 4161 of this title.
- (b) The Department of Education, with the approval of the State Board of Education, shall establish and implement statewide mental health educational programs for each grade in each school district and charter school in this State.
- (c) The statewide mental health education programs established and implemented under this section must meet all of the following:
- (1) Recognize the multiple dimensions of health by including instruction in mental health and the relationship between physical and mental health to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity.
 - (2) Taught by appropriately certified teachers or appropriately certified community mental health providers.
 - (3) Be comprehensive, developmentally appropriate, and sequential in nature.
- (d) In establishing and implementing statewide mental health programs under this section, the Department of Education shall consult with mental health experts, including individuals with the Department of Health and Social Services, Department of Services for Children, Youth, and their Families, Mental Health Association of Delaware, Delaware Guidance Services, National Alliance of Mental Illness Delaware, and National Council for Behavioral Health.
- (e) A school district or charter school shall provide in-service training required under this section within the contracted school year.
- (f) The Department of Education may, with the approval of the State Board of Education, adopt regulations to implement and enforce this section.
- (g) The Department of Education shall submit a written report to the governor, the members of the General Assembly, the Director and the Librarian of the Division of Research of Legislative Council, and the Public Archives no later than January 15 of each year. The report must include a description of the educational programming provided under subsection (b) of this section, how the programming complies with subsection (c) of this section, and how the programming has been implemented by each school district and charter school.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

14 Del.C. §2730. Failure to attend; penalties.

- (c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:
- (4) Mental health evaluation and treatment.

14 Del.C. §4126. School-based health centers.

- (a) All public high schools, including vocational-technical schools, but not including charter schools, are required to have a school-based health center compliant with § 3571G of Title 18 and regulations promulgated thereunder.
- (b) The State shall bear the start-up costs for a school-based health center at any public high school that lacks such a center as of July 20, 2016. The State shall fund such costs for at least 1 school per fiscal year until such a time as all public high schools, other than charter schools, are in compliance with this section.

18 Del. C. §3365. School-based health centers.

- (a) For purposes of this section, a school-based health center (SBHC) is a health clinic that:

- (1) Is located in or near a school facility;
 - (2) Is organized through school and health provider relationships;
 - (3) Provides through licensed professionals primary health services to children, including comprehensive health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions, referrals to and follow-up for specialty care and oral and vision health services, mental health and substance use disorder assessments, crisis intervention, counseling, treatment, and referral to a continuum of mental health and substance abuse services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs; and
 - (4) Is recognized by the State pursuant to relevant regulations and law.
- (b) The Delaware Division of Public Health (DPH) shall have sole authority to determine whether a facility is an SBHC as defined in subsection (a) of this section.
- (c) Except as noted herein, benefits provided under insurance contracts delivered, issued for delivery, or renewed in this State shall reimburse SBHCs for covered services provided by SBHCs as if those services were provided by a network provider under the relevant contract of insurance. In the absence of an agreement between a carrier and an SBHC on reimbursement, reimbursement for such services shall be at the rate established by the Division of Medicaid and Medical Assistance for those services. Any insurance contract term purporting to exclude otherwise covered services on the basis that they are performed by an SBHC shall be void except as specifically permitted under this chapter.
- (d) If DPH has approved an SBHC, that approval shall be deemed sufficient to meet the carrier's standards for inclusion in its network or for being eligible for payment by the carrier.
- (e) SBHCs shall not charge co-pays or any other out-of-pocket fees to students for use of SBHC services. Insurance carriers shall not incur any additional financial liability by virtue of this subsection.
- (f) The Delaware DPH, in coordination with the State's SBHCs, insurance carriers, and the Department of Insurance, shall issue regulations to ensure that SBHCs are properly integrated into the State's spectrum of health-care providers that provide covered services to youth. These regulations shall include, but are not limited to:
- (1) Regulations governing reporting to and interaction with students' primary care providers; and
 - (2) Regulations regarding promotion of vaccinations among student users of SBHCs.
- (g) Nothing in this chapter shall prevent the enforceability of an agreement negotiated between an SBHC and an insurance carrier governing claims submission, reimbursement, quality standards, credentialing and similar matters, provided, however, that in the absence of such agreement the terms of this chapter shall govern.

18 Del. C. §3571G. School-based health centers.

- (a) For purposes of this section, a school-based health center (SBHC) is a health clinic that:
- (1) Is located in or near a school facility;
 - (2) Is organized through school and health provider relationships;
 - (3) Provides through licensed professionals primary health services to children, including comprehensive health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions, referrals to and follow-up for specialty care and oral and vision health services, mental health and substance use disorder assessments, crisis intervention, counseling, treatment, and referral to a continuum of mental health and substance abuse services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs; and
 - (4) Is recognized by the State pursuant to relevant regulations and law.
- (b) The Delaware Division of Public Health (DPH) shall have sole authority to determine whether a facility is an SBHC as defined in subsection (a) of this section.

(c) Except as noted herein, benefits provided under any group or blanket health insurance policy which is delivered, issued for delivery, or renewed in this State shall reimburse SBHCs for covered services provided by SBHCs as if those services were provided by a network provider under the relevant contract of insurance. In the absence of an agreement between a carrier and an SBHC on reimbursement, reimbursement for such services shall be at the rate established by the Division of Medicaid and Medical Assistance for those services. Any insurance contract term purporting to exclude otherwise covered services on the basis that they are performed by an SBHC shall be void except as specifically permitted under this chapter.

(d) If DPH has approved an SBHC, that approval shall be deemed sufficient to meet the carrier's standards for inclusion in its network or for being eligible for payment by the carrier.

(e) SBHCs shall not charge co-pays or any other out-of-pocket fees to students for use of SBHC services. Insurance carriers shall not incur any additional financial liability by virtue of this subsection.

(f) The Delaware DPH, in coordination with the State's SBHCs, insurance carriers, and the Department of Insurance, shall issue regulations to ensure that SBHCs are properly integrated into the State's spectrum of health-care providers that provide covered services to youth. These regulations shall include, but are not limited to:

(1) Regulations governing reporting to and interaction with students' primary care providers; and

(2) Regulations regarding promotion of vaccinations among student users of SBHCs.

(g) Nothing in this chapter shall prevent the enforceability of an agreement negotiated between an SBHC and an insurance carrier governing claims submission, reimbursement, quality standards, credentialing and similar matters, provided, however, that in the absence of such agreement the terms of this chapter shall govern.

REGULATIONS

16 DE Admin. Code §4000-4102. School-based health centers.

Section 2.0 Definitions.

"School-based health center" means a health care clinic located in or near a school facility that is organized through school and health provider relationships that provides services designated in Section 4.0 of this regulation. [...]

Section 4.0 Service Provision.

4.3 All SBHCs shall provide through licensed professionals, primary health services to children, including comprehensive health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions, nutrition consultation/education, referrals to and follow-up for specialty care and oral and vision health services, mental health and substance use disorder assessments, crisis intervention, counseling, treatment, and referral to a continuum of mental health and substance abuse services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

14 Del.C. §4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. - Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

- (1) Any controlled substance prohibited by Title 16; or
- (2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

14 Del.C. §4112A. Office of School Criminal Offense and Bullying Ombudsperson.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in § 4164 of this title.

(c) The Ombudsperson shall have the power to:

- (1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;
- (2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under § 4164 of this title;
- (3) Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and
- (4) Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

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

(b)(2)k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

REGULATIONS

14 DE Admin. Code §601. Schools and law enforcement agencies.

5.0 Reporting of Crimes to the Delaware Department of Education

The principal or head administrator of each school, charter school, and Alternative Program or the principal's or head administrator's designee, shall ensure each school within the principal's or head

administrator's jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. § 4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

6.0 Uniform Data Collection

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

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

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

6.1.3 The written report shall include, at a minimum:

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

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

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

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

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

6.1.3.4.2 School/LEA policy or procedure; or

6.1.3.4.3 Additional staff training.

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

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

4.1 Each school district and charter school shall have a policy on file and update it periodically.

The policy shall include, at a minimum, the following:

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

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

3.2 Reporting Requirements

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

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

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

Parental Notification

LAWS

14 Del.C. §2702. Compulsory attendance requirements; evaluation of readiness; exit interview.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 12.

- (1) Following the tenth day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;
- (2) Following the fifteenth day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;
- (3) Following the twentieth day of unexcused absence by a student, the school shall refer the case for prosecution;
- (4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days. [...]

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

- (1) Have their child or children abide by the school code of conduct;
- (2) Make certain their child attends school regularly; and
- (3) Provide written documentation for the reasons for any absence.

14 Del.C. §2723. Responsibility of police officers.

(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

14 Del.C. §2725. Absences without excuse; truancy conferences.

(b) If a student is truant, the principal shall schedule a truancy conference with the student, the student's parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

14 Del.C. §2726. Procedure for truancy conferences.

The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

14 Del.C. §2728. Procedure for court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the court.

(d) The school may request that the court postpone adjudication. The court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

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

(c) Department of Education role; regulations. -

(1) The Department of Education shall promulgate regulations implementing this section.

Such regulations shall include, but not be limited to, the following:

b. Requirement of timely parental notice in event of use of physical restraint. [...]

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

14 Del.C. §4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

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

(b)(2)j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent's right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section. [...]

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

REGULATIONS

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

5.0 Parental Notification of Use of Physical Restraint

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

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

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

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

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

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

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

5.0 Suspensions

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

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

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

10.0 Procedures for the Expulsion of Students

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

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

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

10.2.3 The Principal shall hold a Building Level Conference with the Parent and the student. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the recommendation for Expulsion; 2) that the student will be serving a Short-term Suspension

pending the outcome of the Expulsion hearing and; 3) of the procedures that will take place as follow- up to the recommendation for Expulsion.

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

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

10.3 Expulsion Hearings

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

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

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

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

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

14 Del.C. §121. General powers of the Department of Education.

(a) The Department shall exercise general control and supervision over the public schools of the State, including:

(9) Requiring boards of education of reorganized school districts to submit reports covering student achievement, discipline, expenditures, business methods, accounts, registration, attendance, and any other matter it finds necessary and advisable consistent with the State's policy, as reflected in §§ 122(d), (e) and 124A(f) of this title, to avoid duplicative or unnecessarily burdensome reporting obligations; and receiving and examining such reports and, through its staff, examining and giving advice on expenditures, business methods, and accounts of boards of education of reorganized school districts.

14 Del.C. §124A. Education Profile reports.

(c) The Education Profiles shall contain, but need not be limited to, information such as the following to be reported on a state, district and school-specific basis:

(3) Information pertaining to school safety and discipline and student attendance and truancy.

14 Del.C. §703. Student discipline report; school discipline improvement plan.

(a) The Department shall compile and release an annual report on student discipline in all schools as follows:

(1) The analysis must be based on data, as permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, collected over the 3 most recent consecutive school years.

(2) The report must be posted on the Department's website no later than October 30.

(3) The report shall include both statewide totals and individual school data, for each of the school years in the report, on the issuance of out-of-school suspensions, expulsions, alternative school assignments, and in-school suspensions, disaggregated by race, ethnicity, gender, grade level, limited English proficiency, incident type, discipline duration, and if the student is identified as having a disability.

(4) The report must identify, for each school year in the report, schools that meet any of the following thresholds:

- a. Calculations under this subsection should exclude subgroups that contain fewer than 15 students.
- b. A school with an out-of-school suspension rate for all students or any 1 subgroup that exceeds any of the following:
 1. A rate of 20 suspensions per 100 students for the 2018 through 2019 school year.
 2. A rate of 15 suspensions per 100 students for the 2019 through 2020 school year and each school year thereafter.
- c. A school for which the out-of-school suspension gap between the lowest-suspended racial subgroup and the highest suspended racial subgroup, or the suspension gap between students with disabilities and students without disabilities, exceeds any of the following:
 1. Twenty percent for the 2018 through 2019 school year.
 2. Fifteen percent for the 2019 through 2020 school year.
 3. Ten percent for the 2020 through 2021 school year and each school year thereafter.

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

(c) Department of Education role; regulations. -

(1) The Department of Education shall promulgate regulations implementing this section.

Such regulations shall include, but not be limited to, the following:

- a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any. [...]

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

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

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

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

REGULATIONS

14 DE Admin. Code §104. Education profiles for schools, districts, and the state.

1.0 Education Profiles

All public schools, including charter schools, reorganized or vocational-technical school districts and the State shall issue Delaware Public Education Profiles on the state of Delaware's public school system as required by 14 Del.C. §124A. The profiles shall be provided in a web format as well as an abbreviated print format pursuant to 2.0 of this regulation. The profiles shall be referred to as school, district, and state

Profiles respectively. Each website profile shall contain, but need not be limited to, the following information, aggregated at the appropriate level (school, district or state), unless otherwise noted:

- 1.10 Information pertaining to school safety and discipline and student attendance.

14 DE Admin. Code §601. Schools and law enforcement agencies.

5.0 Reporting of Crimes to the Delaware Department of Education

The principal or head administrator of each school, charter school, and Alternative Program or the principal's or head administrator's designee, shall ensure each school within the principal's or head administrator's jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. § 4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

6.0 Reporting Specific Incidents of Misconduct

6.1 In addition to those school crimes required to be reported to law enforcement pursuant to 14 Del.C. § 4112, the principal or head administrator of each school, charter school, and Alternative Program, or the principal's or head administrator's designee, shall report to the Department of Education when any incidents of misconduct as defined in subsections 6.1.1 through 6.1.14 occur on school property or at a school function except subsection 6.1.6.1 which must be reported to the Department of Education regardless of origin of the speech. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.

6.1.1 Pornography, possession and production

6.1.2 Criminal mischief (vandalism)

6.1.3 Tampering with public records

6.1.4 Alcohol, possession and use

6.1.5 Felony theft

6.1.6 Bullying (allegations and substantiated incidents)

6.1.6.1 Cyberbullying (allegations and substantiated incidents) as defined in 14 DE Admin. Code 624, subsection 2.1

6.1.7 Offensive Touching (student or employee victim)

6.1.8 Terroristic Threatening (student or employee victim)

6.1.9 Sexual Harassment

6.1.10 Fighting

6.1.11 Inhalants

6.1.12 Drug Paraphernalia

6.1.13 Teen Dating Violence

6.1.14 Unlawful Drug Use or Influence

14 DE Admin. Code §603. Compliance with the Gun Free Schools Act.

2.0 Submission of the Policy to the State Department of Education

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

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

2.1.2 An electronic copy of any revised policy implementing the Gun-Free Schools Act (20 U.S.C. § 7961) and complying with 11 Del.C. § 1457(j) or its successor statute under the policy implemented

in accord with this regulation within ninety (90) days of such revision regardless of whether revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies; and

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

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

7.0 Annual Reporting Requirement

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

14 DE Admin. Code §611. Consortium discipline alternative programs for treatment of severe discipline problems.

13.0 Evaluation

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

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

5.0 Reporting Requirements and Timelines

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

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

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

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

14 Del.C. §4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. - Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

- (1) Any controlled substance prohibited by Title 16; or
- (2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

14 Del.C. §4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

REGULATIONS

14 DE Admin. Code §601. Schools and law enforcement agencies.

6.0 Reporting Specific Incidents of Misconduct

6.1 In addition to those school crimes required to be reported to law enforcement pursuant to 14 Del.C. § 4112, the principal or head administrator of each school district, charter school, and Alternative Program, or the principal's or head administrator's designee, shall report to the Department of Education when any incidents of misconduct as defined in subsections 6.1.1 through 6.1.14 occur on school property or at a school function except subsection 6.1.6.1 which must be reported to the Department of Education Regardless of origin of the speech. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.

6.1.1 Pornography, possession and production

6.1.2 Criminal mischief (vandalism)

6.1.3 Tampering with public records

- 6.1.4 Alcohol, possession and use
- 6.1.5 Felony theft
- 6.1.6 Bullying (allegations and substantiated incidents)
 - 6.1.6.1 Cyberbullying (allegations and substantiated incidents) as defined in 14 DE Admin. Code 621, subsection 2.2.
- 6.1.7 Offensive Touching (student or employee victim)
- 6.1.8 Terroristic Threatening (student or employee victim)
- 6.1.9 Sexual Harassment
- 6.1.10 Fighting
- 6.1.11 Inhalants
- 6.1.12 Drug Paraphernalia
- 6.1.13 Teen Dating Violence
- 6.1.14 Unlawful Drug Use or Influence.

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

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

4.1 Each school district and charter school shall have a policy on file and update it periodically.

The policy shall include, at a minimum, the following:

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

14 DE Admin. Code §616. Uniform due process procedures for alternative placement meetings and expulsion hearings.

3.2 Reporting Requirements

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

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

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

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

(d) School resource officer training. - Training and reporting related to employees, contractors, or subcontractors excluded from the definition of "public school personnel" under paragraph (a)(4) of this section shall be governed by this subsection. This subsection shall be limited to those employees, contractors, or subcontractors who will assist with or independently intervene with students with disabilities, which shall include all students eligible to be identified as students with disabilities under Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1401 et seq.], § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794] and The Americans with Disabilities Act (ADA) [42 U.S.C. § 12101 et seq.].

(1) Employees, contractors, and subcontractors governed by this subsection shall annually receive the following awareness training from their school district or charter school:

- a. Training which is consistent with that which is required of other public school personnel for disability awareness and behaviors that may manifest as a result of disabilities.

- b. Best practices for de-escalation techniques in a school setting.
 - c. Information on intervention decisions and techniques used by school personnel in a school setting.
 - d. Such other training as is necessary to protect the health and well-being of students with disabilities as promulgated in implementing regulation, which shall include basic awareness training specific to individualized education programs (IEP), functional behavior assessments and behavior support plans.
 - e. This training shall include references as to how it relates to school resource officer (SRO) duties and responsibilities outlined in their employment contract and school district or charter school memorandum of agreement (MOA). This training shall be consistent with the annual training already provided to school district or charter school educators.
- (2) Employees, contractors, and subcontractors, governed by this subsection shall annually participate in the SRO training provided by the State Police or equivalent training provided by the police department employing the SRO in the school district or charter.

REGULATIONS

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

9.0 School Resource Officer (SRO) Training

9.1 SROs shall annually receive the following awareness level training from the school district or charter school in which they are assigned:

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

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

9.1.3 Current information on the intervention decisions and techniques used by school personnel within the school setting;

9.1.4 Such other training as is necessary to protect the health and well-being of students with disabilities, including students with an IEP who enroll after the beginning of the school year, which shall include basic awareness training specific to IEPs, functional behavior assessments and behavioral intervention plans;

9.1.5 SROs shall participate in the annual SRO training provided by the Delaware State Police or equivalent training provided by the police agency employing the SRO.

9.2 The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of the SRO as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under 14 DE Admin. Code 601.

9.3 Prior to the start of each school year, or as soon as practical, but no later than 30 calendar days after the first student day of school, a representative of each school building shall meet with the SRO assigned to that school in order to be familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel in that school.

9.4 Nothing within this regulation or contained within 14 Del.C. § 4112F shall be interpreted as creating any additional restrictions on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

14 Del.C. §4112F. Limitations on use of seclusion and restraint.

(d)(5) Each school district or charter school which contracts with SROs shall have a MOA consistent with the MOA template as required by Department of Education regulation with the agency which employs or manages those sworn officers.

REGULATIONS

14 DE Admin. Code §601. Schools and law enforcement agencies.

3.0 Written Policy and Memorandum of Agreement (MOA)

3.1 All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a MOA with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and revised as needed by the Department of Education.

3.2 The Department of Education shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.

14 DE Admin. Code §610. Limitations on use of seclusion and restraint.

9.0 School Resource Officer (SRO) Training

9.2 The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of a SRO as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under Regulation 601.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Delaware provide additional context to state policy and regulations and, in some cases, may support the readers’ efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Delaware Positive Behavior Support Project, University of Delaware College of Education & Human Development	Serves as a technical assistance (TA) center for the Delaware Department of Education to provide statewide professional development, TA and coaching to Delaware educators to implement Positive Behavior Support (PBS) as a multi-tiered system of support (MTSS).	http://www.delawarepbs.org/
Office of School Climate, Delaware Department of Education (DDOE)	Provides information and weblinks to best practices and other resources to assist Delaware public schools in their efforts to provide every student with a safe, secure and supportive learning environment.	https://www.doe.k12.de.us/domain/470
School Climate and Discipline - Best Practices, DDOE	Provides information on best practices in school climate and discipline, including links to resources and training on the trauma-informed compassionate schools model, character education, restorative practices, and teaching tolerance.	https://www.doe.k12.de.us/Page/3313
School Climate and Discipline - Bullying, DDOE	Provides information and weblinks to district bullying prevention policies, frequently asked questions (FAQs), reporting forms, laws and regulations, and resources and training materials.	https://www.doe.k12.de.us/Page/3311
School Climate and Discipline - School Safety, DDOE	Provides an overview of the Comprehensive School Safety Program and links resources, training, reports, forms, and laws and regulations related to school safety.	https://www.doe.k12.de.us/Page/3314

Title	Description	Website address (if applicable)
School Climate and Discipline - Student Conduct and Discipline, DDOE	Provides information and weblinks to district codes of conduct, frequently asked questions (FAQs), reporting forms, laws and regulations, and resources and training materials.	https://www.doe.k12.de.us/Page/3312
Social, Emotional and Behavioral Wellbeing, DDOE	Features resources addressing the provision of academic and behavioral supports to assure that all students and school communities are protected, connected and respected.	https://www.doe.k12.de.us/domain/616
Documents		
Delaware Model Policy for Bully Prevention and Cyberbullying (updated May 2017), DDOE	Model policy addressing bullying prevention and cyberbullying.	https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/325/Bully%20Prev%20Cyber%20Bullying%20Model%20PolicyTemplate%202017%20Final%20Website.docx
Delaware Social and Emotional Learning (SEL) Competencies, DDOE	Guidance document detailing standards, guidance, and other policies and practices that promote school-family-community partnerships to promote SEL and integrate SEL into academic content areas.	Home / Social and Emotional Learning (SEL) (doe.k12.de.us)
Trauma-Informed Practices and Social Emotional Learning Strategic Plan (2019), DDOE	Comprehensive plan supporting the promotion and integration of trauma-informed practices, social emotional wellness, and physical wellness throughout the public education system.	https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/616/TIP-SEL%20Strategic%20Plan.pdf
Other Resources		
Statewide Support Report School Discipline Improvement, 2019-20, DDOE	Statewide annual report fulfilling requirements outlined in 14 Del.C., Ch. 7, §703, directing the Delaware Department of Education to collect, evaluate and communicate data related to the use of exclusionary disciplinary practices in Delaware public schools and the efforts undertaken to reduce those occurrences.	https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/470/SDIP%202020%20Final%20corrected.pdf
2019-20 Annual Report Use of Physical Restraint in Delaware Public School Districts and Charter Schools, DDOE	Statewide annual report summarizing data number and types of incidents of restraint occurring among different student populations statewide.	https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/470/FINAL%202019%2020%20PR%20Report.pdf

Title	Description	Website address (if applicable)
Delaware Report Card, DDOE	Education data dashboard with searchable district and school report cards presenting data on range of educational indicators including enrollment, attendance, and student behavior (i.e., expulsions, in-school and out-of-school suspension and incidents of violence).	https://reportcard.doe.k12.de.us/
Due Process Calculator Worksheet, DDOE	Tool designed to assist school administrators in meeting required building- and district-level due process requirements.	https://view.officeapps.live.com/office/view.aspx?src=https%3A%2F%2Fwww.doe.k12.de.us%2Fcms%2Flib%2FDE01922744%2FCentricity%2FDomain%2F470%2Fdue%2F520process%2520timeline%2520calculator.xlsx&wdOrigin=BROWSSELINK
Trauma-informed Compassionate Schools Model Best Practices Resources/Training, DDOE	Best practices resources and training materials focusing on the Trauma-informed Compassionate Schools Model, Character Education, Restorative Practices, and Teaching Tolerance.	https://www.doe.k12.de.us/site/Default.aspx?PageID=3356
School Climate and Discipline Non-Academic Mandatory Training, DDOE	Mandatory training curricula required under Delaware law and DDOE regulation for school personnel related to school climate & discipline programming: <ul style="list-style-type: none"> • Bullying Prevention • Gang Identification • Child Abuse Reporting • Restraint Reporting • Teen Dating Violence 	https://www.doe.k12.de.us/Page/3324
Using Delaware School Climate Survey Data	Tools and resource materials supporting the use of school climate survey data, including links to online reports, steps for interpreting school reports, and templates for sharing data.	http://www.delawarepbs.org/school-climate/use-of-school-climate-data/



Florida Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

1001.43. Supplemental powers and duties of district school board.

The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1) Student management. - The district school board may adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

(a) Prohibit the possession of weapons and drugs on campus, student hazing, and other activities that could threaten the operation of the school or the safety and welfare of the student body or school personnel.

1003.02. District school board operation and control of public K-12 education within the school district.

As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school districts. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following areas :

(c) Control of students.

1. Adopt rules for the control, attendance, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion.

2. Maintain a code of student conduct as provided in chapter 1006.

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable,

or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(a) Establish classroom rules of conduct.

1003.573. Use of restraint and seclusion on students with disabilities.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.
4. Training programs relating to manual or physical restraint and seclusion.
5. The district's plan for selecting personnel to be trained.
6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
 - a. Additional training in positive behavioral support and crisis management;
 - b. Parental involvement;
 - c. Data review;
 - d. Updates of students' functional behavioral analysis and positive behavior intervention plans;
 - e. Additional student evaluations;
 - f. Debriefing with staff;
 - g. Use of schoolwide positive behavior support; and
 - h. Changes to the school environment.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

(c) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(d)1. An explanation of the responsibilities of each student with regard to appropriate dress, respect for self and others, and the role that appropriate dress and respect for self and others has on an orderly learning environment. Each district school board shall adopt a dress code policy that prohibits a student, while on the grounds of a public school during the regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.

2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(f) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not

grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:

1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
4. Using a finger or hand to simulate a firearm or weapon.
5. Vocalizing an imaginary firearm or weapon.
6. Drawing a picture, or possessing an image, of a firearm or weapon.
7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a student, including referral to the criminal justice or juvenile justice system, must be proportionate to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy.

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program or referral of such students to mental health services identified by the school district pursuant to s. 1012.584(4).

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to mental health services identified by the school district pursuant to s. 1012.584(4) and the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational

services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution and mental health services identified by the school district pursuant to s. 1012.584(4) for evaluation or treatment, when appropriate. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

1006.13. Policy of zero tolerance for crime and victimization.

(1) District school boards shall promote a safe and supportive learning environment in schools by protecting students and staff from conduct that poses a threat to school safety. A threat assessment team may use alternatives to expulsion or referral to law enforcement agencies to address disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Zero-tolerance policies may not be rigorously applied to petty acts of misconduct. Zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(2) Each district school board shall adopt a policy of zero tolerance that:

- (a) Defines criteria for reporting to a law enforcement agency any act that poses a threat to school safety that occurs whenever or wherever students are within the jurisdiction of the district school board.
- (b) Defines acts that pose a threat to school safety.
- (c) Defines petty acts of misconduct which are not a threat to school safety and do not require consultation with law enforcement.
- (d) Minimizes the victimization of students, staff, or volunteers, including taking all steps necessary to protect the victim of any violent crime from any further victimization.
- (e) Establishes a procedure that provides each student with the opportunity for a review of the disciplinary action imposed pursuant to s. 1006.07.
- (f) Requires the threat assessment team to consult with law enforcement when a student exhibits a pattern of behavior, based upon previous acts or the severity of an act, that would pose a threat to school safety.

1006.135. Hazing prohibited at schools with any of grades 6-12.

(2) School district policy. - Each school district shall adopt in rule a policy that prohibits hazing and establishes consequences for a student who commits an act of hazing. The policy must include:

- (a) A definition of hazing, which must include the definition provided in this section.
- (b) A procedure for reporting an alleged act of hazing, including provisions that permit a person to anonymously report such an act. However, disciplinary action may not be based solely on an anonymous report.
- (c) A requirement that a school with any of grades 9 through 12 report an alleged act of hazing to a local law enforcement agency if the alleged act meets the criteria established under subsection (3).
- (d) A provision for referral of victims and perpetrators of hazing to a certified school counselor.
- (e) A requirement that each incident of hazing be reported in the school's safety and discipline report required under s. 1006.09(6). The report must include the number of hazing incidents reported, the number of incidents referred to a local law enforcement agency, the number of incidents that result in disciplinary action taken by the school, and the number of incidents that do not result in either referral to a local law enforcement agency or disciplinary action taken by the school.

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts.

1006.195. District school board, charter school authority and responsibility to establish student eligibility regarding participation in interscholastic and intrascholastic extracurricular activities.

Notwithstanding any provision to the contrary in ss. 1006.15, 1006.18, and 1006.20, regarding student eligibility to participate in interscholastic and intrascholastic extracurricular activities:

(1)(a) A district school board must establish, through its code of student conduct, student eligibility standards and related student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities. The code of student conduct must provide that:

1. A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school, pursuant to a district school board's suspension or expulsion powers provided in law, including ss. 1006.07, 1006.08, and 1006.09, is eligible to participate in interscholastic and intrascholastic extracurricular activities.
2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets the criteria in s. 1006.15(3)(h).
3. A student's eligibility to participate in any interscholastic or intrascholastic extracurricular activity may not be affected by any alleged recruiting violation until final disposition of the allegation pursuant to s. 1006.20(2)(b).

(b) Students who participate in interscholastic and intrascholastic extracurricular activities for, but are not enrolled in, a public school pursuant to s. 1006.15(3)(c)-(e) and (8), are subject to the district school board's code of student conduct for the limited purpose of establishing and maintaining the student's eligibility to participate at the school.

REGULATIONS**6A-1.0018. School safety requirements and monitoring.**

(12) Zero-Tolerance Policies and Agreements with Law Enforcement.

(a) Each district must have zero-tolerance policies, including policies that define acts that require consultation with and reporting or referral to law enforcement, as provided by Section 1006.13, F.S.

(b) Each district must have an agreement with the county sheriff's office and local police department for reporting acts that pose a threat to school safety, as provided by Section 1006.13(4), F.S.

(19) Bullying and Harassment Prevention.

(a) Each school district must adopt a policy prohibiting bullying and harassment of students and employees that is consistent with the Department's Model Policy Against Bullying and Harassment and meets all requirements in Section 1006.147(4), F.S. The policy must be reviewed at a minimum every three (3) years.

(b) Each school principal must implement the district's policy in a manner that is ongoing throughout the school year and is integrated with the school's curriculum, bullying prevention and intervention program, student discipline policies, and other violence prevention efforts.

Scope

LAWS

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(e) Assist in enforcing school rules on school property, during school-sponsored transportation, and during school-sponsored activities.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized

and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

1006.147. Bullying and harassment prohibited.

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution;

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 educational institution; or

(d) Through the use of data or computer software that is accessed at a nonschool-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school. This paragraph does not require a school to staff or monitor any nonschool-related activity, function, or program.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication.

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district

bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

- (n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.07(2) and in all employee handbooks.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

- (a) Establish classroom rules of conduct.
- (b) Establish and implement consequences, designed to change behavior, for infractions of classroom rules.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

- (a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.
- (b) Procedures to be followed for acts requiring discipline, including corporal punishment.
- (c) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.
- (d) 1. An explanation of the responsibilities of each student with regard to appropriate dress, respect for self and others, and the role that appropriate dress and respect for self and others has on an orderly learning environment. Each district school board shall adopt a dress code policy that prohibits a student, while on the grounds of a public school during the regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.
 - 2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

- a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.
- b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.
- c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.
- (e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.
- (f) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.
- (g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:
1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
 2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
 3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
 4. Using a finger or hand to simulate a firearm or weapon.
 5. Vocalizing an imaginary firearm or weapon.
 6. Drawing a picture, or possessing an image, of a firearm or weapon.
 7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.
- However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a student, including referral to the criminal justice or juvenile justice system, must be proportionate to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy.
- (h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program or referral of such students to mental health services identified by the school district pursuant to s. 1012.584(4).

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to mental health services identified by the school district pursuant to s. 1012.584(4) and the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution and mental health services identified by the school district pursuant to s. 1012.584(4) for evaluation or treatment, when appropriate. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

1001.51. Duties and responsibilities of district school superintendent.

The district school superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law, provided that, in so doing, he or she shall advise and counsel with the district school board. The district school superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board. All such recommendations, nominations, proposals, and reports by the district school superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the district school board. It shall be presumed that, in the absence of the record required in this section, the recommendations, nominations, and proposals required of the district school superintendent were not contrary to the action taken by the district school board in such matters.

(24) Orderly classrooms and school buses. - Fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and the authority of the school principal to place such students in an alternative educational setting, when appropriate and available.

1001.54. Duties of school principals.

(1)(c) The school principal shall fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.04. Student conduct and parental involvement.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss. 1003.31 and 1003.32, to remove the student from the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each

school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(c) Have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom for behavior management intervention. [...]

(4) A teacher may remove from class a student whose behavior the teacher determines interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. Each district school board, each district school superintendent, and each school principal shall support the authority of teachers to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the district school board.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

1003.01. Definitions.

As used in this chapter, the term:

(5)(b) "In-school suspension" means the temporary removal of a student from the student's regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.

1003.02. District school board operation and control of public K-12 education within the school district.

As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school districts. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following areas :

(c) Control of students.

1. Adopt rules for the control, attendance, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion.

2. Maintain a code of student conduct as provided in chapter 1006.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(3) A teacher may send a student to the principal's office to maintain effective discipline in the classroom and may recommend an appropriate consequence consistent with the student code of conduct under s. 1006.07. The principal shall respond by employing the teacher's recommended consequence or a more serious disciplinary action if the student's history of disruptive behavior warrants it. If the principal determines that a lesser disciplinary action is appropriate, the principal should consult with the teacher prior to taking disciplinary action. [...]

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic

intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection (6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

1003.53. Dropout prevention and academic intervention.

(1)(d)6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of

s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to,

willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

1006.13. Policy of zero tolerance for crime and victimization.

(1) District school boards shall promote a safe and supportive learning environment in schools by protecting students and staff from conduct that poses a threat to school safety. A threat assessment team may use alternatives to expulsion or referral to law enforcement agencies to address disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Zero-tolerance policies may not be rigorously applied to petty acts of misconduct. Zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

1002.20. K-12 student and parent rights.

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(4) Discipline.

(c) Corporal punishment.

1. In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request, the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

2. A district school board having a policy authorizing the use of corporal punishment as a form of discipline shall review its policy on corporal punishment once every 3 years during a district school board meeting held pursuant to s. 1001.372. The district school board shall take public testimony at the board meeting. If such board meeting is not held in accordance with this subparagraph, the portion of the district school board's policy authorizing corporal punishment expires.

1003.01. Definitions.

As used in this chapter, the term:

(6) "Corporal punishment" means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rule. However, the term "corporal punishment" does not include the use of such reasonable force by a teacher or principal as may be necessary for self-protection or to protect other students from disruptive students.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(j) Use reasonable force, according to standards adopted by the State Board of Education, to protect himself or herself or others from injury.

(k) Use corporal punishment according to school board policy and at least the following procedures, if a teacher feels that corporal punishment is necessary:

1. The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal

shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

2. A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the punishment.

3. A teacher or principal who has administered punishment shall, upon request, provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of

s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline. [...]

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

1006.11. Standards for use of reasonable force.

(1) The State Board of Education shall adopt standards for the use of reasonable force by district school board personnel to maintain a safe and orderly learning environment. Such standards shall be distributed to each school in the state and shall provide guidance to district school board personnel in receiving the limitations on liability specified in subsection (2).

(2) Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a school bus driver shall not be civilly or criminally liable for any action carried out in conformity with the State Board of Education and district school board rules regarding the control, discipline, suspension, and expulsion of students, including, but not limited to, any exercise of authority under s. 1003.32 or s. 1006.09.

1012.28. Public school personnel; duties of school principals.

(5) Each school principal shall perform such duties as may be assigned by the district school superintendent, pursuant to the rules of the district school board. Such rules shall include, but are not limited to, rules relating to administrative responsibility, instructional leadership in implementing the State Academic Standards and the overall educational program of the school to which the school principal is

assigned, submission of personnel recommendations to the district school superintendent, administrative responsibility for records and reports, administration of corporal punishment, and student suspension.

1012.75. Liability of teacher or principal; excessive force.

(1) Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a bus driver shall not be civilly or criminally liable for any action carried out in conformity with State Board of Education and district school board rules regarding the control, discipline, suspension, and expulsion of students, including, but not limited to, any exercise of authority under s. 1003.32 or s. 1006.09.

(2) The State Board of Education shall adopt rules that outline administrative standards for the use of reasonable force by school personnel to maintain a safe and orderly learning environment. Such standards shall be distributed to each school in the state and shall provide guidance to school personnel in receiving the limitations on liability specified in this section.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

1006.09. Duties of school principal relating to student discipline and school safety.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and reporting.

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.

5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:
 - a. The context in which the restraint or seclusion occurred.
 - b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.
 - c. The specific positive behavioral strategies used to prevent and deescalate the behavior.
 - d. What occurred with the student immediately after the termination of the restraint or seclusion.
 - e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.
 - f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(2) Monitoring.

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) Documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

(d) The department shall establish standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion. These standards shall be provided to school districts by October 1, 2011.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.
4. Training programs relating to manual or physical restraint and seclusion.

5. The district's plan for selecting personnel to be trained.
 6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
 - a. Additional training in positive behavioral support and crisis management;
 - b. Parental involvement;
 - c. Data review;
 - d. Updates of students' functional behavioral analysis and positive behavior intervention plans;
 - e. Additional student evaluations;
 - f. Debriefing with staff;
 - g. Use of schoolwide positive behavior support; and
 - h. Changes to the school environment.
- (b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.
- (4) Prohibited restraint. - School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing.
- (5) Seclusion. - School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.

1012.582. Continuing education and inservice training for teaching students with developmental disabilities.

- (1) The Commissioner of Education shall develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education or inservice training requirements for instructional personnel. These recommendations shall address:
- (e) Appropriate use of manual physical restraint and seclusion techniques.

REGULATIONS

69A-58.0084. Seclusion Time Out Rooms.

- (1) Egress. Secured seclusion time-out rooms, when provided, shall be equipped with doors which allow egress at all times in the event of an emergency.
- (2) Locking devices.
 - (a) Locking devices on secured seclusion time-out rooms are permitted only when such room is in full compliance with the criteria in this rule.
 - (b) An electro-magnetic locking device is the only approved device to secure a secured seclusion time-out room. The lock shall remain engaged only when the human hand is in contact with it placing pressure on it.
 1. Upon release of pressure, the door shall unlock. The locking device shall be designed, and shall be operated, so that it cannot be engaged by leverage of an inanimate object or in any manner except by constant human contact.
 2. The push button shall be recessed from the face of the unit housing, or in some other way designed to prevent taping or wedging the button in the engaged mode.

3. The device shall have an interface with the fire alarm system and shall automatically release and disengage upon activation of the fire alarm. The locking device shall automatically release and disengage in the event of power failure.

4. A timer shall not be used on the locking device.

(3) Door Requirements. The door shall have only a push panel exposed on the interior of the room. A vision panel shall be provided in the door, and it shall be no larger than 12" x 12" (144 square inches). The view panel shall consist of clear one-quarter inch thick unbreakable plastic panel, flush with the face of the door on the inside. The view panel shall be positioned in the door to allow a staff member to continuously keep the student under observation. The view panel shall not be covered with any material.

(4) Finishes and materials. The ceiling, floor, and walls must be free of any loose, torn or potentially hazardous materials. All surfaces must be kept smooth and free of any hooks, outlets, switches or similar items. Construction materials shall meet all applicable provisions of the Florida Fire Prevention Code and the Florida Building Code. Each secured seclusion time-out room must be identified with a permanently mounted room number.

(5) All secured seclusion time-out rooms must have natural or mechanical ventilation.

(6) The division and the local fire official are permitted to conduct unannounced inspections of all secured seclusion time-out rooms to ensure compliance with this rule chapter. A written record of each inspection must be made and a copy of same must be provided to the school administrator or designee.

(7) During each unannounced inspection, the division or the local fire official is permitted to inspect secured seclusion time-out rooms, interview staff, and review staff development activities to ensure compliance with this rule chapter.

(8) If during any fire safety inspection a secured seclusion time-out room is found in violation of this rule chapter, the board fire official or the local fire official shall immediately report the deficiency to the division in accordance with Section 1013.12(2)(d) or 1013.12(7), F.S., and the secured seclusion time-out room shall be immediately withdrawn from use.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

1003.31. Students subject to control of school.

(3) Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:

- (a) The student is found to have committed a delinquent act which would be a felony if committed by an adult;
- (b) The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or
- (c) The student has been found guilty of a felony.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline. [...]

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24

hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

1006.13. Policy of zero tolerance for crime and victimization.

(5) Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed any offense in s. 784.081(1), (2), or (3) shall be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

1003.31. Students subject to control of school.

(3) Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:

- (a) The student is found to have committed a delinquent act which would be a felony if committed by an adult;
- (b) The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or
- (c) The student has been found guilty of a felony.

However, if the student is a student with a disability, the disciplinary action must comply with the procedures set forth in State Board of Education rule.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

- (5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-

school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection

(6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2)(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to mental health services identified by the school district pursuant to s. 1012.584(4) and the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution and mental health services identified by the school district pursuant to s. 1012.584(4) for evaluation or treatment, when appropriate. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

1006.13. Policy of zero tolerance for crime and victimization.

District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student who has a disability, the district school board shall comply with applicable State Board of Education rules.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

1002.20. K-12 student and parent rights.

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(4) Discipline.

(b) Expulsion. - Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1).

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(6)(a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section.

(b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

(c) The Commissioner of Education shall annually review each school district's compliance with this section, and success in achieving orderly classrooms, and shall use all appropriate enforcement actions up to and including the withholding of disbursements from the Educational Enhancement Trust Fund until full compliance is verified.

(d) Placement review committee membership must include at least the following:

1. Two teachers, one selected by the school's faculty and one selected by the teacher who has removed the student.
2. One member from the school's staff who is selected by the principal.

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of

s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline.

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the district school board.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith. [...]

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a

daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state- licensed drug abuse program and successfully completes the program.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

1001.43. Supplemental powers and duties of district school board.

The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1) Student management. - The district school board may adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

(e) Provide procedures for detaining students and for readmission of students after expulsion.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection

(6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom. [...]

(6)(a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section. [...]

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

1003.52. Educational services in Department of Juvenile Justice programs.

(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student's stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student's family, and Department of Juvenile Justice personnel for committed students.

(a) Transition planning must begin upon a student's placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student's assessed educational needs and post release education plans.
2. Services to be provided during the program stay and services to be implemented upon release, including, but not limited to, continuing education in secondary school, CAPE programs, postsecondary education, or employment, based on the student's needs.
3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as members of the local Department of Juvenile Justice reentry teams. The school district, upon return of a student from a juvenile justice education program, must consider the individual needs and circumstances of the student and the transition plan recommendations when reenrolling a student in a public school. A local school district may not maintain a standardized policy for all students returning from a juvenile justice program but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

1003.53. Dropout prevention and academic intervention.

(1)(d)8. Students who exhibit academic and social progress and who wish to return to a traditional school shall complete a character development and law education program and demonstrate preparedness to reenter the regular school setting prior to reentering a traditional school.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

1001.51. Duties and responsibilities of district school superintendent.

The district school superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law, provided that, in so doing, he or she shall advise and counsel with the district school board. The district school superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board. All such recommendations, nominations, proposals, and reports by the district school superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the district school board. It shall be presumed that, in the absence of the record required in this section, the recommendations, nominations, and proposals required of the district school superintendent were not contrary to the action taken by the district school board in such matters.

(24) Orderly classrooms and school buses. - Fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and the authority of the school principal to place such students in an alternative educational setting, when appropriate and available.

1001.54. Duties of school principals.

(1)(c) The school principal shall fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1002.20. K-12 student and parent rights.

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(6) Educational choice. -

(a) Public educational school choices. - Parents of public school students may seek any public educational school choice options that are applicable and available to students throughout the state. These options may include controlled open enrollment, single-gender programs, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), CAPE digital tools, CAPE industry certifications, collegiate high school programs, Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public educational choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

1003.01. Definitions.

As used in this chapter, the term:

(5)(b) "In-school suspension" means the temporary removal of a student from the student's regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.

1003.04. Student conduct and parental involvement.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss. 1003.31 and 1003.32, to remove the student from the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

1003.26. Enforcement of school attendance.

The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) Contact, refer, and enforce.

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time. [...]

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

2. Evaluation for alternative education programs.

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.53. Dropout prevention and academic intervention.

(1)(d)6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and

counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(b)3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program and referred to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, at the direction of the district school board. [...]

(2)(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program or referral of such students to mental health services identified by the school district pursuant to s. 1012.584(4).

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the district school board.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with

notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state- licensed drug abuse program and successfully completes the program.

1006.13. Policy of zero tolerance for crime and victimization.

(5) Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed any offense in s. 784.081(1), (2), or (3) shall be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

1001.43. Supplemental powers and duties of district school board.

The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1) Student management. - The district school board may adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

(a) Prohibit the possession of weapons and drugs on campus, student hazing, and other activities that could threaten the operation of the school or the safety and welfare of the student body or school personnel.

1003.53. Dropout prevention and academic intervention.

(1)(d)5. A student may be assigned to a second chance school if the district school board in which the student resides has a second chance school and if the student meets one of the following criteria:

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "serious offense" is behavior which:

(III) Includes possession of weapons or drugs.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:

1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
4. Using a finger or hand to simulate a firearm or weapon.
5. Vocalizing an imaginary firearm or weapon.
6. Drawing a picture, or possessing an image, of a firearm or weapon.

7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a student, including referral to the criminal justice or juvenile justice system, must be proportionate to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy.

1006.13. Policy of zero tolerance for crime and victimization.

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

1003.53. Dropout prevention and academic intervention.

(1)(c) A student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based upon one of the following criteria:

3. The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

- a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or
- b. Severely threatens the general welfare of students or others with whom the student comes into contact. [...]

(d)4. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 3. are met.

5. A student may be assigned to a second chance school if the district school board in which the student resides has a second chance school and if the student meets one of the following criteria:

- a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the district school board. [...]

6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

1001.42. Powers and duties of district school board.

(18) Implement school improvement and accountability. [...]

(b) Early warning system. -

1. A school that serves any students in kindergarten through grade 8 shall implement an early warning system to identify students in such grades who need additional support to improve academic performance and stay engaged in school. The early warning system must include the following early warning indicators:

- a. Attendance below 90 percent, regardless of whether absence is excused or a result of out-of-school suspension.
- b. One or more suspensions, whether in school or out of school.
- c. Course failure in English Language Arts or mathematics during any grading period.
- d. A Level 1 score on the statewide, standardized assessments in English Language Arts or mathematics or, for students in kindergarten through grade 3, a substantial reading deficiency under s. 1008.25(5)(a).

A school district may identify additional early warning indicators for use in a school's early warning system. The system must include data on the number of students identified by the system as exhibiting two or more early warning indicators, the number of students by grade level who exhibit each early warning indicator, and a description of all intervention strategies employed by the school to improve the academic performance of students identified by the early warning system.

2. A school-based team responsible for implementing the requirements of this paragraph shall monitor the data from the early warning system. The team may include a school psychologist. When a student exhibits two or more early warning indicators, the team, in consultation with the student's parent, shall determine appropriate intervention strategies for the student unless the student is already being served by an intervention program at the direction of a school-based, multidisciplinary team. Data and information relating to a student's early warning indicators must be used to inform any intervention strategies provided to the student.

1003.01. Definitions.

As used in this chapter, the term:

(8) "Habitual truant" means a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent, is subject to compulsory school attendance under s. 1003.21(1) and (2)(a), and is not exempt under s. 1003.21(3) or s. 1003.24, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education. Such a student must have been the subject of the activities specified in ss. 1003.26 and 1003.27(3), without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 984.

1003.26. Enforcement of school attendance.

The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) Contact, refer, and enforce.

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies, and the principal shall notify the district school superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

1. Frequent attempts at communication between the teacher and the family.
2. Evaluation for alternative education programs.
3. Attendance contracts.

The child study team may, but is not required to, implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition pursuant to s. 984.151.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent may appeal to the district school board. The district school board may provide a hearing officer, and the hearing officer shall make a recommendation for final action to the district school board. If the district school board's final determination is that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, the district school superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f)1. If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent shall provide the parent a copy of s. 1002.41 and the accountability requirements of this paragraph. The district school superintendent shall also refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent from a district list of all home educators who have conducted a home education program for at least 3 years and who have indicated a willingness to serve on the committee. The home education review committee shall review the portfolio of the student, as defined by s. 1002.41, every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance with s. 1002.41(1)(d). The first portfolio review must occur within the first 30 calendar days of the establishment of the program. The provisions of subparagraph 2. do not apply once the committee determines the home education program is in compliance with s. 1002.41(1)(d).

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the definition of "regular school attendance" under s. 1003.01(16)(A), (B), (C), OR (E), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s. 1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(e).

(g) If a student subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent or the district school superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the district school superintendent or his or her designee may file a truancy petition pursuant to the procedures in s. 984.151.

(2) Give written notice.

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, who may refer the case to the child study team in paragraph (1)(b) at the school the student would be assigned according to

district school board attendance area policies or to the case staffing committee, established pursuant to s. 984.12. The child study team shall diligently facilitate intervention services and shall report the case back to the district school superintendent only when all reasonable efforts to resolve the nonenrollment behavior are exhausted. If the parent still refuses to cooperate or enroll the child in school, the district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) Return student to parent. — A designated school representative may visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not enrolled or is absent from school during school hours without an excuse, and, when the student is found, shall return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

(4) Report to appropriate authority. — A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(5) Right to inspect. — A designated school representative shall have the right of access to, and inspection of, establishments where minors may be employed or detained only for the purpose of ascertaining whether students of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the appropriate authority.

1003.27. Court procedure and penalties.

The court procedure and penalties for the enforcement of the provisions of this part, relating to compulsory school attendance, shall be as follows:

(3) Habitual truancy cases. - The district school superintendent is authorized to file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151. If the district school superintendent chooses not to file a truancy petition, procedures for filing a child-in-need-of-services petition shall be commenced pursuant to this subsection and chapter 984. In accordance with procedures established by the district school board, the designated school representative shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in this section. The case staffing committee may request the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the district school board or other community agency or may seek to resolve the truant behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this section and s. 1003.26 to remedy the conditions leading to the truant behavior. Prior to the filing of a petition, the district school board must have complied with the requirements of s. 1003.26, and those efforts must have been unsuccessful.

(4) Cooperative agreements. - The circuit manager of the Department of Juvenile Justice or the circuit manager's designee, the district administrator of the Department of Children and Families or the

district administrator's designee, and the district school superintendent or the superintendent's designee must develop a cooperative interagency agreement that:

- (a) Clearly defines each department's role, responsibility, and function in working with habitual truants and their families.
 - (b) Identifies and implements measures to resolve and reduce truant behavior.
 - (c) Addresses issues of streamlining service delivery, the appropriateness of legal intervention, case management, the role and responsibility of the case staffing committee, student and parental intervention and involvement, and community action plans.
 - (d) Delineates timeframes for implementation and identifies a mechanism for reporting results by the circuit juvenile justice manager or the circuit manager's designee and the district school superintendent or the superintendent's designee to the Department of Juvenile Justice and the Department of Education and other governmental entities as needed.
 - (e) Designates which agency is responsible for each of the intervention steps in this section, to yield more effective and efficient intervention services. [...]
- (7) Penalties. - The penalties for refusing or failing to comply with this chapter shall be as follows:
- (d) The student.

- 1. In addition to any other authorized sanctions, the court shall order a student found to be a habitual truant to make up all school work missed and may order the student to pay a civil penalty of up to \$2, based on the student's ability to pay, for each day of school missed, perform up to 25 community service hours at the school, or participate in counseling or other services, as appropriate.
- 2. Upon a second or subsequent finding that a student is a habitual truant, the court, in addition to any other authorized sanctions, shall order the student to make up all school work missed and may order the student to pay a civil penalty of up to \$5, based on the student's ability to pay, for each day of school missed, perform up to 50 community service hours at the school, or participate in counseling or other services, as appropriate.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

187.201. State Comprehensive Plan adopted.

The Legislature hereby adopts as the State Comprehensive Plan the following specific goals and policies:

(1) Children.

(b) Policies. -

6. Develop and participate in alcohol and drug prevention programs in the school system and in the community.

381.0057. Funding for school health services.

(3) Any school district, school, or laboratory school which desires to receive state funding under the provisions of this section shall submit a proposal to the joint committee established in subsection (2). The proposal shall state the goals of the program, provide specific plans for reducing teenage pregnancy, and describe all of the health services to be available to students with funds provided pursuant to this section, including a combination of initiatives such as health education, counseling, extracurricular, and self-esteem components. School health services shall not promote elective termination of pregnancy as a part of counseling services. Only those program proposals which have been developed jointly by county health departments and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:

(b) Student support services team program. - The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting, children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and followup for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and followup care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and certified school counselor at each school. A program that places all three teams in middle schools or high schools may also be proposed.

381.84. Comprehensive Statewide Tobacco Education and Use Prevention Program.

(3)(d) Youth school programs. - School and after-school programs shall use current evidence-based curricula and programs that involve youth to educate youth about the health hazards of tobacco, help youth develop skills to refuse tobacco, and demonstrate to youth how to stop using tobacco.

394.66. Legislative intent with respect to substance abuse and mental health services.

It is the intent of the Legislature to:

(6) Ensure that all activities of the Department of Children and Families and the Agency for Health Care Administration, and their respective contract providers, involved in the delivery of substance abuse and mental health treatment and prevention services are coordinated and integrated with other local systems and groups, public and private, such as juvenile justice, criminal justice, child protection, and

public health organizations; school districts; and local groups or organizations that focus on services to older adults.

394.75. State and district substance abuse and mental health plans.

(4) The district plan shall:

(i) Provide for the integration of substance abuse and mental health services with the other departmental programs and with the criminal justice, juvenile justice, child protection, school, and health care systems within the district.

397.99. School substance abuse prevention partnership grants.

(1) Grant program. -

(a) In order to encourage the development of effective substance abuse prevention and early intervention strategies for school-age populations, the school substance abuse prevention partnership grant program is established.

(b) The department shall administer the program in cooperation with the Department of Education and the Department of Juvenile Justice.

(2) Application procedures; funding requirements. -

(a) Schools, or community-based organizations in partnership with schools, may submit a grant proposal for funding or continued funding to the department by March 1 of each year. The department shall establish grant application procedures which ensure that grant recipients implement programs and practices that are effective. The department shall include the grant application document on an Internet website.

(b) Grants may fund programs to conduct prevention activities serving students who are not involved in substance use, intervention activities serving students who are experimenting with substance use, or both prevention and intervention activities, if a comprehensive approach is indicated as a result of a needs assessment.

(c) Grants may target youth, parents, and teachers and other school staff, coaches, social workers, case managers, and other prevention stakeholders.

(d) Performance measures for grant program activities shall measure improvements in student attitudes or behaviors as determined by the department.

(e) At least 50 percent of the grant funds available for local projects must be allocated to support the replication of prevention programs and practices that are based on research and have been evaluated and proven effective. The department shall develop related qualifying criteria.

(f) In order to be considered for funding, the grant application shall include the following assurances and information:

1. A letter from the administrators of the programs collaborating on the project, such as the school principal, community-based organization executive director, or recreation department director, confirming that the grant application has been reviewed and that each partner is committed to supporting implementation of the activities described in the grant proposal.

2. A rationale and description of the program and the services to be provided, including:

a. An analysis of prevention issues related to the substance abuse prevention profile of the target population.

b. A description of other primary substance use and related risk factors.

c. Goals and objectives based on the findings of the needs assessment.

d. The selection of programs or strategies that have been shown to be effective in addressing the findings of the needs assessment.

- e. A method of identifying the target group for universal prevention strategies, and a method for identifying the individual student participants in selected and indicated prevention strategies.
- f. A description of how students will be targeted.
- g. Provisions for the participation of parents and guardians in the program.
- h. An evaluation component to measure the effectiveness of the program in accordance with performance-based program budgeting effectiveness measures.
- i. A program budget, which includes the amount and sources of local cash and in-kind resources committed to the budget and which establishes, to the satisfaction of the department, that the entity will make a cash or in-kind contribution to the program of a value that is at least 25 percent of the amount of the grant.

(g) The department shall consider the following in awarding such grants:

1. The number of youths that will be targeted.
2. The validity of the program design to achieve project goals and objectives that are clearly related to performance-based program budgeting effectiveness measures.
3. The desirability of funding at least one approved project in each of the department's substate entities.

(3) The department shall coordinate the review of grant applications with the Department of Education and the Department of Juvenile Justice and shall make award determinations no later than June 30 of each year. All applicants shall be notified by the department of its final action.

(4) Each entity that is awarded a grant as provided for in this section shall submit performance and output information as determined by the department.

397.997. Prevention resources; Internet website.

(1) The department shall develop a publicly available substance abuse prevention Internet website. The information on the Internet website shall target youth and their parents, teachers, and other stakeholders.

(2) The Internet website shall incorporate, at a minimum, the following components;

- (a) The nature of Florida's current youth alcohol, tobacco, and other drug use concerns;
- (b) The health, social, and legal effects of alcohol, tobacco, and other drug use on individuals, families, schools, and the economy;
- (c) National, state, and local substance abuse prevention and treatment resources; and
- (d) Classroom, home, and individual instructional activities and games geared to teach targeted youth about the harmful effects of alcohol, tobacco, or other drug use, refusal and other prevention skills, and how to get help for someone using drugs.

1001.43. Supplemental powers and duties of district school board.

The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1) Student management. - The district school board may adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

- (a) Prohibit the possession of weapons and drugs on campus, student hazing, and other activities that could threaten the operation of the school or the safety and welfare of the student body or school personnel.

1002.20. K-12 student and parent rights.

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) Health issues.

(g) Substance abuse reports. - The parent of a public school student must be timely notified of any verified report of a substance abuse violation by the student, in accordance with the provisions of s. 1006.09(8).

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893. [...]

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed. [...]

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution and mental health services identified by the school district pursuant to s. 1012.584(4) for evaluation or treatment, when appropriate. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

1006.09. Duties of school principal relating to student discipline and school safety.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the

delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state- licensed drug abuse program and successfully completes the program.

(3) A student may be disciplined or expelled for unlawful possession or use of any substance controlled under chapter 893 upon the third violation of this provision. [...]

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

1011.62. Funds for operation of schools.

(16)(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

5. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

1012.584. Continuing education and inservice training for youth mental health awareness and assistance.

(1) Beginning with the 2018-2019 school year, the Department of Education shall establish an evidence- based youth mental health awareness and assistance training program to help school

personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health, or substance use problem.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

1011.78. Standard student attire incentive payments.

There is created an incentive payment for school districts and charter schools that implement a standard student attire policy for all students in kindergarten through grade 8 in accordance with this section.

(2) Purpose. The purpose of a standard student attire policy is to provide a safe environment for students which fosters learning and improves school safety and discipline by:

(e) Minimizing visible differences between students and eliminating social pressures to wear brand-name clothing or colors to show gang affiliation, thereby easing financial pressures on parents and enhancing school safety.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

1001.43. Supplemental powers and duties of district school board.

The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1) Student management. - The district school board may adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

(a) Prohibit the possession of weapons and drugs on campus, student hazing, and other activities that could threaten the operation of the school or the safety and welfare of the student body or school personnel.

1002.40. The hope scholarship program.

(1) Purpose. - The Hope Scholarship Program is established to provide the parent of a public school student who was subjected to an incident listed in subsection (3) an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school. [...]

(3) Program eligibility. - Beginning with the 2018-2019 school year, contingent upon available funds, and on a first-come, first-served basis, a student enrolled in a Florida public school in kindergarten through grade 12 is eligible for a scholarship under this program if the student reported an incident in accordance with subsection (6). For purposes of this section, the term "incident" means battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school, as defined by the department in accordance with s. 1006.09(6). [...]

(8) Department of education obligations. - The department shall:

(d) Contract with an independent entity to provide an annual evaluation of the program by:

1. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school from which 10 or more students transferred to another public school or private school using the Hope scholarship to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's and student's rights that are in need of improvement. At a minimum, the review must include:

- a. An assessment of the investigation time and quality of the response of the school and the school district.
- b. An assessment of the effectiveness of communication procedures with the students involved in an incident, the students' parents, and the school and school district personnel.
- c. An analysis of school incident and discipline data.
- d. The challenges and obstacles relating to implementing recommendations from the review.

2. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified in subparagraph 1. in order to identify best practices and make recommendations to a public school at which the incidents occurred.

1003.4205. Disability history and awareness instruction.

(1) Each district school board may provide disability history and awareness instruction in all K-12 public schools in the district during the first 2 weeks in October each year. The district school board shall designate these 2 weeks as "Disability History and Awareness Weeks." [...]

(3) The goals of disability history and awareness instruction include:

- (a) Better treatment for individuals with disabilities, especially for youth in school, and increased attention to preventing the bullying or harassment of students with disabilities.

1006.135. Hazing prohibited at schools with any of grades 6-12.

(1) Definition. - As used in this section, "hazing" means any action or situation that endangers the mental or physical health or safety of a student at a school with any of grades 6 through 12 for purposes including, but not limited to, initiation or admission into or affiliation with any organization operating under the sanction of a school with any of grades 6 through 12. "Hazing" includes, but is not limited to:

- (a) Pressuring, coercing, or forcing a student into:
 1. Violating state or federal law;
 2. Consuming any food, liquor, drug, or other substance; or
 3. Participating in physical activity that could adversely affect the health or safety of the student.
- (b) Any brutality of a physical nature, such as whipping, beating, branding, or exposure to the elements.

Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.

(2) School district policy. - Each school district shall adopt in rule a policy that prohibits hazing and establishes consequences for a student who commits an act of hazing. The policy must include:

- (a) A definition of hazing, which must include the definition provided in this section.
- (b) A procedure for reporting an alleged act of hazing, including provisions that permit a person to anonymously report such an act. However, disciplinary action may not be based solely on an anonymous report.
- (c) A requirement that a school with any of grades 9 through 12 report an alleged act of hazing to a local law enforcement agency if the alleged act meets the criteria established under subsection (3).
- (d) A provision for referral of victims and perpetrators of hazing to a certified school counselor.

(e) A requirement that each incident of hazing be reported in the school's safety and discipline report required under s. 1006.09(6). The report must include the number of hazing incidents reported, the number of incidents referred to a local law enforcement agency, the number of incidents that result in disciplinary action taken by the school, and the number of incidents that do not result in either referral to a local law enforcement agency or disciplinary action taken by the school.

(3) Criminal penalties. - This subsection applies only to students in any of grades 9 through 12.

(a)1. A person who commits an act of hazing upon another person who is a member of or an applicant to any type of student organization commits a felony of the third degree, punishable as provided in s.

775.082 or s. 775.083, if the person knew or should have known the act would result in serious bodily injury or death of such other person and the act results in serious bodily injury or death of such other person.

2. A person who commits an act of hazing upon another person who is a member of or an applicant to any type of student organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the person knew or should have known the act would create a potential risk of physical injury or death to such other person and the act creates a potential risk of physical injury or death to such other person.

(b) As a condition of any sentence imposed pursuant to paragraph (a), the court:

1. Shall order the defendant to attend and complete a 4-hour hazing education course and may also impose a condition of drug or alcohol probation.
2. May require the defendant to make a public apology to the students and victims at the school.
3. May require the defendant to participate in a school-sponsored antihazing campaign to raise awareness of what constitutes hazing and the penalties for hazing.

(c) It is not a defense to a charge of hazing that:

1. Consent of the victim had been obtained;
2. The conduct or activity that resulted in the death or injury of a person was not part of an official organizational event or was not otherwise sanctioned or approved by the organization; or
3. The conduct or activity that resulted in death or injury of the person was not done as a condition of membership to an organization.

(4) Construction. - This section shall not be construed to preclude prosecution for a more general offense resulting from the same criminal transaction or episode.

1006.147. Bullying and harassment prohibited.

(1) This section may be cited as the "Jeffrey Johnston Stand Up for All Students Act."

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution;

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 educational institution;
or

(d) Through the use of data or computer software that is accessed at a nonschool-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school. This

paragraph does not require a school to staff or monitor any nonschool-related activity, function, or program.

(3) For purposes of this section:

(a) "Bullying" includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;
2. Social exclusion;
3. Threat;
4. Intimidation;
5. Stalking;
6. Physical violence;
7. Theft;
8. Sexual, religious, or racial harassment;
9. Public or private humiliation; or
10. Destruction of property.

(b) "Cyberbullying" means bullying through the use of technology or any electronic communication, which includes, but is not limited to, any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including, but not limited to, electronic mail, Internet communications, instant messages, or facsimile communications. Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.

(c) "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
2. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
3. Has the effect of substantially disrupting the orderly operation of a school.

(d) "Within the scope of a public K-12 educational institution" means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity.

(e) Definitions in s. 815.03 and the definition in s. 784.048(1)(d) relating to stalking are applicable to this section.

(f) The definitions of "bullying" and "harassment" include:

1. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.
2. Perpetuation of conduct listed in paragraph (a), paragraph (b), or paragraph (c) by an individual or group with intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:

- a. Incitement or coercion;
- b. Accessing or knowingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system;
or
- c. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

- (a) A statement prohibiting bullying and harassment.
- (b) A definition of bullying and a definition of harassment that include the definitions listed in this section.
- (c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.
- (d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.
- (e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.
- (f) A procedure for receiving reports of an alleged act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.
- (g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. Incidents that require a reasonable investigation when reported to appropriate school authorities shall include alleged incidents of bullying or harassment allegedly committed against a child while the child is en route to school aboard a school bus or at a school bus stop.
- (h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction. Computers without web-filtering software or computers with web-filtering software that is disabled shall be used when complaints of cyberbullying are investigated.
- (i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.
- (j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.
- (k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each alleged incident of bullying or harassment that

does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.

(l) A list of programs authorized by the school district that provide instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment, including instruction on recognizing behaviors that lead to bullying and harassment and taking appropriate preventive action based on those observations.

(m) A procedure for regularly reporting to a victim's parents the actions taken to protect the victim.

(n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.07(2) and in all employee handbooks.

(5) A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(6)(a) The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.

(b) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, or computer network when acting within the scope of his or her lawful employment or investigating a violation of this section in accordance with school district policy.

(7) Distribution of safe schools funds provided to a school district shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

(8) On or before January 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this section. The report shall include data collected pursuant to paragraph (4)(k).

(9) Nothing in this section shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

REGULATIONS

6A-1.0017. School Environmental Safety Incident Reporting (SESIR).

(1) Purpose. The purpose of this rule is to set forth the requirements school districts and charter schools must use to report disruptive or criminal incidents to the Florida Department of Education so that the data can, in turn, be used in required state and federal reports, including EdFacts, the United States Department of Education, Office for Civil Rights Data Collection (required by 20 U.S.C. 3413(c)(1)), the Gun Free Schools Act report (required by 20 U.S.C. 7961(d) and (e)), the Every Student Succeeds Act report cards (required by 20 U.S.C. 6311(h)(1) and (2)), and state reports on Bullying and Harassment (required by Section 1006.147, F.S.). SESIR data is also used to design and evaluate interventions to provide a safe learning environment. SESIR is not a law enforcement reporting system. [...]

(6) Incident specific SESIR reporting conventions.

(a) For incidents of Bullying, Harassment, Sexual Harassment, Threat/Intimidation, and any other incident that is Bullying-Related, districts are required to report the Incident Basis and the Victim Basis, which identifies whether the incident is based upon the person's race, sex, disability, sexual orientation, or religion.

(b) Allegations of Bullying and Harassment that are not able to be substantiated after investigation must be reported in SESIR as Unsubstantiated Bullying and Unsubstantiated Harassment, respectively, pursuant to Section 1006.147(4)(k), F.S. [...]

(7) Incident definitions.

(e) Bullying (Level IV): Systematically and chronically inflicting physical hurt or psychological distress on one or more students or employees. Bullying includes instances of cyberbullying, as defined in Section 1006.147(3)(b), F.S. Bullying may include, but is not limited to, repetitive instances of teasing, social exclusion, threats, intimidation, stalking, physical violence, theft, harassment, public or private humiliation, or destruction of property. If the physical harm or psychological distress is not the result of systematic or chronic behavior, evaluate for Harassment.

(l) Harassment (Level IV): Any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct that places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property; has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or has the effect of substantially disrupting the orderly operation of a school, including any course of conduct directed at a specific person that causes substantial emotional distress in such a person and serves no legitimate purpose. Instances of Harassment that are chronic or repeated in nature should be evaluated for Bullying or Bullying related.

(m) Hazing (Level III): Any action or situation that endangers the mental or physical health or safety of a student at a school with any of grades 6 through 12 for purposes of initiation or admission into or affiliation with any school-sanctioned organization. Hazing includes, but is not limited to pressuring, coercing, or forcing a student to participate in illegal or dangerous behavior, or any brutality of a physical nature, such as whipping, beating, branding, or exposure to the elements. [...]

(8) Related element definitions.

(b) Bullying-related: An incident is bullying related if the incident includes systematically and chronically inflicting physical hurt or psychological distress on one or more students or employees that is severe or pervasive enough to create an intimidating, hostile, or offensive environment; or unreasonably interfere with the individual's school performance or participation.

6A-19.008. Educational and work environment.

It is the policy of the State of Florida, and institutions have an affirmative duty, to create an educational and work environment free of harassment on the basis of race, sex, national origin or handicap. An institution is responsible for all acts of harassment regardless whether the institution knew or should have known of the acts if the harassment is committed by a person in a position of authority. If, however, the harassment is between fellow employees, fellow students or by nonemployees, an institution is only responsible if it knew or should have known of the harassment and failed to take corrective action.

Harassment includes:

(1) Any slurs, innuendos or other verbal or physical conduct reflecting on an individual's race, ethnic background, gender or handicapping condition which has the purpose or effect of creating an intimidating, hostile or offensive educational or work environment; has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation; or otherwise adversely affects an individual's employment or educational opportunities.

(2) The denial of or the provision of aid, benefits, grades, rewards, employment, faculty assistance, services, or treatment on the basis of sexual advances or requests for sexual favors.

(3) Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational career; submission to or rejection of such conduct is used as a basis for educational or employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

Dating and Relationship Violence

LAWS

1003.42. Required instruction.

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(n) Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; Internet safety; nutrition; personal health; prevention and control of disease; and substance use and abuse. The health education curriculum for students in grades 7 through 12 shall include a teen dating violence and abuse component that includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(a) Prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation.

(b) Provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse.

(c) Define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum, according to s. 1003.42(2)(n), with emphasis on prevention education.

(d) Be implemented in a manner that is integrated with a school district's discipline policies.

(2) Each district school board shall provide training for teachers, staff, and school administrators to implement this section.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

397.997. Prevention resources; Internet website.

(1) The department shall develop a publicly available substance abuse prevention Internet website. The information on the Internet website shall target youth and their parents, teachers, and other stakeholders.

(2) The Internet website shall incorporate, at a minimum, the following components;

- (a) The nature of Florida's current youth alcohol, tobacco, and other drug use concerns;
- (b) The health, social, and legal effects of alcohol, tobacco, and other drug use on individuals, families, schools, and the economy;
- (c) National, state, and local substance abuse prevention and treatment resources; and
- (d) Classroom, home, and individual instructional activities and games geared to teach targeted youth about the harmful effects of alcohol, tobacco, or other drug use, refusal and other prevention skills, and how to get help for someone using drugs.

1003.42. Required instruction.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

1003.52. Educational services in Department of Juvenile Justice programs.

(10)(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

1006.11. Standards for use of reasonable force.

(1) The State Board of Education shall adopt standards for the use of reasonable force by district school board personnel to maintain a safe and orderly learning environment. Such standards shall be distributed to each school in the state and shall provide guidance to district school board personnel in receiving the limitations on liability specified in subsection (2).

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts.

1012.584. Continuing education and inservice training for youth mental health awareness and assistance.

(1) Beginning with the 2018-2019 school year, the Department of Education shall establish an evidence-based youth mental health awareness and assistance training program to help school personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health, or substance use problem.

(2) The Department of Education shall select a national authority on youth mental health awareness and assistance to facilitate providing youth mental health awareness and assistance training, using a trainer certification model, to all school personnel in elementary, middle, and high schools. Each school safety specialist shall earn, or designate one or more individuals to earn, certification as a youth mental health awareness and assistance trainer. The school safety specialist shall ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.

(3) The training program shall include, but is not limited to:

(a) An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness.

(b) Information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis, eating disorders, and self-injury, as well as common treatments for those conditions and how to assess those risks.

(c) Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies, including, but not limited to, peer, social, or self-help care.

(4) Each school district shall notify all school personnel who have received training pursuant to this section of mental health services that are available in the school district, and the individual to contact if a student needs services. The term "mental health services" includes, but is not limited to, community mental health services, health care providers, and services provided under ss. 1006.04 and 1011.62(16).

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and reporting.

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

8. A description of the incident, including:

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

1011.62. Funds for operation of schools.

(16) Mental health assistance allocation. - The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of \$100,000, with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

1. Direct employment of school-based mental health services providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.
2. Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth.
3. Policies and procedures, including contracts with service providers, which will ensure that students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental health services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral.
4. Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.
5. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(c) Have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom for behavior management intervention. [...]

(g) Request and receive immediate assistance in classroom management if a student becomes uncontrollable or in case of emergency.

(h) Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts.

1006.1493. Florida Safe Schools Assessment Tool.

(1) The department, through the Office of Safe Schools pursuant to s. 1001.212, shall contract with a security consulting firm that specializes in the development of risk assessment software solutions and has experience in conducting security assessments of public facilities to develop, update, and implement a risk assessment tool, which shall be known as the Florida Safe Schools Assessment Tool (FSSAT). The FSSAT must be the primary physical site security assessment tool as revised and required by the Office of Safe Schools which is used by school officials at each school district and public school site in the state in conducting security assessments.

(2) The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the security risk assessment requirements of s. 1006.07(6).

(a) At a minimum, the FSSAT must address all of the following components:

2. Security, crime, and violence prevention policies and procedures.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

1003.42. Required instruction.

(2)(s) A character development program in the elementary schools, similar to Character First or Character Counts, which is secular in nature. Beginning in school year 2004-2005, the character development program shall be required in kindergarten through grade 12. Each district school board shall develop or adopt a curriculum for the character development program that shall be submitted to the department for approval. The character development curriculum shall stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation. The character development curriculum for grades 9 through 12 shall, at a minimum, include instruction on developing leadership skills, interpersonal skills, organization skills, and research skills; creating a resume; developing and practicing the skills necessary for employment interviews; conflict resolution, workplace ethics, and workplace law; managing stress and expectations; and developing skills that enable students to become more resilient and self-motivated.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

1003.46. Health education; instruction in acquired immune deficiency syndrome.

(2) Throughout instruction in acquired immune deficiency syndrome, sexually transmitted diseases, or health education, when such instruction and course material contains instruction in human sexuality, a school shall:

- (c) Teach that each student has the power to control personal behavior and encourage students to base actions on reasoning, self-esteem, and respect for others.

1003.497. Service learning.

(1) The Department of Education shall encourage school districts to initiate, adopt, expand, and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12. Service learning refers to a student-centered, research-based teaching and learning strategy that engages students in meaningful service activities in their schools or communities. Service-learning activities are directly tied to academic curricula, standards, and course, district, or state assessments. Service-learning activities foster academic achievement, character development, civic engagement, and career exploration and enable students to apply curriculum content, skills, and behaviors taught in the classroom.

1003.53. Dropout prevention and academic intervention.

(1)(a) Dropout prevention and academic intervention programs may differ from traditional educational programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and shall employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. The educational program shall provide curricula, character development and law education, and related services that support the program goals and lead to improved performance in the areas of academic achievement, attendance, and discipline. Student participation in such programs shall be voluntary.

District school boards may, however, assign students to a program for disruptive students. Notwithstanding any other provision of law to the contrary, no student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based solely on the student being from a single-parent family. [...]

(d)8. Students who exhibit academic and social progress and who wish to return to a traditional school shall complete a character development and law education program and demonstrate preparedness to reenter the regular school setting prior to reentering a traditional school.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

1011.62. Funds for operation of schools.

(16)(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

2. Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth. [...]

5. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(6)Safety and security best practices. - Each district school superintendent shall establish policies and procedures for the prevention of violence on school grounds, including the assessment of and intervention with individuals whose behavior poses a threat to the safety of the school community.

(d) Each district school board and charter school governing board shall adopt, in coordination with local law enforcement agencies and local governments, a family reunification plan to reunite students and employees with their families in the event that a school is closed or unexpectedly evacuated due

to a natural or manmade disaster. This reunification plan must be reviewed annually and updated, as applicable.

2. Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security.

1011.62. Funds for operation of schools.

(16) Mental health assistance allocation. - The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of \$100,000, with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.

1012.583. Continuing education and inservice training for youth suicide awareness and prevention.

(1) By July 1, 2019, the Department of Education, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, shall develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide prevention, and suicide screening for instructional personnel in elementary school, middle school, and high school. The approved list of materials:

(b) Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services.

1012.584. Continuing education and inservice training for youth mental health awareness and assistance.

(1) Beginning with the 2018-2019 school year, the Department of Education shall establish an evidence-based youth mental health awareness and assistance training program to help school personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health, or substance use problem.

(2) The Department of Education shall select a national authority on youth mental health awareness and assistance to facilitate providing youth mental health awareness and assistance training, using a trainer certification model, to all school personnel in elementary, middle, and high schools. Each school safety specialist shall earn, or designate one or more individuals to earn, certification as a youth mental health awareness and assistance trainer. The school safety specialist shall ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.

(3) The training program shall include, but is not limited to:

(a) An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness.

(b) Information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis,

eating disorders, and self-injury, as well as common treatments for those conditions and how to assess those risks.

(c) Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies, including, but not limited to, peer, social, or self-help care.

(4) Each school district shall notify all school personnel who have received training pursuant to this section of mental health services that are available in the school district, and the individual to contact if a student needs services. The term "mental health services" includes, but is not limited to, community mental health services, health care providers, and services provided under ss. 1006.04 and 1011.62(16).

REGULATIONS

6A-1.0018. School safety requirements and monitoring.

(20) Youth Mental Health Awareness and Assistance Training. Each district school safety specialist shall ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training, as provided in Section 1012.584, F.S

School-based Behavioral Health Programs

LAWS

381.0057. Funding for school health services.

(3) Any school district, school, or laboratory school which desires to receive state funding under the provisions of this section shall submit a proposal to the joint committee established in subsection (2). The proposal shall state the goals of the program, provide specific plans for reducing teenage pregnancy, and describe all of the health services to be available to students with funds provided pursuant to this section, including a combination of initiatives such as health education, counseling, extracurricular, and self-esteem components. School health services shall not promote elective termination of pregnancy as a part of counseling services. Only those program proposals which have been developed jointly by county health departments and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:

(b) Student support services team program. - The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting, children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and followup for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and followup care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and certified school counselor at each school. A program that places all three teams in middle schools or high schools may also be proposed.

394.66. Legislative intent with respect to substance abuse and mental health services.

It is the intent of the Legislature to:

(6) Ensure that all activities of the Department of Children and Families and the Agency for Health Care Administration, and their respective contract providers, involved in the delivery of substance abuse and mental health treatment and prevention services are coordinated and integrated with other local systems and groups, public and private, such as juvenile justice, criminal justice, child protection, and public health organizations; school districts; and local groups or organizations that focus on services to older adults.

394.75. State and district substance abuse and mental health plans.

(4) The district plan shall:

(i) Provide for the integration of substance abuse and mental health services with the other departmental programs and with the criminal justice, juvenile justice, child protection, school, and health care systems within the district.

1006.04. Educational multiagency services for students with severe emotional disturbance.

(1)(a) The multiagency network for students with emotional and behavioral disabilities works with education, mental health, child welfare, and juvenile justice professionals, along with other agencies and families, to provide children with mental illness or emotional and behavioral problems and their families with access to the services and supports they need to succeed. District school boards should provide educational programs, and state departments and agencies administering children's mental health funds should provide mental health treatment and residential services when needed, as part of the multiagency network .

(b) The purpose of the multiagency network is to:

1. Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.
2. Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services.
3. Provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs.
4. Integrate a wide range of services necessary to support students with severe emotional disturbance and their families.

(c) The multiagency network shall:

1. Support and represent the needs of students in each school district in joint planning with fiscal agents of children's mental health funds, including the expansion of school-based mental health services, transition services, and integrated education and treatment programs.
2. Improve coordination of services for children with or at risk of emotional or behavioral disabilities and their families by assisting multiagency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement.
3. Increase parent and youth involvement and development with local systems of care.
4. Facilitate student and family access to effective services and programs for students with and at risk of emotional or behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.
5. Participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955.

(2) The department may award grants to district school boards for statewide planning and development of the multiagency network for students with severe emotional disturbance. The educational services shall be provided in a manner consistent with the requirements of ss. 402.22 and 1003.57.

(3) State departments and agencies may use appropriate funds for the multiagency network for students with severe emotional disturbance.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(b)3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program and referred to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, at the direction of the district school board. [...]

(2)(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program or referral of such students to mental health services identified by the school district pursuant to s. 1012.584(4).

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to mental health services identified by the school district pursuant to s. 1012.584(4) and the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. [...]

(7) Threat assessment teams. - Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies must include procedures for referrals to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(12).

(e) If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention, shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary followup actions. Upon the student's transfer to a different school, the threat assessment team shall verify that any intervention services provided to the student

remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

1011.62. Funds for operation of schools.

(16) Mental health assistance allocation. - The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of \$100,000, with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.

(a) Before the distribution of the allocation:

1. The school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. This plan must include all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district pursuant to subparagraph 2.
2. A charter school may develop and submit a detailed plan outlining the local program and planned expenditures to its governing body for approval. After the plan is approved by the governing body, it must be provided to the charter school's sponsor.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

1. Direct employment of school-based mental health services providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.
2. Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth.
3. Policies and procedures, including contracts with service providers, which will ensure that students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental

health services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral.

4. Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

5. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

(c) School districts shall submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.

(d) Beginning September 30, 2019, and annually by September 30 thereafter, each school district shall submit to the Department of Education a report on its program outcomes and expenditures for the previous fiscal year that, at a minimum, must include the number of each of the following:

1. Students who receive screenings or assessments.
2. Students who are referred to either school-based or community-based providers for services or assistance.
3. Students who receive either school-based or community-based interventions, services, or assistance.
4. School-based and community-based mental health providers, including licensure type, paid for from funds provided through the allocation.
5. Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.

1012.584. Continuing education and inservice training for youth mental health awareness and assistance.

(4) Each school district shall notify all school personnel who have received training pursuant to this section of mental health services that are available in the school district, and the individual to contact if a student needs services. The term "mental health services" includes, but is not limited to, community mental health services, health care providers, and services provided under ss. 1006.04 and 1011.62(16).

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(8) Each teacher or other member of the staff of any school who knows or has reason to suspect that any person has committed, or has made a credible threat to commit, a crime of violence on school property shall report such knowledge or suspicion in accordance with the provisions of s. 1006.13. Each district school superintendent and each school principal shall fully support good faith reporting in accordance with the provisions of this subsection and s. 1006.13. Any person who makes a report required by this subsection in good faith shall be immune from civil or criminal liability for making the report.

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and reporting.

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.
5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:
 - a. The context in which the restraint or seclusion occurred.
 - b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.
 - c. The specific positive behavioral strategies used to prevent and deescalate the behavior.
 - d. What occurred with the student immediately after the termination of the restraint or seclusion.
 - e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.
 - f. Evidence of steps taken to notify the student's parent or guardian.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(9) School environmental safety incident reporting. - Each district school board shall adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline. The district school superintendent is responsible for school environmental safety incident reporting. A district school superintendent who fails to comply with this subsection is subject to the penalties specified in law, including, but not limited to, s. 1001.42(13)(b) or s. 1001.51(12)(b), as applicable. The State Board of Education shall adopt rules establishing the requirements for the school environmental safety incident report. Annually, the department shall publish on its website the most recently available school environmental safety incident data along with other school accountability and performance data in a uniform, statewide format that is easy to read and understand.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion. [...]

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student.

Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

1006.135. Hazing prohibited at schools with any of grades 6-12.

(2) School district policy. - Each school district shall adopt in rule a policy that prohibits hazing and establishes consequences for a student who commits an act of hazing. The policy must include:

(b) A procedure for reporting an alleged act of hazing, including provisions that permit a person to anonymously report such an act. However, disciplinary action may not be based solely on an anonymous report.

(c) A requirement that a school with any of grades 9 through 12 report an alleged act of hazing to a local law enforcement agency if the alleged act meets the criteria established under subsection (3).

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

985.101. Taking a child into custody.

(3) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to the department under ss. 985.14 and 985.145, whichever occurs first. If the child is delivered to the department before the parent, guardian, or legal custodian is notified, the department shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified. Following notification, the parent or guardian must provide identifying information, including name, address, date of birth, social security number, and driver license number or identification card number of the parent or guardian to the person taking the child into custody or the department.

1002.20. K-12 student and parent rights.

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) Health issues.

(g) Substance abuse reports. - The parent of a public school student must be timely notified of any verified report of a substance abuse violation by the student, in accordance with the provisions of s. 1006.09(8). [...]

(4) Discipline.

(a) Suspension of public school student. - In accordance with the provisions of s. 1006.09(1)-(4):

1. A student may be suspended only as provided by rule of the district school board. A good faith effort must be made to immediately inform the parent by telephone of the student's suspension and the reason. Each suspension and the reason must be reported in writing within 24 hours to the parent by United States mail. A good faith effort must be made to use parental assistance before suspension unless the situation requires immediate suspension. [...]

Expulsion. - Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1).

(b) Corporal punishment.

1. In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request, the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

2. A district school board having a policy authorizing the use of corporal punishment as a form of discipline shall review its policy on corporal punishment once every 3 years during a district school board meeting held pursuant to s. 1001.372. The district school board shall take public testimony at the board meeting. If such board meeting is not held in accordance with this subparagraph, the portion of the district school board's policy authorizing corporal punishment expires.

1003.26. Enforcement of school attendance.

The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(2) Give written notice.

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, who may refer the case to the child study team in paragraph (1)(b) at the school the student would be assigned according to district school board attendance area policies or to the case staffing committee, established pursuant to s. 984.12. The child study team shall diligently facilitate intervention services and shall report the case back to the district school superintendent only when all reasonable efforts to resolve the nonenrollment behavior are exhausted. If the parent still refuses to cooperate or enroll the child in school, the district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that

criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and reporting.

(b) The following must be included in the incident report:

f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline. [...]

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:

1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
4. Using a finger or hand to simulate a firearm or weapon.
5. Vocalizing an imaginary firearm or weapon.
6. Drawing a picture, or possessing an image, of a firearm or weapon.
7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a

student, including referral to the criminal justice or juvenile justice system, must be proportionate to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy.

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the district school board.

1006.09. Duties of school principal relating to student discipline and school safety.

(1)(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith. [...]

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by

the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state- licensed drug abuse program and successfully completes the program. [...]

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

(i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and

Actions

LAWS

1001.212. Office of safe schools. .

There is created in the Department of Education the Office of Safe Schools. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

- (14) Develop, in coordination with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies; and first responder agencies, a model family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary educational institutions that are closed or unexpectedly evacuated due to a natural or manmade disaster. This model plan shall consider the integration of student information and notification systems to facilitate reunification after a natural or manmade disaster. This model plan shall be reviewed annually and updated, as applicable.
- (15) Monitor compliance with requirements relating to school safety by school districts and public schools, including charter schools. The office shall report incidents of noncompliance to the commissioner pursuant to s. 1001.11(9) and the state board pursuant to s. 1008.32 and other requirements of law, as appropriate.
- (16) Annually publish a list detailing the total number of safe-school officers in this state, the total number of safe-school officers disciplined or relieved of their duties because of misconduct in the previous year, the total number of disciplinary incidents involving safe-school officers, and the number of incidents in which a safe-school officer discharged his or her firearm outside of a training situation or in the exercise of his or her duties as a safe-school officer.
- (17) Maintain a current directory of public school-based diversion programs and cooperate with each judicial circuit and the Department of Juvenile Justice to facilitate their efforts to monitor and enforce each governing body's compliance with s. 985.12.

1001.54. Duties of school principals.

(3) Each school principal must make the necessary provisions to ensure that all school reports are accurate and timely, and must provide the necessary training opportunities for staff to accurately report attendance, FTE program participation, student performance, teacher appraisal, and school safety and discipline data.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(6)(b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

1003.573. Use of restraint and seclusion on students with disabilities.

(2) Monitoring.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and

other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

1006.09. Duties of school principal relating to student discipline and school safety.

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each school principal to report data concerning school safety and discipline.

1006.135. Hazing prohibited at schools with any of grades 6-12.

(2) School district policy. - Each school district shall adopt in rule a policy that prohibits hazing and establishes consequences for a student who commits an act of hazing. The policy must include:

(e) A requirement that each incident of hazing be reported in the school's safety and discipline report required under s. 1006.09(6). The report must include the number of hazing incidents reported, the number of incidents referred to a local law enforcement agency, the number of incidents that result in disciplinary action taken by the school, and the number of incidents that do not result in either referral to a local law enforcement agency or disciplinary action taken by the school.

1006.147. Bullying and harassment prohibited.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

(k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each alleged incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports. [...]

(8) On or before January 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this section. The report shall include data collected pursuant to paragraph (4)(k).

REGULATIONS

6A-1.0017. School Environmental Safety Incident Reporting (SESIR).

(1) Purpose. The purpose of this rule is to set forth the requirements school districts and charter schools must use to report disruptive or criminal incidents to the Florida Department of Education so that the data can, in turn, be used in required state and federal reports, including EdFacts, the United States Department of Education, Office for Civil Rights Data Collection (required by 20 U.S.C. 3413(c)(1)), the Gun Free Schools Act report (required by 20 U.S.C. 7961(d) and (e)), the Every Student Succeeds Act report cards (required by 20 U.S.C. 6311(h)(1) and (2)), and state reports on Bullying and Harassment (required by Section 1006.147, F.S.). SESIR data is also used to design and evaluate interventions to provide a safe learning environment. SESIR is not a law enforcement reporting system.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

943.082. School Safety Awareness Program.

(1) In collaboration with the Department of Legal Affairs, the department shall competitively procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. As recommended by students of Marjory Stoneman Douglas High School, the program shall be named "FortifyFL." At a minimum, the department must receive reports electronically through the mobile suspicious activity reporting tool that is available on both Android and Apple devices.

(2) The reporting tool must notify the reporting party of the following information:

(a) That the reporting party may provide his or her report anonymously.

(b) That if the reporting party chooses to disclose his or her identity, that information shall be shared with the appropriate law enforcement agency and school officials; however, the law enforcement agency and school officials shall be required to maintain the information as confidential.

(c) That if, following an investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the Internet protocol (IP) address of the device on which the tip was submitted will be provided to law enforcement agencies for further investigation, and the reporting party may be subject to criminal penalties under s. 837.05. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report will remain anonymous.

(3) Information reported using the tool must be promptly forwarded to the appropriate law enforcement agency or school official.

(4)(a) Law enforcement dispatch centers, school districts, schools, and other entities identified by the department must be made aware of the mobile suspicious activity reporting tool.

(b) The district school board shall promote the use of the mobile suspicious activity reporting tool by advertising it on the school district website, in newsletters, on school campuses, and in school publications, by installing it on all mobile devices issued to students, and by bookmarking the website on all computer devices issued to students.

(5) The department, in collaboration with the Division of Victim Services within the Office of the Attorney General and the Office of Safe Schools within the Department of Education, shall develop and provide a comprehensive training and awareness program on the use of the mobile suspicious activity reporting tool.

(6) The identity of the reporting party received through the mobile suspicious activity reporting tool and held by the department, law enforcement agencies, or school officials is confidential and exempt from s.

119.07 (1) and s. 24 (a), Art. I of the State Constitution. Any other information received through the mobile suspicious activity reporting tool and held by the department, law enforcement agencies, or school officials is exempt from s. 119.07 (1) and s. 24 (a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

985.101. Taking a child into custody.

(1) A child may be taken into custody under the following circumstances:

(a) Pursuant to an order of the circuit court issued under this chapter, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest. If such delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the arresting authority shall immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child. Such notification shall include other education providers such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the child's school, or as otherwise provided by law. The principal must immediately notify the child's immediate classroom teachers. Information provided by an arresting authority under this paragraph may not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.

(c) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

(2) Except in emergency situations, a child may not be placed into or transported in any police car or similar vehicle that at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(3) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to the department under ss. 985.14 and 985.145, whichever occurs first. If the child is delivered to the department before the parent, guardian, or legal custodian is notified, the department shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified. Following notification, the parent or guardian must provide identifying information, including name, address, date of birth, social security number, and driver license number or identification card number of the parent or guardian to the person taking the child into custody or the department.

(4) Taking a child into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence in conjunction therewith is lawful.

1001.212. Office of safe schools. .

There is created in the Department of Education the Office of Safe Schools. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

(12) By August 1, 2019, develop a standardized, statewide behavioral threat assessment instrument for use by all public schools, including charter schools, which addresses early identification, evaluation, early intervention, and student support.

(a) The standardized, statewide behavioral threat assessment instrument must include, but need not be limited to, components and forms that address:

4. The response to a serious substantive threat, including mental health and law enforcement referrals.

1003.26. Enforcement of school attendance.

The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(4) Report to appropriate authority. - A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

1003.29. Notice to schools of court action.

If a court takes action that directly involves a student's school, including, but not limited to, an order that a student attend school, attend school with his or her parent, perform at grade level, or perform community service hours at the school, the office of the clerk of the court shall provide notice to the school of the court's action.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection

(6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

(6)(a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal

must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) Code of student conduct. - Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:

1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
4. Using a finger or hand to simulate a firearm or weapon.
5. Vocalizing an imaginary firearm or weapon.
6. Drawing a picture, or possessing an image, of a firearm or weapon.
7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a student, including referral to the criminal justice or juvenile justice system, must be proportionate to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy. [...]

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to mental health services identified by the school district pursuant to s. 1012.584(4) and the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-

by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

1006.13. Policy of zero tolerance for crime and victimization.

(1) District school boards shall promote a safe and supportive learning environment in schools by protecting students and staff from conduct that poses a threat to school safety. A threat assessment team may use alternatives to expulsion or referral to law enforcement agencies to address disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Zero-tolerance policies may not be rigorously applied to petty acts of misconduct. Zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(2) Each district school board shall adopt a policy of zero tolerance that:

(a) Defines criteria for reporting to a law enforcement agency any act that poses a threat to school safety that occurs whenever or wherever students are within the jurisdiction of the district school board. [...]

(f) Requires the threat assessment team to consult with law enforcement when a student exhibits a pattern of behavior, based upon previous acts or the severity of an act, that would pose a threat to school safety. [...]

(8) A threat assessment team may use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(7) Threat assessment teams. - Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies must include procedures for referrals to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(12).

(e) If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention, shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary followup actions. Upon the student's transfer to a different school, the threat assessment team shall verify that any intervention services provided to the student

remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

(f) Each threat assessment team established pursuant to this subsection shall report quantitative data on its activities to the Office of Safe Schools in accordance with guidance from the office and shall utilize the threat assessment database developed pursuant to s. 1001.212(13) upon the availability of the database.

1006.12. Safe-school officers at each public school.

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement any combination of the options in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(1) School resource officer. - A school district may establish school resource officer programs through a cooperative agreement with law enforcement agencies.

(2) School safety officer.—A school district may commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

1006.12. Safe-school officers at each public school.

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement any combination of the options in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(1) School resource officer. - A school district may establish school resource officer programs through a cooperative agreement with law enforcement agencies.

(a) School resource officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be certified law enforcement officers, as defined in s. 943.10(1), who are employed by a law enforcement agency as defined in s. 943.10(4). The powers and duties of a law enforcement officer shall continue throughout the employee's tenure as a school resource officer.

(b) School resource officers shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a district school board and a law enforcement agency. Activities conducted by the school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

(2) School safety officer. - A school district may commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district

school superintendent may recommend, and the district school board may appoint, one or more school safety officers.

(a) School safety officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be law enforcement officers, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board.

If the officer is employed by the district school board, the district school board is the employing agency for purposes of chapter 943, and must comply with the provisions of that chapter.

(b) A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property or on property owned or leased by a charter school under a charter contract, as applicable and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

(c) A district school board may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23. A school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

(3) School guardian. - At the school district's or the charter school governing board's discretion, as applicable, pursuant to s. 30.15, a school district or charter school governing board may participate in the Coach Aaron Feis Guardian Program to meet the requirement of establishing a safe-school officer. The following individuals may serve as a school guardian, in support of school-sanctioned activities for purposes of s. 790.115, upon satisfactory completion of the requirements under s. 30.15(1)(k) and certification by a sheriff:

(a) A school district employee or personnel, as defined under s. 1012.01, or a charter school employee, as provided under s. 1002.33(12)(a), who volunteers to serve as a school guardian in addition to his or her official job duties; or

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a school guardian.

(4) School security guard. - A school district or charter school governing board may contract with a security agency as defined in s. 493.6101(18) to employ as a school security guard an individual who holds a Class "D" and Class "G" license pursuant to chapter 493, provided the following training and contractual conditions are met:

(a) An individual who serves as a school security guard, for purposes of satisfying the requirements of this section, must:

1. Demonstrate completion of 144 hours of required training pursuant to s. 30.15(1)(k)2.
2. Pass a psychological evaluation administered by a psychologist licensed under chapter 490 and designated by the Department of Law Enforcement and submit the results of the evaluation to the sheriff's office, school district, or charter school governing board, as applicable. The Department of Law Enforcement is authorized to provide the sheriff's office, school district, or charter school governing board with mental health and substance abuse data for compliance with this paragraph.
3. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office, school district, or charter school governing board, as applicable.
4. Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis and provide documentation to the sheriff's office, school district, or charter school governing board, as applicable.

(b) The contract between a security agency and a school district or a charter school governing board regarding requirements applicable to school security guards serving in the capacity of a safe-school officer for purposes of satisfying the requirements of this section shall define the entity or entities responsible for training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification.

(c) School security guards serving in the capacity of a safe-school officer pursuant to this subsection are in support of school-sanctioned activities for purposes of s. 790.115, and must aid in the prevention or abatement of active assailant incidents on school premises.

(5) Notification. - The district school superintendent or charter school administrator, or a respective designee, shall notify the county sheriff and the Office of Safe Schools immediately after, but no later than 72 hours after:

(a) A safe-school officer is dismissed for misconduct or is otherwise disciplined.

(b) A safe-school officer discharges his or her firearm in the exercise of the safe-school officer's duties, other than for training purposes.

(6) CRISIS INTERVENTION TRAINING.—

(a) Each safe-school officer who is also a sworn law enforcement officer shall complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training must improve the officer's knowledge and skills as a first responder to incidents involving students with emotional disturbance or mental illness, including de-escalation skills to ensure student and officer safety.

(b) Each safe-school officer who is not a sworn law enforcement officer shall receive training to improve the officer's knowledge and skills necessary to respond to and de-escalate incidents on school premises.

(7) LIMITATIONS.—An individual must satisfy the background screening, psychological evaluation, and drug test requirements and be approved by the sheriff before participating in any training required by s. 30.15(1)(k), which may be conducted only by a sheriff.

(8) Exemption. - Any information that would identify whether a particular individual has been appointed as a safe school officer pursuant to this section held by a law enforcement agency, school district, or charter school is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

If a district school board, through its adopted policies, procedures, or actions, denies a charter school access to any safe-school officer options pursuant to this section, the school district must assign a school resource officer or school safety officer to the charter school. Under such circumstances, the charter school's share of the costs of the school resource officer or school safety officer may not exceed the safe school allocation funds provided to the charter school pursuant to s. 1011.62(15) and shall be retained by the school district.

1006.13. Policy of zero tolerance for crime and victimization.

(4)(a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(b) The agreements must include the role of school resource officers, if applicable, in handling reported incidents and a procedure requiring school personnel to consult with school resource officers concerning appropriate delinquent acts and crimes.

(c) The school principal shall notify all school personnel as to their responsibilities regarding incident reporting, that acts which pose a threat to school safety and crimes are properly reported to the school principal, or his or her designee, and that the disposition of the incident is properly documented.

1006.1493. Florida Safe Schools Assessment Tool.

(2) The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the security risk assessment requirements of s. 1006.07(6).

(a) At a minimum, the FSSAT must address all of the following components:

6. School security and school police staffing, operational practices, and related services.

1011.62. Funds for operation of schools.

(15) Safe schools allocation. - A safe schools allocation is created to provide funding to assist school districts in their compliance with ss. 1006.07-1006.12, with priority given to safe-school officers pursuant to s. 1006.12. Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act. Of the remaining balance of the safe schools allocation, one-third shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and two-thirds shall be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Each school district must report to the Department of Education by October 15 that all public schools within the school district have completed the school security risk assessment using the Florida Safe Schools Assessment Tool developed pursuant to s. 1006.1493. If a district school board is required by s. 1006.12 to assign a school resource officer or school safety officer to a charter school, the charter school's share of costs for such officer may not exceed the amount of funds allocated to the charter school under this subsection.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

1001.212. Office of safe schools. .

There is created in the Department of Education the Office of Safe Schools. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

(12) By August 1, 2019, develop a standardized, statewide behavioral threat assessment instrument for use by all public schools, including charter schools, which addresses early identification, evaluation, early intervention, and student support.

(a) The standardized, statewide behavioral threat assessment instrument must include, but need not be limited to, components and forms that address:

1. An assessment of the threat, which includes an assessment of the student, family, and school and social dynamics.
2. An evaluation to determine if the threat is transient or substantive.
3. The response to a substantive threat, which includes the school response and the role of law enforcement agencies.

4. The response to a serious substantive threat, including mental health and law enforcement referrals.
5. Ongoing monitoring to assess implementation of safety strategies.
6. Training for members of threat assessment teams established under s. 1006.07(7) and school administrators regarding the use of the instrument.

(b) The office shall:

1. By August 1, 2020, evaluate each school district's and charter school governing board's behavioral threat assessment procedures for compliance with this subsection.
2. Notify the district school superintendent or charter school governing board, as applicable, if the behavioral threat assessment is not in compliance with this subsection.
3. Report any issues of ongoing noncompliance with this subsection to the commissioner and the district school superintendent or the charter school governing board, as applicable.

(13) Establish the Statewide Threat Assessment Database Workgroup, composed of members appointed by the department, to complement the work of the department and the Department of Law Enforcement associated with the centralized integrated data repository and data analytics resources initiative and make recommendations regarding the development of a statewide threat assessment database. The database must allow authorized public school personnel to enter information related to any threat assessment conducted at their respective schools using the instrument developed by the office pursuant to subsection (12), and must provide such information to authorized personnel in each school district and public school and to appropriate stakeholders. By December 31, 2019, the workgroup shall provide a report to the office with recommendations that include, but need not be limited to:

- (a) Threat assessment data that should be required to be entered into the database.
- (b) School district and public school personnel who should be allowed to input student records to the database and view such records.
- (c) Database design and functionality, to include data security.
- (d) Restrictions and authorities on information sharing, including:
 1. Section 1002.22 and other applicable state laws.
 2. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, 42 C.F.R. part 2; the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. s. 1320d6, 45 C.F.R. part 164, subpart E; and other applicable federal laws.
 3. The appropriateness of interagency agreements that will allow law enforcement to view database records.
- (e) The cost to develop and maintain a statewide online database.
- (f) An implementation plan and timeline for the workgroup recommendations.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

- (7) Threat assessment teams. - Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies must include procedures for referrals to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(12).

(a) A threat assessment team shall include persons with expertise in counseling, instruction, school administration, and law enforcement. All members of the threat assessment team must be involved in the threat assessment process and final decisionmaking. The threat assessment teams shall identify members of the school community to whom threatening behavior should be reported and provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self. Upon the availability of the behavioral threat assessment instrument developed pursuant to s. 1001.212(12), the threat assessment team shall use that instrument.

(b) Upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself or others, a threat assessment team shall immediately report its determination to the superintendent or his or her designee. The superintendent or his or her designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school district personnel from acting immediately to address an imminent threat.

(c) Upon a preliminary determination by the threat assessment team that a student poses a threat of violence to himself or herself or others or exhibits significantly disruptive behavior or need for assistance, authorized members of the threat assessment team may obtain criminal history record information pursuant to s. 985.04(1). A member of a threat assessment team may not disclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

(d) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to students experiencing or at risk of an emotional disturbance or a mental illness, including the school districts, school personnel, state and local law enforcement agencies, the Department of Juvenile Justice, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Statewide Guardian Ad Litem Office, and any service or support provider contracting with such agencies, may share with each other records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the student or to ensure the safety of the student or others. All such state and local agencies and programs shall communicate, collaborate, and coordinate efforts to serve such students.

(e) If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention, shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary followup actions. Upon the student's transfer to a different school, the threat assessment team shall verify that any intervention services provided to the student remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

(f) Each threat assessment team established pursuant to this subsection shall report quantitative data on its activities to the Office of Safe Schools in accordance with guidance from the office and shall utilize the threat assessment database developed pursuant to s. 1001.212(13) upon the availability of the database.

1006.13. Policy of zero tolerance for crime and victimization.

(1) District school boards shall promote a safe and supportive learning environment in schools by protecting students and staff from conduct that poses a threat to school safety. A threat assessment

team may use alternatives to expulsion or referral to law enforcement agencies to address disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Zero-tolerance policies may not be rigorously applied to petty acts of misconduct. Zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(2) Each district school board shall adopt a policy of zero tolerance that:

(f) Requires the threat assessment team to consult with law enforcement when a student exhibits a pattern of behavior, based upon previous acts or the severity of an act, that would pose a threat to school safety. [...]

(8) A threat assessment team may use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

REGULATIONS

6A-1.0018. School safety requirements and monitoring.

(2) Definitions.

(a) "Active threat" means any situation that presents an immediate and ongoing danger to the safety of students, staff and visitors, such as active assailant, hostage situation, or bomb threat.

(t) "Substantive threat" means a threat where the intent to harm is either present or unclear, and requires protective action, as further defined in the CSTAG, Form CSTAG-2021.

(v) "Transient threat" means a threat where there is not a sustained intent to harm and the situation can be quickly resolved with apology, retraction, or explanation by the person who made the threat, as defined in the CSTAG, Form CSTAG-2021.

(10) Threat assessment teams.

(a) Purpose. The purpose of the threat assessment team is to establish a process focusing on behaviors that pose a threat to school safety while serving as a preventative measure to identify needs and provide support to students. This process is also known as a care assessment.

(b) Policies.

1. Each school district must adopt policies, consistent with this rule and with model policies developed by the Office, for the establishment of threat assessment teams at each school.

2. District threat assessment policies must include procedures for referrals to mental health services identified by the school district pursuant to Section 1012.584(4), F.S.

(c) Composition. Each school's threat assessment team must include persons with expertise in counseling, instruction, school administration, and law enforcement, as provided in Section 1006.07(7)(a), F.S.

1. The counseling team member must be a school-based mental health services provider that is able to access student mental health records.

2. The law enforcement team member must be a sworn law enforcement officer, as defined by Section 943.10(1), F.S., including a School Resource Officer, school-safety officer, or other active law enforcement officer. At a minimum, a law enforcement officer serving on a threat assessment team must have access to local Records Management System information, the Criminal Justice Information System, and the Florida Crime Information Center and National Crime Information Center databases. Officers serving on school-based threat assessment teams must also have clearance to review Criminal Justice Information and Criminal History Record Information.

3. A school guardian, as defined under Section 1006.12(3), F.S., or a school security guard, as defined under Section 1006.12(4), F.S., may not serve as the law enforcement member of a threat assessment team.

(d) Instrument. Each school-based threat assessment team must use the Comprehensive School Threat Assessment Guidelines (CSTAG) model to assess the behavior of persons who may pose a threat to school staff or students and to coordinate intervention and services for such persons. All reported threats,

even those determined not to be a threat, must be documented by the threat assessment team. Documentation must include the evaluation process and any resultant action.

(e) Training. All threat assessment team members must be trained on the CSTAG model. For assistance in accessing this training, districts must contact the Office in writing at SafeSchools@fldoe.org.

1. For the 2021-22 school year, each member of a threat assessment team must complete Office-approved training on the CSTAG model no later than December 31, 2021.

2. Beginning with the 2022-23 school year, threat assessment teams at each school must be fully staffed and all team members must complete CSTAG training before the start of the school year. Those appointed to threat assessment teams after the start of the school year must complete CSTAG training within ninety (90) days of appointment.

(f) Meetings. Each school-based threat assessment team must meet as often as needed to fulfill its duties of assessing and intervening with persons whose behavior may pose a threat to school staff or students, but no less than monthly. Districts must adopt policies requiring threat assessment teams to maintain documentation of their meetings, including meeting dates and times, team members in attendance, cases discussed, and actions taken.

(g) Reporting. Each district must ensure that all threat assessment teams in the district report to the Office on the team's activities during the previous school year. The district school safety specialist must ensure all schools in the district timely report information required by this paragraph. Information described below is due by October 1 and must be reported using the FSSAT:

1. For the 2021-22 school year, the total number of threat assessments conducted, the number of transient threats, and the number of substantive threats.

2. Beginning in the 2022- 23 school year, the information required by subparagraph (10)(g)1. and the gender, race, and grade level of all students assessed by the threat assessment team.

(h) Notification to Parents.

1. Each district must establish policies to provide notification to parents of threats and unlawful acts or significant emergencies as defined in Section 1006.07(4)(b), F.S., that occur on school grounds, during school transportation, or during school-sponsored activities.

2. District policies must address the timing, content, scope, and manner of notification, circumstances when law enforcement must be consulted, and the person or entity with responsibility for parental notification, and involvement of the threat assessment team. In making these determinations, district policies must take into consideration the nature of the reported threat or incident, whether the threat or incident is ongoing or resolved, whether the threat is transient or substantive, and whether there is an imminent threat of harm to students and the campus community.

3. In the case of an imminent threat of harm to students, including an active assailant incident or hostage situation, notification to parents must be made as soon as practicable. Such notification should be made in consultation with local law enforcement and first responders in order to avoid compromising the safety of students and the efficacy of the emergency response and investigation.

4. In determining the content of notifications to parents, districts must consider including specific information about the threat or incident necessary to inform parents and safeguard the community as determined by the threat assessment team, or other person or entity responsible for parent notification. Such information may include the date and time of the incident, the location and nature of the threat or incident, how and whether the threat or incident was resolved, a description of the suspect (where applicable), crime prevention and safety tips, and crime and threat reporting information.

5. Notifications must be made in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, 34 C.F.R. Part 99, and Section 1002.22, F.S.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Florida provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Bullying Prevention, Florida Department of Education (FLDOE)	Provides comprehensive information and resources on bullying prevention including definitions of bullying and harassment, and resources for educators, parents, and youth.	http://www.fldoe.org/safe-schools/bullying-prevention.stml
Climate & Discipline, FLDOE	Provides links to school climate, discipline, restorative practices, and other tools, and contact information for the Office of Safe Schools.	Discipline Data (fldoe.org)
Multi-Tiered Systems of Support (MTSS), Student Support Services Project, University of South Florida & FLDOE	Provides information and additional resources regarding planning and implementation of MTSS, state resources, and family resources.	https://sss.usf.edu/resources/topic/mtss/index.html
Office of Safe Schools, FLDOE	Provides comprehensive resources and materials addressing school safety including information on laws and regulations, best practices, links to prevention and intervention, climate and discipline, and discipline data.	http://www.fldoe.org/safe-schools/
Prevention & Intervention, FLDOE	Provides links to intervention and prevention programs, bullying prevention, teen dating violence prevention, alcohol prevention, internet safety, gang resources, and the student support services project.	http://www.fldoe.org/safe-schools/prevent-intervent.stml
Documents		
Model Behavioral Threat Assessment Policies and Best Practices for K-12 (May 2020), FLDOE	Document serving as a guide and additional resource for school districts in the development stages of policymaking on threat assessment. Includes best practices and standards for threat assessment procedures in concordance with Florida law.	https://www.fldoe.org/core/fileparse.php/18612/urll/threat-assessment-model-policies.pdf

Title	Description	Website address (if applicable)
Model Policy Against Bullying and Harassment for K-12 Schools (June 2022), FLDOE	Model policy addressing bullying and harassment.	https://www.fldoe.org/core/fileparse.php/20086/urlt/10-5.pdf
<i>Other Resources</i>		
Mental Health Plans, FLDOE	Compilation of district mental health assistance plans outlining awareness and prevention efforts, screening and assessment procedures, use of evidence-based mental health services, coordination with providers, and outcome measurement.	https://www.fldoe.org/schools/k-12-public-schools/sss/mental-health.stml
School Environmental Safety Incident Reporting (SESIR) System - District & State Reports, FLDOE	District and statewide reports on crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, or at school-sponsored events.	http://www.fldoe.org/safe-schools/discipline-data.stml



Georgia Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Georgia State Codes Cited

Georgia Revised Laws

The State of Georgia contracts with LexisNexis to provide free public access to the Georgia Code (<http://www.lexisnexis.com/hottopics/gacode/>). Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 15. Courts

Chapter 11. Juvenile Code

Article 9. Access to Hearings and Records

- 15-11-707. Notice to school superintendent
- 15-11-710. Exchange of information

Title 16. Crimes and Offenses

Chapter 5. Crimes Against the

Person Article 4. Reckless Conduct

- 16-5-61. Hazing

Chapter 11. Offenses Against Public Order and Safety

Article 4. Dangerous Instrumentalities and Practices

Part 3. Carrying and Possession of Firearms

- 16-11-127.1. Carrying weapons within school safety zones, at school functions, or on a bus or other transportation furnished by a school.

Title 20. Education

Chapter 2. Elementary and Secondary Education

Article 6. Quality Basic Education

Part 2. Competencies and Core Curriculum

- 20-2-145. Comprehensive character education program

Part 3. Educational Programs

- 20-2-154.1. Alternative education programs; intent; description; funding
- 20-2-155. School climate management program; model codes of behavior and discipline

Part 14. Other Educational Programs

- 20-2-314. Development of rape prevention, personal safety education, and teen dating violence prevention programs

Article 16. Students

Part 1. School Attendance

Subpart 2. Compulsory Attendance

- 20-2-690.1. Mandatory education for children between ages six and 16

- 20-2-690.2. Establishment of student attendance and school climate committee; membership; summary of penalties for failure to comply; review and policy recommendations; reporting
- 20-2-695. Employing attendance officers in addition to visiting teachers; authority and duties
- 20-2-696. Duties of visiting teachers and attendance officers
- 20-2-698. Peace officers may take temporary custody of truant children away from home
- 20-2-699. Disposition of children taken into custody
- 20-2-700. Reports by peace officers to school authorities and parent or guardian
- 20-2-701. Responsibility for reporting truants to juvenile or other courts

Part 2. Discipline

Subpart 1. Corporal Punishment

- 20-2-730. Policies and regulations on use of corporal punishment
- 20-2-731. When and how corporal punishment may be administered
- 20-2-732. When principal or teacher not liable for administering corporal punishment

Subpart 1A. Improved Student Learning Environment and Discipline

- 20-2-735. Adoption of policies by local boards to improve student learning environment
- 20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement
- 20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action
- 20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees
- 20-2-739. Conflict management and resolution; cultural diversity training programs
- 20-2-740. Annual report by local boards of education regarding disciplinary and placement actions; annual study by Department of Education
- 20-2-741. Positive behavioral interventions and supports and response to intervention
- 20-2-742. Multi-tiered system of supports prior to suspension or expulsion for certain students
- 20-2-750. Short title
- 20-2-751. Definitions
- 20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school
- 20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice
- 20-2-751.5. Student code of conduct; safety rules on school buses; distribution
- 20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee
- 20-2-751.7. State mandated process for students to follow in reporting instances of alleged inappropriate behavior by teacher or other school personnel; notice of process; training; investigations
- 20-2-752. Establishment of disciplinary hearing officers, panels, or tribunals for imposition of suspension or expulsion; rules and regulations; appeals
- 20-2-753. Disciplinary hearing officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and battery or recommended suspension or expulsion exceeding 10 days
- 20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review
- 20-2-755. Authorization of disciplinary officer, panel, or tribunal to determine disciplinary action
- 20-2-756. Reports to law enforcement officials
- 20-2-757. Applicability of public inspection and open meeting laws
- 20-2-758. Legal actions not prohibited, restricted, or limited by disciplinary hearing; rights to appeal from decision of school board

Subpart 3. Chronic Disciplinary Problem Students

- 20-2-764. Definitions
- 20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both
- 20-2-766. Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan
- 20-2-766.1. Proceeding against parents for failure to cooperate in educational programs; penalty

Subpart 4. Alternative Educational Systems

- 20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy

Part 3. Health

- 20-2-779.1. Suicide prevention and awareness training; no duty of care imposed

Article 22. School Buses

Part 5. School Buses

- 20-2-1126. Written policies and procedures for operation of school buses; receipt of code of conduct by students; acknowledgement by parent or guardian

Article 27. Loitering at or Disrupting Schools

- 20-2-1181. Disrupting operation of public school, school bus, or school bus stop; penalty; progressive discipline
- 20-2-1183. Written agreement for law enforcement officers in schools
- 20-2-1184. Reporting of students committing prohibited acts
- 20-2-1185. School safety plans; drills

Chapter 8. Campus Policeman

- 20-8-1. Definitions
- 20-8-2. Law enforcement powers
- 20-8-3. Certification required
- 20-8-5. Law enforcement powers of school security personnel in each public school system of the state; certification; carrying of firearms or weapons
- 20-8-6. Reports of criminal gang activity on or adjacent to campus

Title 35. Law Enforcement Officers and Agencies Chapter 8.

Employment and Training of Peace Officers

- 35-8-27. Training requirements for school resource officers

Title 38. Military Emergency Management, and Veterans Affairs

Chapter 3. Emergency Management

Article 2. Organization and

Administration

- 38-3-22.1. Safety plan addressing threat of terrorism required of state agencies or authorities; exemptions; training and technical assistance; confidentiality of plans and related documentation

Georgia Regulations

Department 160. Rules of Georgia Department of Education

160-4-2. Division of General

Instruction

160-4-2-.32. Student support team

160-4-8. Student Support

160-4-8-.01. Student support services

160-4-8-.12. Alternative/Non-traditional education programs

160-4-8-.15. Student discipline

160-4-8-.19. Suicide prevention training requirement for certificated school system personnel

160-5-1. Regional Education Services

160-5-1-.10. Student attendance

160-5-1-.35. Seclusion and restraint for all students

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

20-2-730. Policies and regulations on use of corporal punishment.

All area, county, and independent boards of education shall be authorized to determine and adopt policies and regulations relating to the use of corporal punishment by school principals and teachers employed by such boards.

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement.

(a) At the beginning of each school year, local boards of education shall provide for the distribution of student codes of conduct developed pursuant to Code Section 20-2-735 to each student upon enrollment. Local boards of education shall provide for the distribution of such student codes of conduct to the parents or guardians of each student through such means as may best accomplish such distribution at the local level and are appropriate in light of the grade level of the student, including distribution of student codes of conduct to students and parents or guardians jointly. Local boards of education shall solicit or require the signatures or confirmation of receipt of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct. A signature or confirmation of receipt may be obtained in writing, via electronic mail or facsimile, or by any other electronic or other means as designated by the local board. A parent or legal guardian that does not acknowledge receipt of the student code of conduct shall not be absolved of any responsibility with respect to the information contained in the student code of conduct. In addition, student codes of conduct shall be available in each school and classroom.

(b) Local boards of education shall provide for disciplinary action against students who violate student codes of conduct.

(c) Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools;
2. Verbal assault, including threatening violence, of teachers, administrators, and other school personnel;
3. Physical assault or battery of teachers, administrators or other school personnel;
4. Disrespectful conduct toward teachers, administrators, other school personnel, persons attending school related functions or other students, including use of vulgar or profane language;
5. Verbal assault of other students, including threatening violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
6. Sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972 or physical assault or battery of other students.
7. Guidelines and consequences resulting from failure to comply with compulsory attendance as required under O.C.G.A § 20-2-690.1;
8. Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;
9. Inciting, advising, or counseling of others to engage in prohibited acts;

10. Marking, defacing or destroying school property or the property of another student;
11. Possession of a weapon, as provided for in O.C.G.A. § 16-11-127.1;
12. Unlawful use or possession of illegal drugs or alcohol;
13. Willful and persistent violation of student codes of conduct;
14. Bullying as defined in O.C.G.A. § 20-2-751.4;
15. Any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process;
16. Each local board of education shall adopt policies, applicable to students in grades 6 through 12 that prohibit bullying of a student by another student and shall require such prohibition to be included in the student code of conduct in that school system. Local board policies shall require that, upon a finding that a student in grades 6 through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school.
17. Behavior support processes designed to consider, as appropriate in light of the severity of the behavioral problem, support services that may be available through the school, school system, other public entities, or community organizations that may help the student address behavioral problems; This rule neither mandates nor prohibits the use of student support teams as part of the student support process;
18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous discipline history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed;
19. Parental involvement processes designed to create the expectation that parents, guardians, teachers and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about, and actions in response to, student behavior that detracts from the learning environment. Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.
20. A statement that major offenses including, but not limited to, drug and weapon offenses can lead to schools being named as an Unsafe School according to the provisions of State Board of Education Rule 160-4-8-.16 Unsafe School Choice Option.

Scope

LAWS

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term "bullying" means an act that is:

- (1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;
- (2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or
- (3) Any intentional written, verbal, or physical act which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that:
 - (A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1;

- (B) Has the effect of substantially interfering with a student's education;
- (C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- (D) Has the effect of substantially disrupting the orderly operation of the school.

The term applies to acts which occur on school property, on school vehicles, at designated school bus stops, or at school related functions or activities or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system. The term also applies to acts of cyberbullying which occur through the use of electronic communication, whether or not such electronic act originated on school property or with school equipment, if the electronic communication (1) is directed specifically at students or school personnel, (2) is maliciously intended for the purpose of threatening the safety of those specified or substantially disrupting the orderly operation of the school, and (3) creates a reasonable fear of harm to the students' or school personnel's person or property or has a high likelihood of succeeding in that purpose. For purposes of this Code section, electronic communication includes but is not limited to any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system.

(b) No later than August 1, 2011:

- (1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;
- (2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;
- (3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and
- (4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

- (1) A statement prohibiting bullying;
- (2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;
- (3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;
- (4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;
- (5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;
- (6) A statement prohibiting retaliation following a report of bullying; and

- (7) Provisions consistent with the requirements of subsection (b) of this Code section.
- (d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.
- (e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.
- (f) Nothing in this Code section or in the model policy promulgated by the Department of Education shall be construed to require a local board of education to provide transportation to a student transferred to another school as a result of a bullying incident.
- (g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

- (c) Each student code of conduct shall also contain provisions that address any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process.

REGULATIONS

160-4-8-.15. Student discipline.

- (2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

Communication of Policy

LAWS

20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement.

- (a) At the beginning of each school year, local boards of education shall provide for the distribution of student codes of conduct developed pursuant to Code Section 20-2-735 to each student upon enrollment. Local boards of education shall provide for the distribution of such student codes of conduct to the parents or guardians of each student through such means as may best accomplish such distribution at the local level and are appropriate in light of the grade level of the student, including distribution of student codes of conduct to students and parents or guardians jointly. Local boards of education shall solicit or require the signatures or confirmation of receipt of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct. A signature or confirmation of receipt may be obtained in writing, via electronic mail or facsimile, or by any other electronic or other means as designated by the local board. A parent or legal guardian that does not acknowledge receipt of the

student code of conduct shall not be absolved of any responsibility with respect to the information contained in the student code of conduct. In addition, student codes of conduct shall be available in each school and classroom.

(b) Local boards of education shall provide for disciplinary action against students who violate student codes of conduct.

(c) Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

(4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(e) Any student handbook which is prepared by a local board or school shall include a copy of the student code of conduct for that school or be accompanied by a copy of the student code of conduct for that school as annually distributed pursuant to Code Section 20-2-736. When distributing a student code of conduct, a local school shall include a form for acknowledgment of the student's parent or guardian's receipt of the code, and the local school shall solicit or require that the form be signed and returned to the school.

20-2-1126. Written policies and procedures for operation of school buses; receipt of code of conduct by students; acknowledgement by parent or guardian.

(a) Each public school system in this state shall promulgate policies and procedures for the operation of school buses and the conduct and safety of those students who ride such buses. Such policies and procedures shall be in writing and available for public inspection. Each person employed as a school bus driver shall acknowledge in writing that he or she has received a copy of and has read and understands such policies and procedures. In the event that such policies and procedures are amended during the school year, such amended policies and procedures shall be provided to all persons employed by the school system as school bus drivers, and each such person shall acknowledge in writing that he or she has received a copy of and has read and understands such amended policies and procedures.

(b) At the beginning of each school year, each public school system in this state shall provide each of its students with a copy of the school system's code of conduct as required by Code Section 20-2-736. In the event such code of conduct is amended during the school year, the school system shall provide copies of such amendments to the students. The receipt of such student code of conduct shall be acknowledged in writing by a parent or guardian of each student.

REGULATIONS

160-4-8-.15. Student discipline.

(2)(b) Local boards of education shall provide for the distribution of student codes of conduct to each student upon enrollment and to the parents and guardians of each student and may solicit the signatures of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct.

(c) Student codes of conduct shall be available in each school and classroom.

(d) Local boards of education shall provide for disciplinary actions against students who violate student codes of conduct;

(e) Local board policies relating to student codes of conduct shall provide that each local superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to O.C.G.A. § 20-2-738., including establishing and disseminating procedures.

(f) It is the preferred policy of the board that disruptive students are placed in alternative education settings in lieu of being suspended or expelled.

In-School Discipline

Discipline Frameworks

LAWS

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

- (1) Verbal assault, including threatened violence, of teachers, administrators, and other school personnel;

- (2) Physical assault or battery of teachers, administrators, and other school personnel;
- (3) Disrespectful conduct toward teachers, administrators, and other school personnel, including use of vulgar or profane language;
- (4) Verbal assault of other students, including threatened violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
- (5) Physical assault or battery of other students, including sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
- (6) Disrespectful conduct toward other students, including use of vulgar or profane language;
- (7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including use of vulgar or profane language, toward persons attending school related functions;
- (8) Failure to comply with compulsory attendance as required under Code Section 20-2-690.1;
- (9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;
- (10) Inciting, advising, or counseling of others to engage in prohibited acts;
- (11) Marking, defacing, or destroying school property;
- (12) Possession of a firearm, as provided for in Code Section 16-11-127.1, and possession of a dangerous weapon or hazardous object;
- (13) Unlawful use or possession of illegal drugs or alcohol;
- (14) Willful and persistent violation of the student code of conduct;
- (15) Bullying as defined by Code Section 20-2-751.4;
- (16) Marking, defacing, or destroying the property of another student; and
- (17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools;
2. Verbal assault, including threatening violence, of teachers, administrators, and other school personnel;
3. Physical assault or battery of teachers, administrators or other school personnel;
4. Disrespectful conduct toward teachers, administrators, other school personnel, persons attending school related functions or other students, including use of vulgar or profane language;

5. Verbal assault of other students, including threatening violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
6. Sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972 or physical assault or battery of other students.
7. Guidelines and consequences resulting from failure to comply with compulsory attendance as required under O.C.G.A § 20-2-690.1;
8. Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;
9. Inciting, advising, or counseling of others to engage in prohibited acts;
10. Marking, defacing or destroying school property or the property of another student;
11. Possession of a weapon, as provided for in O.C.G.A. § 16-11-127.1;
12. Unlawful use or possession of illegal drugs or alcohol;
13. Willful and persistent violation of student codes of conduct;
14. Bullying as defined in O.C.G.A. § 20-2-751.4;
15. Any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process;
16. Each local board of education shall adopt policies, applicable to students in grades 6 through 12 that prohibit bullying of a student by another student and shall require such prohibition to be included in the student code of conduct in that school system. Local board policies shall require that, upon a finding that a student in grades 6 through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school.
17. Behavior support processes designed to consider, as appropriate in light of the severity of the behavioral problem, support services that may be available through the school, school system, other public entities, or community organizations that may help the student address behavioral problems; This rule neither mandates nor prohibits the use of student support teams as part of the student support process;
18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous discipline history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed;
19. Parental involvement processes designed to create the expectation that parents, guardians, teachers and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about, and actions in response to, student behavior that detracts from the learning environment. Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.
20. A statement that major offenses including, but not limited to, drug and weapon offenses can lead to schools being named as an Unsafe School according to the provisions of State Board of Education Rule 160-4-8-.16 Unsafe School Choice Option.

Teacher Authority to Remove Students From Classrooms

LAWS

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(a) A teacher shall have the authority, consistent with local board policy, to manage his or her classroom, discipline students, and refer a student to the principal or the principal's designee to maintain discipline in the classroom. The principal or the principal's designee shall respond when a student is referred by a teacher by employing appropriate discipline management techniques that are consistent with local board policy.

(b) A teacher shall have the authority to remove from his or her class a student who repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn, where the student's behavior is in violation of the student code of conduct, provided that the teacher has previously filed a report pursuant to Code Section 20-2-737 or determines that such behavior of the student poses an immediate threat to the safety of the student's classmates or the teacher. Each school principal shall fully support the authority of every teacher in his or her school to remove a student from the classroom under this Code section. Each school principal shall implement the policies and procedures of the superintendent and local board of education relating to the authority of every teacher to remove a student from the classroom and shall disseminate such policies and procedures to faculty, staff, and parents or guardians of students. The teacher shall file with the principal or the principal's designee a report describing the student's behavior, in one page or less, by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall, within one school day after the student's removal from class, send to the student's parents or guardians written notification that the student was removed from class, a copy of the report filed by the teacher, and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(c) If a teacher removes a student from class pursuant to subsection (b) of this Code section, the principal or the principal's designee shall discuss the matter with the teacher and the student by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall give the student oral or written notice of the grounds for his or her removal from class and, if the student denies engaging in such conduct, the principal or the principal's designee shall explain the evidence which supports his or her removal from class and give the student an opportunity to present his or her explanation of the situation. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher gives his or her consent, the student shall be returned to the class, and the principal or the principal's designee may take action to discipline the student, as may be warranted, pursuant to paragraph (1) of subsection (e) of this Code section. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher withholds his or her consent to the student's return to his or her class, the principal or the principal's designee shall determine an appropriate temporary placement for the student by the end of the first school day following such removal and shall also take steps to convene a meeting of a placement review committee. The placement review committee shall convene by the end of the second school day following such removal by the teacher and shall issue a decision by the end of the third school day following such removal by the teacher. An appropriate temporary placement for the student shall be a placement that, in the judgment of the principal or the principal's designee, provides the least interruption to the student's education and reflects other relevant factors, including, but not limited to, the severity of the behavior that was the basis for the removal, the student's behavioral history, the student's need for support services, and the available education settings; provided, however, that the

student shall not be returned to the class of the teacher who removed him or her, as an appropriate temporary placement, unless the teacher gives his or her consent. The temporary placement shall be in effect from the time of removal until the decision of the placement review committee is issued or, if applicable, a placement determination is made pursuant to paragraph (2) of subsection (e) of this Code section.

(d) Local board policies adopted pursuant to Code Section 20-2-735 shall provide for the establishment at each school of one or more placement review committees, each of which is to be composed of three members, to determine the placement of a student when a teacher withholds his or her consent to the return of a student to the teacher's class. For each committee established, the faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and the principal shall choose one member of the professional staff of the school to serve as a member. The teacher withholding consent to readmit the student may not serve on the committee. The placement review committee shall have the authority to:

- (1) Return the student to the teacher's class upon determining that such placement is the best alternative or the only available alternative; or
- (2) Refer the student to the principal or the principal's designee for appropriate action consistent with paragraph (2) of subsection (e) of this Code section.

The decision of the placement review committee shall be in writing and shall be made within three school days after the teacher withholds consent to the return of a student. Local boards of education shall provide training for members of placement review committees regarding the provisions of this subpart, including procedural requirements; local board policies relating to student discipline; and the student code of conduct that is applicable to the school.

(e)(1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student in an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section; or
- (C) Make another disciplinary decision or recommendation consistent with local board policy.

(2) If a placement review committee decides not to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee shall determine an appropriate placement for the student and may take action to discipline the student, in a manner consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, as follows, provided that the placement or disciplinary action is authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student into another appropriate classroom or an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section;

(C) Make another placement or disciplinary decision or recommendation consistent with local board policy; or

(D) Implement or recommend any appropriate combination of the above and return the student to the class from which he or she was removed upon the completion of any disciplinary or placement action taken pursuant to this paragraph.

(f) Within one school day of taking action pursuant to subsection (e) of this Code section, the principal or the principal's designee shall send written notification of such action to the teacher and the parents or guardians of the student and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians.

(g) Parents or guardians of a student who has been removed from class pursuant to subsection (b) of this Code section may be required to participate in conferences that may be requested by the principal or the principal's designee; provided, however, that a student may not be penalized for the failure of his or her parent or guardian to attend such a conference.

(h) The procedures contained in this Code section relating to student conferences and notification of parents or guardians are minimum requirements. Nothing in this Code section shall be construed to limit the authority of a local board of education to establish additional requirements relating to student conferences, notification of parents or guardians, conferences with parents or guardians, or other procedures required by the Constitutions of the United States or this state.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

(e) Local board policies relating to student codes of conduct shall provide that each local superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to O.C.G.A. § 20-2-738., including establishing and disseminating procedures.

Alternatives to Suspension

LAWS

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of

Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

160-4-8-15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

(l) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel pursuant to O.C.G.A. 20-2-742.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

20-2-730. Policies and regulations on use of corporal punishment.

All area, county, and independent boards of education shall be authorized to determine and adopt policies and regulations relating to the use of corporal punishment by school principals and teachers employed by such boards.

20-2-731. When and how corporal punishment may be administered.

An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline. Any such authorization shall be subject to the following requirements:

- (1) The corporal punishment shall not be excessive or unduly severe;
- (2) Corporal punishment shall never be used as a first line of punishment for misbehavior unless the pupil was informed beforehand that specific misbehavior could occasion its use; provided, however, that corporal punishment may be employed as a first line of punishment for those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience;
- (3) Corporal punishment must be administered in the presence of a principal or assistant principal, or the designee of the principal or assistant principal, employed by the board of education authorizing such punishment, and the other principal or assistant principal, or the designee of the principal or assistant principal, must be informed beforehand and in the presence of the pupil of the reason for the punishment;
- (4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment; and
- (5) Corporal punishment shall not be administered to a child whose parents or legal guardian has upon the day of enrollment of the pupil filed with the principal of the school a statement from a medical doctor licensed in Georgia stating that it is detrimental to the child's mental or emotional stability.

20-2-732. When principal or teacher not liable for administering corporal punishment.

No principal or teacher who shall administer corporal punishment to a pupil or pupils under his care and supervision in conformity with the policies and regulations of the area, county, or independent board of education employing him and in accordance also with this subpart shall be held accountable or liable in any criminal or civil action based upon the administering of corporal punishment where the corporal punishment is administered in good faith and is not excessive or unduly severe.

20-2-740. Annual report by local boards of education regarding disciplinary and placement actions; annual study by Department of Education.

(a) Each local board of education shall file an annual report, by August 1 of each year, with the Department of Education regarding disciplinary and placement actions taken during the prior school year. Such report shall classify the types of actions into the following categories:

- (8) Actions in which corporal punishment was administered.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

35-8-27. Training requirements for school resource officers.

- (a) It is the best practice for any person assigned or appointed as a school resource officer to successfully complete a training course for school resource officers approved by the council.
- (b) For purposes of subsection (a) of this Code section, the council shall maintain a training course consisting of 40 hours of training for school resource officers. Such training course shall, at a minimum, provide training in the role of a peace officer assigned to an elementary or secondary school, search and seizure in elementary and secondary schools, criminal offenses, gang awareness, drug awareness, interviews and interrogations, emergency preparedness, and interpersonal interactions with adolescents, including the encountering of mental health issues.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

160-5-1-.35. Seclusion and restraint for all students.

(1) Definitions

- (a) Chemical restraint- any medication that is used to control behavior or restrict the student's freedom of movement that is not a prescribed treatment for the student's medical or psychiatric condition. Use of chemical restraint is prohibited in Georgia public schools and educational programs.
- (b) Mechanical restraint- the use of any device or material attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student. The term does not include an adaptive or protective device recommended by a physician or therapist when used as recommended by the physician or therapist to promote normative body positioning and physical functioning, and/or to prevent self injurious behavior. The term also does not include seatbelts and other safety equipment when used to secure students during transportation. Use of Mechanical restraint is prohibited in Georgia public schools and educational programs.
- (c) Physical restraint- direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include prone restraint, mechanical restraint, or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, or providing comfort.
- (d) Prone restraint- a specific type of restraint in which a student is intentionally placed face down on the floor or another surface, and physical pressure is applied to the student's body to keep the student in the prone position. Use of prone restraint is prohibited in Georgia public schools and educational programs.
- (e) Seclusion -a procedure that isolates and confines the student in a separate area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion may also be referred to as monitored seclusion, seclusion timeout, or isolated timeout. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same

unlocked room as the student, time-out as defined in paragraph (1)(g) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Georgia public schools and educational programs.

(g) Time-out- a behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined.

(2) Requirements

(a) The use of seclusion is prohibited in Georgia public schools and educational programs.

(b) The use of prone restraint is prohibited in Georgia public schools and educational programs.

(c) The use of mechanical restraint is prohibited in Georgia public schools and educational programs.

(d) The use of chemical restraint is prohibited in Georgia public schools and educational programs.

(e) The use of physical restraint is prohibited in Georgia public schools and educational programs except in those situations in which the student is an immediate danger to himself or others and the student is not responsive to less intensive behavioral interventions including verbal directives or other de-escalation techniques.

1. Notwithstanding the foregoing, physical restraint is prohibited in Georgia public schools and educational programs:

(i) as a form of discipline or punishment,

(ii) when the student cannot be safely restrained, and

(iii) when the use of the intervention would be contraindicated due to the student's psychiatric, medical, or physical conditions as described in the student's educational records.

(f) All physical restraint must be immediately terminated when the student is no longer an immediate danger to himself or others or if the student is observed to be in severe distress.

(g) Schools and programs that use physical restraint in accordance with paragraph (2)(e) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

1. Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,

2. Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,

3. Procedures for observing and monitoring the use of physical restraint.

4. The use of physical restraint to be documented by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained.

5. Procedures for the periodic review of the use of restraint and the documentation described in paragraph (2)(g)4.

(h) Schools and programs that use physical restraints in accordance with paragraph (2)(e) of this rule, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies as well as prevention and de-escalation techniques. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Georgia Department of Education or any member of the public upon request.

(i) Nothing in this rule shall be construed to interfere with a school system, school or program, or school or program employee's authority to utilize time-out as defined in paragraph (1)(g) of this rule or any other classroom management technique or approach, including a student's removal from the classroom, that is not specifically addressed in this rule.

(j) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking appropriate action to diffuse a student fight or altercation.

(k) Nothing in this rule shall be construed to eliminate or restrict the ability of an employee of a school system, school or program to use his or her discretion in the use of physical restraint to protect students or others from imminent harm or bodily injury. Nothing in this rule shall be construed to impose ministerial duties on individual employees of a school system, school or program when acting to protect students or others from imminent harm or bodily injury.

(l) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel.

1. Parents must be immediately informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

20-2-750. Short title.

This subpart shall be known and may be cited as the "Public School Disciplinary Tribunal Act."

20-2-751. Definitions.

As used in this subpart, the term:

- (1) "Dangerous weapon" shall have the same meaning as set forth in Code Section 16-11-121.
- (2) "Expulsion" means expulsion of a student from a public school beyond the current school quarter or semester.
- (3) "Firearm" shall have the same meaning as set forth in Code Section 16-11-127.1.
- (4) "Hazardous object" means any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any instrument of like kind, any nonlethal air gun, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. Such term shall not include any of these instruments used for classroom work authorized by the teacher.
- (5) "Long-term suspension" means the suspension of a student from a public school for more than ten school days but not beyond the current school quarter or semester.
- (6) "Short-term suspension" means the suspension of a student from a public school for not more than ten school days.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

- (a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student's possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.
- (b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.
- (c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

(a) As used in this Code section, the term "physical violence" means:

(1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

(2) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(b) Local board of education policies and student codes of conduct shall provide for the penalties to be assessed against a student found by a disciplinary hearing officer, panel, or tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence against a teacher, school bus driver, or other school official or employee. Such disciplinary hearing officer, panel, or tribunal shall hold any disciplinary hearing in accordance with the provisions of Code Section 20-2-754. Any student alleged to have committed an act of physical violence shall be suspended pending the hearing by the disciplinary hearing officer, panel, or tribunal. The decision of the disciplinary hearing officer, panel, or tribunal may be appealed to the local school board pursuant to Code Section 20-2-754. If appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the disciplinary hearing officer, panel, or tribunal shall include a recommendation as to whether a student may return to public school and, if return is recommended, a recommended time for the student's return to public school. The local school board may impose penalties not recommended by the disciplinary hearing officer, panel, or tribunal.

(c)(1) A student found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee shall be expelled from the public school system. The expulsion shall be for the remainder of the student's eligibility to attend public school pursuant to Code Section 20-2-150. The local school board at its discretion may permit the student to attend an alternative education program for the period of the student's expulsion. If the student who commits an act of physical violence is in kindergarten through grade eight, then the local school board at its discretion and on the recommendation of the disciplinary hearing officer, panel, or tribunal may permit such a student to reenroll in the regular public school program for grades nine through 12. If the local school board does not operate an alternative education program for students in kindergarten through grade six, the local school board at its discretion may permit a student in kindergarten through grade six who has committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section to reenroll in the public school system;

(2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence against a teacher, school bus driver, school official, or school employee as defined in paragraph (2) of subsection (a) of this Code section shall be referred to juvenile court with a request for a petition alleging delinquent behavior; and

(3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee may be disciplined by expulsion, long-term suspension, or short-term suspension.

(d) The provisions of this Code section shall apply with respect to any local school system which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

(e) Nothing in this Code section shall be construed to infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act of 1990.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

20-2-731. When and how corporal punishment may be administered.

An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline. Any such authorization shall be subject to the following requirements:

- (1) The corporal punishment shall not be excessive or unduly severe;
- (2) Corporal punishment shall never be used as a first line of punishment for misbehavior unless the pupil was informed beforehand that specific misbehavior could occasion its use; provided, however, that corporal punishment may be employed as a first line of punishment for those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience;
- (3) Corporal punishment must be administered in the presence of a principal or assistant principal, or the designee of the principal or assistant principal, employed by the board of education authorizing such punishment, and the other principal or assistant principal, or the designee of the principal or assistant principal, must be informed beforehand and in the presence of the pupil of the reason for the punishment;
- (4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment; and
- (5) Corporal punishment shall not be administered to a child whose parents or legal guardian has upon the day of enrollment of the pupil filed with the principal of the school a statement from a medical doctor licensed in Georgia stating that it is detrimental to the child's mental or emotional stability.

20-2-742. Multi-tiered system of supports prior to suspension or expulsion for certain students.

(a) As used in this Code section, the term:

- (1) "Multi-tiered system of supports" or "MTSS" means a systemic, continuous-improvement framework in which data based problem solving and decision making is practiced across all levels of the educational system for supporting students at multiple levels of intervention.
- (2) "Public preschool through third grade" means a public preschool, a Pre-K program in a public school administered pursuant to Code Section 20-1A-4, and kindergarten through third grade in a public school.
- (3) "Response to intervention" or "RTI" means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.
- (4) "Weapon" shall include dangerous weapons, firearms, and hazardous objects as defined in Code Section 20-2-751.

(b) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel. If such student is receiving or has received a multi-tiered system of

supports, the school shall be deemed to have met the requirements of this Code section. The school or program shall comply with all federal laws and requirements regarding obtaining parental consent during any advanced tier within the system of supports prior to certain screenings or evaluations.

(c) In addition to the requirements in subsection (b) of this Code section, prior to assigning any student in preschool through third grade to out-of-school suspension for more than five consecutive or cumulative days during a school year, if such student has an Individualized Education Program (IEP) pursuant to the federal Individuals with Disabilities Education Act or a plan under Section 504 of the federal Rehabilitation Act of 1973, the school or program shall also convene an IEP or Section 504 meeting to review appropriate supports being provided as part of such Individualized Education Program or Section 504 plan.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student's possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.

(c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Sections 15- 11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

(a) As used in this Code section, the term "physical violence" means:

- (1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

(2) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(b) Local board of education policies and student codes of conduct shall provide for the penalties to be assessed against a student found by a disciplinary hearing officer, panel, or tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence against a teacher, school bus driver, or other school official or employee. Such disciplinary hearing officer, panel, or tribunal shall hold any disciplinary hearing in accordance with the provisions of Code Section 20-2-754. Any student alleged to have committed an act of physical violence shall be suspended pending the hearing by the disciplinary hearing officer, panel, or tribunal. The decision of the disciplinary hearing officer, panel, or tribunal may be appealed to the local school board pursuant to Code Section 20-2-754. If appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the disciplinary hearing officer, panel, or tribunal shall include a recommendation as to whether a student may return to public school and, if return is recommended, a recommended time for the student's return to public school. The local school board may impose penalties not recommended by the disciplinary hearing officer, panel, or tribunal.

(c)(1) A student found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee shall be expelled from the public school system. The expulsion shall be for the remainder of the student's eligibility to attend public school pursuant to Code Section 20-2-150. The local school board at its discretion may permit the student to attend an alternative education program for the period of the student's expulsion. If the student who commits an act of physical violence is in kindergarten through grade eight, then the local school board at its discretion and on the recommendation of the disciplinary hearing officer, panel, or tribunal may permit such a student to reenroll in the regular public school program for grades nine through 12. If the local school board does not operate an alternative education program for students in kindergarten through grade six, the local school board at its discretion may permit a student in kindergarten through grade six who has committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section to reenroll in the public school system;

(2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence against a teacher, school bus driver, school official, or school employee as defined in paragraph (2) of subsection (a) of this Code section shall be referred to juvenile court with a request for a petition alleging delinquent behavior; and

(3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee may be disciplined by expulsion, long-term suspension, or short-term suspension.

(d) The provisions of this Code section shall apply with respect to any local school system which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

(e) Nothing in this Code section shall be construed to infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act of 1990.

20-2-752. Establishment of disciplinary hearing officers, panels, or tribunals for imposition of suspension or expulsion; rules and regulations; appeals.

Local boards of education may establish by policy, rule, or regulation disciplinary hearing officers, panels, or tribunals of school officials to impose suspension or expulsion. If such hearing officers, panels, or tribunals are established, such rules and regulations must include the following:

- (1) Provisions governing the manner of selecting the hearing officers or members of the panels or tribunals and the number of members thereof;
- (2) Provisions governing procedures to be followed by such hearing officers, panels, or tribunals in fact-finding, hearings, and reporting recommendations to the local board;
- (3) Provisions granting a right to appeal to the local board when the punishment imposed by hearing officers, panels, or tribunals is long-term suspension or expulsion; and
- (4) Provisions whereby the local school superintendent may suspend enforcement of the suspension or expulsion ordered by the hearing officers, panels, or tribunals pending the outcome of any appeal to the local board.

20-2-753. Disciplinary hearing officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and battery or recommended suspension or expulsion exceeding 10 days.

- (a) In addition to any proceedings which are authorized in Code Section 20-2-752, local boards of education shall appoint a disciplinary hearing officer, panel, or tribunal of school officials to hold a disciplinary hearing following any instance of an alleged violation of the student code of conduct where the principal recommends a suspension or expulsion of longer than ten school days or an alleged assault or battery by a student upon any teacher or other school official or employee, if such teacher or other school official or employee so requests.
- (b) Nothing in this Code section shall be construed to infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act of 1990.

20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review.

- (a) The provisions of Code Section 20-2-1160 shall apply to disciplinary proceedings under this subpart.
- (b) A disciplinary officer, panel, or tribunal of school officials appointed as required by Code Section 20-2-753 shall, in addition to any other requirements imposed by rules and regulations which may have been promulgated pursuant to Code Section 20-2-752, ensure that:
 - (1) All parties are afforded an opportunity for a hearing after reasonable notice served personally or by mail. This notice shall be given to all parties and to the parent or guardian of the student or students involved and shall include a statement of the time, place, and nature of the hearing; a short and plain statement of the matters asserted; and a statement as to the right of all parties to present evidence and to be represented by legal counsel;
 - (2) The hearing is held no later than ten school days after the beginning of the suspension unless the school system and parents or guardians mutually agree to an extension;
 - (3) All parties are afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses on all issues unresolved;
 - (4) Any teacher who is called as a witness by the school system shall be given notice no later than three days prior to the hearing; and
 - (5) A verbatim electronic or written record of the hearing shall be made and shall be available to all parties.
- (c) If appointed to review an instance pursuant to Code Section 20-2-753, the disciplinary officer, panel, or tribunal shall conduct the hearing and, after receiving all evidence, render its decision, which decision shall be based solely on the evidence received at the hearing. The decision shall be in writing and shall be given to all parties within ten days of the close of the record. Any decision by such disciplinary officer, panel, or tribunal may be appealed to the local board of education by filing a written notice of appeal within 20 days from the date the decision is rendered. Any disciplinary action imposed by such officer, panel, or tribunal may be suspended by the school superintendent pending the outcome of the appeal.

(d) The local board of education shall review the record and shall render a decision in writing. The decision shall be based solely on the record and shall be given to all parties within ten days, excluding weekends and public and legal holidays provided for in Code Section 1-4-1, from the date the local board of education receives the notice of appeal. The board may take any action it determines appropriate, and any decision of the board shall be final. All parties shall have the right to be represented by legal counsel at any such appeal and during all subsequent proceedings.

(e) Either or both parents or guardians or legal counsel of the student involved may obtain a copy of any documents relating to a disciplinary proceeding conducted pursuant to this Code section.

20-2-755. Authorization of disciplinary officer, panel, or tribunal to determine disciplinary action.

The disciplinary officer, panel, or tribunal of school officials, when appointed as required in Code Section 20-2-753, shall determine what, if any, disciplinary action shall be taken. Such action may include, but is not limited to, expulsion, long-term suspension, or short-term suspension. Any action taken by such officer, panel, or tribunal shall be subject to modification by the local school board on appeal.

20-2-757. Applicability of public inspection and open meeting laws.

(a) All proceedings and hearings conducted under this subpart shall be confidential and shall not be subject to the open meetings requirement of Code Section 50-14-1 or other open meetings laws.

(b) All electronic or other written records of all hearings conducted under this subpart; all statements of charges; all notices of hearings; and all written decisions rendered by a hearing officer, tribunal, the local board of education, or the State Board of Education shall not be subject to public inspection or other disclosure under Article 4 of Chapter 18 of Title 50 or other public disclosure laws; provided, however, the board of education shall prepare a written summary of any proceeding conducted under this subpart, which summary shall include a description of the incident and the disposition thereof but shall not contain the names of any party to the incident. The summary shall be a public record.

20-2-758. Legal actions not prohibited, restricted, or limited by disciplinary hearing; rights to appeal from decision of school board.

Nothing in this subpart shall be construed to prohibit, restrict, or limit in any manner any cause of action otherwise provided by law and available to any teacher, school official, employee, or student. The provisions of subsections (b) through (f) of Code Section 20-2-1160 shall apply to all proceedings under this subpart.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous discipline history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed.

Return to School Following Removal

LAWS

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(c) If a teacher removes a student from class pursuant to subsection (b) of this Code section, the principal or the principal's designee shall discuss the matter with the teacher and the student by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall give the student oral or written notice of the grounds for his or her removal from class and, if the student denies engaging in such conduct, the principal or the principal's designee shall explain the evidence which supports his or her removal from class and give the student an opportunity to present his or her explanation of the situation. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher gives his or her consent, the student shall be returned to the class, and the principal or the principal's designee may take action to discipline the student, as may be warranted, pursuant to paragraph (1) of subsection (e) of this Code section. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher withholds his or her consent to the student's return to his or her class, the principal or the principal's designee shall determine an appropriate temporary placement for the student by the end of the first school day following such removal and shall also take steps to convene a meeting of a placement review committee. The placement review committee shall convene by the end of the second school day following such removal by the teacher and shall issue a decision by the end of the third school day following such removal by the teacher. An appropriate temporary placement for the student shall be a placement that, in the judgment of the principal or the principal's designee, provides the least interruption to the student's education and reflects other relevant factors, including, but not limited to, the severity of the behavior that was the basis for the removal, the student's behavioral history, the student's need for support services, and the available education settings; provided, however, that the student shall not be returned to the class of the teacher who removed him or her, as an appropriate temporary placement, unless the teacher gives his or her consent. The temporary placement shall be in effect from the time of removal until the decision of the placement review committee is issued or, if applicable, a placement determination is made pursuant to paragraph (2) of subsection (e) of this Code section.

(d) Local board policies adopted pursuant to Code Section 20-2-735 shall provide for the establishment at each school of one or more placement review committees, each of which is to be composed of three members, to determine the placement of a student when a teacher withholds his or her consent to the return of a student to the teacher's class. For each committee established, the faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and the principal shall choose one member of the professional staff of the school to serve as a member. The teacher withholding consent to readmit the student may not serve on the committee. The placement review committee shall have the authority to:

- (1) Return the student to the teacher's class upon determining that such placement is the best alternative or the only available alternative; or
- (2) Refer the student to the principal or the principal's designee for appropriate action consistent with paragraph (2) of subsection (e) of this Code section.

The decision of the placement review committee shall be in writing and shall be made within three school days after the teacher withholds consent to the return of a student. Local boards of education shall provide training for members of placement review committees regarding the provisions of this subpart, including procedural requirements; local board policies relating to student discipline; and the student code of conduct that is applicable to the school.

(e)(1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the

use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student in an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section; or
- (C) Make another disciplinary decision or recommendation consistent with local board policy.

(2) If a placement review committee decides not to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee shall determine an appropriate placement for the student and may take action to discipline the student, in a manner consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, as follows, provided that the placement or disciplinary action is authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student into another appropriate classroom or an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section;
- (C) Make another placement or disciplinary decision or recommendation consistent with local board policy; or
- (D) Implement or recommend any appropriate combination of the above and return the student to the class from which he or she was removed upon the completion of any disciplinary or placement action taken pursuant to this paragraph.

20-2-766. Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan.

Before any chronic disciplinary problem student is permitted to return from an expulsion or suspension, the school to which the student is to be readmitted shall request by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail at least one parent or guardian to schedule and attend a conference with the principal or his or her designee to devise a disciplinary and behavioral correction plan. Failure of the parent or guardian to attend shall not preclude the student from being readmitted to the school. At the discretion of the principal, a teacher, counselor, or other person may attend the conference. The principal shall ensure that a notation of the conference is placed in the student's permanent file.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

20-2-154.1. Alternative education programs; intent; description; funding.

(a) It is the policy of this state that the alternative education program shall provide a learning environment that includes the objectives of the content standards and that the instruction in an alternative education program shall enable students to return to a general or career education program as quickly as possible. Course credit shall be earned in an alternative education program in the same manner as in other education programs. It is the policy of this state that it is preferable to reassign

disruptive students to an alternative education program rather than suspending or expelling such students from school.

(b) Alternative education programs are intended to meet the education needs of a student who is suspended from his or her regular classroom and also of a student who is eligible to remain in his or her regular classroom but is more likely to succeed in a nontraditional setting such as that provided in an alternative education program.

(c) As part of the process of assigning a student to an alternative education program for academic or nondisciplinary reasons, the school shall assess, through policies and procedures promulgated by the local board of education, the needs of the student and consider options for addressing those needs.

(d) Each local school system shall provide an alternative education program that:

- (1) Is provided in a setting other than a student's regular classroom;
- (2) Is located on or off of a regular school campus and may include in-school suspension that provides continued progress on regular classroom assignments;
- (3) Provides for disruptive students who are assigned to the alternative education program to be separated from nondisruptive students who are assigned to the program;
- (4) Focuses on English language arts, mathematics, science, social studies, and self-discipline;
- (5) Provides for students' educational and behavioral needs; and
- (6) Provides supervision and counseling.

(e) An alternative education program may provide for a student's transfer to a different campus, a school- community guidance center, or a community based alternative school.

(f) A local school system may provide an alternative education program jointly with one or more other systems.

(g) Each local school system shall cooperate with government agencies and community organizations that provide services in the school district to students placed in an alternative education program.

(h) The amount of state funds appropriated and allocated for the alternative education program provided for in this Code section shall be based on the actual count of students served during the preceding year, except that the count of students served shall not exceed 2.5 percent of the sum of the full-time equivalent program count of the middle school program, the high school general education program (grades nine through 12), and the career, technical, and agricultural education laboratory program (grades nine through 12). Funds earned may be expended in kindergarten and in grades one through 12.

(i) A local school system shall allocate to an alternative education program the same expenditure for each student attending the alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program, except as otherwise provided in this Code section.

(j) Upon the request of a local school system, a regional educational service agency may provide to the system information on developing an alternative education program that takes into consideration the system's size, wealth, and existing facilities in determining the program best suited to the system.

(k) If a student placed in an alternative education program enrolls in another local school system before the expiration of the period of placement, the local board of education requiring the placement shall provide to the local school system in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The local school system in which the student enrolls may continue the alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement.

(l) The State Board of Education shall adopt rules necessary to administer the provisions of this Code section. Academically, the mission of alternative education programs shall be to enable students to perform at grade level. Annually, the Office of Student Achievement shall define for alternative education programs acceptable performance and performance indicating a need for peer review, based principally on standards defined by the Office of Student Achievement that measure the academic progress of students toward performing at grade level while attending an alternative education program.

20-2-735. Adoption of policies by local boards to improve student learning environment.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(d) Local board policies adopted pursuant to Code Section 20-2-735 shall provide for the establishment at each school of one or more placement review committees, each of which is to be composed of three members, to determine the placement of a student when a teacher withholds his or her consent to the return of a student to the teacher's class. For each committee established, the faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and the principal shall choose one member of the professional staff of the school to serve as a member. The teacher withholding consent to readmit the student may not serve on the committee. The placement review committee shall have the authority to:

- (1) Return the student to the teacher's class upon determining that such placement is the best alternative or the only available alternative; or
- (2) Refer the student to the principal or the principal's designee for appropriate action consistent with paragraph (2) of subsection (e) of this Code section.

The decision of the placement review committee shall be in writing and shall be made within three school days after the teacher withholds consent to the return of a student. Local boards of education shall provide training for members of placement review committees regarding the provisions of this subpart, including procedural requirements; local board policies relating to student discipline; and the student code of conduct that is applicable to the school.

(e)(1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student in an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section; or
- (C) Make another disciplinary decision or recommendation consistent with local board policy.

(2) If a placement review committee decides not to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee shall determine an appropriate placement for the student and may take action to discipline the student, in a manner consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, as follows, provided that the

placement or disciplinary action is authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

- (A) Place the student into another appropriate classroom or an alternative education program;
- (B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section;
- (C) Make another placement or disciplinary decision or recommendation consistent with local board policy; or
- (D) Implement or recommend any appropriate combination of the above and return the student to the class from which he or she was removed upon the completion of any disciplinary or placement action taken pursuant to this paragraph.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student's possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.

(c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(b) No later than August 1, 2011:

- (2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in

an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

160-4-8-.01. Student support services.

(1) Definitions.

(a) Alternative Education Program (AEP)- an educational program that serves students who are eligible to remain in the regular classroom but are more likely to succeed in a nontraditional setting such as that provided in an alternative education program, as well as students who are excluded from the regular classroom because of disciplinary reasons. [...]

(i) Student Support Services (SSS)- integrated and collaborative programs of school counseling and guidance services, school climate management and student discipline, school health services, school psychology services, alternative education programs, and school social work/visiting teacher services, provided individually or through a team approach, to all students at all grade levels.

(2) Requirements.

(b) Each Student Services Plan must minimally include guidelines for the systematic provision of the following components:

1. Alternative education programs [...]

(g) The LBOE shall provide an Alternative Education Program in accordance with state and federal laws, State Board of Education rules, and department guidelines.

160-4-8-.12. Alternative/Non-traditional education programs.

(1) Definitions.

(a) Alternative/Non-traditional Education Program - an Alternative/Non-traditional Education Program that operates in affiliation with a school(s). A program does not report Full-Time Equivalent (FTE) or receive a state or federal accountability determination. Achievement data for students enrolled in the program are reported back to the school where the student is reported for FTE. The program may be housed within a school, on the same site, or at a different location. Adherence to all requirements as stated in SBOE Rule 160-4-8-.17 case management consultation for agency placed transfer students is required. Programs may include Attendance Recovery, Credit Recovery, Disciplinary Program, Early College, Evening School, and Open Campus.

(b) Alternative/Non-traditional Education School - an Alternative/Non-traditional Education School has an official school code and serves as the home school for students enrolled. The school receives a state or federal accountability determination; reports FTE counts for all enrolled students; and earns Quality Basic Education (QBE) formula funds directly. Adherence to all requirements as stated in SBOE Rule 160-4-8-.17 case management consultation for agency placed transfer students is required.

(c) Attendance Recovery Program- a type of alternative/non-traditional program designed to allow students the opportunity to make-up an absence(s) by attending a program outside the normal school day (e.g., Saturday program) that provides the equivalent instructional time and curriculum for the time the student was absent within the current academic year.

(d) Community-based Alternative Education/Non-traditional Program- a type of Alternative Education/Non-traditional Program where students are engaged in educationally relevant and meaningful learning experiences in the school and larger community. The academic curriculum is integrated into work-based learning and structured work experiences utilizing partnerships among

business, industry, government, community, and school, including Performance Learning Centers.

(e) Credit Recovery Program- a type of alternative/non-traditional program designed to allow students the opportunity to retake a course that he/she previously did not earn credits toward graduation.

(f) Educational Management Organization- any type of alternative/non-traditional program or school operated by a private vendor. The program or school may operate on or off campus.

(2) Requirements

(a) Each LEA shall provide an Alternative/Non-traditional Education Program/School to serve students in grades 6-12 with appropriate due process, who have been suspended from his or her regular classroom.

(b) Each LEA may provide an Alternative/Non-traditional Education Program/School to serve students who are eligible to remain in his or her regular classroom but are more likely to succeed in a non- traditional educational setting.

(c) Each LEA may provide an Alternative Education/Non-traditional Program/School jointly with one or more other LEAs.

(d) Each LEA may contract with Educational Management Organizations to provide a Non-traditional/Alternative Education Program/School. If contracting with an Educational Management Organization to provide Non-traditional/Alternative Education Program(s)/School(s), the LEA must:

1. Ensure that no federal or state funding of any kind disbursed by GaDOE is expended on any resources, educational or otherwise, for any student not pursuing a Georgia High School Diploma as defined by SBOE Rules and state law.
2. Maintain and report to GaDOE annually by a date established by GaDOE the Georgia Testing Identifier (GTID) of each student served in Non-traditional/Alternative Education Programs and Schools operated by Educational Management Organizations.
3. Maintain and report to GaDOE annually by a date established by the department the GTID of each student who transferred from the Full-Time Equivalent (FTE) reporting school to the private school operated by the Educational Management Organization prior to receiving a Georgia high school diploma.

(e) A LEA may use Sparsity grant funds for all Alternative/Non-traditional Education Program(s)/School(s). Funds must be used exclusively for salaries and benefits for certified positions and assistants/paraprofessionals working in the Alternative/Non-traditional Education Program/School.

(f) Each LEA shall ensure that all Alternative/Non-traditional Education Program(s)/School(s) only provide curriculum aligned to Georgia Performance Standards (GPS). Curriculum may be delivered through Computer Assisted Instruction and On-line courses.

(g) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide standardized testing as specified in SBOE Rule 160-3-1-.07 testing programs - student assessment.

(h) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide counseling services to enable the student to make academic progress.

(i) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools operate in full compliance with federal and state laws and State Board Rules governing special education students and students with special needs.

(j) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide teachers that meet the requirements of the Georgia Professional Standards Commission in all

classes. Paraprofessionals may be used to staff In-school Suspension programs as provided by law or regulation.

(k) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools adhere to class size maximum as stated in SBOE Rule 160-5-1-.08 class size.

(l) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide courses that will satisfy state and local requirements for meeting grade level requirements for obtaining a Georgia High School Diploma.

(m) Each LEA shall allocate to all Alternative/Non-traditional Education Programs/Schools the same expenditure per segment(s) based on what the student earns at his or her Full Time Equivalent reporting school. These funds include federal and state funds allocated to the LEA for the student.

(n) For students in grades 9-12, each LEA may award course credit based on the student's demonstrated competency on course examination(s) for course work completed while enrolled in the Alternative/Non-traditional Education Program/School in lieu of the 150/135 clock hours of instruction as required by SBOE rules. Each Alternative/Non-traditional Education Program/School shall adhere to all instructional time requirements for all other grades.

(o) For students in grades 9-12, each LEA may determine the length of time students will be in classes in the Alternative/Non-traditional Education Program(s)/School(s) in lieu of the requirement of as specified in SBOE Rule 160-5-1-.02. Each Alternative/ Non-traditional Education Program/School shall adhere to all instructional time requirements for all other grades.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

16-11-127.1. Carrying weapons within school safety zones, at school functions, or on a bus or other transportation furnished by a school.

(a) As used in this Code section, the term:

(1) "Bus or other transportation furnished by a school" means a bus or other transportation furnished by a public or private elementary or secondary school.

(2) "School function" means a school function or related activity that occurs outside of a school safety zone and is for a public or private elementary or secondary school.

(3) "School safety zone" means in or on any real property or building owned by or leased to:

(A) Any public or private elementary school, secondary school, or local board of education and used for elementary or secondary education; and

(B) Any public or private technical school, vocational school, college, university, or other institution of postsecondary education.

(4) "Weapon" means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone, at a school function, or on a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks or consumer fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Except as provided for in paragraph (20) of subsection (c) of this Code section, any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

(4) A child who violates this subsection may be subject to the provisions of Code Section 15-11-601.

(c) The provisions of this Code section shall not apply to:

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

- (2) Participants in organized sport shooting events or firearm training courses;
- (3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;
- (4) Persons participating in law enforcement training conducted by a police academy certified by the Georgia Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;
- (5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:
 - (A) A peace officer as defined by Code Section 35-8-2;
 - (B) A law enforcement officer of the United States government;
 - (C) A prosecuting attorney of this state or of the United States;
 - (D) An employee of the Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such department or correctional agency or facility to carry a firearm;
 - (E) An employee of the Department of Community Supervision who is authorized by the commissioner of community supervision to carry a firearm;
 - (F) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and
 - (G) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

provided, however, that this Code section shall not apply to any extent to persons who are provided for under Code Section 16-11-130;

- (6) A person who has been authorized in writing by a duly authorized official of a public or private elementary or secondary school or a public or private technical school, vocational school, college, university, or other institution of postsecondary education or a local board of education as provided in Code Section 16-11-130.1 to have in such person's possession or use within a school safety zone, at a school function, or on a bus or other transportation furnished by a school a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;
- (7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school or a person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any weapon legally kept within a vehicle when such vehicle is parked within a school safety zone or is in transit through a designated school safety zone;
- (8) A weapon possessed by a license holder which is under the possessor's control in a motor vehicle or which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school, or when such vehicle is used to transport someone to an activity being conducted within a school safety zone which has been authorized by a duly authorized official or local board of education as provided by paragraph (6) of this subsection; provided, however, that this exception shall not apply to a student attending a public or private elementary or secondary school;
- (9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) Community supervision officers employed by and under the authority of the Department of Community Supervision when specifically designated and authorized in writing by the commissioner of community supervision;

(13) Public safety directors of municipal corporations;

(14) State and federal trial and appellate judges;

(15) United States attorneys and assistant United States attorneys;

(16) Clerks of the superior courts;

(17) Teachers and other personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle;

(18) Constables of any county of this state;

(19) Any person who is 18 years of age or older or currently enrolled in classes on the campus in question and carrying, possessing, or having under such person's control an electroshock weapon while in or on any building or real property owned by or leased to such public technical school, vocational school, college or university or other public institution of postsecondary education; provided, however, that, if such person makes use of such electroshock weapon, such use shall be in defense of self or others. The exemption under this paragraph shall apply only to such person in regard to such electroshock weapon. As used in this paragraph, the term "electroshock weapon" means any commercially available device that is powered by electrical charging units and designed exclusively to be capable of incapacitating a person by electrical charge, including, but not limited to, a stun gun or taser as defined in subsection (a) of Code Section 16-11-106; or

(20)(A) Any weapons carry license holder when he or she is in any building or on real property owned by or leased to any public technical school, vocational school, college, or university, or other public institution of postsecondary education; provided, however, that such exception shall:

(i) Not apply to buildings or property used for athletic sporting events or student housing, including, but not limited to, fraternity and sorority houses;

(ii) Not apply to any preschool or childcare space located within such buildings or real property;

(iii) Not apply to any room or space being used for classes related to a college and career academy or other specialized school as provided for under Code Section 20-4-37;

(iv) Not apply to any room or space being used for classes in which high school students are enrolled through a dual enrollment program, including, but not limited to, classes related to the "Dual Enrollment Act" as provided for under Code Section 20-2-161.3;

(v) Not apply to faculty, staff, or administrative offices or rooms where disciplinary proceedings are conducted;

(vi) Only apply to the carrying of handguns which a licensee is licensed to carry pursuant to subsection (e) of Code Section 16-11-126 and pursuant to Code Section 16-11-129; and

(vii) Only apply to the carrying of handguns which are concealed.

Any weapons carry license holder who carries a handgun in a manner or in a building, property, room, or space in violation of this paragraph shall be guilty of a misdemeanor; provided, however, that for a conviction of a first offense, such weapons carry license holder shall be punished by a fine of \$25.00 and not be sentenced to serve any term of confinement.

(B) As used in this paragraph, the term:

(i) "Concealed" means carried in such a fashion that does not actively solicit the attention of others and is not prominently, openly, and intentionally displayed except for purposes of defense of self or others. Such term shall include, but not be limited to, carrying on one's person while such handgun is substantially, but not necessarily completely, covered by an article of clothing which is worn by such person, carrying within a bag of a nondescript nature which is being carried about by such person, or carrying in any other fashion as to not be clearly discernible by the passive observation of others.

(ii) "Preschool or childcare space" means any room or continuous collection of rooms or any enclosed outdoor facilities which are separated from other spaces by an electronic mechanism or human-staffed point of controlled access and designated for the provision of preschool or childcare services, including, but not limited to, preschool or childcare services licensed or regulated under Article 1 of Chapter 1A of Title 20.

(d)(1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, that it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property or a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a bus or other transportation furnished by a school.

(f) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area of the real property of a school board or a private or public elementary or secondary school that is used for school purposes or the area of any public or private technical school, vocational school, college, university, or other institution of postsecondary education, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(g) A county school board may adopt regulations requiring the posting of signs designating the areas of school boards and private or public elementary and secondary schools as "Weapon-free and Violence-free School Safety Zones."

20-2-751. Definitions.

As used in this subpart, the term:

- (1) "Dangerous weapon" shall have the same meaning as set forth in Code Section 16-11-121.
- (2) "Expulsion" means expulsion of a student from a public school beyond the current school quarter or semester.
- (3) "Firearm" shall have the same meaning as set forth in Code Section 16-11-127.1.
- (4) "Hazardous object" means any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any instrument of like kind, any nonlethal air gun, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. Such term shall not include any of these instruments used for classroom work authorized by the teacher.
- (5) "Long-term suspension" means the suspension of a student from a public school for more than ten school days but not beyond the current school quarter or semester.
- (6) "Short-term suspension" means the suspension of a student from a public school for not more than ten school days.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

- (a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student's possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.
- (b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.
- (c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

- (a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:
 - (12) Possession of a firearm, as provided for in Code Section 16-11-127.1, and possession of a dangerous weapon or hazardous object.

REGULATIONS

160-4-8-.15. Student discipline.

- (2) Requirements.
 - (a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:
 11. Possession of a weapon, as provided for in O.C.G.A. § 16-11-127.1.

Students with Chronic Disciplinary Issues

LAWS

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

- (1) Verbal assault, including threatened violence, of teachers, administrators, and other school personnel;
- (2) Physical assault or battery of teachers, administrators, and other school personnel;
- (3) Disrespectful conduct toward teachers, administrators, and other school personnel, including use of vulgar or profane language;
- (4) Verbal assault of other students, including threatened violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
- (5) Physical assault or battery of other students, including sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;
- (6) Disrespectful conduct toward other students, including use of vulgar or profane language;
- (7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including use of vulgar or profane language, toward persons attending school related functions;
- (8) Failure to comply with compulsory attendance as required under Code Section 20-2-690.1;
- (9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;
- (10) Inciting, advising, or counseling of others to engage in prohibited acts;
- (11) Marking, defacing, or destroying school property;
- (12) Possession of a firearm, as provided for in Code Section 16-11-127.1, and possession of a dangerous weapon or hazardous object;
- (13) Unlawful use or possession of illegal drugs or alcohol;
- (14) Willful and persistent violation of the student code of conduct;
- (15) Bullying as defined by Code Section 20-2-751.4;
- (16) Marking, defacing, or destroying the property of another student; and
- (17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

20-2-764. Definitions.

As used in this subpart, the term:

- (1) "Chronic disciplinary problem student" means a student who exhibits a pattern of behavioral characteristics which interfere with the learning process of students around him or her and which are likely to recur.
- (2) "Expulsion" means expulsion of a student from a public school beyond the current school quarter or semester.
- (3) "Suspension" means the short-term suspension of a student from a public school for not more than ten days or long-term suspension for more than ten days pursuant to Code Section 20-2-751.

20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both.

Any time a teacher or principal identifies a student as a chronic disciplinary problem student, the principal shall notify by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail the student's parent or guardian of the disciplinary problem, invite such parent or guardian to observe the student in a classroom situation, and request at least one parent or guardian to attend a conference with the principal or the teacher or both to devise a disciplinary and behavioral correction plan.

20-2-766. Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan.

Before any chronic disciplinary problem student is permitted to return from an expulsion or suspension, the school to which the student is to be readmitted shall request by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail at least one parent or guardian to schedule and attend a conference with the principal or his or her designee to devise a disciplinary and behavioral correction plan. Failure of the parent or guardian to attend shall not preclude the student from being readmitted to the school. At the discretion of the principal, a teacher, counselor, or other person may attend the conference. The principal shall ensure that a notation of the conference is placed in the student's permanent file.

20-2-766.1. Proceeding against parents for failure to cooperate in educational programs; penalty.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section 15-11-31 to enforce any order entered under this Code section.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

17. Behavior support processes designed to consider, as appropriate in light of the severity of the behavioral problem, support services that may be available through the school, school system, other public entities, or community organizations that may help the student address behavioral problems; This rule neither mandates nor prohibits the use of student support teams as part of the student support process;

18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous discipline history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed;

19. Parental involvement processes designed to create the expectation that parents, guardians, teachers and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about, and actions in response

to, student behavior that detracts from the learning environment. Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.

Chronic Absenteeism and Truancy

LAWS

20-2-690.1. Mandatory education for children between ages six and 16.

(a) Mandatory attendance in a public school, private school, or home school program shall be required for children between their sixth and sixteenth birthdays. Such mandatory attendance shall not be required where the child has successfully completed all requirements for a high school diploma.

(b) Every parent, guardian, or other person residing within this state having control or charge of any child or children during the ages of mandatory attendance as required in subsection (a) of this Code section shall enroll and send such child or children to a public school, a private school, or a home study program that meets the requirements for a public school, a private school, or a home study program; and such child shall be responsible for enrolling in and attending a public school, a private school, or a home study program that meets the requirements for a public school, a private school, or a home study program under such penalty for noncompliance with this subsection as is provided in Chapter 11 of Title 15, unless the child's failure to enroll and attend is caused by the child's parent, guardian, or other person, in which case the parent, guardian, or other person alone shall be responsible; provided, however, that tests and physical exams for military service and the National Guard and such other approved absences shall be excused absences. The requirements of this subsection shall apply to a child during the ages of mandatory attendance as required in subsection (a) of this Code section who has been assigned by a local board of education or its delegate to attend an alternative public school program established by that local board of education, including an alternative public school program provided for in Code Section 20-2-154.1, regardless of whether such child has been suspended or expelled from another public school program by that local board of education or its delegate, and to the parent, guardian, or other person residing in this state who has control or charge of such child. Nothing in this Code section shall be construed to require a local board of education or its delegate to assign a child to attend an alternative public school program rather than suspending or expelling the child.

(c) Any parent, guardian, or other person residing in this state who has control or charge of a child or children and who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$25.00 and not greater than \$100.00, imprisonment not to exceed 30 days, community service, or any combination of such penalties, at the discretion of the court having jurisdiction. Each day's absence from school in violation of this part after the child's school system notifies the parent, guardian, or other person who has control or charge of a child of five unexcused days of absence for a child shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian, or other person who has control or charge of a child of five unexcused days of absence without response, the school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested, or first-class mail. Prior to any action to commence judicial proceedings to impose a penalty for violating this subsection on a parent, guardian, or other person residing in this state who has control or charge of a child or children, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested. Public schools shall provide to the parent, guardian, or other person having control or charge of each child enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance under this Code section for children and their parents, guardians, or other persons having control or charge of children. The parent, guardian, or other person who has control or charge of a child or children shall sign a statement indicating receipt of such written statement of possible consequences and penalties; children who are age ten years or older by September 1 shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be

considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or first-class mail, to such parent, guardian, or other person who has control or charge of a child or children.

Public schools shall retain signed copies of statements through the end of the school year.

(d) Local school superintendents in the case of private schools, the Department of Education in the case of home study programs, and visiting teachers and attendance officers in the case of public schools shall have authority and it shall be their duty to file proceedings in court to enforce this subpart. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

(e) An unemancipated minor who is older than the age of mandatory attendance as required in subsection (a) of this Code section who has not completed all requirements for a high school diploma who wishes to withdraw from school shall have the written permission of his or her parent or legal guardian prior to withdrawing. Prior to accepting such permission, the school principal or designee shall convene a conference with the child and parent or legal guardian within two school days of receiving notice of the intent of the child to withdraw from school. The principal or designee shall make a reasonable attempt to share with the student and parent or guardian the educational options available, including the opportunity to pursue a general educational development (GED) diploma and the consequences of not having earned a high school diploma, including lower lifetime earnings, fewer jobs for which the student will be qualified, and the inability to avail oneself of higher educational opportunities. Every local board of education shall adopt a policy on the process of voluntary withdrawal of unemancipated minors who are older than the mandatory attendance age. The policy shall be filed with the Department of Education no later than January 1, 2007. The Department of Education shall provide annually to all local school superintendents model forms for the parent or guardian signature requirement contained in this subsection and updated information from reliable sources relating to the consequences of withdrawing from school without completing all requirements for a high school diploma. Such form shall include information relating to the opportunity to pursue a general educational development (GED) diploma and the consequences of not having earned a high school diploma, including lower lifetime earnings, fewer jobs for which the student will be qualified, and the inability to avail oneself of higher educational opportunities. Each local school superintendent shall provide such forms and information to all of its principals of schools serving grades six through twelve for the principals to use during the required conference with the child and parent or legal guardian.

20-2-690.2. Establishment of student attendance and school climate committee; membership; summary of penalties for failure to comply; review and policy recommendations; reporting.

(a) The chief judge of the superior court of each county shall establish a student attendance and school climate committee for such county. The purpose of the committee shall be to ensure coordination and cooperation among officials, agencies, and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, to increase the percentage of students present to take tests which are required to be administered under the laws of this state, and to improve the school climate in each school. The chief judge is responsible for ensuring that all members of the committee are notified of their responsibility to the committee and shall call the first meeting of the committee in each county. The committee shall elect a chairperson and may elect other officers.

(b) Each local board of education shall participate in, consider, and make publicly available, including, but not limited to, posting in a conspicuous location, its decision regarding the recommendations of the committee as provided in this Code section. Independent school systems may participate in the committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request that the chief judge of the superior court of a county encompassed by its geographic area establish an independent student attendance and school climate committee in the same manner as established for the county school system.

(c) Each of the following agencies, officials, or programs shall designate a representative to serve on the committee:

- (1) The chief judge of the superior court;
- (2) The juvenile court judge or judges of the county;
- (3) The district attorney for the county;
- (4) The solicitor-general of state court, if the county has a state court;
- (5) The Department of Juvenile Justice, which may include representatives from area juvenile detention facilities as defined in Code Section 49-4A-1;
- (6) The superintendent, a certificated school employee, and a local school board member from each public school system in the county and a certificated school social worker from each public school system, if any are employed by the school system;
- (7) The sheriff of the county;
- (8) The chief of police of the county police department;
- (9) The chief of police of each municipal police department in the county;
- (10) The county department of family and children services;
- (11) The county board of health;
- (12) The county mental health organization;
- (13) The county Family Connection commission, board, or authority, or other county agency, board, authority, or commission having the duty and authority to study problems of families, children, and youth and provide services to families, children, and youth; and
- (14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section 15-11-38, if such a program has been established.

(d) The committee thus established may appoint such additional members as necessary and proper to accomplish the purposes of the committee.

(e)(1) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for its county school system and for each independent school system within its geographic boundaries which shall be filed with the Department of Education. The protocol shall outline in detail the procedures to be used in identifying, reporting, investigating, and prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory school attendance. The protocol shall outline in detail methods for determining the causes of failing to comply with compulsory attendance and appropriately addressing the issue with children and their parents or guardians. The protocol shall also include recommendations for policies relating to tardiness. The Department of Education shall provide model school attendance protocols, if requested by the committee.

(2) A copy of the protocol shall be furnished to each agency, official, or program within the county that has any responsibility in assisting children and their parents or guardians in complying with Code Section 20-2-690.1.

(3) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for children in need of services and possible denial of a driver's license for a child in accordance with Code Section 40-5-22.

(f) The committee shall review and make recommendations for policies relating to school climate for the purpose of promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. Such review may

include school climate ratings established pursuant to Code Section 20-14-33 for each school in the county school system and any independent school systems, if applicable. The committee may review, if available, nonidentifying data from student health surveys, data on environmental and behavioral indicators, data on student behavioral and school-based reactions, and teacher and parent survey instruments. The committee may recommend the use of positive behavioral interventions and supports and response to intervention, trauma informed care training, and the optimization of local resources through voluntary community, student, teacher, administrator, and other school personnel participation.

(g) The chief judge of the superior court of each county shall ensure that the committee meets at least twice annually to evaluate compliance with the protocol, effectiveness of the protocol, and appropriate modifications and to review and revise, if necessary, recommendations relating to school climate.

(h) Each local board of education shall report student attendance rates and aggregated student discipline data to the committee and the State Board of Education at the end of each school year, according to a schedule established by the State Board of Education.

20-2-698. Peace officers may take temporary custody of truant children away from home.

Any peace officer may assume temporary custody, during school hours, of any child subject to compulsory school attendance who is found away from home and who is absent from a public or private school or a home study program without a valid written excuse from school officials or from the parent or guardian in charge of the home study program.

20-2-701. Responsibility for reporting truants to juvenile or other courts.

Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

REGULATIONS

160-4-8-.01. Student support services.

(2) Requirements.

(e) The LBOE shall provide School Social Work/Visiting Teacher Services by promoting home, school, and community cooperation to address the needs of the at-risk student population characterized by poverty, high absenteeism, academic failure, pregnancy, disruptive behavior or other student dysfunctions.

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

7. Guidelines and consequences resulting from failure to comply with compulsory attendance as required under O.C.G.A. § 20-2-690.1.

160-5-1-.10. Student attendance.

(1) Definitions.

(a) Foster Care Student- a student who is in a foster home or otherwise in the foster care system under the Division of Family and Children Services of the Department of Human Services.

(b) Student Attendance Protocol- procedures to be used in identifying, reporting, investigating and prosecuting cases of alleged violations of O.C.G.A. § 20-2-690.1, relating to mandatory school

attendance and appropriately addressing the issue with parents and guardians. The protocol shall also include recommendations for policies relating to tardiness.

(c) Student Attendance and School Climate Committee- a committee established, pursuant to O.C.G.A. § 20-2-690.2, by the chief judge of the superior court of each county for the purpose of ensuring coordination and cooperation among officials, agencies and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, and to increase the percentage of students present to take tests which are required to be administered under the laws of this state, and to improve the school climate in each school.

(d) Student Teen Election Participant (STEP)- a program designed to permit full-time public, private, and home schooled high school students the opportunity to volunteer to work as poll officers during any primary, special, or general election according to the provisions set forth in O.C.G.A. § 21-2-92.

(e) Truant- any child subject to compulsory attendance who during the school calendar year has more than five days of unexcused absences.

(2) Requirements.

(a) School days missed as a result of an out of school suspension shall not count as unexcused days for the purpose of determining student truancy.

(b) Local boards of education shall adopt policies and procedures excusing students from school under the following circumstances, as a minimum. Policies may require submission of appropriate documentation.

1. Personal illness or when attendance in school endangers the student's health or the health of others.

(i) Local boards of education may require students to present appropriate medical documentation upon return to school for the purpose of validating that the absence is an excused absence. With proper verification a student may be eligible for hospital/homebound instruction as outlined in State Board of Education Rule 160-4-2-.31 Hospital/Homebound (HHB) Services.

2. A serious illness or death in a student's immediate family necessitating absence from school.

(i) In the event of a serious illness in a student's immediate family, local boards of education may require students to present appropriate medical documentation regarding the family member upon return to school for the purpose of validating that the absence is an excused absence.

3. A court order or an order by a government agency, including preinduction physical examinations for service in the armed forces, mandating absence from school.

4. The observation of religious holidays, necessitating absence from school.

5. Conditions rendering attendance impossible or hazardous to student health or safety.

6. Registering to vote or voting in a public election, which shall not exceed one day.

7. A student whose parent or legal guardian is in military service in the armed forces of the United States or the National Guard, and such parent or legal guardian has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting, shall be granted excused absences, up to a maximum of five school days per school year, for the day or days missed from school to visit with his or her parent or legal guardian prior to such parent's or legal guardian's deployment or during such parent's or legal guardian's leave.

8. A student whose parent or legal guardian is currently serving or previously served on active duty in the armed forces of the United States, in the Reserves of the armed forces of the United States on extended active duty, or in the National Guard on extended active duty may be granted excused absences, up to a maximum of five school days per school year, not to exceed two school years, for the day or days missed from school to attend military affairs sponsored events, provided the student provides documentation prior to absence from:

(i) A provider of care at or sponsored by a medical facility of the United States Department of Veterans Affairs; or

(ii) An event sponsored by a corporation exempt from taxation under Section 501(c)(19) of the Internal Revenue Code.

9. Nothing in Sections (2)(b)7 and (2)(b)8 of this rule shall be construed to require a local school system to revise any policies relating to maximum number of excused and unexcused absences for any purposes.

10. Any other absence not explicitly defined herein but deemed by the local school board of education to have merit based on circumstances, which may include non-school sponsored activities that meet the requirements set forth in section (2)(f)2. of this rule.

(c) Local boards of education shall count students present when they are serving as pages of the Georgia General Assembly as set forth in O.C.G.A. § 20-2-692.

(d) A foster care student who attends court proceedings relating to the student's foster care shall be credited as present by the school and shall not be counted as an absence, either excused or unexcused, for any day, portion of a day, or days missed from school as set forth in O.C.G.A. § 20-2- 692.2.

(e) A student who successfully participates in the Student Teen Election Participant (STEP) program shall be counted as present and given full credit for the school day during which he or she served in the STEP program. No student shall be permitted to be absent from school or participate in the STEP program for more than two school days per school year.

(f) A student who participates in an activity or program sponsored by 4-H shall be credited as present by the school in which enrolled in the same manner as an educational field trip, and such participation in an activity or program sponsored by 4-H shall not be counted as an absence, either excused or unexcused, for any day portion of a day, or days missed from school as set forth in O.C.G.A. Section 20-20692.3

(g) Final course grades of students shall not be penalized because of absences if the following conditions are met:

1. Absences are justified and validated for excusable reasons.
2. Make up work for excused absences was completed satisfactorily.

(h) Local boards of education are not required to provide make-up work for unexcused absences.

(i) Nothing in this rule should be construed to encourage student absences or as an approval of excessive unexcused absences.

(j) To reduce unexcused absences, each local board of education shall adopt policies and procedures that shall include but are not limited to:

1. Requiring the school system to notify the parent, guardian or other person who has control or charge of the student when such student has five unexcused absences. The notice shall outline the penalty and consequences of such absences and that each subsequent absence shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian or other person who has charge of the student, the school system shall send written notice via certified mail with return receipt requested, or first-class mail; and
2. Prior to any action to commence judicial proceedings to impose a penalty on a parent, guardian, or other person residing in this state who has control or charge of the school aged child for failing to comply with compulsory attendance, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested; and
3. Requiring public schools to provide to the parent, guardian, or other person having control or charge of each student enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance. By September 1 of each school year or within 30 school days of a student's enrollment in the school system, the parent, guardian, or other person

having control or charge of such student shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or first-class mail, to such parent, guardian, or other person who has control or charge of a child, or children. In addition, students age ten or older by September 1 shall sign a statement indicating receipt of written statement of possible consequences for non-compliance to the local system's policy.

(k) Each local board of education shall implement a progressive discipline process and a parental involvement process for truant students before referring the students to the juvenile or other court having jurisdiction.

(l) Each local board of education shall adopt as a part of the student codes of conduct developed pursuant to O.C.G.A. § 20-2-735. a definition of truancy that contains the minimum standards established by State Board of Education Rule 160-5-1-.10 Student Attendance and a summary of possible consequences and penalties for truancy.

(m) Pursuant to O.C.G.A. § 20-2-690.2, each local school system shall participate in a student attendance and school climate committee. Independent school systems may participate in the committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request the chief judge of the superior court of a county encompassed by its geographic area to establish an independent student attendance and school climate committee.

1. The superintendent or the superintendent's designee of the local school system shall fully and actively assist in the planning, implementation, and evaluation activities of the local school system student attendance and school climate committee.
2. The superintendent, a certificated school employee, a local school board member from each public school system in the county, and a certificated school social worker from each public school system, if any are employed by the school system, shall serve on the student attendance and school climate committee.
3. Each local board of education shall consider and publicly announce its decisions regarding the recommendations of the student attendance and school climate committee.
4. Each local board of education shall report annual student attendance rates to the student attendance and school climate committee and the State Board of Education by September 1 following each school year.
5. The local school system shall be responsible for providing a copy of the written student attendance protocol to the Department by July 1, 2005, and upon any subsequent revisions or amendments.
6. The Department shall develop and disseminate exemplary model protocols that may be implemented by local boards of education.

Substance Use

LAWS

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

- (13) Unlawful use or possession of illegal drugs or alcohol.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

12. Unlawful use or possession of illegal drugs or alcohol [...]

(l) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel pursuant to O.C.G.A. 20-2-742.

Gang-related Activity

LAWS

20-8-6. Reports of criminal gang activity on or adjacent to campus.

Each educational facility which employs campus policemen, including institutions of the University System of Georgia, shall report to the Georgia Bureau of Investigation and to the local law enforcement agency incidents of criminal gang activity as defined by Code Section 16-15-3 which occur on or adjacent to the campus of such educational facility.

35-8-27. Training requirements for school resource officers.

(a) It is the best practice for any person assigned or appointed as a school resource officer to successfully complete a training course for school resource officers approved by the council.

(b) For purposes of subsection (a) of this Code section, the council shall maintain a training course consisting of 40 hours of training for school resource officers. Such training course shall, at a minimum, provide training in the role of a peace officer assigned to an elementary or secondary school, search and seizure in elementary and secondary schools, criminal offenses, gang awareness, drug awareness, interviews and interrogations, emergency preparedness, and interpersonal interactions with adolescents, including the encountering of mental health issues.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

16-5-61. Hazing.

(a) As used in this Code section, the term:

(1) "Haze" means to subject a student to an activity which endangers or is likely to endanger the physical health of a student, regardless of a student's willingness to participate in such activity.

(2) "School" means any school, college, or university in this state.

(3) "School organization" means any club, society, fraternity, sorority, or a group living together which has students as its principal members.

(4) "Student" means any person enrolled in a school in this state.

(b) It shall be unlawful for any person to haze any student in connection with or as a condition or precondition of gaining acceptance, membership, office, or other status in a school organization.

(c) Any person who violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

20-2-145. Comprehensive character education program.

(a) The State Board of Education shall develop by the start of the 1997-1998 school year a comprehensive character education program for levels K-12. This comprehensive character education program shall be known as the "character curriculum" and shall focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the 1999-2000 school year, methods of discouraging bullying and violent acts against fellow students. Local boards shall implement such a program in all grade levels at the beginning of the 2000-2001 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program.

(b) The Department of Education shall develop character education program workshops designed for employees of local school systems.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term "bullying" means an act that is:

(1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;

(2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or

(3) Any intentional written, verbal, or physical act which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that:

(A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

The term applies to acts which occur on school property, on school vehicles, at designated school bus stops, or at school related functions or activities or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system. The term also applies to acts of cyberbullying which occur through the use of electronic communication, whether or not such electronic act originated on school property or with school equipment, if the electronic communication (1) is directed specifically at students or school personnel, (2) is maliciously intended for the purpose of threatening the safety of those specified or substantially disrupting the orderly operation of the school, and (3) creates a reasonable fear of harm to the students' or school personnel's person or property or has a high likelihood of succeeding in that purpose. For purposes of this Code section, electronic communication includes but is not limited to any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system.

(b) No later than August 1, 2011:

- (1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;
 - (2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;
 - (3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and
 - (4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.
- (c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:
- (1) A statement prohibiting bullying;
 - (2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;
 - (3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;
 - (4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;
 - (5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;
 - (6) A statement prohibiting retaliation following a report of bullying; and
 - (7) Provisions consistent with the requirements of subsection (b) of this Code section.
- (d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.
- (e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.
- (f) Nothing in this Code section or in the model policy promulgated by the Department of Education shall be construed to require a local board of education to provide transportation to a student transferred to another school as a result of a bullying incident.
- (g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260.

20-2-751.5. Student code of conduct; safety rules on school buses; distribution.

- (a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:
- (15) Bullying as defined by Code Section 20-2-751.4 [...]

(b)(1) In addition to the requirements contained in subsection (a) of this Code section, each student code of conduct shall include comprehensive and specific provisions prescribing and governing student conduct and safety rules on all public school buses. The specific provisions shall include but not be limited to:

(A) Students shall be prohibited from acts of physical violence as defined by Code Section 20-2-751.6, bullying as defined by subsection (a) of Code Section 20-2-751.4, physical assault or battery of other persons on the school bus, verbal assault of other persons on the school bus, disrespectful conduct toward the school bus driver or other persons on the school bus, and other unruly behavior.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

14. Bullying as defined in O.C.G.A. § 20-2-751.4;

16. Each local board of education shall adopt policies, applicable to students in grades 6 through 12 that prohibit bullying of a student by another student and shall require such prohibition to be included in the student code of conduct in that school system. Local board policies shall require that, upon a finding that a student in grades 6 through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school.

Dating and Relationship Violence

LAWS

20-2-314. Development of rape prevention, personal safety education, and teen dating violence prevention programs.

The State Board of Education shall develop, with input from appropriate experts, such as rape crisis centers and family violence shelters, a rape prevention and personal safety education program and a program for preventing teen dating violence for grade eight through grade 12 which are consistent with the content standards provided for in Code Section 20-2-140. Local boards may implement such programs at any time and for any grade level local boards find appropriate, and the state board shall encourage the implementation of such programs. In addition, the state board shall make information regarding such programs available to the Board of Regents of the University System of Georgia.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

20-2-155. School climate management program; model codes of behavior and discipline.

The State Board of Education shall establish a state-wide school climate management program to help local schools and systems requesting assistance in developing school climate improvement and management processes. Such projects will be designed to optimize local resources through voluntary community, student, teacher, administrator, and other school personnel participation. These processes will be designed for, but will not be limited to, promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. The state board upon request of a local school system is authorized to provide the necessary on-site technical assistance to local schools and systems and to offer other assistance through regional and state-wide conferences and workshops, printed material, and such other assistance as may be deemed appropriate under this Code section. The state board shall, upon request of a local school system, produce model codes of behavior and discipline and shall produce guidelines for application and administration of such codes. The results of this program shall be annually presented to the General Assembly for review in determining future appropriations for state-level technical assistance necessary to perform the duties assigned to the state board under this Code section.

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to

improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term "bullying" means an act that is:

- (1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;
- (2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or
- (3) Any intentional written, verbal, or physical act which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that:

(A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

The term applies to acts which occur on school property, on school vehicles, at designated school bus stops, or at school related functions or activities or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system. The term also applies to acts of cyberbullying which occur through the use of electronic communication, whether or not such electronic act originated on school property or with school equipment, if the electronic communication (1) is directed specifically at students or school personnel, (2) is maliciously intended for the purpose of threatening the safety of those specified or substantially disrupting the orderly operation of the school, and (3) creates a reasonable fear of harm to the students' or school personnel's person or property or has a high likelihood of succeeding in that purpose. For purposes of this Code section, electronic communication includes but is not limited to any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

- (4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.
- (c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:
- (1) A statement prohibiting bullying;
 - (2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;
 - (3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;
 - (4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;
 - (5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;
 - (6) A statement prohibiting retaliation following a report of bullying; and
 - (7) Provisions consistent with the requirements of subsection (b) of this Code section.
- (d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.
- (e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.
- (f) Nothing in this Code section or in the model policy promulgated by the Department of Education shall be construed to require a local board of education to provide transportation to a student transferred to another school as a result of a bullying incident.
- (g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260.

20-2-779.1. Suicide prevention and awareness training; no duty of care imposed.

- (a)(1) The Department of Education shall adopt rules to require that all certificated public school personnel receive annual training in suicide awareness and prevention. This training shall be provided within the framework of existing in-service training programs offered by the Department of Education or as part of required professional development offered by a local school system.
- (2) The Department of Education shall, in consultation with the Department of Behavioral Health and Developmental Disabilities, the Suicide Prevention Program established pursuant to Code Section 37-1-27, and suicide prevention experts, develop a list of approved training materials to fulfill the requirements of this subsection which may include training materials currently being used by a local school system if such training materials meet any criteria established by the department.
 - (3) Approved materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services.
 - (4) Approved materials may include programs that can be completed through self-review of suitable suicide prevention materials.

(5)(A) Each local school system shall adopt a policy on student suicide prevention. Such policies shall be developed in consultation with school and community stakeholders, school employed mental health professionals, and suicide prevention experts, and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention.

(B) To assist local school systems in developing their own policies for student suicide prevention, the Department of Education, in consultation with the Suicide Prevention Program within the Department of Behavioral Health and Developmental Disabilities, shall establish a model policy for use by local school systems in accordance with this Code section.

38-3-22.1. Safety plan addressing threat of terrorism required of state agencies or authorities; exemptions; training and technical assistance; confidentiality of plans and related documentation.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

160-4-8-.19. Suicide prevention training requirement for certificated school system personnel.

(1) Definitions.

(a) Georgia Department of Education (GaDOE) - the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation

of federal and state mandates. Such management is subject to supervision and oversight by the State Board of Education.

(b) Local Education Agency (LEA) - local school system pursuant to local board of education control and management.

(c) Certificated School System Personnel- individuals trained in education who hold a Clearance (C), Teaching (T), Leadership (L), Service (S), Technical Specialist (TS), or Permit (P) certification issued by the Georgia Professional Standards Commission or is an educator teaching students under a highly qualified definition.

(2) Requirements.

(a) Local education agencies shall adopt a policy on student suicide prevention. Such policies shall be developed in consultation with school and community stakeholders, school employed mental health professionals, and suicide prevention experts and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention.

(b) To assist LEAs in developing their own policies for student suicide prevention, the Georgia Department of Education (GaDOE), in consultation with the Suicide Prevention Program within the Department of Behavioral Health and Developmental Disabilities (DBHDD), shall establish a model policy for use by LEAs in accordance with O.C.G.A. § 20-2-779.1.

(c) All certificated public school personnel shall receive annual training in suicide awareness and prevention. This training shall be provided within the framework of existing in-service training programs offered by the Georgia Department of Education or as part of required professional development offered by an LEA.

(d) The Georgia Department of Education shall, in consultation with the DBHDD, the Suicide Prevention Program established pursuant to O.C.G.A. § 37-1-27., and suicide prevention experts, develop a list of approved training materials to fulfill the requirements of this subsection which may include training materials currently being used by an LEA if such training materials meet any criteria established by the GaDOE.

(e) Approved materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services.

(f) Approved materials may include programs that can be completed through self-review of suitable suicide prevention materials.

Multi-tiered Frameworks and Systems of Support

LAWS

20-2-690.2. Establishment of student attendance and school climate committee; membership; summary of penalties for failure to comply; review and policy recommendations; reporting.

(a) The chief judge of the superior court of each county shall establish a student attendance and school climate committee for such county. The purpose of the committee shall be to ensure coordination and cooperation among officials, agencies, and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, to increase the percentage of students present to take tests which are required to be administered under the laws of this state, and to improve the school climate in each school. The chief judge is responsible for ensuring that all members of the committee are notified of their responsibility to the committee and shall call the first meeting of the committee in each county. The committee shall elect a chairperson and may elect other officers.

(b) Each local board of education shall participate in, consider, and make publicly available, including, but not limited to, posting in a conspicuous location, its decision regarding the recommendations of the committee as provided in this Code section. Independent school systems may participate in the

committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request that the chief judge of the superior court of a county encompassed by its geographic area establish an independent student attendance and school climate committee in the same manner as established for the county school system. [...]

(f) The committee shall review and make recommendations for policies relating to school climate for the purpose of promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. Such review may include school climate ratings established pursuant to Code Section 20-14-33 for each school in the county school system and any independent school systems, if applicable. The committee may review, if available, nonidentifying data from student health surveys, data on environmental and behavioral indicators, data on student behavioral and school-based reactions, and teacher and parent survey instruments. The committee may recommend the use of positive behavioral interventions and supports and response to intervention, trauma informed care training, and the optimization of local resources through voluntary community, student, teacher, administrator, and other school personnel participation.

20-2-741. Positive behavioral interventions and supports and response to intervention.

(a) As used in this Code section, the term:

(1) "High needs school" means a public school which has received a school climate rating of "1-star" or "2-star" pursuant to Code Section 20-14-33.

(2) "Positive behavioral interventions and supports" or "PBIS" means an evidence based data-driven framework to reduce disciplinary incidents, increase a school's sense of safety, and support improved academic outcomes through a multitiered approach, using disciplinary data and principles of behavior analysis to develop school-wide, targeted, and individualized interventions and supports.

(3) "Response to intervention" or "RTI" means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(b) Local boards of education are encouraged to implement PBIS and RTI programs and initiatives in their schools, and particularly in high needs schools.

(c) The State Board of Education is authorized, subject to appropriations by the General Assembly, to provide funds to local school systems to support PBIS and RTI programs, initiatives, and personnel.

(d) The State Board of Education is authorized to establish rules and regulations for PBIS and RTI programs and initiatives which receive funding pursuant to this Code section.

20-2-742. Multi-tiered system of supports prior to suspension or expulsion for certain students.

(a) As used in this Code section, the term:

(1) "Multi-tiered system of supports" or "MTSS" means a systemic, continuous-improvement framework in which data based problem solving and decision making is practiced across all levels of the educational system for supporting students at multiple levels of intervention.

(2) "Public preschool through third grade" means a public preschool, a Pre-K program in a public school administered pursuant to Code Section 20-1A-4, and kindergarten through third grade in a public school.

(3) "Response to intervention" or "RTI" means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(4) "Weapon" shall include dangerous weapons, firearms, and hazardous objects as defined in Code Section 20-2-751.

(b) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel. If such student is receiving or has received a multi-tiered system of supports, the school shall be deemed to have met the requirements of this Code section. The school or program shall comply with all federal laws and requirements regarding obtaining parental consent during any advanced tier within the system of supports prior to certain screenings or evaluations.

(c) In addition to the requirements in subsection (b) of this Code section, prior to assigning any student in preschool through third grade to out-of-school suspension for more than five consecutive or cumulative days during a school year, if such student has an Individualized Education Program (IEP) pursuant to the federal Individuals with Disabilities Education Act or a plan under Section 504 of the federal Rehabilitation Act of 1973, the school or program shall also convene an IEP or Section 504 meeting to review appropriate supports being provided as part of such Individualized Education Program or Section 504 plan.

REGULATIONS

160-4-2-.32. Student Support Team.

(1) Definitions.

(a) Student Support Team (SST)- an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students, K-12, in a school.

(2) Requirements.

(a) Each school shall have a minimum of one SST and shall establish support team procedures.

(b) Before a referral is made for other supplemental or support services an evaluation and/or assessment shall be conducted.

1. Prior evaluation(s) and/or assessment(s) of a student for a state or federal program shall be considered as having met this requirement.

(c) The SST shall include at a minimum the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

1. Principal.
2. General education teacher.
3. Counselor.
4. Lead teacher.
5. School psychologist.
6. Subject area specialist.
7. ESOL teacher.
8. Special education teacher.
9. School social worker.
10. Central office personnel.
11. Section 504 coordinator.
12. Other appropriate personnel.

(d) Parents/guardians shall be invited to participate in all meetings of their child's SST and in the development of interventions for their child.

(e) Each school shall include the following steps in the SST process:

1. Identification of learning and/or behavior problems.
2. Assessment, if necessary.

3. Educational plan.
4. Implementation.
5. Follow-up and support.
6. Continuous monitoring and evaluation.

(f) Documentation of SST activities shall include the following:

1. Student's name.
2. Names of team members.
3. Meeting dates.
4. Identification of student learning and/or behavior problems.
5. Any records of assessment;
6. Educational plan and implementation results;
7. Follow-up and, as appropriate, continuous evaluation.

(3) Exceptions to the Use of the SST Process.

(a) School personnel and parents/guardians may determine that there is a reasonable cause to bypass the SST process for an individual student. Documentation in the student's record shall clearly justify such action, including whether the parent or guardian agreed with such a decision. In cases where immediate referral is sought, the SST shall still determine what interim strategies, interventions, and modifications shall be attempted for the student.

(b) It is not necessary for students who transfer into the local school system/state operated program with a current Individualized Education Program or Section 504 plan to go through the SST process.

160-4-8-.15. Student discipline.

(1) Definitions.

(d) Multi-tiered system of supports or MTSS- a systemic, continuous-improvement framework in which data based problem-solving and decision making is practiced across all levels of the educational system for supporting students at multiple levels of intervention.

(g) Response to intervention or RTI- a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(2) Requirements.

(l) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel pursuant to O.C.G.A. 20-2-742.

Prevention

LAWS

20-2-155. School climate management program; model codes of behavior and discipline.

The State Board of Education shall establish a state-wide school climate management program to help local schools and systems requesting assistance in developing school climate improvement and management processes. Such projects will be designed to optimize local resources through voluntary community, student, teacher, administrator, and other school personnel participation. These processes will be designed for, but will not be limited to, promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment.

The state board upon request of a local school system is authorized to provide the necessary on-site technical assistance to local schools and systems and to offer other assistance through regional and state-wide conferences and workshops, printed material, and such other assistance as may be deemed appropriate under this Code section. The state board shall, upon request of a local school system, produce model codes of behavior and discipline and shall produce guidelines for application and administration of such codes. The results of this program shall be annually presented to the General Assembly for review in determining future appropriations for state-level technical assistance necessary to perform the duties assigned to the state board under this Code section.

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

20-2-145. Comprehensive character education program.

(a) The State Board of Education shall develop by the start of the 1997-1998 school year a comprehensive character education program for levels K-12. This comprehensive character education program shall be known as the "character curriculum" and shall focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the 1999-2000 school year, methods of discouraging bullying and violent acts against fellow students. Local boards shall implement such a program in all grade levels at the beginning of the 2000-2001 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program.

(b) The Department of Education shall develop character education program workshops designed for employees of local school systems.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

20-2-690.2. Establishment of student attendance and school climate committee; membership; summary of penalties for failure to comply; review and policy recommendations; reporting.

(f) The committee shall review and make recommendations for policies relating to school climate for the purpose of promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. Such review may include school climate ratings established pursuant to Code Section 20-14-33 for each school in the county school system and any independent school systems, if applicable. The committee may review, if available, nonidentifying data from student health surveys, data on environmental and behavioral indicators, data on student behavioral and school-based reactions, and teacher and parent survey instruments. The committee may recommend the use of positive behavioral interventions and supports and response to intervention, trauma informed care training, and the optimization of local resources through voluntary community, student, teacher, administrator, and other school personnel participation.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

20-2-1185. School safety plans; drills.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia's children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, juvenile court, fire service, public safety, and emergency management agencies. As part of such plans, public schools shall provide for the coordination with local law enforcement agencies and the local juvenile court system. School safety plans shall include, at a minimum, the following strategy areas:

(1) Training school administrators, teachers, and support staff, including, but not limited to, school resource officers, security officers, secretaries, custodians, and bus drivers, on school violence prevention, school security, school threat assessment, mental health awareness, and school emergency planning best practices.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

160-4-2-.32. Student Support Team.

(1) Definitions.

(a) Student Support Team (SST)- an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students, K-12, in a school.

(2) Requirements.

(a) Each school shall have a minimum of one SST and shall establish support team procedures.

(b) Before a referral is made for other supplemental or support services an evaluation and/or assessment shall be conducted.

1. Prior evaluation(s) and/or assessment(s) of a student for a state or federal program shall be considered as having met this requirement.

(c) The SST shall include at a minimum the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

1. Principal.
2. General education teacher.
3. Counselor.
4. Lead teacher.
5. School psychologist.
6. Subject area specialist.
7. ESOL teacher.
8. Special education teacher.
9. School social worker.
10. Central office personnel.
11. Section 504 coordinator.
12. Other appropriate personnel.

(d) Parents/guardians shall be invited to participate in all meetings of their child's SST and in the development of interventions for their child.

(e) Each school shall include the following steps in the SST process:

1. Identification of learning and/or behavior problems.
2. Assessment, if necessary.
3. Educational plan.
4. Implementation.

5. Follow-up and support.
6. Continuous monitoring and evaluation.

(f) Documentation of SST activities shall include the following:

1. Student's name.
2. Names of team members.
3. Meeting dates.
4. Identification of student learning and/or behavior problems.
5. Any records of assessment;
6. Educational plan and implementation results;
7. Follow-up and, as appropriate, continuous evaluation.

(3) Exceptions to the Use of the SST Process.

(a) School personnel and parents/guardians may determine that there is a reasonable cause to bypass the SST process for an individual student. Documentation in the student's record shall clearly justify such action, including whether the parent or guardian agreed with such a decision. In cases where immediate referral is sought, the SST shall still determine what interim strategies, interventions, and modifications shall be attempted for the student.

(b) It is not necessary for students who transfer into the local school system/state operated program with a current Individualized Education Program or Section 504 plan to go through the SST process.

160-4-8-.01. Student support services.

(1) Definitions.

(d) School Climate Management- systematic plan for addressing the factors that affect school climate including a consistent management style and leadership by the principal, a code of expected behavior, a code of disciplinary responses, a code of ethics for educators, a Student Support Team, delivery of counseling and psychological mental health services, methods to reduce absences and increase attendance, physical health support services, efforts to enlist parent and community support, utilization of volunteers, support by and for the parent teacher organization, a preventive safety plan and a crisis response plan, staff development, and the maintenance program for the school's physical plant. [...]

(2) Requirements.

(a) Each local school system shall develop a Student Services Plan that prescribes and identifies programs and services that incorporate school climate improvement and management processes.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action.

(a) Local board policies adopted pursuant to Code Section 20-2-735 shall require the filing of a report by a teacher who has knowledge that a student has exhibited behavior that repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn, where such behavior is in violation of the student code of conduct. Such report shall be filed with the principal or the principal's designee within one school day of the most recent occurrence of such behavior, shall not exceed one page, and shall describe the behavior. The principal or the principal's designee shall, within one school day after receiving such a report from a teacher, send to the student's parents or guardian a copy of the report and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(b) If student support services are utilized or if disciplinary action is taken in response to such a report by the principal or the principal's designee, the principal or the principal's designee shall send written notification to the teacher and the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day after such utilization or action and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians. Such written notification shall include information regarding how the student's parents or guardians may contact the principal or the principal's designee.

20-2-751.7. State mandated process for students to follow in reporting instances of alleged inappropriate behavior by teacher or other school personnel; notice of process; training; investigations.

(a) The Professional Standards Commission shall establish a state mandated process for students to follow in reporting instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student which shall not prohibit the ability of a student to report the incident to law enforcement authorities. Each local school system shall be required to implement and follow such state mandated process and shall include the mandated process in student handbooks and in employee handbooks or policies.

(b) If it is determined through the state mandated process established pursuant to subsection (a) of this Code section that a complaint against a teacher, administrator, or other school employee is unsubstantiated and without merit, the local school system shall, at the request of the aggrieved party, submit a written statement to that effect to all local print and television media outlets that published any articles or reported any news relating to such complaint against the teacher, administrator, or employee.

(c) The Professional Standards Commission shall coordinate a training program on educator sexual misconduct. Such program shall be delivered by trained staff from the Professional Standards Commission, regional educational service agencies, and local school systems. The superintendent of each local school system shall ensure that all certified staff in its school system receive such training.

(d)(1) The staff of the Professional Standards Commission shall be authorized, without notification to the Professional Standards Commission, to immediately open an investigation submitted to the commission by a local school superintendent, with approval of the local board of education, of a complaint by a student against an educator alleging a sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17, 16-6-20, 16-6-22.2, or 16-12-100.

(2) The Professional Standards Commission shall have on staff a minimum of one investigator specifically trained in investigating educator sexual misconduct. The investigation of any complaint of sexual misconduct shall be completed in no more than 60 days and shall be presented at the commission meeting immediately following the conclusion of the investigation.

(3) If the Professional Standards Commission's review of the investigative report results in a sanction against the educator, the educator shall have the right to appeal the commission decision to a hearing before an administrative law judge within 90 days of such sanction.

(e) Nothing in this Code section shall be construed to infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act of 1990.

20-2-1184. Reporting of students committing prohibited acts.

(a) Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by Code Section 16-5-21 or 16-5-24, Chapter 6 of Title 16, and Code Section 16-11-127, 16-11-127.1, 16-11-132, or 16-13-30, shall immediately report the act and the name of the student to the principal or president of that school or the principal's or president's designee; provided, however, that an act which is prohibited by Code Section 16-11-127.1 shall be reported only when it involves a:

- (1) Firearm, as defined in Code Section 16-11-131;
- (2) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or
- (3) Weapon, as defined in Code Section 16-11-127.1, together with an assault.

(b) The principal or designee who receives a report made pursuant to subsection (a) of this Code section who has reasonable cause to believe that the report is valid shall make an oral report thereof immediately by telephone or otherwise to the appropriate school system superintendent and to the appropriate police authority and district attorney.

(c) Any person participating in the making of a report or causing a report to be made as authorized or required pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section is made in good faith.

(d) Any person required to make a report pursuant to this Code section who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

20-8-6. Reports of criminal gang activity on or adjacent to campus.

Each educational facility which employs campus policemen, including institutions of the University System of Georgia, shall report to the Georgia Bureau of Investigation and to the local law enforcement agency incidents of criminal gang activity as defined by Code Section 16-15-3 which occur on or adjacent to the campus of such educational facility.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect

each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools [...]

(g) Local board policies shall require the filing of a report by a teacher documenting a student's violation of the student code of conduct which repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn within one school day of the most recent occurrence of such behavior. The report shall be filed with the principal or principal's designee, shall not exceed one page, and shall describe the behavior. The principal or principal's designee shall, within one day of receiving such report, send to the student's parents or guardians a copy of the report, and information regarding how the principal or principal's designee may be contacted.

Parental Notification

LAWS

20-2-699. Disposition of children taken into custody.

Any person assuming temporary custody of a child pursuant to Code Section 20-2-698 shall immediately deliver the child either to the parent, guardian, or other person having control or charge of the child or to the school from which the child is absent, or if the child is found to have been adjudged a delinquent child or a child in need of services, the person shall cause the child to be brought before the juvenile probation officer or community supervision officer of the county having jurisdiction over such child.

20-2-700. Reports by peace officers to school authorities and parent or guardian.

Any person taking action pursuant to Code Section 20-2-699 shall report the matter and the disposition made by him of the child to the school authorities of the county, independent or area school system, and to the child's parent or guardian.

20-2-731. When and how corporal punishment may be administered.

An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline. Any such authorization shall be subject to the following requirements:

(4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment.

20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action.

(a) Local board policies adopted pursuant to Code Section 20-2-735 shall require the filing of a report by a teacher who has knowledge that a student has exhibited behavior that repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn, where such behavior is in violation of the student code of conduct. Such report shall be filed with the principal or the principal's designee within one school day of the most recent occurrence of such behavior, shall not exceed one page, and shall describe the behavior. The principal or the principal's designee shall, within one school day after receiving such a report from a teacher, send to the student's parents or guardian a copy of the report and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(b) If student support services are utilized or if disciplinary action is taken in response to such a report by the principal or the principal's designee, the principal or the principal's designee shall send written notification to the teacher and the student's parents or guardians of the student support services being

utilized or the disciplinary action taken within one school day after such utilization or action and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians. Such written notification shall include information regarding how the student's parents or guardians may contact the principal or the principal's designee.

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(a) A teacher shall have the authority, consistent with local board policy, to manage his or her classroom, discipline students, and refer a student to the principal or the principal's designee to maintain discipline in the classroom. The principal or the principal's designee shall respond when a student is referred by a teacher by employing appropriate discipline management techniques that are consistent with local board policy.

(b) A teacher shall have the authority to remove from his or her class a student who repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn, where the student's behavior is in violation of the student code of conduct, provided that the teacher has previously filed a report pursuant to Code Section 20-2-737 or determines that such behavior of the student poses an immediate threat to the safety of the student's classmates or the teacher. Each school principal shall fully support the authority of every teacher in his or her school to remove a student from the classroom under this Code section. Each school principal shall implement the policies and procedures of the superintendent and local board of education relating to the authority of every teacher to remove a student from the classroom and shall disseminate such policies and procedures to faculty, staff, and parents or guardians of students. The teacher shall file with the principal or the principal's designee a report describing the student's behavior, in one page or less, by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall, within one school day after the student's removal from class, send to the student's parents or guardians written notification that the student was removed from class, a copy of the report filed by the teacher, and information regarding how the student's parents or guardians may contact the principal or the principal's designee. [...]

(f) Within one school day of taking action pursuant to subsection (e) of this Code section, the principal or the principal's designee shall send written notification of such action to the teacher and the parents or guardians of the student and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians.

(g) Parents or guardians of a student who has been removed from class pursuant to subsection (b) of this Code section may be required to participate in conferences that may be requested by the principal or the principal's designee; provided, however, that a student may not be penalized for the failure of his or her parent or guardian to attend such a conference.

(h) The procedures contained in this Code section relating to student conferences and notification of parents or guardians are minimum requirements. Nothing in this Code section shall be construed to limit the authority of a local board of education to establish additional requirements relating to student conferences, notification of parents or guardians, conferences with parents or guardians, or other procedures required by the Constitutions of the United States or this state.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has

committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

(4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

(5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity.

20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both.

Any time a teacher or principal identifies a student as a chronic disciplinary problem student, the principal shall notify by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail the student's parent or guardian of the disciplinary problem, invite such parent or guardian to observe the student in a classroom situation, and request at least one parent or guardian to attend a conference with the principal or the teacher or both to devise a disciplinary and behavioral correction plan.

20-2-1181. Disrupting operation of public school, school bus, or school bus stop; penalty; progressive discipline.

(a) It shall be unlawful for any person to knowingly, intentionally, or recklessly disrupt or interfere with the operation of any public school, public school bus, or public school bus stop as designated by local boards of education. Except as provided in subsection (b) of this Code section, a person convicted of violating this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(b)(1) As used in this subsection, the term "complaint" shall have the same meaning as set forth in Code Section 15-11-2.

(2) A local board of education shall develop a system of progressive discipline that may be imposed on a child accused of violating this Code section before initiating a complaint.

(3) When a complaint is filed involving a violation of this Code section by a child not included in paragraph (4) of this subsection, it shall include information showing that the local board of education sought to:

(A) Resolve the expressed problem through available educational approaches; and

(B) Engage the child's parent, guardian, or legal custodian to resolve the expressed problem and that such individual has been unable or unwilling to resolve the expressed problem, that the expressed problem remains, and that court intervention is necessary.

(4) When a complaint is filed involving a violation of this Code section by a child who is eligible for or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, it shall include information showing that the local board of education:

(A) Has determined that such child is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973;

(B) Has reviewed for appropriateness such child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate;

(C) Sought to resolve the expressed problem through available educational approaches; and

(D) Sought to engage the child's parent, guardian, or legal custodian to resolve the expressed problem and that such individual has been unable or unwilling to resolve the expressed problem, that the expressed problem remains, and that court intervention is necessary.

REGULATIONS

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

19. Parental involvement processes designed to create the expectation that parents, guardians, teachers and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about, and actions in response to, student behavior that detracts from the learning environment. Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct. of Education Rule 160-4-8-.16 Unsafe School Choice Option.

(b) Local boards of education shall provide for the distribution of student codes of conduct to each student upon enrollment and to the parents and guardians of each student and may solicit the signatures of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct.

(g) Local board policies shall require the filing of a report by a teacher documenting a student's violation of the student code of conduct which repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn within one school day of the most recent occurrence of such behavior. The report shall be filed with the principal or principal's designee, shall not exceed one page, and shall describe the behavior. The principal or principal's designee shall, within one day of receiving such report, send to the student's parents or guardians a copy of the report, and information regarding how the principal or principal's designee may be contacted.

(h) The principal or the principal's designee shall send written notification to the teacher and to the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day and shall make a reasonable attempt to confirm receipt of such written notification by the student's parents or guardians. Written notification shall include information regarding how student's parents or guardians may contact the principal or principal's designee.

160-5-1-.10. Student attendance.

(1) Definitions.

(b) Student Attendance Protocol- procedures to be used in identifying, reporting, investigating and prosecuting cases of alleged violations of O.C.G.A. § 20-2-690.1, relating to mandatory school attendance and appropriately addressing the issue with parents and guardians. The protocol shall also include recommendations for policies relating to tardiness. [...]

(2) Requirements.

(i) To reduce unexcused absences, each local board of education shall adopt policies and procedures that shall include but are not limited to:

1. Requiring the school system to notify the parent, guardian or other person who has control or charge of the student when such student has five unexcused absences. The notice shall outline

the penalty and consequences of such absences and that each subsequent absence shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian or other person who has charge of the student, the school system shall send written notice via certified mail with return receipt requested, or first-class mail; and

2. Prior to any action to commence judicial proceedings to impose a penalty on a parent, guardian, or other person residing in this state who has control or charge of the school aged child for failing to comply with compulsory attendance, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested; and

3. Requiring public schools to provide to the parent, guardian, or other person having control or charge of each student enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance. By September 1 of each school year or within 30 school days of a student's enrollment in the school system, the parent, guardian, or other person having control or charge of such student shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or first-class mail, to such parent, guardian, or other person who has control or charge of a child, or children. In addition, students age ten or older by September 1 shall sign a statement indicating receipt of written statement of possible consequences for non-compliance to the local system's policy.

(j) Each local board of education shall implement a progressive discipline process and a parental involvement process for truant students before referring the students to the juvenile or other court having jurisdiction.

160-5-1-.35. Seclusion and restraint for all students.

(2) Requirements

(g) Schools and programs that use physical restraint in accordance with paragraph (2)(e) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

2. Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint, [...]

(l) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel.

1. Parents must be immediately informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

20-2-695. Employing attendance officers in addition to visiting teachers; authority and duties.

(a) A local board of education may employ an attendance officer or attendance officers in addition to a visiting teacher or visiting teachers. Such an attendance officer must be paid wholly from local funds of the local board unless state funds are specifically appropriated for purposes of employment of attendance officers, in which case state funds may be used to the extent so appropriated. Attendance

officers shall not be required to qualify under rules and regulations promulgated by the Professional Standards Commission for the certification of visiting teachers.

(b) The authority and duties of any attendance officer so appointed by a local board of education shall include:

- (1) The duty to cooperate with state agencies, make monthly reports to that officer's school superintendent, and comply with state and local rules as provided in Code Section 20-2-696;
- (2) The authority to receive cooperation and attendance reports from that officer's school system as provided for in Code Section 20-2-697;
- (3) When specifically authorized by the appointing local board of education, the authority to assume temporary custody of children absent from school in the same manner as authorized for peace officers under Code Sections 20-2-698 through 20-2-700; and any attendance officer so authorized by the appointing local board of education shall, when engaged in such function, have the same duties, authority, rights, privileges, and immunities as applicable to a peace officer engaged in such function, provided that the same shall not extend to the carrying of a weapon unless the attendance officer holds a valid certification as a peace officer from the Georgia Peace Officer Standards and Training Council;
- (4) The duty to report children absent from school to the juvenile court or other court having jurisdiction as provided for in Code Section 20-2-701; and
- (5) Such other authority and duties as may be provided by law or as may be provided by the appointing local board of education in conformity with law.

20-2-696. Duties of visiting teachers and attendance officers.

In the discharge of the duties of their office, visiting teachers, acting visiting teachers, or attendance officers shall:

- (1) Cooperate fully with the Department of Human Services, the Department of Labor, and other state agencies;
- (2) Make monthly and annual reports to their respective local school superintendents on attendance and other problems of child school adjustment in the public schools of their territory; and
- (3) Comply with the rules and regulations of the county and independent school system boards of education and the State Board of Education.

20-2-740. Annual report by local boards of education regarding disciplinary and placement actions; annual study by Department of Education.

(a) Each local board of education shall file an annual report, by August 1 of each year, with the Department of Education regarding disciplinary and placement actions taken during the prior school year. Such report shall classify the types of actions into the following categories:

- (1) Actions in which a student was assigned to in-school suspension;
- (2) Actions in which a student was suspended for a period of ten days or less;
- (3) Actions in which a student was suspended for a period of more than ten days but not beyond the current school quarter or semester;
- (4) Actions in which a student was expelled beyond the current school quarter or semester but not permanently expelled;
- (5) Actions in which a student was permanently expelled;
- (6) Actions in which a student was placed in an alternative educational setting;
- (7) Actions in which a student was suspended from riding the bus;

(8) Actions in which corporal punishment was administered; and

(9) Actions in which a student was removed from class pursuant to subsection (b) of Code Section 20-2-738.

(b) For each category of disciplinary or placement action listed in paragraphs (1) through (9) of subsection (a) of this Code section, the local board shall provide the following information: the number of students subject to the type of disciplinary or placement action; the age and grade level of such students; such students' race and gender; and the number of students subject to the type of disciplinary action who were eligible for free or reduced price lunches under federal guidelines. For each action listed in paragraph (9) of subsection (a) of this Code section, the local board shall also provide information regarding the decisions of placement review committees and the disciplinary and placement decisions made by principals or their designees. The data required by this Code section shall be reported separately for each school within the local school system and collected and reported in compliance with the requirements of 20 U.S.C. Sections 1232g and 1232h.

(c) The Department of Education shall conduct a study for each school year based upon the statistical data filed by local boards pursuant to this Code section for the purpose of determining trends in discipline. The department shall also utilize existing demographic data on school personnel as needed to establish trends in discipline. Nothing in this Code section shall be construed to authorize the public release of personally identifiable information regarding students or school personnel. The department shall prepare a report for the General Assembly on the study annually and notify the members of the General Assembly of the availability of the report in the manner which it deems to be most effective and efficient.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

15-11-707. Notice to school superintendent.

Within 30 days of any proceeding in which a child is adjudicated for committing a delinquent act for a second or subsequent time or is adjudicated for committing a class A designated felony act or class B designated felony act, the court shall provide written notice to the school superintendent of the school in which such child is enrolled or his or her designee or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific delinquent act or class A designated felony act or class B designated felony act such child committed.

15-11-710. Exchange of information.

(a) As used in this Code section, the term "governmental entity" shall mean the court, superior court, DJJ, DBHDD, DFACS, county departments of family and children services, or public schools, as such term is defined in Code Section 16-11-35.

(b) Governmental entities and state, county, municipal, or consolidated government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-1-19, 15-11-40, 15-11-70, 15-11-105, 15-11-170, 15-11-264, 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2, 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-109.2, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, or 49-5-45, in order to serve the best interests of such child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of a child in juvenile, superior, or state court or utilized to the detriment of such child.

(c) Information released pursuant to this Code section shall not change or rescind the confidential nature of such information and such information shall not be subject to public disclosure or inspection unless otherwise provided by law.

20-2-1184. Reporting of students committing prohibited acts.

(a) Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by Code Section 16-5-21 or 16-5-24, Chapter 6 of Title 16, and Code Section 16-11-127, 16-11-127.1, 16-11-132, or 16-13-30, shall immediately report the act and the name of the student to the principal or president of that school or the principal's or president's designee; provided, however, that an act which is prohibited by Code Section 16-11-127.1 shall be reported only when it involves a:

- (1) Firearm, as defined in Code Section 16-11-131;
- (2) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or
- (3) Weapon, as defined in Code Section 16-11-127.1, together with an assault.

(b) The principal or designee who receives a report made pursuant to subsection (a) of this Code section who has reasonable cause to believe that the report is valid shall make an oral report thereof immediately by telephone or otherwise to the appropriate school system superintendent and to the appropriate police authority and district attorney.

(c) Any person participating in the making of a report or causing a report to be made as authorized or required pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section is made in good faith.

(d) Any person required to make a report pursuant to this Code section who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

20-2-695. Employing attendance officers in addition to visiting teachers; authority and duties.

(a) A local board of education may employ an attendance officer or attendance officers in addition to a visiting teacher or visiting teachers. Such an attendance officer must be paid wholly from local funds of the local board unless state funds are specifically appropriated for purposes of employment of attendance officers, in which case state funds may be used to the extent so appropriated. Attendance officers shall not be required to qualify under rules and regulations promulgated by the Professional Standards Commission for the certification of visiting teachers.

(b) The authority and duties of any attendance officer so appointed by a local board of education shall include:

- (1) The duty to cooperate with state agencies, make monthly reports to that officer's school superintendent, and comply with state and local rules as provided in Code Section 20-2-696;
- (2) The authority to receive cooperation and attendance reports from that officer's school system as provided for in Code Section 20-2-697;
- (3) When specifically authorized by the appointing local board of education, the authority to assume temporary custody of children absent from school in the same manner as authorized for peace officers under Code Sections 20-2-698 through 20-2-700; and any attendance officer so authorized by the appointing local board of education shall, when engaged in such function, have the same duties, authority, rights, privileges, and immunities as applicable to a peace officer engaged in such function, provided that the same shall not extend to the carrying of a weapon unless the attendance officer holds a valid certification as a peace officer from the Georgia Peace Officer Standards and Training Council;
- (4) The duty to report children absent from school to the juvenile court or other court having jurisdiction as provided for in Code Section 20-2-701; and
- (5) Such other authority and duties as may be provided by law or as may be provided by the appointing local board of education in conformity with law.

20-2-698. Peace officers may take temporary custody of truant children away from home.

Any peace officer may assume temporary custody, during school hours, of any child subject to compulsory school attendance who is found away from home and who is absent from a public or private school or a home study program without a valid written excuse from school officials or from the parent or guardian in charge of the home study program.

20-2-699. Disposition of children taken into custody.

Any person assuming temporary custody of a child pursuant to Code Section 20-2-698 shall immediately deliver the child either to the parent, guardian, or other person having control or charge of the child or to the school from which the child is absent, or if the child is found to have been adjudged a delinquent child or a child in need of services, the person shall cause the child to be brought before the juvenile probation officer or community supervision officer of the county having jurisdiction over such child.

20-2-700. Reports by peace officers to school authorities and parent or guardian.

Any person taking action pursuant to Code Section 20-2-699 shall report the matter and the disposition made by him of the child to the school authorities of the county, independent or area school system, and to the child's parent or guardian.

20-2-701. Responsibility for reporting truants to juvenile or other courts.

Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

20-2-756. Reports to law enforcement officials.

(a) The school administration, disciplinary hearing officer, panel, tribunal of school officials, or the local board of education may, when any alleged criminal action by a student occurs, report the incident to the appropriate law enforcement agency or officer for investigation to determine if criminal charges or delinquent proceedings should be initiated.

(b) No individual reporting any incident under this subpart to a law enforcement agency or officer shall be subject to any action for malicious prosecution, malicious abuse of process, or malicious use of process.

20-8-2. Law enforcement powers.

On the campus of an educational facility, a campus policeman employed by such educational facility who is certified in accordance with Code Section 20-8-3 and when authorized by the governing body or authority of such educational facility shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such campus.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

20-2-1185. School safety plans; drills.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia's children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, juvenile court, fire service, public safety, and emergency management agencies. As part of such plans, public schools shall provide for the coordination with local law enforcement agencies and the local juvenile court system. School safety plans shall include, at a minimum, the following strategy areas:

- (1) Training school administrators, teachers, and support staff, including, but not limited to, school resource officers, security officers, secretaries, custodians, and bus drivers, on school

violence prevention, school security, school threat assessment, mental health awareness, and school emergency planning best practices.

20-8-3. Certification required.

As a condition precedent to the exercise of law enforcement powers pursuant to Code Section 20-8-2, a campus policeman must be certified by the Georgia Peace Officer Standards and Training Council as having met the qualifications and having completed the basic training requirements for a peace officer under Article 2 of Chapter 2 of Title 35. All costs incurred in such certification and training shall be paid by the educational facility employing the campus policeman. This chapter is permissive and shall not require the certification of campus policemen by the Georgia Peace Officer Standards and Training Council. The certification of a campus policeman by the Georgia Peace Officer Standards and Training Council does not require that the campus policeman so certified exercise the powers provided in Code Section 20-8-2.

20-8-5. Law enforcement powers of school security personnel in each public school system of the state; certification; carrying of firearms or weapons.

(a) In each public school system in this state, school security personnel employed by the board of education of a county or an independent board of education of a municipality for the various public schools thereof who are certified pursuant to subsection (b) of this Code section and who are authorized by the board of education of that county or the independent board of education of that municipality shall have the same law enforcement powers on school property, including the power of arrest, as law enforcement officers of that respective county or municipality.

(b) As a condition precedent to the exercise of law enforcement powers pursuant to subsection (a) of this Code section, school security personnel must be certified by the Georgia Peace Officer Standards and Training Council as having met the qualifications and having completed the basic training requirements for a peace officer under Chapter 8 of Title 35. The certification of school security personnel by the Georgia Peace Officer Standards and Training Council does not require that such security personnel exercise the powers provided in subsection (a) of this Code section.

(c) The provisions of this Code section shall not prohibit a board of education of a county or an independent board of education of a municipality from employing school security personnel without law enforcement powers.

(d) School security personnel who are certified by the Georgia Peace Officer Standards and Training Council may be authorized by a local board of education to carry a standard issue firearm or weapon generally used for law enforcement purposes for the purpose of carrying out law enforcement duties.

35-8-27. Training requirements for school resource officers.

(a) It is the best practice for any person assigned or appointed as a school resource officer to successfully complete a training course for school resource officers approved by the council.

(b) For purposes of subsection (a) of this Code section, the council shall maintain a training course consisting of 40 hours of training for school resource officers. Such training course shall, at a minimum, provide training in the role of a peace officer assigned to an elementary or secondary school, search and seizure in elementary and secondary schools, criminal offenses, gang awareness, drug awareness, interviews and interrogations, emergency preparedness, and interpersonal interactions with adolescents, including the encountering of mental health issues.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

20-2-1183. Written agreement for law enforcement officers in schools.

When a local school system assigns or employs law enforcement officers in schools, the local board of education shall have a collaborative written agreement with law enforcement officials to establish the role of law enforcement and school employees in school disciplinary matters and ensure coordination and cooperation among officials, agencies, and programs involved in school discipline and public protection.

20-8-1. Definitions.

As used in this chapter, the term:

- (1) "Campus" means the grounds and buildings owned or occupied by a college or university or the grounds and buildings of a school or training facility operated by or under the authority of the State Board of Education. The term "campus" shall also include any public or private property within 500 yards of the property of an educational facility and one-quarter mile of any public street or public sidewalk connecting different buildings of the same educational facility when the property or buildings of the educational facility are located within any county in this state having a population of 400,000 or more according to the United States decennial census of 1970 or any future such census.
- (2) "Campus policeman" means an employee of an educational facility whose duties include the enforcement of the laws of this state; the preservation of public order; the protection of life and property; the prevention, detection, or investigation of crime; or any combination thereof.
- (3) "College or university" means an accredited, nonproprietary, public or private educational institution of higher learning located in this state.
- (4) "Educational facility" means a college or university or a school or training facility operated by or under the authority of the State Board of Education.

20-8-2. Law enforcement powers.

On the campus of an educational facility, a campus policeman employed by such educational facility who is certified in accordance with Code Section 20-8-3 and when authorized by the governing body or authority of such educational facility shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such campus.

20-8-5. Law enforcement powers of school security personnel in each public school system of the state; certification; carrying of firearms or weapons.

- (a) In each public school system in this state, school security personnel employed by the board of education of a county or an independent board of education of a municipality for the various public schools thereof who are certified pursuant to subsection (b) of this Code section and who are authorized by the board of education of that county or the independent board of education of that municipality shall have the same law enforcement powers on school property, including the power of arrest, as law enforcement officers of that respective county or municipality.
- (b) As a condition precedent to the exercise of law enforcement powers pursuant to subsection (a) of this Code section, school security personnel must be certified by the Georgia Peace Officer Standards and Training Council as having met the qualifications and having completed the basic training requirements for a peace officer under Chapter 8 of Title 35. The certification of school security personnel by the Georgia Peace Officer Standards and Training Council does not require that such security personnel exercise the powers provided in subsection (a) of this Code section.
- (c) The provisions of this Code section shall not prohibit a board of education of a county or an independent board of education of a municipality from employing school security personnel without law enforcement powers.

(d) School security personnel who are certified by the Georgia Peace Officer Standards and Training Council may be authorized by a local board of education to carry a standard issue firearm or weapon generally used for law enforcement purposes for the purpose of carrying out law enforcement duties.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

20-2-1185. School safety plans; drills.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia's children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, juvenile court, fire service, public safety, and emergency management agencies. As part of such plans, public schools shall provide for the coordination with local law enforcement agencies and the local juvenile court system. School safety plans shall include, at a minimum, the following strategy areas:

- (1) Training school administrators, teachers, and support staff, including, but not limited to, school resource officers, security officers, secretaries, custodians, and bus drivers, on school violence prevention, school security, school threat assessment, mental health awareness, and school emergency planning best practices.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Georgia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Georgia's Tiered System of Supports for Students (MTSS), Georgia Department of Education (GaDOE)	Provides information and resources to support districts in implementing tiered systems of evidence-based interventions (MTSS) and screenings that will provide different levels of support needed to maximize student achievement and reduce behavior problems.	https://www.gadoe.org/wholechild/Pages/TieredSystemofSupports.aspx
Georgia Center for School Safety	The Georgia Center for School Safety (GACSS) is a collaborative effort between the Georgia Department of Education and the Georgia Emergency Management and Homeland Security Agency to provide a clearinghouse for the dissemination of school safety resources, training, and technical assistance to Georgia schools and community partners.	https://www.gacss.org/
Positive Behavioral Interventions and Supports (PBIS), GaDOE	Provides information and resources supporting school implementation of the PBIS evidence-based framework.	http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Positive-Behavioral-Interventions-and-Support.aspx
School Climate, GaDOE	Provides definitions of school climate and includes links to information on school climate improvement, discipline, attendance, and the School Climate Star Rating system used to determine if a school is on the right path to school improvement.	https://www.gadoe.org/wholechild/Pages/Positive-School-Climate.aspx
School Safety Planning	Provides links to tools and resources on school safety planning.	https://www.gadoe.org/wholechild/Pages/School-Safety-Planning.aspx
School Safety Resource Center	Provides information and resources to assist schools/districts in their efforts to provide safe and secure environments for students and staff.	https://www.gadoe.org/wholechild/Pages/School-Safety.aspx
Student Attendance	Provides information and resources	https://www.gadoe.org/whole

Title	Description	Website address (if applicable)
and School Climate Committee, GaDOE	addressing student attendance and chronic absenteeism, including links to state laws and rules, documents, sample policies, and best practices and research.	child/Pages/Student-Attendance-Guidance.aspx
Student Discipline, GaDOE	Provides comprehensive resources and materials on student discipline including information of behavior support, parental involvement, and progressive discipline processes, and links to discipline data sources.	https://www.gadoe.org/wholechild/Pages/Student-Discipline.aspx
Student Safety and Well-Being, GaDOE	Provides information and resources on substance abuse, child abuse and child protection, suicide prevention, mental health, gangs, bullying prevention, protective factors, and health/wellness.	https://www.gadoe.org/wholechild/Pages/home.aspx
Documents		
Bullying Prevention Toolkit, GaDOE	Prevention toolkit containing links to bullying prevention resources, training materials, and videos.	https://www.gadoe.org/wholechild/Pages/Bullying-Prevention-Toolkit.aspx
Discipline Matrix (January 2020), GaDOE	Matrix detailing types and definitions of disciplinary incidents with examples of offenses and levels of severity.	https://www.gadoe.org/wholechild/Documents/Discipline%20Matrix_January%202020.pdf
Discipline Matrix Rationale (February 2017), GaDOE	Guidance document for student discipline incident reporting.	https://www.gadoe.org/wholechild/Documents/Discipline%20Matrix%20Rationale.pdf?csf=1&e=veWciv
Georgia's Tiered System of Supports for Students, Implementation on Step-By-Step Guidance (January 2019), GaDOE	Guidance document supporting school implementation of the Georgia Tiered System of Supports.	https://www.gadoe.org/wholechild/Documents/MTSS/GA%20MTSS%20Implementation%20Step%20By%20Step%20Guidance.pdf
Guidance for State Board of Education Rule 160-5-1-.35 Seclusion and Restraint for All Students (April 2012), GaDOE	Guidance document for schools implementing seclusion and restraint as a response to situations in which students' behavior poses an imminent danger to themselves or others.	https://www.gadoe.org/External-Affairs-and-Policy/Policy/Documents/Guidance%20Seclusion%20and%20Restraint.pdf#search=160%2D5%2D1%2D%2E35
Guidelines for Developing Model Codes of Conduct, Model Behavior Support Process, Model Progressive Discipline Process	Guidance document for developing models and processes related to student conduct, discipline and parent involvement.	https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Documents/Model%20Code%20of%20Conduct.pdf

Title	Description	Website address (if applicable)
and Model Parental Involvement Process		
"Model" Student Attendance Protocol (August 2019), GaDOE	State model policy addressing student attendance.	https://www.gadoe.org/wholechild/Documents/student%20attendance_Model%20(Example)%20Attendance%20Protocol_08132019.pdf
Policy for Prohibiting Bullying, Cyberbullying, Harassment and Intimidation (May 2015), GaDOE	State model policy addressing bullying, harassment and intimidation.	https://www.gadoe.org/wholechild/Documents/GaDOE%20Bullying%20Policy_May%202015.pdf
School Safety and Climate Strategic Plan (2020-2025), GaDOE	Planning document which outlines GaDOE's plan to foster a safe learning environment for students focusing on prevention, protection, response, and recovery.	https://www.gadoe.org/wholechild/Documents/Office%20of%20School%20Safety%20and%20Climate%20Strategic%20Plan%208.7.2020.docx
<i>Other Resources</i>		
Georgia Insights, GaDOE	Data dashboard designed to improve the clarity and accessibility of district and school-level data on a range of topics including school climate.	http://www.gadoe.org/Georgia-Insights/Pages/School-Climate-Star-Rating.aspx
K-12 Student Discipline Dashboard, The Governor's Office of Student Achievement	Data dashboard displaying discipline incidents, consequences, and incident-to-action flow chart.	https://public.gosa.ga.gov/noauth/extensions/DisciplineDASHV1/DisciplineDASHV1.html



Hawaii

Compilation of School

Discipline Laws and

Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(d) In any case of exclusion from school, the due process procedures as set forth in the provisions of Hawaii administrative rules relating to student discipline shall apply.

(e) If a child is excluded from attending school for more than ten days, the superintendent or the superintendent's designee shall ensure that substitute educational activities or other appropriate assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the appropriate school staff.

(f) A child determined to be in violation of subsection (b) or (c) shall be subject to the department's disciplinary rules; provided that:

(1) The school shall administer a screening tool approved by the department to determine whether there is a need for the child to be referred for a substance abuse assessment;

(2) The child shall be allowed to return to school earlier than the department's original disciplinary determination; provided that the child gives the school evidence of the following:

(A) A substance abuse assessment has been completed; and

(B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment;

(3) If the substance abuse assessment finds that the child does not need substance abuse treatment or substance abuse counseling, the school may allow the child to return to school earlier than originally indicated; provided that:

(A) The child provides a certified copy of the assessment; and

(B) The child's parent or legal guardian consents to the child and the child's family receiving follow-up counseling or other student support services to be provided by the department.

In determining whether to allow the child to return to school early, the school administrator shall review and determine the nature and severity of the offense, the impact of the offense on others, the age of the offender, and whether the offender is a repeat offender; and

(4) For the child's first violation of subsection (b) or (c), if the child provides evidence of clinical discharge from the substance abuse treatment program or substance abuse counseling, all records of disciplinary action relating to the original offense shall be expunged. For the purposes of this paragraph, "expunged" means the records of substance abuse assessment shall be segregated and kept confidential but shall be destroyed upon graduation of the child.

(g) For purposes of this section:

"Dangerous weapon" means a dirk, dagger, butterfly knife, blackjack, slug shot, billy, metal knuckles, or other instrument whose sole design and purpose is to inflict bodily injury or death; provided that firearms are excluded from this definition.

"Illegal drugs" means the possession, distribution, ingestion, manufacture, sale, or delivery of substances which are prohibited under chapter 329 and chapter 712, part IV.

"Switchblade knife" is as defined in section 134-52.

(h) The board of education shall adopt rules in accordance with chapter 91 to implement this section.

REGULATIONS

8-19-1. Philosophy.

(a) Hawaii has established and supports a statewide system of public education. The compulsory nature of school attendance ensures that a student shall have the opportunity for an education. In addition to the education provided during the regular school year, the department offers students the opportunity to receive additional instruction and educational services through a self-supporting summer school program on a voluntary attendance basis. The department is committed to:

- (1) Provide the student with optimal learning conditions;
- (2) Select appropriate teachers for the student's instruction; and
- (3) Other programs that will help the student to succeed.

In 1996, the department initiated a collaborative and systemic reform known as the Comprehensive Student Support System (CSSS), which provides a continuum of academic, social, emotional, and physical environmental supports and services to all students to facilitate their learning and their meeting of high educational standards. It is a CSSS community of caring and supportive relationships among students, teachers, families, and agencies working together that promote timely and appropriate services for all students. The goal of the school system is to provide a learning experience in safe, caring, nurturing, and orderly teaching and learning environments.

(b) It is the responsibility of every student to demonstrate respectful, responsible, safe, and ethical behaviors on department transportation, or during a department sponsored activity on or off school property. The department supports this through the establishment of a proactive systems approach to schoolwide discipline.

(c) However, when a student's behavior violates established policies, rules, or regulations of the department, state or local laws, the department may take appropriate disciplinary action in accordance with this chapter. The purpose of school-administered discipline is to:

- (1) Promote and maintain a safe and secure educational environment;
- (2) Teach and acknowledge proper behavior which is beneficial to the educational process and self-development;
- (3) Deter students from acts which interfere with the purpose of education or which are self-destructive, self-defeating or anti-social; and
- (4) Maintain proper student conduct to ensure that educational activities and responsibilities remain uninterrupted; and
- (5) Stop any discrimination (including unlawful discrimination), harassment (including sexual harassment), or bullying against a student based on a protected class.

(d) An educational worker conducting or participating in a school program, activity, or function sponsored or approved by the department, or hired to engage in carrying out an educational function, has a reasonable expectation to be free of undue disruption and threat of disorder or acts of violence, or both, committed against them by students.

(e) In addition to the disciplinary action taken under this chapter, restitution for vandalism or for negligence shall be made in accordance with the provisions of this chapter. The purpose of restitution is to discourage acts of vandalism and negligence and to ensure recovery of the cost of public property damaged by acts of vandalism and negligence.

(f) On occasions it is necessary for police officers to interview students or to take them into custody. This chapter is also intended to safeguard the rights and interests of students in attendance, to cooperate with police officers in the performance of their duties, to preserve the school milieu, and to delineate responsibilities of school personnel.

Scope

LAWS

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Cyberbullying" means electronically transmitted acts, including but not limited to those transmitted through the Internet, cell phone, or other wireless hand-held device initiated by one student toward another student or employee of the department, that hurts, harms, humiliates, or intimidates the student or employee and is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening, or abusive educational environment. Cyberbullying can occur:

- (1) On campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property.
- (2) Through a department data system without department authorized communication; or
- (3) Through an off campus computer network if the conduct impacts the educational environment.

8-19-3. Applicability.

(a) The provisions of this chapter shall apply to all students enrolled in a public school during the regular school year, summer session, or intersessions regardless of age with the addition that, outside of the hours

when school is in session, boarding students are subject to the dormitory rules developed by the school and agreed upon through written consent by the parent(s) or legal guardian(s) of boarding students.

(b) The Hawaii administrative rules for students with disabilities shall apply in the discipline of students who are eligible to receive special education or other services under those chapters.

(c) References to principal or designee in subchapter 2 shall be construed to include summer school director for purposes of discipline in summer school. References to school year in this chapter shall be construed to mean summer session whenever summer school applies.

(d) Discipline during intersessions and in summer school shall be governed by subchapter 3. Discipline of students who receive special education services during an extension of the student's school year shall be governed by subchapter 2 and the guidelines and requirements of the Hawaii administrative rules for students with disabilities.

(e) In all cases of student-related administrative actions and reporting, chapter 8-34 shall apply. In addition, for students who receive special education services, the Hawaii administrative rules for students with disabilities shall prevail.

(f) No action relating to suspension, serious discipline, or restitution for vandalism or negligence shall be taken except in accordance with this chapter.

(g) All matters relating to police interviews or arrests, or both, of students shall be administered in accordance with this chapter.

(h) For conduct by adult(s) towards student(s) based on the student(s)' protected class, refer to chapter 8-89 for guidance.

8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property.

8-31-3. Tobacco free school system.

(a) Effective September 1, 1993, smoking and other use of tobacco products shall be prohibited at all times, including the following:

(1) On public school campuses, school vehicles, and off-campus sites under the operational control of the principal or designee, except as part of a bona-fide classroom instruction or theatrical production approved by the principal.

Communication of Policy

LAWS

§302A-1133.5. Parent and guardian accountability for compliance with student code of conduct.

(a) The department shall inform all parents and guardians of the student code of conduct and of their responsibilities with respect to ensuring that their children comply with the code. The department also shall provide assistance and advice to parents and guardians in meeting their responsibilities under the code.

(b) The failure of a student to meet the requirements for regular attendance and punctuality shall subject the student's parent, parents, or guardian to the penalties provided in section 302A-1135. Destruction of school property by a student, in addition to all other legal action that may be taken, shall subject the student's parent, parents, or guardian to proceedings under section 302A-1153, as appropriate.

§302A-1141.4. Use of physical restraint limited; notification; policies and procedures; training; review.

(d) All parents and legal guardians of students shall receive, upon the student's entry into public school, written information issued by the department about policies and procedures for restraint. This written information shall include:

- (1) A brief summary describing the training received by public school staff in using restraint in facilities or programs;
- (2) Information describing board policy;
- (3) Information on the procedures for determining when restraint can and cannot be properly used in public school settings;
- (4) Definitions of restraint;
- (5) Information on the procedural safeguards that are in place to protect the rights of children and their parents or legal guardians;
- (6) A description of the alignment of policies and procedures on restraint with applicable state laws or department rules;
- (7) Information on the procedures for notifying parents and legal guardians when restraint has been used with their child; and
- (8) Information on the procedures for notifying parents and legal guardians about any changes to policies and procedures on restraint.

(e) The department shall make information relating to policies and procedures available on the department's website.

(f) If policy or procedural changes related to restraint are made during the school year, the department shall post the changes on its website immediately.

(g) All public schools shall ensure that staff who use restraint in facilities or programs are trained, recertified, or trained and recertified on a periodic basis no less frequently than annually. Training shall include:

- (1) Evidence-based techniques shown to be effective in the prevention of restraint;
- (2) Evidence-based techniques shown to be effective in keeping school personnel and students safe when imposing restraint;
- (3) Evidence-based skills related to positive behavioral supports and interventions, safe physical escort, conflict prevention, understanding antecedents, de-escalation, and conflict management,
- (4) A wide array of prevention and intervention modalities; and
- (5) Information describing state policies and procedures that meet the minimum standards established by state statutes and administrative rules.

REGULATIONS

8-19-21. Failure to report class A or class B offenses occurring in school; consequences.

(a) The superintendent of education shall furnish an annual written notice to all schools and offices that failure to report class A or class B offenses occurring on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property may result in disciplinary actions against responsible teachers, officials, or other employees of the department. Disciplinary actions may include:

- (1) Oral warning;
- (2) Written warning;
- (3) Suspension without pay;
- (4) Demotion; or
- (5) Dismissal.

(b) Teachers, officials, or other employees of the department who fail to report class A or class B offenses as required by section 8-19-19 may be disciplined in accordance with the regulations and procedures of the department.

(c) Any teacher, official, or other employee of the department who is disciplined for failure to report class A or class B offenses occurring on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored event on or off property shall have the right to appeal the disciplinary action as provided by state law or the regulations and procedures of the department or applicable collective bargaining agreements.

8-31-4. Implementation responsibility and authority.

(a) Each principal shall be responsible for implementing the provisions of section 8-31-3 with respect to the school campus, school vehicles, and off-campus sites under the operational control of the principal. The principal shall:

(1) Give written notice by letter to students enrolled in community schools for adults and school employees, and written notice by sign to authorized visitors and guests, that the school is a tobacco free school which conforms to the requirements of this chapter.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

8-19-1. Philosophy.

(b) It is the responsibility of every student to demonstrate respectful, responsible, safe, and ethical behaviors on department transportation, or during a department sponsored activity on or off school property. The department supports this through the establishment of a proactive systems approach to schoolwide discipline.

(c) However, when a student's behavior violates established policies, rules, or regulations of the department, state or local laws, the department may take appropriate disciplinary action in accordance with this chapter. The purpose of school-administered discipline is to:

- (1) Promote and maintain a safe and secure educational environment;
- (2) Teach and acknowledge proper behavior which is beneficial to the educational process and self-development;
- (3) Deter students from acts which interfere with the purpose of education or which are self-destructive, self-defeating or anti-social; and
- (4) Maintain proper student conduct to ensure that educational activities and responsibilities remain uninterrupted.
- (5) Stop any discrimination (including unlawful discrimination), harassment (including sexual harassment), or bullying against a student based on a protected class.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Crisis removal" means the immediate exclusion of a student from school in an emergency, because the conduct of the student presents a clear, immediate threat to the physical safety of self or others, or the student is so extremely disruptive as to make the immediate removal of the student necessary to preserve the right of other students to pursue their education free from undue disruption.

8-19-7. Crisis removal.

(a) A principal or designee, in an emergency, may crisis remove a student immediately based upon preliminary inquiry and findings that the student's conduct presents a clear immediate threat to the physical safety of self or others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue an education free from undue disruption.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Detention" means detaining a student on school campus during non-instructional hours to require the student to carry out in-school educational or other activities as may be prescribed by school officials as a form of disciplinary action for student misconduct. [...]

"In-school suspension" means a student is temporarily removed from his/her school program for disciplinary purposes but remains under the direct supervision of school personnel to complete instruction work.

8-19-6. Prohibited student conduct; class offenses.

(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

- (1) Correction and conference with student;
- (2) Detention;
- (3) Crisis removal;
- (4) Individualized instruction related to student's problem behaviors;
- (5) In-school suspension
- (6) Interim alternate education setting
- (7) Loss of privileges;
- (8) Parent conferences;
- (9) Time in office;
- (10) Suspension of one to ten school days;
- (11) Suspension of eleven or more school days;
- (12) Saturday school;
- (13) Disciplinary transfer;
- (14) Referral to alternative education programs;
- (15) Dismissal; or
- (16) Restitution.

(e) Students shall be counseled in addition to any disciplinary action taken under subsections (c) and (d).

(f) No action amounting to serious discipline shall be imposed on students for committing class D offenses.

(g) No suspension or serious discipline shall be imposed on any student because of class cutting or truancy.

(h) The disciplinary action options of subsections (c) and (d) shall be construed as disciplinary actions within a school year.

(i) Disciplinary actions may be carried over to the following school year if the offense is committed within twenty school days from the last instructional day for students in that school year.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§302A-1141. Punishment of pupils limited.

No physical punishment of any kind may be inflicted upon any pupil, except as provided for under sections 302A-B and 703-309(2).

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Search" means if after requesting the student to voluntarily relinquish the contraband item(s) and the student refuses and there are reasonable grounds to believe that the student has violated the law or provisions prohibited under this chapter, or if there is a health or safety issue with illicit drugs, dangerous weapons, dangerous instruments or firearms, or a combination of the foregoing, the school official may examine the contents and belongings which may include but are not limited to purses, fanny packs, backpacks, jackets, shoes, socks, or any other outer clothing.

"Seizure" means to take possession of the contraband item(s) that is or are uncovered during a search.

[...] "Strip search" means searches, which require the removal of clothing that results in the exposure of the genitals, the female breasts, or underwear or combination thereof.

8-19-14. Policy on opening and inspection of student lockers.

School lockers provided to the students on campus are subject to opening and inspection (and external dog sniffs) by school officials at any time with or without cause, provided that the searches are not because of the student's race, color, national origin, ancestry, sex, gender identity and expression, religion, disability, or sexual orientation. Section 15 shall have no applicability to the opening and inspection (and external dog sniffs) of student lockers. None of the restrictions in sections 8-19-15 through 8-19-18 or related to general school searches and seizures shall in any way be construed to create an expectation of privacy in student lockers. Students should assume that their lockers are subject to opening and inspection (and external dog sniffs) any time with or without cause.

8-19-15. Policy on general school searches and seizures.

Except as provided in section 8-19-14 regarding student lockers, students have a reasonable expectation of privacy in their persons on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property. Schools have an equally legitimate need to maintain order and an environment where learning can take place. In fulfilling this legitimate need, school officials may on occasions need to carry out searches and seizures on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property. As a general policy, except as provided in section 8-19-14 regarding student lockers, the searches and seizures are permissible if there are reasonable grounds to suspect, based on the attendant circumstances that the search will turn up evidence that the student or students have violated

or are violating either the law or the student conduct prohibited under this chapter. Searches and seizures conducted by school officials shall abide by the provisions of this subchapter.

8-19-16. Authority.

Except as provided in section 8-19-14 regarding student lockers, property may be searched if there are reasonable grounds to suspect, based on the attendant circumstances that the search will turn up evidence that student or students, or others on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property have violated the law or the provisions of this chapter. A school official conducting a search shall be accompanied by another school official serving as a witness, unless it is an emergency where prompt action is necessary to protect the health or safety, or both of any person or persons.

8-19-17. Conditions under which general school searches and seizures may be carried out.

(a) Except as provided in section 8-19-14 regarding student lockers searches and seizures may be carried out by school officials when all of the following conditions are met:

- (1) If at the time of the search, there are reasonable grounds to suspect based on the attendant circumstances that the search will turn up evidence that the student or students have violated the law or provisions prohibited under this chapter.
- (2) The manner in which the search is to be conducted is reasonably related to the purpose of the search.
- (3) The student who will be subjected to a search shall be informed of the purpose of the search and shall be given an opportunity to voluntarily relinquish the evidence sought by the school official.

(b) The principal or designee of the school shall be informed by the school official who will conduct the search that a search is to be conducted and of the purpose of the search unless it is an emergency where immediate action is necessary to protect the health or safety, or both of a person or persons.

(c) If more than one student is suspected of committing a violation, then, if practical and not a risk to health or safety, the school official conducting the search shall start with the student most suspected of having the item sought in the search.

8-19-18. Prohibited searches and seizures.

Except as provided in section 8-19-14 regarding student lockers:

- (1) Random searches are prohibited.
- (2) Strip searches are prohibited.
- (3) A school official shall not conduct a search requiring bodily contact of a student except when such a search is necessary to prevent harm to the health or safety, or both of a person or persons.
- (4) In the course of a search, the use of force against a student is prohibited unless the school official believes that the force to be used is necessary to prevent harm to the health or safety, or both of a person or persons or where the student physically resists the search.
- (5) A search conducted under the provisions of this subchapter shall be limited to the object or objects for which the search was conducted. However, any other object observed during a search may be seized by a school official when possession of the object is a violation of law or the provisions of this chapter, or when non-seizure may pose a threat to the health or safety, or both of a person or persons, including the school official conducting the search.

Restraint and Seclusion

LAWS

§302A-1141. Punishment of pupils limited.

No physical punishment of any kind may be inflicted upon any pupil, except as provided for under sections 302A-B and 703-309(2).

§302A-1141.3. Use of seclusion, chemical restraint, or mechanical restraint prohibited.

The use of seclusion, chemical restraint, or mechanical restraint shall be prohibited in public schools regardless of any consent of the student, parents, or guardians.

§302A-1141.4. Use of physical restraint limited; notification; policies and procedures; training; review.

(a) The use of physical restraint shall be prohibited in public schools unless a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; provided that other less intrusive interventions have failed or been determined to be inappropriate for the student.

(b) No physical restraint may be imposed that is life threatening, including physical restraint that may restrict breathing.

(c) The board shall establish a policy regarding the use of restraint in public schools. The department shall establish procedures to be followed after each incident involving the imposition of restraint upon a student, including procedures to provide to the parent or legal guardian of the student:

- (1) An immediate verbal or electronic communication on the same day as each incident; and
- (2) Written notification within twenty-four hours of each incident.

(d) All parents and legal guardians of students shall receive, upon the student's entry into public school, written information issued by the department about policies and procedures for restraint. This written information shall include:

- (1) A brief summary describing the training received by public school staff in using restraint in facilities or programs;
- (2) Information describing board policy;
- (3) Information on the procedures for determining when restraint can and cannot be properly used in public school settings;
- (4) Definitions of restraint;
- (5) Information on the procedural safeguards that are in place to protect the rights of children and their parents or legal guardians;
- (6) A description of the alignment of policies and procedures on restraint with applicable state laws or department rules;
- (7) Information on the procedures for notifying parents and legal guardians when restraint has been used with their child; and
- (8) Information on the procedures for notifying parents and legal guardians about any changes to policies and procedures on restraint.

(e) The department shall make information relating to policies and procedures available on the department's website.

(f) If policy or procedural changes related to restraint are made during the school year, the department shall post the changes on its website immediately.

(g) All public schools shall ensure that staff who use restraint in facilities or programs are trained, recertified, or trained and recertified on a periodic basis no less frequently than annually. Training shall include:

- (1) Evidence-based techniques shown to be effective in the prevention of restraint;
- (2) Evidence-based techniques shown to be effective in keeping school personnel and students safe when imposing restraint;
- (3) Evidence-based skills related to positive behavioral supports and interventions, safe physical escort, conflict prevention, understanding antecedents, de-escalation, and conflict management;
- (4) A wide array of prevention and intervention modalities; and

(5) Information describing state policies and procedures that meet the minimum standards established by state statutes and administrative rules.

(h) No less than annually, there shall be a review of data on students at each public school who were restrained, which shall be conducted as directed by each complex area superintendent. The review shall determine whether:

- (1) There are strategies in place to address the students with dangerous behaviors at issue;
- (2) The strategies in place are effective in increasing appropriate behaviors of students with dangerous behaviors; and
- (3) New strategies need to be developed or current strategies need to be revised or changed to prevent the reoccurrence of dangerous behaviors.

Patterns and trends in the data that are identified by the review shall be reported to the department.

(i) Each public school shall maintain records of its reviews of restraint data and any resulting decisions or actions regarding the use of restraint.

(j) The department shall review policies and procedures on the use of restraint, including by reviewing available data on such use, outcomes, settings, individual staff involvement, and programs, and the frequency of use for student populations categorized by: individual students; groups of students; gender; race; national origin; disability status and type of disability; and limited English proficiency, for the purposes of determining:

- (1) Whether policies for restraint are being applied consistently;
- (2) The accuracy and consistency with which restraint data is being collected, as well as the extent to which this data is being used to plan behavioral interventions and staff training;
- (3) Whether policies and procedures are being implemented with fidelity;
- (4) Whether policies and procedures continue to protect students; and
- (5) Whether policies and procedures remain properly aligned with applicable state statutes and administrative rules and consistent with privacy laws.

(k) As used in this section:

"Behavior intervention plan" means a proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral supports and interventions.

"Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement; provided that the term does not include a drug or medication that is:

- (1) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under state law, for the standard treatment of a student's medical or psychiatric condition; and
- (2) Administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law.

"Emergency situation" means a student's behavior that poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists.

"Mechanical restraint" means the use of devices as a means of restricting a student's freedom of movement or the ability to communicate in the student's primary language or mode of communication.

"Physical restraint" means a personal restriction, other than a chemical or mechanical restraint, that immobilizes or reduces the ability of a student to move the student's arms, legs, or head freely.

"Positive behavioral supports and interventions" means a systematic approach to embed evidence-based practices and data-driven decision making to improve public school climate and culture and includes a range of systemic and individualized strategies to reinforce desired behaviors and diminish the reoccurrence of problem behaviors in order to achieve improved academic and social outcomes and increase learning for all students, including students with the most complex and intense behavioral needs.

"Restraint" means:

- (1) A mechanical restraint;
- (2) A chemical restraint; or
- (3) A physical restraint.

"Seclusion" means the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

REGULATIONS

8-19-6. Prohibited student conduct; class offenses.

(b) Any student who possesses a firearm shall be dismissed from school for not less than one calendar year period. The possession or use of a firearm is prohibited on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property except for participation in athletic teams, clubs and/or Junior Reserve Officer Training Corp (JROTC) shooting sports programs and marksmanship training, education, and competitions. The superintendent or designee, on case-by-case basis, may modify dismissal of a student found to be in possession of a firearm. If a student is dismissed from school, that student shall be alternate educational activities or other appropriate assistance as provided in section 8-19-11.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the

influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes. The school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments. During the screening the student will be asked a series of questions to determine if the student is at low, high or very-high risk for a substance use problem. If the screening interview indicates high or very-high results, the student will be referred for a formal substance abuse assessment. A formal substance abuse assessment serves to provide expert clinical opinion to determine if a substance abuse problem exists, and if so, offer treatment recommendations. If referred for a substance abuse assessment, students with medical health insurance shall be asked to contact their medical health carrier to schedule an appointment. Professionals who can provide substance abuse assessments include certified substance abuse counselors (CSAC), psychiatrists, advanced practice registered nurses (APRN), psychologists, and licensed clinical social workers. The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and determining disciplinary actions, the principal or designee shall consider, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

Limitations or Conditions on Exclusionary Discipline

LAWS

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

REGULATIONS

8-19-5. Disciplinary actions; authority.

(a) Suspensions exceeding ten school days or suspensions that will result in the student being suspended more than a total of ten school days in any single semester, disciplinary transfers, dismissals, and extension of crisis removals shall be approved by complex area superintendent.

(b) Crisis removals and suspensions of ten school days or less may be approved by the principal or designee.

(c) In determining disciplinary actions, the principal or designee shall consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others including whether the action was committed by an individual or a group of individuals such as a gang, the age of the offender, and if the offender was a repeat offender.

8-19-6. Prohibited student conduct; class offenses.

(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

- (1) Correction and conference with student;
- (2) Detention;
- (3) Crisis removal;
- (4) Individualized instruction related to student's problem behaviors;
- (5) In-school suspension
- (6) Interim alternate education setting
- (7) Loss of privileges;
- (8) Parent conferences;
- (9) Time in office;
- (10) Suspension of one to ten school days;
- (11) Suspension of eleven or more school days;
- (12) Saturday school;
- (13) Disciplinary transfer;
- (14) Referral to alternative education programs;
- (15) Dismissal; or
- (16) Restitution.

(e) Students shall be counseled in addition to any disciplinary action taken under subsections (c) and (d).

(f) No action amounting to serious discipline shall be imposed on students for committing class D offenses.

(g) No suspension or serious discipline shall be imposed on any student because of class cutting or truancy.

(h) The disciplinary action options of subsections (c) and (d) shall be construed as disciplinary actions within a school year.

(i) Disciplinary actions may be carried over to the following school year if the offense is committed within twenty school days from the last instructional day for students in that school year.

8-19-10. Duration of disciplinary actions.

(a) If the disciplinary action could not be imposed as result of the appeal process, the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(b) If the acts, which resulted in disciplinary action, was committed within twenty days from the last instructional day for students in the school year the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(c) This section shall not apply to firearm violations. Disciplinary action for firearm violations is a mandatory not less than one calendar year.

(d) Other than as described in subsections (a) and (b), no disciplinary action shall continue beyond the school year in which the action was committed.

Due Process

LAWS

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

§302A-1134.6. Zero tolerance policy.

(d) In any case of exclusion from school, the due process procedures as set forth in the provisions of Hawaii administrative rules relating to student discipline shall apply.

REGULATIONS

8-19-7. Crisis removal.

(c) A follow-up written notice of the crisis removal shall be personally delivered or mailed to the parent. The notice of the crisis removal shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the crisis removal;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement of a conference date, time, and place offered by the school administration to meet with the parent. A copy of the crisis removal notice shall be mailed to the complex area superintendent, In addition to the crisis removal notice required by this subsection, the principal or designee shall attempt to confirm the notice by telephoning the parent.

8-19-7.1. Investigation.

(a) Immediately after making a crisis removal or whenever the principal or designee has reason to believe that a student has engaged in an activity warranting the imposition of a suspension, the principal or designee shall initiate a thorough investigation.

(b) When conducting an investigation, the principal or designee shall make a good faith effort at the earliest point possible to inform the parent about the school's investigation. If after making reasonable attempts, the principal or designee is unable to contact the parent, the school may engage in and complete the investigation. The investigation shall be completed as quickly as possible. If the principal or designee elects to initiate proceedings for the imposition of serious discipline other than crisis removal, the principal or designee upon completion of the investigation, shall make a written report containing a brief summary of the testimony of witnesses interviewed, any other evidence, and the principal or designee's reason(s) for the initiation of disciplinary proceedings.

(c) The principal or designee shall give to the parent notice of the findings against the student. If the student or parent denies the charge(s), the principal or designee shall indicate to the parent and the student the evidence to support the findings of the school official. The student or parent shall be given an opportunity to present the student's version of the incident.

8-19-8. Suspension.

(a) Whenever a principal or designee has reason to believe that a student has engaged in activity warranting the imposition of suspension, the principal or designee shall immediately conduct an

investigation of the incident. Upon completion of the investigation and findings, the student may be suspended if the principal or designee finds that the findings are sustained. The principal or designee shall inform the parent in writing of the findings and the disciplinary actions.

(b) If the student or parent denies the charge(s), the principal or designee shall indicate to the student and parent what evidence school authorities have to support the findings of the school official. The student or parent, or both shall be given an opportunity to present the student's version of the incident. However, where the student is unable to understand the seriousness of the charges, the nature of the proceedings, and consequences thereof, or is of such age, intelligence or experience as to make meaningful discussion difficult, the principal or designee shall request that the parent be present to participate in the discussion.

(c) If the total number of days in any single semester for suspensions exceeds ten school days, the due process procedures of this chapter shall apply unless otherwise indicated by law.

(d) The parent shall be given verbal notice of any suspension regardless of its length. Prior notice for suspension shall be by telephone, if feasible, and the written notice personally delivered or mailed to the parent upon completion of the investigation. The suspension notice shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the suspension;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement of a conference date, time, and place offered by the school administration to meet with the parent.

A copy of the notice shall be mailed to the complex area superintendent. In addition to the notice required by this subsection, the principal shall attempt to confirm the notice by telephoning the parent.

8-19-9. Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

(a) If, based upon the investigation, the principal or designee believes that a student engaged in an activity which constitutes a violation of this chapter, and if the principal or designee recommends that serious discipline other than crisis removal be imposed, the principal or designee shall immediately notify the complex area superintendent to initiate disciplinary proceedings by obtaining verbal authorization from the complex area superintendent.

(b) Upon obtaining verbal authorization from the complex area superintendent, the principal or the designee will make a good faith effort to inform the parent of:

- (1) The serious discipline incident,
- (2) The opportunity to appeal, and
- (3) That the disciplinary action will be implemented immediately.

(c) Within three school days of the verbal authorization from the complex area superintendent, the principal or designee shall mail a written notice of the serious discipline incident with the appeal form to the parent. A facsimile signature of or an electronic approval confirmation of the complex area superintendent on the serious discipline incident form is sufficient. The written notice of serious discipline shall contain the following statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the serious discipline;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement that the parent has a right to an appeal to the complex area superintendent at which time the parent may present evidence, call and cross-examine witnesses, and be represented by legal counsel and to the extent the parent provides a written notice of legal representation at least ten calendar days prior to the appeal.

(5) If the student or parent would like to file an appeal, the appeal must be submitted in writing and received by the complex area superintendent by the close of business of the seventh school day from the date of the issued serious discipline notice. The student shall be permitted to attend the school of the student pending the appeal unless the principal finds the continued presence of the student creates a substantial risk to self or others or to the rights of other students to pursue their education free from disruption. However, the student shall not participate in any extracurricular activities, including but are not limited to athletics, trips, or clubs.

(d) Upon receipt of a written request for an appeal, the complex area superintendent shall, within ten school days, schedule an appeal and shall inform the parent of the date, time, and place. Written notice of the appeal shall be mailed to the parent and principal or designee at least fifteen calendar days before the appeal. The appeal shall be conducted by the complex area superintendent or by an impartial department of education person, or an impartial designee, who may be an official of the department, designated by the complex area superintendent. The appeal shall be conducted as follows:

(1) The appeal shall be closed unless the student or parent requests that it be public;

(2) Parent and principal or principal's designee have the right to present evidence, cross-examine witnesses, and submit rebuttal testimony;

(3) Parent and principal or principal's designee may be represented by legal counsel;

(4) The complex area superintendent or the impartial department of education designee need not follow the formal rules of evidence;

(5) The complex area superintendent or the impartial department of education designee shall impartially weigh the evidence presented;

(6) A parent, at the parent's own expense, may record or obtain a copy of the department's tape recording, or transcript of the department's tape recording of the proceedings only if requested for purposes of court review. The complex area superintendent or the impartial department of education designee shall record a transcript or tape recording of the proceedings;

(7) The complex area superintendent shall no later than seven school days from the close of the appeal render a decision in writing stating clearly the action(s) to be taken and the bases for such actions. The written decision shall be mailed or personally delivered to the parent, the student's attorney of record, and a copy to the school. If the disciplinary action is upheld, the complex area superintendent shall indicate the total number of suspension days and within the suspension beginning and ending dates take into consideration the number of suspension days the student may have already served.

(e) The parent may appeal the decision of the complex area superintendent by providing written notice of their appeal and a specific statement whether they are requesting a hearing to the superintendent of education or designee identifying the specific issues and arguments with supporting documents and evidence the individual is appealing. The written appeal shall be delivered to the superintendent of education or designee within seven school days of the date of the complex area superintendent's written decision. If no specific request is made for a hearing, the superintendent of education or designee shall render a decision based upon the entire record of the proceedings of the complex area superintendent and the parent submitted on the appeal. The superintendent of education or designee shall render a final written decision. The student shall be permitted to attend the school of the student pending the appeal unless the complex area superintendent finds that the continued presence of the student creates a substantial risk to self or others or to the rights of other students to pursue their education free from disruption. Where the student is to be excluded from school pending the appeal, the superintendent of education or designee shall render a decision within twenty-one calendar days of the date of the receipt of the appeal.

(f) Upon written receipt of an appeal, from the parent or the parent's legal counsel, the written decision of the complex area superintendent and all documents and recordings from the proceeding provided for in subsection (d) of this section shall be forwarded to the superintendent of education or designee within ten

calendar days. The superintendent of education or designee shall examine the evidence and render a decision based on the disciplinary action within fourteen calendar days. The decision shall be personally delivered or mailed to the parent or attorney of record. In addition, the parent shall be informed of the right to submit written exceptions to the decision and to present argument to the superintendent of education or designee. Written exceptions and the request to present argument to the superintendent of education or designee must be received within five calendar days of the date of the decision rendered by the superintendent of education or designee. A parent may submit written exceptions and waive the right to present argument; however, there will be no right to present argument without first submitting written exceptions. If the parent has timely submitted written exceptions and requests the right to present the argument, the superintendent of education or designee shall, within two school days of receiving the request to present argument, inform the parent of the specific date, time, and place to present their arguments. The date for presentation of argument shall be no less than five calendar days and no more than fourteen calendar days from the date of the notice informing the parent of the specific date, time, and place to present their arguments. The superintendent of education or designee shall mail a written decision to the parent or the attorney of record within fourteen calendar days of the date of the presentation of the argument or in the case where the parent has waived the parent's right to present argument, within fourteen calendar days of the receipt of the parent's written exceptions.

Return to School Following Removal

LAWS

§302A-1134.6. Zero tolerance policy.

(f) A child determined to be in violation of subsection (b) or (c) shall be subject to the department's disciplinary rules; provided that:

(2) The child shall be allowed to return to school earlier than the department's original disciplinary determination; provided that the child gives the school evidence of the following:

(A) A substance abuse assessment has been completed; and

(B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment.

REGULATIONS

8-19-7. Crisis removal.

(d) A student who is the subject of a crisis removal shall be permitted to resume attendance at school as soon as the crisis no longer exists.

Alternative Placements

LAWS

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

§302A-1134.6. Zero tolerance policy.

(e) If a child is excluded from attending school for more than ten days, the superintendent or the superintendent's designee shall ensure that substitute educational activities or other appropriate assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the appropriate school staff.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Interim alternative educational setting" or "IAES" means a temporary placement for a student who has been suspended or otherwise removed from his current educational placement for disciplinary reasons in which the student continues to receive educational services to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.

8-19-6. Prohibited student conduct; class offenses.

(b) Any student who possesses a firearm shall be dismissed from school for not less than one calendar year period. The possession or use of a firearm is prohibited on campus, or other education premises, on department transportation, or during a department sponsored activity or event on or off school property except for participation in athletic teams, clubs and/or Junior Reserve Officer Training Corp (JROTC) shooting sports programs and marksmanship training, education, and competitions. The superintendent or designee, on case-by-case basis, may modify dismissal of a student found to be in possession of a firearm. If a student is dismissed from school, that student shall be alternate educational activities or other appropriate assistance as provided in section 8-19-11.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes. The school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments. During the screening the student will be asked a series of questions to determine if the student is at low, high or very-high risk for a substance use problem. If the screening interview indicates high or very-high results, the student will be referred for a formal substance abuse assessment. A formal substance abuse assessment serves to provide expert clinical opinion to determine if a substance abuse problem exists, and if so, offer treatment recommendations. If referred for a substance abuse assessment, students with medical health insurance shall be asked to contact their medical health carrier to schedule an appointment. Professionals who can provide substance abuse assessments include certified substance abuse counselors (CSAC), psychiatrists, advanced practice registered nurses (APRN), psychologists, and licensed clinical social workers. The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and determining disciplinary actions, the principal or designee shall consider, the nature and severity of the

offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

(6) Interim alternate education setting [...]

(14) Referral to alternative education programs.

8-19-11. Alternate educational activities and other assistance when students are found to be in violation of this chapter.

(a) The complex area superintendent shall ensure that alternate educational activities or active participation of the public or private agencies are provided as appropriate for all students who are crisis removed for a period exceeding ten school days or suspended for a period exceeding ten school days.

(b) For all students who are suspended for one to ten school days, the principal or designee may consider providing alternate educational activities based on student's need.

(c) The Hawaii administrative rules for students with disabilities shall apply for students eligible under this chapter.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board. [...]

(g) For purposes of this section:

"Dangerous weapon" means a dirk, dagger, butterfly knife, blackjack, slug shot, billy, metal knuckles, or other instrument whose sole design and purpose is to inflict bodily injury or death; provided that firearms are excluded from this definition.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Dangerous weapon" means an instrument whose sole design and purpose is to inflict bodily injury or death. Examples of such instruments include but are not limited to a dirk, dagger, butterfly knife, switchblade knife, blackjack, slug shot, billy, metal knuckles, or other weapons that inflict bodily injury or death. [...]

"Dismissal" means the removal of a student from Hawaii public schools for the remainder of the school year or for a period of not less than one calendar year for firearm violations. [...]

"Firearm" means:

- (1) Any weapon including but is not limited to a starter gun, shotgun, air guns which includes BB guns, pellet guns, paintball guns, or cross bow or any other instrument which will or is designed to or may readily be converted to expel a projectile;
- (2) The frame or receiver of any such weapon;
- (3) Any firearm muffler or firearm silencer; or
- (4) Any destructive device. The term "destructive device" means:
 - (A) Any explosive, incendiary, or poison gas:
 - (i) Bomb;
 - (ii) Grenade;

- (iii) Rocket having a propellant charge;
- (iv) Missile having an explosive or incendiary charge;
- (v) Mine; or
- (vi) Device similar to any of the devices described in the preceding clause;
- (B) Any type of weapon which will, or which may be readily converted to expel a projectile, including but is not limited to a weapon that expels a projectile by action of an explosive or other propellant; or
- (C) Any combination or parts either designed or intended for use in converting any device described above, and from which a destructive device may be readily assembled.

8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property.

(1) Class A offenses

- (F) Dangerous weapons; possession, or use of;
- (J) Firearms; possession or use of [...]

(b) Any student who possesses a firearm shall be dismissed from school for not less than one calendar year period. The possession or use of a firearm is prohibited on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property except for participation in athletic teams, clubs and/or Junior Reserve Officer Training Corp (JROTC) shooting sports programs and marksmanship training, education, and competitions. The superintendent or designee, on case-by-case basis, may modify dismissal of a student found to be in possession of a firearm. If a student is dismissed from school, that student shall be alternate educational activities or other appropriate assistance as provided in section 8-19-11.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes. The school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments. During the screening the student will be asked a series of questions to determine if the student is at low, high or very-high risk for a substance use problem. If the screening interview indicates high or very-high results, the student will be referred for a formal substance abuse assessment. A formal substance abuse assessment serves to provide expert clinical opinion to determine if a substance abuse problem exists, and if so, offer treatment recommendations. If referred for a substance abuse assessment, students with medical health insurance shall be asked to contact their medical health carrier to schedule an appointment. Professionals who can provide substance abuse assessments include certified substance abuse counselors (CSAC), psychiatrists, advanced practice registered nurses (APRN), psychologists, and licensed clinical social workers. The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and

determining disciplinary actions, the principal or designee shall consider, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§302A-1135. Penalty.

If any child of school age persists in absenting oneself from school, the family court judge, upon a proper petition, citation, or complaint being made by the school teacher or any other officer or agent of the department, or police officer, or any other person, shall cause the child, and the father or mother, guardian, or other person having charge of the child, to be summoned to appear before the judge. Upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, the responsible party shall be guilty of a petty misdemeanor. This section shall not apply to any child not liable to compulsory attendance at school.

§302A-1136. Enforcement.

The department shall be charged with the enforcement of sections 302A-1132 to 302A-1135. Nothing in this section shall relieve any chief of police or police officer of the chief's or officer's responsibility for the enforcement of these sections, but their enforcement shall be subject to the plans and policies of the department.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Truancy" means a student is absent from class(es) or the school campus without authorization from the principal or designee.

8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.

(3) Class C offenses:

(G) Truancy. [...]

(g) No suspension or serious discipline shall be imposed on any student because of class cutting or truancy.

Substance Use

LAWS

§302A-102. Smoking prohibited.

All public schools within the State, from kindergarten through grade twelve, shall prohibit the use of tobacco at public schools or at public school functions.

§302A-1134.6. Zero tolerance policy.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board. [...]

(f) A child determined to be in violation of subsection (b) or (c) shall be subject to the department's disciplinary rules; provided that:

(1) The school shall administer a screening tool approved by the department to determine whether there is a need for the child to be referred for a substance abuse assessment.

(2) The child shall be allowed to return to school earlier than the department's original disciplinary determination; provided that the child gives the school evidence of the following:

(A) A substance abuse assessment has been completed; and

(B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment;

(3) If the substance abuse assessment finds that the child does not need substance abuse treatment or substance abuse counseling, the school may allow the child to return to school earlier than originally indicated; provided that:

(A) The child provides a certified copy of the assessment; and

(B) The child's parent or legal guardian consents to the child and the child's family receiving follow-up counseling or other student support services to be provided by the department.

In determining whether to allow the child to return to school early, the school administrator shall review and determine the nature and severity of the offense, the impact of the offense on others, the age of the offender, and whether the offender is a repeat offender; and

(4) For the child's first violation of subsection (b) or (c), if the child provides evidence of clinical discharge from the substance abuse treatment program or substance abuse counseling, all records of disciplinary action relating to the original offense shall be expunged. For the purposes of this paragraph, "expunged" means the records of substance abuse assessment shall be segregated and kept confidential but shall be destroyed upon graduation of the child. [...]

(g) For purposes of this section:

"Illegal drugs" means the possession, distribution, ingestion, manufacture, sale, or delivery of substances which are prohibited under chapter 329 and chapter 712, part IV.

REGULATIONS

8-19-2. Definitions.

As used in this chapter:

"Controlled substance" means a drug or substance as defined in I through V in chapter 329, Hawaii Revised Statutes. [...]

"Illicit drugs" means substances, the possession, distribution, ingestion, manufacture, use, sale, or delivery, of which are prohibited under chapter 329, Hawaii Revised Statutes and chapter 712, part IV, Hawaii Revised Statutes. [...]

"Intoxicating substance use" means the use of any substance, which causes disturbance of the normal physical or mental functioning including but is not limited to alcohol. [...]

"Smoking" or "use of tobacco" means possession, use, sale or distribution of tobacco products on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property.

8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.

(1) Class A offenses

(G) Drug paraphernalia; possession or use of [...]

(M) Illicit drugs; possession, use, or sale of [...]

(N) Intoxicating substances, possession, use or sale of [...]

(3) Class C offenses:

(F) Smoking or use of tobacco substances [...]

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes. The school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments. During the screening the student will be asked a series of questions to determine if the student is at low, high or very-high risk for a substance use problem. If the screening interview indicates high or very-high results, the student will be referred for a formal substance abuse assessment. A formal substance abuse assessment serves to provide expert clinical opinion to determine if a substance abuse problem exists, and if so, offer treatment recommendations. If referred for a substance abuse assessment, students with medical health insurance shall be asked to contact their medical health carrier to schedule an appointment. Professionals who can provide substance abuse assessments include certified substance abuse counselors (CSAC), psychiatrists, advanced practice registered nurses (APRN), psychologists, and licensed clinical social workers. The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and determining disciplinary actions, the principal or designee shall consider, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is

referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

8-31-1. Purpose.

The public school system strives to provide its students with a safe and secure learning environment, as well as appropriate instruction and school experiences that mutually reinforce good personal health and safety practices. The present practice of condoning tobacco use by employees and other adults on public school campuses, at off-campus events, and at district and state offices seriously undermines and contradicts instruction to students regarding the health hazards of tobacco use. The purpose of this chapter is to implement the tobacco free school system policy. Accordingly, this chapter sets forth who shall be responsible for implementing the tobacco free school system policy, as well as how the policy shall be enforced. This chapter also provides for counseling and rehabilitation assistance to employees who wish to stop smoking.

8-31-2. Definitions.

As used in this chapter, unless a different meaning clearly appears in the context:

"Other use of tobacco products" means chewing, inhaling and any other form of consuming tobacco products other than by smoking.

"Smoking" means the act of inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar, or pipe.

"Tobacco product" means any substance that contains tobacco, including, but not limited to, chewing tobacco, cigarettes, cigars, pipes, snuff, smoking tobacco, and smokeless tobacco.

8-31-3. Tobacco free school system.

(a) Effective September 1, 1993, smoking and other use of tobacco products shall be prohibited at all times, including the following:

(1) On public school campuses, school vehicles, and off-campus sites under the operational control of the principal or designee, except as part of a bona-fide classroom instruction or theatrical production approved by the principal; and

(2) In all buildings and facilities, or portions thereof, which are assigned to the district and state offices of the department of education, and which are under the supervision of the district superintendent, assistant superintendents, the superintendent of education, or their designees.

(b) The above prohibitions shall apply to all persons, including the following:

(1) Students enrolled in community schools for adults, school employees, authorized school visitors and guests;

(2) Persons participating in or attending a non-school activity or event conducted on the school campus when school is not in session; and

(3) Employees, visitors, and guests of district and state offices.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

8-19-5. Disciplinary actions; authority.

(a) Suspensions exceeding ten school days or suspensions that will result in the student being suspended more than a total of ten school days in any single semester, disciplinary transfers, dismissals, and extension of crisis removals shall be approved by complex area superintendent.

(b) Crisis removals and suspensions of ten school days or less may be approved by the principal or designee.

(c) In determining disciplinary actions, the principal or designee shall consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others including whether the action was committed by an individual or a group of individuals such as a gang, the age of the offender, and if the offender was a repeat offender.

Bullying, Harassment, or Hazing

LAWS

§302A-1002. Reporting of crime-related incidents.

The board shall adopt rules pursuant to chapter 91 to:

- (1) Require a report to appropriate authorities from a teacher, official, or other employee of the department who knows or has reason to believe that an act has been committed or will be committed, which:
 - (A) Occurred or will occur on school property during school hours or during activities supervised by the school; and
 - (B) Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;
- (2) Establish procedures for disposing of any incident reported; and
- (3) Impose, in addition to any other powers or authority the department may have to discipline school officials, appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of school officials.

REGULATIONS

8-19-1. Philosophy.

- (b) It is the responsibility of every student to demonstrate respectful, responsible, non-discriminatory, safe, and ethical behaviors on department [of education] transportation, or during a department [of education] sponsored activity on or off school property. The department supports this through the establishment of a proactive systems approach to schoolwide discipline.
- (c) However, when a student's behavior violates established policies, rules, or regulations of the department, state or local laws, the department may take appropriate disciplinary action in accordance with this chapter. The purpose of school-administered discipline is to:
 - (5) Stop any discrimination (including unlawful discrimination), harassment (including sexual harassment), or bullying against a student based on a protected class.

8-19-2. Definitions.

As used in this chapter:

"Bullying" means any written, verbal, graphic, or physical act that hurts, harms, humiliates or intimidates a student, including those with protected class statuses, that is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment.

"Cyberbullying" means electronically transmitted acts, including but not limited to those transmitted through the Internet, cell phone, or other wireless hand-held device initiated toward another student or employee of the department that hurts, harms, humiliates the student or employee, and is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening, or abusive educational environment. Cyberbullying can occur:

- (1) On campus, or other department premises, on department of transportation, or during a department sponsored activity or event on or off school property;
- (2) Through a department data system without department authorized communication; or

(3) Through an off campus computer network if the conduct impacts the educational environment.

Additionally, cyberbullying may also be based on a person's protected class, including but not limited to, a person's race, color, religion, sex, sexual orientation, gender identity, gender expression, age, national origin, ancestry, disability, physical appearance and characteristics, and socio-economic status.

"Harassment" means any threatening, insulting, or aggressive conduct, which can be written, verbal, or physical, and is directed against a student, including those with protected class status. Harassing conduct must have the effect of:

- (1) Placing a student in reasonable fear of harm to his or her person or property;
- (2) Interfering with a student's educational performance, opportunities, or benefits; or
- (3) Disrupting the orderly operation of a school.

"Hazing" means any conduct or method of initiation into any student organization or activity, whether on campus or other department premises, on department transportation, or during a department of education sponsored activity or event on or off school property, which willfully or recklessly endangers the physical or mental health of any student. Such conduct shall include, but is not limited to whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, indecent exposure, or any other treatment or forced physical activity which is likely to adversely affect the physical or mental health, or both, or safety of any student, or which subjects any student to extreme mental stress, including deprivation of sleep or rest, extended isolation, or personal humiliation.

8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.

(A) Class A offenses

- (B) Bullying (for students in grades 9-12)
- (D) Cyberbullying (for students in grades 9-12) [...]
- (K) Harassment (for students in grades 9-12) [...]
- (S) Sexual harassment (for students in grades 5-12)

(2) Class B offenses:

- (A) Bullying (for student in grades K-8);
- (B) Cyberbullying (for students in grades K-8); [...]
- (H) Harassment (for students in grades K-8);
- (I) Hazing.
- (K) Retaliation
- (L) Sexual harassment (for students in grades K-4)

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

§302A-1141.4. Use of physical restraint limited; notification; policies and procedures; training; review.

(g) All public schools shall ensure that staff who use restraint in facilities or programs are trained, recertified, or trained and recertified on a periodic basis no less frequently than annually. Training shall include:

(3) Evidence-based skills related to positive behavioral supports and interventions, safe physical escort, conflict prevention, understanding antecedents, de-escalation, and conflict management. [...]

(k) As used in this section:

"Behavior intervention plan" means a proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral supports and interventions. [...]

"Positive behavioral supports and interventions" means a systematic approach to embed evidence-based practices and data-driven decision making to improve public school climate and culture and includes a range of systemic and individualized strategies to reinforce desired behaviors and diminish the reoccurrence of problem behaviors in order to achieve improved academic and social outcomes and increase learning for all students, including students with the most complex and intense behavioral needs.

REGULATIONS

8-19-1. Philosophy.

(a) Hawaii has established and supports a statewide system of public education. The compulsory nature of school attendance ensures that a student shall have the opportunity for an education. In addition to the education provided during the regular school year, the department offers students the opportunity to receive additional instruction and educational services through a self-supporting summer school program on a voluntary attendance basis. The department is committed to:

- (1) Provide the student with optimal learning conditions;
- (2) Select appropriate teachers for the student's instruction; and
- (3) Other programs that will help the student to succeed.

In 1996, the department initiated a collaborative and systemic reform known as the Comprehensive Student Support System (CSSS), which provides a continuum of academic, social, emotional, and physical environmental supports and services to all students to facilitate their learning and their meeting of high educational standards. It is a CSSS community of caring and supportive relationships among students, teachers, families, and agencies working together that promote timely and appropriate services for all students. The goal of the school system is to provide a learning experience in safe, caring, nurturing, and orderly teaching and learning environments.

(b) It is the responsibility of every student to demonstrate respectful, responsible, safe, and ethical behaviors on department transportation, or during a department sponsored activity on or off school property. The department supports this through the establishment of a proactive systems approach to schoolwide discipline.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§321-174. Coordination of services with department of education.

The children's mental health services team shall cooperate with the schools located in their particular geographic region in identifying and referring for treatment such children or youths in need of mental health services. In conjunction with the children's mental health services team, the department of education and the department of health shall develop a memorandum of agreement which shall provide for a sharing of responsibilities for the affected agencies and shall include but not be limited to provisions for:

- (1) Accepting referrals from the school counselors and diagnostic teams for evaluation and direct treatment of children and youth suffering from mental and emotional disorders;
- (2) Providing consultation to enable teachers and other school personnel to aid in the identification and screening of children in need of professional mental health services and the services of psychologists, as defined in chapter 465;
- (3) Providing training and education about emotional disturbances of children to teachers, school counselors, and parents;
- (4) Assisting the department of education with mental health services and the services of psychologists, as defined in chapter 465 for handicapped children;
- (5) Developing an ongoing mechanism to assess, document and report to the legislature and the governor unmet needs for mental health services for students in each geographic region; and
- (6) Performing other related services for school personnel, children, and parents.

§321-175. Statewide children's mental health services plan.

(a) Commencing on September 1, 1980, and every four years thereafter, the children's mental health services branch, on or before September 1 of each four-year cycle, shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children's mental health services plan which shall include:

- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
- (2) Identification of the public and private providers of mental health services to children and youth;
- (3) Identification of the criteria and standards for the treatment to be received by emotionally disturbed or mentally ill children and youth;
- (4) A program for the recruitment, orientation, and in-service training of personnel in community mental health services to children and youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and other public and private agencies having relevant expertise;
- (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
- (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
- (7) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children's mental health services.

(b) Prior to the submission of the statewide children's mental health services plan under subsection (a) to the governor and the legislature, the department of health shall hold hearings on the plan in accordance with chapter 91. There shall be at least one hearing in each county; except that the city and county of Honolulu shall have three hearings in strategic geographic locations to provide the widest exposure of the plan to the population.

(c) Any amendments to the statewide children's mental health services plan shall be in accordance with chapter 91.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§302A-851. Purpose; establishment of program.

The purpose of this [subpart] is to establish a statewide school health services program. There shall be within the department a permanent comprehensive school health services program for grades kindergarten through twelve in all the public schools of this state. It is in the general welfare of the state to protect, preserve, care for, and improve the physical and mental health of Hawaii's children by making available at the public schools first aid and emergency care, preventive health care, health appraisals and follow-ups, and health room facilities.

§321-174. Coordination of services with department of education.

The children's mental health services team shall cooperate with the schools located in their particular geographic region in identifying and referring for treatment such children or youths in need of mental health services. In conjunction with the children's mental health services team, the department of education and the department of health shall develop a memorandum of agreement which shall provide for a sharing of responsibilities for the affected agencies and shall include but not be limited to provisions for:

- (1) Accepting referrals from the school counselors and diagnostic teams for evaluation and direct treatment of children and youth suffering from mental and emotional disorders;
- (2) Providing consultation to enable teachers and other school personnel to aid in the identification and screening of children in need of professional mental health services and the services of psychologists, as defined in chapter 465;
- (3) Providing training and education about emotional disturbances of children to teachers, school counselors, and parents;
- (4) Assisting the department of education with mental health services and the services of psychologists, as defined in chapter 465 for handicapped children;
- (5) Developing an ongoing mechanism to assess, document and report to the legislature and the governor unmet needs for mental health services for students in each geographic region; and
- (6) Performing other related services for school personnel, children, and parents.

§321-175. Statewide children's mental health services plan.

- (a) Commencing on September 1, 1980, and every four years thereafter, the children's mental health services branch, on or before September 1 of each four-year cycle, shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children's mental health services plan which shall include:
- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
 - (2) Identification of the public and private providers of mental health services to children and youth;
 - (3) Identification of the criteria and standards for the treatment to be received by emotionally disturbed or mentally ill children and youth;
 - (4) A program for the recruitment, orientation, and in-service training of personnel in community mental health services to children and youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and other public and private agencies having relevant expertise;
 - (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
 - (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
 - (7) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children's mental health services.
- (b) Prior to the submission of the statewide children's mental health services plan under subsection (a) to the governor and the legislature, the department of health shall hold hearings on the plan in accordance with chapter 91. There shall be at least one hearing in each county; except that the city and county of Honolulu shall have three hearings in strategic geographic locations to provide the widest exposure of the plan to the population.
- (c) Any amendments to the statewide children's mental health services plan shall be in accordance with chapter 91.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§302A-1002. Reporting of crime-related incidents.

The board shall adopt rules pursuant to chapter 91 to:

- (1) Require a report to appropriate authorities from a teacher, official, or other employee of the department who knows or has reason to believe that an act has been committed or will be committed, which:
 - (A) Occurred or will occur on school property during school hours or during activities supervised by the school; and
 - (B) Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;
- (2) Establish procedures for disposing of any incident reported; and
- (3) Impose, in addition to any other powers or authority the department may have to discipline school officials, appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of school officials.

§302A-1003. Indemnity upon reporting.

The State shall indemnify and hold harmless anyone participating in good faith in making a report pursuant to section 302A-1002 from any civil liability that might otherwise be incurred or imposed by, or as a result of, the making of the report.

REGULATIONS

8-19-19. Reporting class A and class B offenses occurring in school.

- (a) Any teacher, official, or other employee of the department who is a witness to a class A or class B offense as defined in this chapter, or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed, against a student, teacher, official, or other employee of the department, or involving school property, shall promptly report the incident to the principal or designee. Nothing in this subsection shall be construed to prohibit or prevent a teacher, official, or other employee of the department from reporting class C or class D offenses to the principal or designee.
- (b) Upon receiving a class A or class B offense report, the principal or designee shall conduct an investigation to determine whether the behavior requires a direct call to the police or whether the behavior can be handled through school disciplinary procedures. The principal or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.
- (c) The principal or designee shall record the incident information into the department's electronic database system within five school days of the reported offense.
- (d) The principal or designee shall notify the reporting teacher, official, or other employee, of the disciplinary action, if any, taken on the class offense(s) within five school days after the incident is reported in accordance with subsection (c).

Parental Notification

LAWS

§302A-1141.4. Use of physical restraint limited; notification; policies and procedures; training; review.

(c) The board shall establish a policy regarding the use of restraint in public schools. The department shall establish procedures to be followed after each incident involving the imposition of restraint upon a student, including procedures to provide to the parent or legal guardian of the student:

- (1) An immediate verbal or electronic communication on the same day as each incident; and
- (2) Written notification within twenty-four hours of each incident.

REGULATIONS

8-19-6. Prohibited student conduct; class offenses.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department premises, on department transportation, or during a department sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes. The school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments. During the screening the student will be asked a series of questions to determine if the student is at low, high or very-high risk for a substance use problem. If the screening interview indicates high or very-high results, the student will be referred for a formal substance abuse assessment. A formal substance abuse assessment serves to provide expert clinical opinion to determine if a substance abuse problem exists, and if so, offer treatment recommendations. If referred for a substance abuse assessment, students with medical health insurance shall be asked to contact their medical health carrier to schedule an appointment. Professionals who can provide substance abuse assessments include certified substance abuse counselors (CSAC), psychiatrists, advanced practice registered nurses (APRN), psychologists, and licensed clinical social workers. The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and determining disciplinary actions, the principal or designee shall consider, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

8-19-7. Crisis removal.

(b) Upon imposition of a crisis removal, schools shall make a good faith effort to inform the parent immediately by telephone.

(c) A follow-up written notice of the crisis removal shall be personally delivered or mailed to the parent. The notice of the crisis removal shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the crisis removal;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement of a conference date, time, and place offered by the school administration to meet with the parent. A copy of the crisis removal notice shall be mailed to the complex area superintendent. In addition to the crisis removal notice required by this subsection, the principal or designee shall attempt to confirm the notice by telephoning the parent.

8-19-8. Suspension.

(a) Whenever a principal or designee has reason to believe that a student has engaged in activity warranting the imposition of suspension, the principal or designee shall immediately conduct an investigation of the incident. Upon completion of the investigation and findings, the student may be suspended if the principal or designee finds that the findings are sustained. The principal or designee shall inform the parent in writing of the findings and the disciplinary actions. [...]

(d) The parent shall be given verbal notice of any suspension regardless of its length. Prior notice for suspension shall be by telephone, if feasible, and the written notice personally delivered or mailed to the parent upon completion of the investigation. The suspension notice shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the suspension;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement of a conference date, time, and place offered by the school administration to meet with the parent.

A copy of the notice shall be mailed to the complex area superintendent. In addition to the notice required by this subsection, the principal shall attempt to confirm the notice by telephoning the parent.

8-19-9. Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

(b) Upon obtaining verbal authorization from the complex area superintendent, the principal or the designee will make a good faith effort to inform the parent of:

- (1) The serious discipline incident,
- (2) The opportunity to appeal, and
- (3) That the disciplinary action will be implemented immediately.

(c) Within three school days of the verbal authorization from the complex area superintendent, the principal or designee shall mail a written notice of the serious discipline incident with the appeal form to the parent.

8-19-22. Police interviews in school for school-related offenses.

(a) Police officers may appear at a school to question a student. Upon arrival at the school, the police officer shall be directed to the principal or designee to request permission to interview a student. If permission to interview a student is to be granted, the principal or designee shall make an effort inform the parent of the police interview and the right to be present when the interview is conducted. The interview may be conducted if the principal or designee is unable to inform the parent or if the parent is informed and declines to be present, or if after a reasonable period of time after the notice is given the parent fails to appear at school for the police interview.

(b) The principal or designee shall be present during a police interview unless excluded by the police officer.

(c) If a student is arrested, the principal or designee shall follow the procedures prescribed in section 8-19-24.

8-19-23. Police interviews in school for non-school-related offenses.

(b) Prior to any interview, the principal or designee shall inform the parent of the right to be present while the police interview is conducted. The interview can take place upon obtaining verbal consent from the parent. The notification and consent requirements of this subsection shall not be followed if the nature of the interview involves child abuse or other offenses where a parent or household member is suspected of committing an offense against the student.

8-19-24. Police arrests in school.

Police shall be directed to the principal or designee. Whenever possible the student shall be sent to the principal's office for the police officer to effect the pending arrest. Upon police arrival to arrest a student, the principal or designee shall make a good faith effort to inform the parent.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§302A-1004. Educational accountability system; annual reports.

(a) The department shall implement a comprehensive system of educational accountability to motivate and support the improved performance of students and the education system. Data shall be reported as required by this section when the number of students in a particular data subgroup is greater than ten and shall be redacted when the number of students in a particular data subgroup is ten or fewer; provided that the personally identifiable information of each student shall be kept private. This accountability system shall:

(6) Involve an annual statewide assessment program that provides a report card containing trend data from the past three years on school, school complex, and system performance at selected benchmark grade levels with performance indicators in areas relating to student achievement, safety and well-being, and civic responsibility. These performance indicators shall include but not be limited to:

(A) Student performance relative to statewide content and performance standards;

(B) School attendance and dropout rates; and

(C) Student discipline, seclusion, and restraint information, in total and by unduplicated counts, disaggregated by subgroups consisting of race, including by Asian subgroup; ethnicity; national origin; gender; sex; English learner status; low-income status; students whose achievement is below grade level for the school year on literacy benchmark assessments, math benchmark assessments, or end-of-course assessments; and disability status based upon an individualized education program or upon section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), including but not limited to the following:

(i) In-school suspensions;

(ii) Out-of-school suspensions of one day or less; of two to five days; of six to nine days; of ten to twenty days; and of twenty-one or more days;

(iii) Expulsions;

(iv) Removals to an alternative education setting by school personnel;

(v) School-related arrests;

(vi) Referrals to law enforcement authorities;

(vii) Withdrawals for other reasons;

(viii) Number of parent or guardian-initiated withdrawals under section 302A-1132;

(ix) Number of school resource officers, either full-time or part-time, and the number of hours assigned to the school per week; and

(x) Other data that the board may approve. [...]

- (b) The department shall annually post on the department's website:
- (3) Data collected pursuant to subsection (a)(6)(C) on student discipline, as follows:
 - (A) The total number of students enrolled in the State by complex, school, and subgroup;
 - (B) The percentage of the school, complex, and State's total enrollment that the subgroup represents;
 - (C) The number of students who appear in more than one subgroup;
 - (D) The disciplinary rate for each discipline measure described in subsection (a)(6)(C), based on the total student enrollment in each school and each complex;
 - (E) The disciplinary rate for each discipline measure described in subsection (a)(6)(C) with respect to each subgroup; and
 - (F) The rate of disciplinary disparity for each discipline measure described in subsection (a)(6)(C), with respect to each subgroup, as compared with the subgroup with the lowest disciplinary rate.
- (c) The department shall also annually post on its website a state-, complex-, and school-level report for each school that details the past three years and includes an analysis of any disproportionality among student subgroups using the performance indicators in subsection (a)(6). Each report shall be uniformly formatted and designed by the department so as to provide school-based users and the public with all pertinent information. Report data shall be downloadable in raw form. Report information shall include:
- (6) Student discipline, seclusion, and restraint information by school, as required by this section. [...]
- (f) The department shall:
- (1) Annually submit a report to the board and to the legislature, as follows:
 - (A) The report shall identify discipline-related strategies, alternatives, and resources available to schools and complexes, and shall include the following:
 - (i) Student discipline, seclusion, and restraint data collected pursuant to subsection (a)(6)(C);
 - (ii) Data collected in accordance with the data elements shown in the United States Department of Education's 2015-2016 civil rights data collection relating to school finance, teacher experience and absenteeism, all early childhood education items, advanced placement test-taking items, references to gender identity in the definition of "harassment on the basis of sex", number of English language learner students enrolled in English language programs by disability status, participation in credit recovery programs, and any civil rights concerns or complaints from children with disabilities placed by school districts in nonpublic schools; and
 - (iii) Information regarding staffing and contact information for school- and complex-level equity specialists; and
 - (B) The report may include additional information, as determined by the department, that would assist in better understanding the disciplinary rate or rate of disciplinary disparity of a particular school or complex;
 - (2) Track the progress made by schools and complexes over the past three years in reducing the disciplinary rates and rate of disciplinary disparity that are referenced in subsection (b)(3)(D) through (F);
 - (3) Assess the changes in student academic achievement and absenteeism rates over the past three years that correspond to any reduction in disciplinary rates and rates of disciplinary disparity that are referenced in subsection (b)(3)(D) through (F);
 - (4) Track the use of restraints over the past three years; and
 - (5) Report annually to the board, and make public on its website, the following:
 - (A) Changes in the use of discipline over the past three years; and
 - (B) Information on the extent to which schools and complexes are implementing evidence-based strategies, including positive behavior interventions, support systems, or restorative justice.

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

§302A-1141.4. Use of physical restraint limited; notification; policies and procedures; training; review.

(h) No less than annually, there shall be a review of data on students at each public school who were restrained, which shall be conducted as directed by each complex area superintendent. The review shall determine whether:

- (1) There are strategies in place to address the students with dangerous behaviors at issue;
- (2) The strategies in place are effective in increasing appropriate behaviors of students with dangerous behaviors; and
- (3) New strategies need to be developed or current strategies need to be revised or changed to prevent the reoccurrence of dangerous behaviors.

Patterns and trends in the data that are identified by the review shall be reported to the department.

(i) Each public school shall maintain records of its reviews of restraint data and any resulting decisions or actions regarding the use of restraint.

(j) The department shall review policies and procedures on the use of restraint, including by reviewing available data on such use, outcomes, settings, individual staff involvement, and programs, and the frequency of use for student populations categorized by: individual students; groups of students; gender; race; national origin; disability status and type of disability; and limited English proficiency, for the purposes of determining:

- (1) Whether policies for restraint are being applied consistently;
- (2) The accuracy and consistency with which restraint data is being collected, as well as the extent to which this data is being used to plan behavioral interventions and staff training;
- (3) Whether policies and procedures are being implemented with fidelity;
- (4) Whether policies and procedures continue to protect students; and
- (5) Whether policies and procedures remain properly aligned with applicable state statutes and administrative rules and consistent with privacy laws.

REGULATIONS

8-19-19. Reporting class A and class B offenses occurring in school.

(a) Any teacher, official, or other employee of the department who is a witness to a class A or class B offense as defined in this chapter, or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed, against a student, teacher, official, or other employee of the department, or involving school property, shall promptly report the incident to the principal or designee. Nothing in this subsection shall be construed to prohibit or prevent a teacher, official, or other employee of the department from reporting class C or class D offenses to the principal or designee.

(b) Upon receiving a class A or class B offense report, the principal or designee shall conduct an investigation to determine whether the behavior requires a direct call to the police or whether the behavior

can be handled through school disciplinary procedures. The principal or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.

(c) The principal or designee shall record the incident information into the department's electronic database system within five school days of the reported offense.

(d) The principal or designee shall notify the reporting teacher, official, or other employee, of the disciplinary action, if any, taken on the class offense(s) within five school days after the incident is reported in accordance with subsection (c).

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§302A-1135. Penalty.

If any child of school age persists in absenting oneself from school, the family court judge, upon a proper petition, citation, or complaint being made by the school teacher or any other officer or agent of the department, or police officer, or any other person, shall cause the child, and the father or mother, guardian, or other person having charge of the child, to be summoned to appear before the judge. Upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, the responsible party shall be guilty of a petty misdemeanor. This section shall not apply to any child not liable to compulsory attendance at school.

§302A-1136. Enforcement.

The department shall be charged with the enforcement of sections 302A-1132 to 302A-1135. Nothing in this section shall relieve any chief of police or police officer of the chief's or officer's responsibility for the enforcement of these sections, but their enforcement shall be subject to the plans and policies of the department.

§302A-1137. Attendance records; availability to authorized police officers.

Dates of attendance of a student shall be made available to authorized police officers upon request.

REGULATIONS

8-19-1. Philosophy.

(f) On occasions it is necessary for police officers to interview students or to take them into custody. This chapter is also intended to safeguard the rights and interests of students in attendance, to cooperate with police officers in the performance of their duties, to preserve the school milieu, and to delineate responsibilities of school personnel.

8-19-19. Reporting class A and class B offenses occurring in school.

(a) Any teacher, official, or other employee of the department who is a witness to a class A or class B offense as defined in this chapter, or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed, against a student, teacher, official, or other employee of the department, or involving school property, shall promptly report the incident to the principal or designee. Nothing in this subsection shall be construed to prohibit or prevent a teacher, official, or other employee of the department from reporting class C or class D offenses to the principal or designee.

(b) Upon receiving a class A or class B offense report, the principal or designee shall conduct an investigation to determine whether the behavior requires a direct call to the police or whether the behavior can be handled through school disciplinary procedures. The principal or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.

(c) The principal or designee shall record the incident information into the department's electronic database system within five school days of the reported offense.

(d) The principal or designee shall notify the reporting teacher, official, or other employee, of the disciplinary action, if any, taken on the class offense(s) within five school days after the incident is reported in accordance with subsection (c).

8-19-22. Police interviews in school for school-related offenses.

(a) Police officers may appear at a school to question a student. Upon arrival at the school, the police officer shall be directed to the principal or designee to request permission to interview a student. If

permission to interview a student is to be granted, the principal or designee shall make an effort inform the parent of the police interview and the right to be present when the interview is conducted. The interview may be conducted if the principal or designee is unable to inform the parent or if the parent is informed and declines to be present, or if after a reasonable period of time after the notice is given the parent fails to appear at school for the police interview.

(b) The principal or designee shall be present during a police interview unless excluded by the police officer.

(c) If a student is arrested, the principal or designee shall follow the procedures prescribed in section 8-19-24.

8-19-23. Police interviews in school for non-school-related offenses.

(a) Police officers shall contact the school and advise the principal or designee of the nature and circumstances of the visit. Upon arrival at the school, the police officer shall be directed to the principal or designee to request permission to interview a student.

(b) Prior to any interview, the principal or designee shall inform the parent of the right to be present while the police interview is conducted. The interview can take place upon obtaining verbal consent from the parent. The notification and consent requirements of this subsection shall not be followed if the nature of the interview involves child abuse or other offenses where a parent or household member is suspected of committing an offense against the student.

(c) The principal or designee shall keep a log and record the student's name, the date of the police interview, and the police officer's name and badge number and police report number if available.

(d) If the student is arrested by the police, the principal or designee shall follow the procedure prescribed in section 8-19-24.

8-19-24. Police arrests in school.

Police shall be directed to the principal or designee. Whenever possible the student shall be sent to the principal's office for the police officer to effect the pending arrest. Upon police arrival to arrest a student, the principal or designee shall make a good faith effort to inform the parent.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

8-19-1. Philosophy.

(f) On occasions it is necessary for police officers to interview students or to take them into custody. This chapter is also intended to safeguard the rights and interests of students in attendance, to cooperate with police officers in the performance of their duties, to preserve the school milieu, and to delineate responsibilities of school personnel.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Hawaii provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Bullying Prevention Work, Hawaii State Department of Education (HIDOE)	Provides information on bullying, including definitions of bullying behavior, state approaches to bullying prevention and response, and information on featured bullying prevention programs.	http://www.hawaiipublicschools.org/ParentsAndStudents/AntiBullyingWork/Pages/home.aspx
Internet Safety, HIDOE	Provides information on Internet safety including an instructional video, links to Acceptable Use Guidelines, information on digital citizenship, and recommendations for how to handle bullying or threatening messages.	http://www.hawaiipublicschools.org/ParentsAndStudents/AntiBullyingWork/Pages/Internet-safety.aspx
Safety at School, HIDOE	Provides an overview of school safety and describes the approach used to maintain the safety and security of school environments. Includes links to Board of Education policies and resources to support children.	http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/FacilitiesandOperations/SafetySecurityEmergency/SafetyAtSchool/Pages/home.aspx
Student Services Branch, HIDOE	Provides information regarding services and resources provided to students, families, and schools to support student well-being and achievement including definitions and descriptions of various services such as Hawaii Multi-Tiered System of Support (HMTSS), Positive Behavior Intervention and Support (PBIS), School-Based Behavioral Health (SBBH), and Social and Emotional Learning (SEL).	https://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/StudentSupportServices/StudentServicesBranch/Pages/default.aspx
Whole-Child Supports, HIDOE	Provides information and literature on the Comprehensive Student Support Systems. Provides information on Social-emotional learning, student services coordinator, and staff resources.	http://www.hawaiipublicschools.org/TeachingAndLearning/StudentLearning/Supports/Pages/home.aspx

Title	Description	Website address (if applicable)
Documents		
Chronic Absenteeism, HIDOE	A fact sheet provided by the Hawaii State Department of Education that informs on student chronic absenteeism including definitions, state policies, and prevention.	https://www.hawaiipublicschools.org/DOE%20Forms/Absentee1sheet.pdf
Nā Hopena A'o Statements: HĀ: BREATH (November 2015), HIDOE	Culturally-based framework emphasizing the development of six key competencies, including sense of belonging, responsibility, excellence, aloha, total wellbeing, and Hawai'i.	http://www.hawaiipublicschools.org/TeachingAndLearning/StudentLearning/HawaiianEducation/Pages/HA.aspx
Student Services Branch One-Pager, Hawaii Office of Student Support Services (OSSS)	Infographic providing contact information for Hawaii state education officials, purpose of the Student Services Branch (SSB) and descriptions of various services provided such as Social and Emotional Learning (SEL) and Positive Behavior Intervention and Support (PBIS).	https://www.hawaiipublicschools.org/DOE%20Forms/OSSS-StudentServicesBranch.pdf
Other Resources		
Speak Now HIDOE; Anti-Bullying Reporting App, HIDOE	Anonymous reporting tool for students to report incidents of bullying in schools.	https://speaknowhidoe.com/
Student Discipline and Restraint Reports (2019), HIDOE	Research report providing statistics of student discipline and restraint incidents for the 2019 school year.	https://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Discipline-and-Restraint-Reports.aspx
Youth Risk Behavior Survey, Hawaii Health Data Warehouse, Health Reports and Data	Data dashboard providing access to state and county level reports summarizing data from the Youth Risk Behavior Survey. The survey monitors six categories of priority health risk behaviors among youth and young adults.	YRBS Data – Hawai'i Health Data Warehouse (hhdw.org)



Idaho Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 24. Children's Mental Health Services

- 16-2404. Community services and supports and interagency collaboration
16-2404A. Teen early intervention mental health and substance abuse specialist program

Title 18. Crimes and Punishments

Chapter 9. Assault and Battery

- 18-917. Hazing
18-917A. Student harassment - Intimidation - Bullying

Chapter 33. Firearms, Explosive, and other Deadly Weapons

- 18-3302D. Possessing weapons or firearms on school property
18-3302I. Threatening violence upon school grounds - firearms and other deadly or dangerous weapons

Title 20. State Prisons and County Jails

Chapter 5. Juvenile Corrections Act

- 20-527. School trustees to report truants

Title 33. Education

Chapter 1. State Board of Education

- 33-132. Local school boards - Internet use policy required
33-133. Definitions - Student data - Use and limitations - Penalties

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- 33-205. Denial of school attendance
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- 33-1225. Threats of violence - Limitation on liability
33-1224. Powers and duties of teachers

Chapter 16. Courses of Instruction

- 33-1612. Thorough system of public schools
33-1631. Requirements for harassment, intimidation and bullying information and

professional development

Chapter 59. Idaho School Safety and Security Act

- [33-5904.](#) School Safety and Security Program
- [33-5905.](#) Idaho School Safety and Security Advisory Board
- [33-5906.](#) Powers and Duties of the Idaho School Safety and Security Advisory Board

Chapter 60. Parental Rights in Education

- [33-6001.](#) Parental rights
- [33-6002.](#) Annual notice of parental rights

Idaho Regulations

Idaho Administrative Code

Education, Board of and Department of (08)

08.02.02. Rules Governing Uniformity

- 08.02.02.111. Bullying, harassment and intimidation prevention and response
- 08.02.02.140. Accreditation

08.02.03. Rules Governing Thoroughness

- 08.02.03.110. Alternative secondary programs
- 08.02.03.160. Safe environment and discipline

Health and Welfare, Department of (16)

16.07.37. Children's Mental Health Services

- 16.07.37.101. Teens at risk program

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

33-132. Local school boards - Internet use policy required.

(1) As a condition for receiving moneys from the state general fund, each local school district shall file an acceptable internet use policy with the state superintendent of public instruction no later than August 1, 2011, or within one (1) year after the creation of a new district, whichever is later, and every five (5) years thereafter. Such policy shall be approved by the district's board of trustees and shall contain, but not be limited to, provisions that:

- (a) Prohibit and prevent the use of school computers and other school owned technology-related services from sending, receiving, viewing or downloading materials that are deemed to be harmful to minors, as defined by section 18-1514, Idaho Code; and
- (b) Provide for the selection of technology for the local district's computers to filter or block internet access to obscene materials, materials harmful to minors and materials that depict the sexual exploitation of a minor, as defined in chapter 15, title 18, Idaho Code; and
- (c) Establish appropriate disciplinary measures to be taken against persons violating the policy provided for in this section; and
- (d) Include a component of internet safety for students that is integrated into the district's instructional program; and
- (e) Inform the public that administrative procedures have been adopted to enforce the policy provided for in this section and to handle complaints about such enforcement, and that such procedures are available for review at the district office.

33-133. Definitions - Student data - Use and limitations - Penalties.

(7) The state board of education shall develop a model policy for school districts and public charter schools that will govern data collection, access, security and use of such data. The model policy shall be consistent with the provisions of this act. In order to assure that student educational information is treated safely and securely and in a consistent manner throughout the state, each district and public charter school shall adopt and implement the model policy. The state department of education shall provide outreach and training to the districts and public charter schools to help implement the policy. A current copy of such policy shall be posted to the school district's website. Any district or public charter school that fails to adopt, implement and post the policy where any inappropriate release of data occurs shall be liable for a civil penalty not to exceed fifty thousand dollars (\$ 50,000). Such civil penalty may be imposed per violation. The method of recovery of the penalty shall be by a civil enforcement action brought by the state board of education, with the assistance of the office of the state attorney general, in the district court in and for the county where the violation occurred. All civil penalties collected under this section shall be paid into the general fund of the state.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be

provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement.

33-1612. Thorough system of public schools.

A thorough system of public schools in Idaho is one in which:

1. A safe environment conducive to learning is provided;
2. Educators are empowered to maintain classroom discipline.

REGULATIONS

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

School Climate

Discipline

Student Health

Violence Prevention

Possessing Weapons on Campus

Substance Abuse - Tobacco, Alcohol, and Other Drugs

Suicide Prevention

Student Harassment

Drug-free School Zones

Building Safety including Evacuation Drills

Relationship Abuse and Sexual Assault Prevention and Response

Districts will conduct an annual review of these policies and procedures.

Scope

LAWS

18-3302D. Possessing weapons or firearms on school property.

(1)(a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other

structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school-sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

(e) "School" means a private or public elementary or secondary school.

18-3302I. Threatening violence upon school grounds - firearms and other deadly or dangerous weapons.

(1)(a) Any person, including a student, who willfully threatens by word, electronic means or act to use a firearm or other deadly or dangerous weapon to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a misdemeanor.

(b) Any person, including a student, who knowingly has in his possession a firearm or other deadly or dangerous weapon, or who makes, alters or repairs any firearm or other deadly or dangerous weapon, in the furtherance of carrying out a threat made by word, electronic means or act to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a felony.

(2) Definitions. As used in this section:

(b) "On school grounds" means in or on property owned or operated by a school district, public charter school or private school.

18-917. Hazing.

(1) No student or minor present on school property or at school activities shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student.

18-917A. Student harassment - Intimidation - Bullying.

(1) No student or minor present on school property or at school activities shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

33-133. Definitions - Student data - Use and limitations - Penalties.

(7) The state board of education shall develop a model policy for school districts and public charter schools that will govern data collection, access, security and use of such data. The model policy shall be consistent with the provisions of this act. In order to assure that student educational information is treated safely and securely and in a consistent manner throughout the state, each district and public charter school shall adopt and implement the model policy. The state department of education shall provide outreach and training to the districts and public charter schools to help implement the policy. A current copy of such policy shall be posted to the school district's website. Any district or public charter school that fails to adopt, implement and post the policy where any inappropriate release of data occurs shall be liable for a civil penalty not to exceed fifty thousand dollars (\$ 50,000). Such civil penalty may be imposed per violation. The method of recovery of the penalty shall be by a civil enforcement action brought by the state board of education, with the assistance of the office of the state attorney general, in the district court in and for the county where the violation occurred. All civil penalties collected under this section shall be paid into the general fund of the state.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(1) School districts and charter schools shall undertake reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students, including an affirmation that school personnel are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation or bullying.

33-210. Students using or under the influence of alcohol or controlled substances.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. (3-29-17)

In-School Discipline

Discipline Frameworks

LAWS

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

a. Graduated consequences may include, but are not limited to: (3-29-17)

i. Meeting with the school counselor; (3-29-17)

ii. Meeting with the school principal and student's parents or guardian; (3-29-17)

iii. Detention, suspension or special programs; and (3-29-17)

iv. Expulsion. (3-29-17)

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-29-17)

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

33-1224. Powers and duties of teachers.

(1) For purposes of this section:

(a) "Corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(2) In the absence of any statute or rule or regulation of the board of trustees, any teacher employed by a school district shall have the right to direct how and when each pupil shall attend to his appropriate duties and the manner in which a pupil shall demean himself while in attendance at the school. It is the duty of a teacher to carry out the rules and regulations of the board of trustees in managing classroom behavior, and a teacher shall have the power to adopt any reasonable rule or regulation to manage classroom behavior in, and otherwise govern, the classroom, not inconsistent with any statute or rule or regulation of the board of trustees. However, corporal punishment shall not be used.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

18-3302D. Possessing weapons or firearms on school property.

(3) Right to search students or minors. For purposes of enforcing the provisions of this section, employees of a school district shall have the right to search all students or minors, including their belongings and lockers, that are reasonably believed to be in violation of the provisions of this section, or applicable school rule or district policy, regarding the possessing of a firearm or other deadly or dangerous weapon.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

33-1224. Powers and duties of teachers.

(1) For purposes of this section:

(a) "Corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(b) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

(c) "Restraint" means physical, mechanical, or chemical forms of restriction, which are defined as follows:

(i) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move his torso, arms, legs, or head freely. This term does not include a physical escort;

(ii) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of

movement. This term does not include devices implemented by trained school personnel or utilized by a student that have been prescribed by an appropriate medical-related services professional and are used for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports, when used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
2. Vehicle safety restraints, when used as intended during the transport of a student in a moving vehicle;
3. Restraints for medical immobilization; or
4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm; and

(iii) "Chemical restraint" means the use of drugs or medication to control behavior. This term does not include drugs or medication prescribed by and administered in accordance with the directions of a qualified health professional.

(d) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This term does not include a timeout that is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a nonlocked setting, and is implemented for the purpose of calming.

(2) In the absence of any statute or rule or regulation of the board of trustees, any teacher employed by a school district shall have the right to direct how and when each pupil shall attend to his appropriate duties and the manner in which a pupil shall demean himself while in attendance at the school. It is the duty of a teacher to carry out the rules and regulations of the board of trustees in managing classroom behavior, and a teacher shall have the power to adopt any reasonable rule or regulation to manage classroom behavior in, and otherwise govern, the classroom, not inconsistent with any statute or rule or regulation of the board of trustees. However, corporal punishment shall not be used.

(3) Restraint and seclusion shall not be used as forms of discipline or methods of classroom governance. Chemical restraint shall not be used for any purpose. Physical or mechanical restraint or seclusion may be deployed only in circumstances where a pupil's conduct has placed himself, employees, or any other individual in imminent danger of serious bodily harm.

(4) The state department of education shall prepare resources, guidance, and training modules to support schools in adhering to the provisions of this section.

(5) All public and charter school staff directly assigned to students or classrooms shall receive annual professional development training regarding positive behavior supports, de-escalation techniques, and classroom behavior management. All staff directly serving students or classrooms with students who demonstrate aggressive or dangerous behaviors shall receive annual professional development training in crisis management, de-escalation techniques, the correct use of restraints and seclusion when required, and the implementation of functional behavior assessment, behavior intervention plans, and crisis plans.

(6) All school district boards of trustees and directors of public charter schools shall demonstrate to the state department of education that they have a seclusion and restraint policy that meets the requirements of this section. School district boards of trustees and directors of public charter schools shall adopt a policy that applies to nondisabled and disabled students to include the following:

- (a) Definitions of physical restraint, mechanical restraint, chemical restraint, and seclusion pursuant to this section;
- (b) Guidelines for use and prohibitions for use of restraint and seclusion;
- (c) Reporting requirements for documenting and informing parents, administrators, and state and federal agencies as necessary of each instance of restraint or seclusion; and

(d) Requirements for periodic review of instances of restraint or seclusion, and of practices related to such, by school district boards of trustees and directors of public charter schools.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

18-3302D. Possessing weapons or firearms on school property.

(1)(a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school-sponsored activity, program or event regardless of location. [...]

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$ 1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

33-205. Denial of school attendance.

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

- a. Graduated consequences may include, but are not limited to: (3-29-17)
 - i. Meeting with the school counselor; (3-29-17)
 - ii. Meeting with the school principal and student's parents or guardian; (3-29-17)
 - iii. Detention, suspension or special programs; and (3-29-17)
 - iv. Expulsion. (3-29-17)
- b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)
- c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-29-17)

Limitations or Conditions on Exclusionary Discipline

LAWS

33-205. Denial of school attendance.

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons.

Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

(5) The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and

appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

- a. Graduated consequences may include, but are not limited to: (3-29-17)
 - i. Meeting with the school counselor; (3-29-17)
 - ii. Meeting with the school principal and student's parents or guardian; (3-29-17)
 - iii. Detention, suspension or special programs; and (3-29-17)
 - iv. Expulsion. (3-29-17)
- b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)
- c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-29-17)

Due Process

LAWS

33-205. Denial of school attendance.

(3) No pupil shall be expelled or denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance and which notice shall state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on his own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the juvenile corrections act, and an authorized representative of the board shall, within five (5) days, give written notice of the pupil's expulsion to the prosecuting attorney of the county of the pupil's residence. [...]

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons.

Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

(5) The board of trustees of each school district shall establish the procedure to be followed by the

superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

33-205. Denial of school attendance.

(1)The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is a habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has possessed a deadly or dangerous weapon or firearm on school property, or who has been expelled from another school district in this state or any other state. Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

(6) As used in this section, "possess," "deadly or dangerous weapon," and "firearm" have the same meanings as provided in section 18-3302D, Idaho Code.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

18-3302D. Possessing weapons or firearms on school property.

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$ 1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

33-1002F. Alternative school report.

Annually, prior to the tenth legislative day, the department of education shall file with the legislature a report detailing the alternative school programs within the state. On July 1 of each year, or as soon thereafter as feasible, each school district receiving moneys pursuant to the alternative school support units factor in section 33-1002, Idaho Code, or section 33-1002C, Idaho Code, shall file with the state department a comprehensive report of the amount of money received in the district, the expenditure on alternative school programs, and the programs provided. This information shall be compiled by the department for transmission to the legislature.

REGULATIONS

08.02.02.140. Accreditation.

All public secondary schools, serving any grade(s) 9-12, will be accredited pursuant to Section 33-119, Idaho Code. Accreditation is voluntary for elementary schools, grades K-8, and alternative schools not identified in Subsection 140.01.a. through 140.01.e. of this rule. (3-28-18)

01. Alternative Schools. Beginning with the 2014-15 school year, an alternative school serving any grade(s) 9-12 that meets any three (3) of the criteria in Subsections 140.01.a. through 140.01.e. of this rule, shall be required to be accredited. An alternative school that does not meet three (3) of the following criteria in Subsections 140.01.a. through 140.01.e. shall be considered as an alternative program by the district board of trustees and shall be included in the accreditation process and reporting of another secondary school within the district for the purposes of meeting the intent of this rule. (3-20-14)

- a. School has an Average Daily Attendance greater than or equal to 36 students based on previous year's enrollment; (3-20-14)
- b. School enrolls any students full-time for the school year once eligibility determination is made as opposed to schools that enroll students for "make-up" or short periods of time; (3-20-14)
- c. School offers an instructional model that is different than that provided by the traditional high school within the district for a majority of the coursework, including but not limited to online/virtual curriculum; (3-20-14)
- d. School administers diplomas that come from that alternative school as opposed to students receiving a diploma from the traditional high school within the school district; or (3-20-14)
- e. School receives its own accountability rating for federal reporting purposes. (3-20-14)

08.02.03.110. Alternative secondary programs.

Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth, pursuant to Section 33-1001, Idaho Code. (3-20-20)

01. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97)

- a. Core academic content that meets or exceeds minimum state standards; (3-29-17)
- b. A physical fitness and personal health component; (3-29-17)
- c. Career and technical education component approved by the state division of career technical education; (3-29-17)
- d. A personal finance, parenting, and child care component; and (3-29-17)
- e. A personal and career counseling component. (3-29-17)

02. Graduation Credit. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (4-5-00)

03. Special Services. Special services for at-risk youth enrolled in alternative secondary programs include the following where appropriate: (3-29-17)

- a. A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (4-1-97)
- b. Direct social services that may include officers of the court, social workers, counselors/psychologists. (4-1-97)
- c. All services in accordance with the student's Individualized Education Program. (3-29-17)

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

18-3302D. Possessing weapons or firearms on school property.

(1)(a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school-sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means any weapon as defined in 18 U.S.C. 930;

(b) "Firearm" means any firearm as defined in 18 U.S.C. 921;

(c) "Minor" means a person under the age of eighteen (18) years;

(d) "Possess" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school-provided transportation, or to exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1)(b) of this section, "possess" shall also mean to bring an object onto the site of a school-sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "School" means a private or public elementary or secondary school. [...]

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$ 1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

18-3302I. Threatening violence upon school grounds - firearms and other deadly or dangerous weapons.

(1)(a) Any person, including a student, who willfully threatens by word, electronic means or act to use a firearm or other deadly or dangerous weapon to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a misdemeanor.

(b) Any person, including a student, who knowingly has in his possession a firearm or other deadly or dangerous weapon, or who makes, alters or repairs any firearm or other deadly or dangerous weapon, in the furtherance of carrying out a threat made by word, electronic means or act to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a felony.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means a weapon, device, instrument, material or substance that is used for, or is readily capable of, causing death or serious bodily injury;

(b) "On school grounds" means in or on property owned or operated by a school district, public charter school or private school.

33-205. Denial of school attendance.

(2) Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to a student who has been found to have possessed a firearm on school property in this state or any other state. The board may modify such expulsion or denial of enrollment requirement on a case-by-case basis when the board determines reasonable conditions apply and the student's presence is not detrimental to the health and safety of other students. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

33-1225. Threats of violence - Limitation on liability.

(1) A communication by any person to a school principal, or designee, or a communication by a student attending the school to the student's teacher, school counselor or school nurse, and any report of that communication to the school principal stating that a specific person has made a threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern. Such communication or report shall only be subject to liability in defamation by clear and convincing evidence that the communication or report was made with knowledge of its falsity or with reckless disregard for the truth or falsity of the communication or report. This section shall not be interpreted to change or eliminate other elements of defamation required by law.

(2) As used in this section, "school" means any public or private school providing instruction in kindergarten or any grades from grade one (1) through grade twelve (12) which is the subject of a threat.

REGULATIONS

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

Possessing Weapons on Campus

Districts will conduct an annual review of these policies and procedures.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

20-527. School trustees to report truants.

When a juvenile of compulsory school age is expelled or is reported to have repeatedly violated the attendance regulations of the school district in which the juvenile is enrolled, pursuant to section 33-206, Idaho Code, the prosecuting attorney may file a petition under this act. The court shall cause an

investigation to be made and upon receipt of the written report of the investigation, the court may proceed under this act or the child protective act with respect to the juvenile and may proceed against the juvenile's parent(s), guardian or custodian under this act pursuant to section 33-207, Idaho Code.

33-205. Denial of school attendance.

(1) The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is a habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has possessed a deadly or dangerous weapon or firearm on school property, or who has been expelled from another school district in this state or any other state. Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

(6) As used in this section, "possess," "deadly or dangerous weapon," and "firearm" have the same meanings as provided in section 18-3302D, Idaho Code.

33-206. Habitual truant defined.

(1) An habitual truant is:

- (a) Any public school pupil who, in the judgment of the board of trustees, or the board's designee, repeatedly has violated the attendance regulations established by the board; or
- (b) Any child whose parents or guardians, or any of them, have failed or refused to cause such child to be instructed as provided in section 33-202, Idaho Code.

(2) A child who is an habitual truant shall come under the purview of the juvenile corrections act if he or she was within the age of compulsory attendance at the time of the violations.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

16-2404. Community services and supports and interagency collaboration.

(3) Teens at risk. The department of health and welfare, the state department of education, the department of juvenile corrections, counties, courts and local school districts may collaborate and cooperate in planning and developing mental health counseling, substance abuse treatment and recovery support services and individual service plans for teens at risk.

16-2404A. Teen early intervention mental health and substance abuse specialist program.

- (1) The department of health and welfare shall be authorized to contract for teen early intervention specialists to work with teens at risk and their families in school districts.
- (2) The teen early intervention specialist shall be a certified counselor or a social worker with a clinical background in mental health or substance abuse as prescribed by the department of health and welfare by rule.
- (3) The salary paid to the teen early intervention specialist shall be equivalent to the salary paid to comparably trained and experienced individuals employed by the school district in the region in which the community resource is employed.
- (4) Teen early intervention specialists shall work with individual teens at risk to offer group counseling, recovery support, suicide prevention and other mental health and substance abuse counseling services to teens as needed, regardless of mental health diagnosis.

(5) By permission of school administrators, as prescribed in rule, teens at risk not currently enrolled in a public school may, if assigned by a judge, participate in group or individual teen early intervention specialist counseling sessions or services for teens at risk as appropriate.

(6) School districts seeking to have one (1) or more teen early intervention specialists placed within its district may apply to the department of health and welfare for such placement. The department of health and welfare shall establish by rule a simple application process and criteria for placement of teen early intervention specialists in districts. The number of teen early intervention specialists placed in school districts in any given year shall be limited by the funds appropriated to the teen early intervention specialist program in that fiscal year. In evaluating applications for the three (3) year pilot project, the department of health and welfare shall give special consideration to rural districts and shall consider:

(a) The demonstrated need for mental health and substance abuse counseling and treatment for teens at risk in the school district;

(b) The resources and cooperation which the school district has proposed to contribute to the support of the teen early intervention specialist program for teens at risk; and

(c) The funding appropriated to the teen early intervention specialist program for teens at risk.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(2) In addition to policies adopted pursuant to this section, students may, at the discretion of the district board of trustees or governing board of a charter school, be subject to other disciplinary or safety policies, regardless whether the student voluntarily discloses or is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of district or charter school policy or section 37-2732C, Idaho Code.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

(4) Any school district employee or independent contractor of an educational institution who has a reasonable suspicion that a student is using or is under the influence of alcohol or a controlled substance and, acting upon that suspicion, reports that suspicion to a school administrator or initiates procedures

adopted by the board of trustees or governing board of the charter school pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Employees and independent contractors of educational institutions who intentionally harass a student through the misuse of the authority provided in this section shall not be immune from civil liability arising from the wrongful exercise of that authority and shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$ 300).

(5) For the purposes of this section, the following definitions shall apply:

(a) "Reasonable suspicion" means an act of judgment by a school employee or independent contractor of an educational institution which leads to a reasonable and prudent belief that a student is in violation of school board or charter school governing board policy regarding alcohol or controlled substance use, or the "use" or "under the influence" provisions of section 37-2732C, Idaho Code. Said judgment shall be based on training in recognizing the signs and symptoms of alcohol and controlled substance use.

(b) "Intentionally harass" means a knowing and willful course of conduct directed at a specific student which seriously alarms, annoys, threatens or intimidates the student and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

(c) "Course of conduct" means a pattern or series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally and statutorily protected activity is not included within the meaning of "course of conduct."

REGULATIONS

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

Substance Abuse - Tobacco, Alcohol, and Other

Drugs Drug-free School Zones

Districts will conduct an annual review of these policies and procedures.

16.07.37.101. Teens at risk program.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

01. Application. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation. (5-8-09)

02. Contracting Process. (5-8-09)

a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria

will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs. (5-8-09)

b. The number of school districts awarded a Teens at Risk program will depend upon the amount of specific funding appropriated by the legislature for this program. (5-8-09)

c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program. (5-8-09)

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

a. Teen arrests, detention, and commitments to state custody; (5-8-09)

b. Teen suicide rates; (5-8-09)

c. Impacts on juvenile mental health and drug courts; (5-8-09)

d. Access to mental health services; and (5-8-09)

e. Academic achievement and school disciplinary actions. (5-8-09)

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

18-917. Hazing.

(1) No student or member of a fraternity, sorority or other living or social student group or organization organized or operating on or near a school or college or university campus, shall intentionally haze or conspire to haze any member, potential member or person pledged to be a member of the group or organization, as a condition or precondition of attaining membership in the group or organization or of attaining any office or status therein.

(2) As used in this section, "haze" means to subject a person to bodily danger or physical harm or a likelihood of bodily danger or physical harm, or to require, encourage, authorize or permit that the person be subjected to any of the following:

(a) Total or substantial nudity on the part of the person;

(b) Compelled ingestion of any substance by the person;

- (c) Wearing or carrying of any obscene or physically burdensome article by the person;
- (d) Physical assaults upon or offensive physical contact with the person;
- (e) Participation by the person in boxing matches, excessive number of calisthenics, or other physical contests;
- (f) Transportation and abandonment of the person;
- (g) Confinement of the person to unreasonably small, unventilated, unsanitary or unlighted areas;
- (h) Sleep deprivation; or
- (i) Assignment of pranks to be performed by the person.

(3) The term "hazing," as defined in this section, does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any group or organization. The term "hazing" does not include corporal punishment administered by officials or employees of public schools when in accordance with policies adopted by local boards of education.

(4) A student or member of a fraternity, sorority or other student organization, who personally violates any provision of this section shall be guilty of a misdemeanor.

18-917A. Student harassment - Intimidation - Bullying.

(1) No student or minor present on school property or at school activities shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

- (a) A reasonable person under the circumstances should know will have the effect of:
 - (i) Harming a student; or
 - (ii) Damaging a student's property; or
 - (iii) Placing a student in reasonable fear of harm to his or her person; or
 - (iv) Placing a student in reasonable fear of damage to his or her property; or
- (b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

An act of harassment, intimidation or bullying may also be committed through the use of a landline, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

(3) A student who personally violates any provision of this section may be guilty of an infraction.

33-205. Denial of school attendance.

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons.

Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(1) School districts and charter schools shall undertake reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students, including an affirmation that school personnel are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation or bullying.

(2) School districts and charter schools shall provide ongoing professional development to build skills of all school staff members to prevent, identify and respond to harassment, intimidation and bullying. The state board shall promulgate rules regarding the content of the professional development required by this subsection.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

(4) Annually school districts shall report bullying incidents to the state department of education in a format set forth in rule by the state board. District policy shall designate persons to whom bullying reports are to be made and a procedure for a teacher or other school employee, student, parent, guardian or other person to report or otherwise provide information on bullying activity.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. (3-29-17)

02. Professional Development. The content of ongoing professional development for school staff related to bullying, harassment and intimidation shall include: (3-29-17)

a. School philosophy regarding school climate and student behavior expectations; (3-29-17)

b. Definitions of bullying, harassment, and intimidation; (3-29-17)

c. School prevention strategies or programs including the identification of materials to be distributed annually to students and parents; (3-29-17)

d. Expectations of staff intervention for bullying, harassment, and intimidation; (3-29-17)

e. School process for responding to bullying, harassment, and intimidation including the reporting process for students and staff, investigation protocol, the involvement of law enforcement, related student support services and parental involvement; and (3-29-17)

f. Other topics as determined appropriate by the school district or charter school. (3-29-17)

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated

consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

a. Graduated consequences may include, but are not limited to: (3-29-17)

i. Meeting with the school counselor; (3-29-17)

ii. Meeting with the school principal and student's parents or guardian; (3-29-17)

iii. Detention, suspension or special programs; and (3-29-17)

iv. Expulsion. (3-29-17)

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-29-17)

04. Intervention. School district and charter school employees are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation, and bullying. Intervention shall be reasonably calculated to: (3-29-17)

a. Correct the problem behavior; (3-29-17)

b. Prevent another occurrence of the problem; (3-29-17)

c. Protect and provide support for the victim of the act; and (3-29-17)

d. Take corrective action for documented systemic problems related to harassment, intimidation, or bullying. (3-29-17)

05. Reporting. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting. (3-29-17)

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

Student Harassment

Districts will conduct an annual review of these policies and procedures.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

Relationship Abuse and Sexual Assault Prevention and Response

Districts will conduct an annual review of these policies and procedures.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

33-133. Definitions - Student data - Use and limitations - Penalties.

(7) The state board of education shall develop a model policy for school districts and public charter schools that will govern data collection, access, security and use of such data. The model policy shall be consistent with the provisions of this act. In order to assure that student educational information is treated safely and securely and in a consistent manner throughout the state, each district and public charter school shall adopt and implement the model policy. The state department of education shall provide outreach and training to the districts and public charter schools to help implement the policy. A current copy of such policy shall be posted to the school district's website. Any district or public charter school that fails to adopt, implement and post the policy where any inappropriate release of data occurs shall be liable for a civil penalty not to exceed fifty thousand dollars (\$ 50,000). Such civil penalty may be imposed per violation. The method of recovery of the penalty shall be by a civil enforcement action brought by the state board of education, with the assistance of the office of the state attorney general, in the district court in and for the county where the violation occurred. All civil penalties collected under this section shall be paid into the general fund of the state.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

School Climate

Discipline

Violence Prevention

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

16.07.37.101. Teens at risk program.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

16-2404. Community services and supports and interagency collaboration.

(2) Planning. The department of health and welfare, the state department of education, the department of juvenile corrections, counties, and local school districts shall collaborate and cooperate in planning and developing comprehensive mental health services and individual treatment and service plans for children with serious emotional disturbance making the best use of public and private resources to provide or obtain needed services and treatment. [...]

(4) Contracting. The department of health and welfare shall also have the authority to enter into contracts with school districts to provide teen early intervention specialists as provided for in section 16-2404A, Idaho Code.

16-2404A. Teen early intervention mental health and substance abuse specialist program.

(1) The department of health and welfare shall be authorized to contract for teen early intervention specialists to work with teens at risk and their families in school districts.

(2) The teen early intervention specialist shall be a certified counselor or a social worker with a clinical background in mental health or substance abuse as prescribed by the department of health and welfare by rule.

(3) The salary paid to the teen early intervention specialist shall be equivalent to the salary paid to comparably trained and experienced individuals employed by the school district in the region in which the community resource is employed.

(4) Teen early intervention specialists shall work with individual teens at risk to offer group counseling, recovery support, suicide prevention and other mental health and substance abuse counseling services to teens as needed, regardless of mental health diagnosis.

(5) By permission of school administrators, as prescribed in rule, teens at risk not currently enrolled in a public school may, if assigned by a judge, participate in group or individual teen early intervention specialist counseling sessions or services for teens at risk as appropriate.

(6) School districts seeking to have one (1) or more teen early intervention specialists placed within its district may apply to the department of health and welfare for such placement. The department of health and welfare shall establish by rule a simple application process and criteria for placement of teen early intervention specialists in districts. The number of teen early intervention specialists placed in school districts in any given year shall be limited by the funds appropriated to the teen early intervention specialist program in that fiscal year. In evaluating applications for the three (3) year pilot project, the department of health and welfare shall give special consideration to rural districts and shall consider:

(a) The demonstrated need for mental health and substance abuse counseling and treatment for teens at risk in the school district;

(b) The resources and cooperation which the school district has proposed to contribute to the support of the teen early intervention specialist program for teens at risk; and

(c) The funding appropriated to the teen early intervention specialist program for teens at risk.

REGULATIONS

16.07.37.101. Teens at risk program.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

01. Application. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation. (5-8-09)

02. Contracting Process. (5-8-09)

a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs. (5-8-09)

b. The number of school districts awarded a Teens at Risk program will depend upon the amount

of specific funding appropriated by the legislature for this program. (5-8-09)

c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program. (5-8-09)

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

a. Teen arrests, detention, and commitments to state custody; (5-8-09)

b. Teen suicide rates; (5-8-09)

c. Impacts on juvenile mental health and drug courts; (5-8-09)

d. Access to mental health services; and (5-8-09)

e. Academic achievement and school disciplinary actions. (5-8-09)

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

20-527. School trustees to report truants.

When a juvenile of compulsory school age is expelled or is reported to have repeatedly violated the attendance regulations of the school district in which the juvenile is enrolled, pursuant to section 33-206, Idaho Code, the prosecuting attorney may file a petition under this act. The court shall cause an investigation to be made and upon receipt of the written report of the investigation, the court may proceed under this act or the child protective act with respect to the juvenile and may proceed against the juvenile's parent(s), guardian or custodian under this act pursuant to section 33-207, Idaho Code.

33-210. Students using or under the influence of alcohol or controlled substances.

(4) Any school district employee or independent contractor of an educational institution who has a reasonable suspicion that a student is using or is under the influence of alcohol or a controlled substance and, acting upon that suspicion, reports that suspicion to a school administrator or initiates procedures adopted by the board of trustees or governing board of the charter school pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Employees and independent contractors of educational institutions who intentionally harass a student through the misuse of the authority provided in this section shall not be immune from civil liability arising from the wrongful exercise of that authority and shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$ 300).

33-1225. Threats of violence - Limitation on liability.

(1) A communication by any person to a school principal, or designee, or a communication by a student attending the school to the student's teacher, school counselor or school nurse, and any report of that communication to the school principal stating that a specific person has made a threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern. Such communication or report shall only be subject to liability in defamation by clear and convincing evidence that the communication or report was made with knowledge of its falsity or with reckless disregard for the truth or falsity of the communication or report. This section shall not be interpreted to change or eliminate other elements of defamation required by law.

(2) As used in this section, "school" means any public or private school providing instruction in kindergarten or any grades from grade one (1) through grade twelve (12) which is the subject of a threat.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(4) Annually school districts shall report bullying incidents to the state department of education in a format set forth in rule by the state board. District policy shall designate persons to whom bullying reports are to be made and a procedure for a teacher or other school employee, student, parent, guardian or other person to report or otherwise provide information on bullying activity.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

33-205. Denial of school attendance.

(3) No pupil shall be expelled or denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on his own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the juvenile corrections act, and an authorized representative of the board shall, within five (5) days, give written notice of the pupil's expulsion to the prosecuting attorney of the county of the pupil's residence.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date. [...]

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

33-6001. Parental rights.

(2) School districts and the boards of directors of public charter schools, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district or the charter school, including:

- (a) A plan for parent participation in the schools that is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline.

33-6002. Annual notice of parental rights.

School districts and the boards of directors of public charter schools shall annually notify a parent or guardian of a student enrolled in the school district or public charter school of the parent's or guardian's rights as specified in this chapter.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

- a. Graduated consequences may include, but are not limited to: (3-29-17)
- ii. Meeting with the school principal and student's parents or guardian; (3-29-17).

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

16-2404A. Teen early intervention mental health and substance abuse specialist program.

(7) Through an initial three (3) year period beginning at the start of the 2008 school year, the department of health and welfare shall work with local school districts where teen early intervention specialists have been placed to gather data on the effectiveness of this program. This data may be gathered and tracked through cooperative projects with Idaho colleges and universities and may include, but not be limited to:

- (a) Impacts on the number and nature of teen arrests;
- (b) Reductions in the number of teen suicides and suicide attempts;
- (c) Changes in patterns of teen incarceration or involvement with Idaho's juvenile justice system;
- (d) Impacts on local caseloads of practitioners in the department of health and welfare;
- (e) Where applicable, impacts to juvenile mental health or drug courts;
- (f) Changes in academic achievement by teens at risk and by those participating in the teen early intervention specialist program; and
- (g) Changes in the number and nature of student disciplinary actions in schools where teen early intervention specialists have been placed.

33-133. Definitions - Student data - Use and limitations - Penalties.

(1) As used in this act, the following terms shall have the following meanings:

- (b) "Aggregate data" means data collected and/or reported at the group, cohort or institutional level. Aggregate data shall not include personally identifiable information. The minimum number of students shall be determined by the state board of education.
- (j) "Student data" means data collected and/or reported at the individual student level included in a student's educational record.
 - (i) "Student data" includes: (1) state and national assessment results, including information on untested public school students; (2) course taking and completion, credits earned and other transcript information; (3) course grades and grade point average; (4) date of birth, grade level and expected graduation date/graduation cohort; (5) degree, diploma, credential attainment and other

school exit information such as general educational development and drop-out data; (6) attendance and mobility;

(7) data required to calculate the federal four (4) year adjusted secondary cohort graduation rate, including sufficient exit information; (8) discipline reports limited to objective information sufficient to produce the federal annual incident reports, children with disabilities disciplinary reports and discipline reports including students involved with firearms; (9) remediation; (10) special education data; (11) demographic data and program participation information; and (12) files, documents, images or data containing a student's educational record that are stored in or transmitted through a cloud computing service. [...]

(3) The state board of education shall:

(a) Create, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields currently in the student data system including:

- (i) Any individual student data required to be reported by state and federal education mandates;
- (ii) Any individual student data that has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection; and
- (iii) Any individual student data collected or maintained with no current purpose or reason.

No less frequently than annually, the state board of education shall update the data inventory and index of data elements provided for in this subsection.

(b) Develop, publish and make publicly available policies and procedures to comply with the federal family educational rights and privacy act (FERPA) and other relevant privacy laws and policies including, but not limited to the following:

(i) Access to student data in the student data system shall be restricted to: (1) the authorized staff of the state board of education and the state department of education and the board's and the department's vendors who require such access to perform their assigned duties; (2) the district and the district's private vendors who require access to perform their assigned duties and public postsecondary staff who require such access to perform their assigned duties; (3) students and their parents or legal guardians; and (4) the authorized staff of other state agencies in this state as required by law and/or defined by interagency data-sharing agreements. All such data-sharing agreements shall be summarized in a report compiled by the state board of education and submitted no later than January 15 of each year to the senate education committee and the house of representatives education committee;

(ii) Provide that public reports or responses to record requests shall include aggregate data only as that term is defined in subsection (1) of this section;

(iii) Develop criteria for the approval of research and data requests from state and local agencies, the state legislature, researchers and the public: (1) unless otherwise approved by the state board of education, student data maintained shall remain confidential; (2) unless otherwise approved by the state board of education, released student data in response to research and data requests may include only aggregate data; and (3) any approval of the board to release personally identifiable student data shall be subject to legislative approval prior to the release of such information;

(iv) Ensure that any contract entered into by the state board of education or the state department of education includes provisions requiring and governing data destruction dates and specific restrictions on the use of data;

(v) Provide for notification to students and parents regarding their rights under federal and state law; and

(vi) Ensure that all school districts, primary schools, secondary schools and other similar institutions entering into contracts that govern databases, online services, assessments, special education or

instructional supports with private vendors shall include in each such contract a provision that private vendors are permitted to use aggregated data; or an individual student's data for secondary uses, but only if the vendor discloses in clear detail the secondary uses and receives written permission from the student's parent or legal guardian. The contract shall also include either of the following: (1) a prohibition on any secondary uses of student data by the private vendor including, but not limited to, sales, marketing or advertising, but permitting the private vendor to process or monitor such data solely to provide and maintain the integrity of the service; or (2) a requirement that the private vendor disclose in detail any secondary uses of student data including, but not limited to, sales, marketing or advertising, and the board shall obtain express parental consent for those secondary uses prior to deployment of the private vendor's services under the contract.

The state board of education and the state department of education shall ensure that any and all private vendors employed or otherwise engaged by the board or the department shall comply with the provisions of this section. Any person determined, in either a civil enforcement action initiated by the board or initiated by the department or in a court action initiated by an injured party, to have violated a provision of this section or any rule promulgated pursuant to this section shall be liable for a civil penalty not to exceed fifty thousand dollars (\$ 50,000) per violation. In the case of an unauthorized release of student data, the state board of education or the state department of education shall notify the parent or student of the unauthorized release of student data that includes personally identifiable information in a manner consistent with the provisions of section 28-51-105, Idaho Code.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

- (14) To submit to the superintendent of public instruction not later than July 1 of each year documentation that meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

33-1631. Requirements for harassment, intimidation and bullying information and professional development.

(4) Annually school districts shall report bullying incidents to the state department of education in a format set forth in rule by the state board. District policy shall designate persons to whom bullying reports are to be made and a procedure for a teacher or other school employee, student, parent, guardian or other person to report or otherwise provide information on bullying activity.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

05. Reporting. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting. (3-29-17)

08.02.03.160. Safe environment and discipline.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

- School Climate
- Discipline Student
- Health
- Violence Prevention
- Possessing Weapons on Campus
- Substance Abuse - Tobacco, Alcohol, and Other
- Drugs Suicide Prevention
- Student Harassment
- Drug-free School Zones

Building Safety including Evacuation Drills

Relationship Abuse and Sexual Assault Prevention and Response

Districts will conduct an annual review of these policies and procedures. (See Section 33-1612)(3-20-14)

16.07.37.101. Teens at risk program.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

- a. Teen arrests, detention, and commitments to state custody; (5-8-09)
- b. Teen suicide rates; (5-8-09)
- c. Impacts on juvenile mental health and drug courts; (5-8-09)
- d. Access to mental health services; and (5-8-09)
- e. Academic achievement and school disciplinary actions. (5-8-09)

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

33-205. Denial of school attendance.

Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to a student who has been found to have possessed a firearm on school property in this state or any other state. The board may modify such expulsion or denial of enrollment requirement on a case-by-case basis when the board determines reasonable conditions apply and the student's presence is not detrimental to the health and safety of other students. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date. [...]

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

REGULATIONS

08.02.02.111. Bullying, harassment and intimidation prevention and response.

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences

should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-29-17)

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

33-1004H. Employing retired teachers and administrators.

(1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ school resource officers, certificated schoolteachers, persons qualified to drive school buses, and administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early retirement program previously provided by the state in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

33-5904. School safety and security program.

(1) There is hereby established in the office of the state board of education the school safety and security program. The executive director of the office of the state board of education may hire a manager of the school safety and security program who shall be responsible for the performance of the regular administrative functions of the program and other duties as the executive director may direct. The manager of the school safety and security program shall be a nonclassified employee. The executive director of the office of the state board of education may employ persons in addition to the manager in other positions or capacities as necessary to fulfill the responsibilities of the school safety and security program as set forth in this section. The executive director of the state board of education shall provide an office, office equipment, and facilities as may be reasonably necessary for the proper performance of the duties of the program manager and other program personnel.

(2) The executive director of the office of the state board of education and the manager and other personnel of the school safety and security program may enter all public educational facilities in this state at reasonable times to conduct annual assessments for consistency with the school safety and security guidelines developed by the Idaho school safety and security advisory board. To the extent possible, such assessments should occur simultaneously with inspections conducted pursuant to section 39-8008, Idaho

Code. The school safety and security program shall prepare a written report for each security assessment it conducts. At a minimum, such reports shall include any safety or security vulnerabilities found in the subject school and recommendations for remedying such vulnerabilities. The program shall provide a copy of the report to the local education agency or institution and to the school principal or institution president. The program shall also prepare an annual report, a copy of which shall be submitted to the state board of education and to the Idaho school safety and security advisory board each year.

(3) Upon request of any public educational institution, the school safety and security program shall provide training and technical assistance on best practices and resources for school safety and security as set forth in the guidelines established by the Idaho school safety and security advisory board.

(4) The office of the state board of education may receive grant moneys on behalf of the school safety and security program to carry out the responsibilities of the program.

(5) On July 1 of each year, or as soon as practicable, the state controller shall transfer three hundred thousand dollars (\$300,000) from the public school income fund to the school safety and security program's miscellaneous revenue fund 0349-36 for the purposes of this section.

33-5905. Idaho school safety and security advisory board.

(1) There is hereby established in the office of the state board of education the Idaho school safety and security advisory board. The advisory board shall consist of thirteen (13) members as follows:

(a) Four (4) members appointed by the governor as follows:

(i) One (1) parent of a student who attends an Idaho public school;

(ii) One (1) teacher who teaches in an Idaho public school;

(iii) One (1) representative of a local school board; and

(iv) One (1) representative of school superintendents;

(b) The state superintendent of public instruction or the superintendent's designee;

(c) One (1) representative from the state board of education;

(d) One (1) representative from the Idaho state police;

(e) One (1) representative from the Idaho chiefs of police association;

(f) One (1) representative from the Idaho sheriffs' association;

(g) One (1) representative from the Idaho office of emergency management;

(h) One (1) representative from the Idaho fire chiefs association; and

(i) Two (2) representatives from the state legislature that shall include one (1) member from the senate appointed by the president pro tempore of the senate and one (1) member from the house of representatives appointed by the speaker of the house of representatives.

(2) The members of the advisory board shall serve the following terms:

(a) The gubernatorial appointees shall serve terms of three (3) years.

(b) All other members shall serve terms of two (2) years.

(3) A vacancy on the advisory board shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(4) The advisory board shall appoint a chairperson from among its members for a term certain.

(5) The members of the advisory board shall be compensated as provided in section 59-509(b), Idaho Code.

(6) The advisory board shall meet at least annually, but may meet more frequently subject to the call of the chairperson.

33-5906. Powers and duties of the Idaho school safety and security advisory board.

The Idaho school safety and security advisory board shall:

- (1) Develop, annually review, and modify, if necessary, school safety and security guidelines for the school safety and security program to use in conducting its annual assessments, training, and technical assistance pursuant to section 33-5904, Idaho Code;
- (2) Regularly assess safety and security resources that may be used in public educational facilities; and
- (3) On or before February 1 of each year, report to the legislature and to the governor on the status of school safety and security in the Idaho public educational facilities.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Idaho provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Alternative Education, Idaho State Department of Education (ISDE)	Provides information and resources on alternative education in Idaho including links to alternative secondary programs, enrollment forms, FAQs, and sample student at-risk qualification checklist.	https://www.sde.idaho.gov/school-choice/alternative/
Multi-Tiered System of Support (MTSS), ISDE	Provides information and resources on multi-tiered systems of support for educators to deliver effective academic and behavioral instruction.	https://www.sde.idaho.gov/topics/mtss/
Safe and Drug Free Schools, ISDE	Provides comprehensive resources and materials addressing bullying prevention and school safety, including links to documents, FAQs, training conference information, and other resources.	http://www.sde.idaho.gov/student-engagement/sdfs/
School Safety Resources, Idaho Office of School Safety and Security	Provides a library of resources for school campuses, districts and school boards including resources on Behavioral Threat Assessment and Management (BTAM), Bullying and Cyberbullying, Mental Health, School Climate, and School Safety Reports.	https://schoolsafety.dbs.idaho.gov/resource-library/
Stop Bullying in Idaho, ISDE	Provides information on bullying and resources for students, families, and schools on bullying prevention including definitions, information of anti-bullying funding, and annual conference information on bullying prevention.	https://www.sde.idaho.gov/stop-bullying/
<i>Documents</i>		
Attendance and Enrollment (Fall 2021), ISDE	A report for school districts to establish rules and regulations regarding attendance reporting, tardiness, and chronic absenteeism.	https://www.sde.idaho.gov/finance/shared/2021-2022/2021-2022-SDE-Attendance-and-Enrollment-Manual.pdf

Title	Description	Website address (if applicable)
Student Behavioral Health Services Evaluation Report (January 2021), ISDE	An evaluation report providing information on the behavioral health services within the state of Idaho at the school district and school building level.	http://idahotc.com/Portals/76/Documents/Resources/ismh-resources-behavioral-health-evaluation.pdf
The Educator's Guide to Student Discipline and Supports: A Practical Legal Guide for School Personnel in Idaho (August 2020), ISDE	Legal guide for school personnel addressing general discipline and discipline for students with disabilities, including discipline options, discipline of students for misconduct occurring off school grounds, weapons violations, threats of harm or violence, free-speech issues, search and seizure, constitutional due process, and procedures for suspension and expulsion.	https://www.sde.idaho.gov/sped/sped-manual/files/chapters/chapter-12-discipline/The-Educators-Guide-to-Student-Discipline-August-2020.pdf
Other Resources		
2019 Idaho Youth Risk Behavior Survey Results, ISDE	Survey results of Idaho's Youth Risk Behavior Survey (YRBS) conducted by the ISDE every two years to help guide school districts, educators, and numerous other organizations in their efforts to meet students' needs, secure funding and assess trends over time.	https://www.sde.idaho.gov/student-engagement/school-health/files/youth/Youth-Risk-Behavior-Survey-Results-2019.pdf
Bullying Data Reporting Instructions, ISDE	Instructions to report bullying incidents required by Idaho Code section 33-1631 . The reporting of bullying incidents is imbedded within the Safe and Drug Free Schools application which includes definitions and reporting parameters. The form is designed to satisfy reporting requirements.	https://www.sde.idaho.gov/student-engagement/sdfs/files/application/Bully-Data-Guidance.pdf



Illinois Compilation of School Discipline Laws and Regulations

Prepared: March 31,2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board or governing body of a charter school policy guidelines on pupil discipline, including school searches and bullying prevention as set forth in Section 27-23.7 of this Code [105 ILCS 5/27-23.7]. School authorities shall furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and the school board or governing body of a charter school shall require that a school inform its pupils of the contents of the policy. School boards and the governing bodies of charter schools, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

(a-5) On or before September 15, 2016, each elementary and secondary school and charter school shall, at a minimum, adopt pupil discipline policies that fulfill the requirements set forth in this Section, subsections (a) and (b) of Section 10-22.6 of this Code [105 ILCS 5/10-22.6], Section 34-19 of this Code [105 ILCS 5/10-34-19] if applicable, and federal and State laws that provide special requirements for the discipline of students with disabilities.

105 ILCS 5/24-24. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

The board may make and enforce reasonable rules of conduct and sportsmanship for athletic and extracurricular school events. Any person who violates such rules may be denied admission to school events for not more than one year, provided that written 10 days notice of the violation is given such person and a hearing had thereon by the board pursuant to its rules and regulations. The administration of any school may sign complaints as agents of the school against persons committing any offense at school events.

105 ILCS 5/27-23.7. Bullying prevention.

(d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district's or school's jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. School personnel available for help with a bully or to make a report about bullying shall be made known to parents or legal guardians, students, and school personnel. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall monitor and provide technical support for the implementation of policies created under this subsection (d).

105 ILCS 5/34-19. By-laws, rules and regulations; business transacted at regular meetings; voting; records.

The board shall, subject to the limitations in this Article, establish by-laws, rules and regulations, which shall have the force of ordinances, for the proper maintenance of a uniform system of discipline for both employees and pupils, and for the entire management of the schools, and may fix the school age of pupils, the minimum of which in kindergartens shall not be under 4 years, except that, based upon an assessment of the child's readiness, children who have attended a non-public preschool and continued their education at that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain the age of 6 years on or before December 31 of the year of the 2009-2010 school term and each school term thereafter may attend first grade upon commencement of such term, and in grade schools shall not be under 6 years. It may expel, suspend or, subject to the limitations of all policies established or adopted under Section 10-22.6 or 14-8.05 [105 ILCS 5/10-22.6 or 105 ILCS 5/14-8.05], otherwise discipline any pupil found guilty of gross disobedience, misconduct, or other violation of the by-laws, rules, and regulations, including gross disobedience or misconduct perpetuated by electronic means. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 or 105 ILCS 5/13B-1]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. The bylaws, rules and regulations of the board shall be enacted, money shall be appropriated or expended, salaries shall be fixed or changed, and textbooks, electronic textbooks, and courses of instruction shall be adopted or changed only at the regular meetings of the board and by a vote of a majority of the full membership of the board; provided that notwithstanding any other provision of this Article or the School Code, neither the board or any local school council may purchase any textbook for use in any public school of the district from any textbook publisher that fails to furnish any computer diskettes as required under Section 28-21 [105 ILCS 5/28-21]. Funds appropriated for textbook purchases must be available for electronic textbook purchases and the technological equipment necessary to gain access to and use electronic textbooks at the local school council's discretion. The board shall be further encouraged to provide opportunities for public hearing and testimony before the adoption of bylaws, rules and regulations. Upon all propositions requiring for their adoption at least a majority of all the members of the board the yeas and nays shall be taken and reported. The by-laws, rules and regulations of the board shall not be repealed, amended or added to, except by a vote of 2/3 of the full membership of the board. The board shall keep a record of all its proceedings. Such records and all by-laws, rules and regulations, or parts thereof, may be proved by a copy thereof certified to be such by the secretary of the board, but if they are printed in book or

pamphlet form which are purported to be published by authority of the board they need not be otherwise published and the book or pamphlet shall be received as evidence, without further proof, of the records, by-laws, rules and regulations, or any part thereof, as of the dates thereof as shown in such book or pamphlet, in all courts and places where judicial proceedings are had.

105 ILCS 5/34-84a. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline, except that the rules of the board must provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and must include provisions which provide due process to students.

REGULATIONS

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5] provides for teachers, other licensed educational employees (except for individuals employed as a paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

- a) The board of education shall establish and maintain a parent-teacher advisory committee as provided in Section 10-20.14 of the School Code.
- b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code and disseminate that policy as provided in Section 10-20.14 of the School Code. Under no circumstance shall the policy authorize the use of isolated time out, time out or physical restraint as a form of discipline or punishment.
- c) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code.

Scope

LAWS

105 ILCS 5/10-20.5b. Tobacco prohibition.

Each school board shall prohibit the use of tobacco on school property by any school personnel, student, or other person when such property is being used for any school purposes. The school board may not authorize or permit any exception to or exemption from the prohibition at any place or at any time, including without limitation outside of school buildings or before or after the regular school day or on days when school is not in session. "School purposes" include but are not limited to all events or activities or

other use of school property that the school board or school officials authorize or permit on school property, including without limitation all interscholastic or extracurricular athletic, academic, or other events sponsored by the school board or in which pupils of the district participate. For purposes of this Section "tobacco" shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco which is any loose, cut, shredded, ground, powdered, compressed or leaf tobacco that is intended to be placed in the mouth without being smoked.

105 ILCS 5/27-23.7. Bullying prevention.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts, charter schools, and non-public, non-sectarian elementary and secondary schools. No student shall be subjected to bullying:

- (1) during any school-sponsored education program or activity;
- (2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities;
- (3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment; or
- (4) through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by a school district or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This item (4) applies only in cases in which a school administrator or teacher receives a report that bullying through this means has occurred and does not require a district or school to staff or monitor any nonschool-related activity, function, or program.

105 ILCS 5/34-18.11. Tobacco prohibition.

The Board of Education shall prohibit the use of tobacco on school property when such property is being used for any school purposes. Neither the board nor the local school council may authorize or permit any exception to or exemption from the prohibition at any place or at any time, including without limitation outside of school buildings or before or after the regular school day or on days when school is not in session. "School purposes" include but are not limited to all events or activities or other use of school property that the school board or school officials authorize or permit on school property, including without limitation all interscholastic or extracurricular athletic, academic or other events sponsored by the school board or in which pupils of the district participate. For purposes of this Section "tobacco" shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco which is any loose, cut, shredded, ground, powdered, compressed or leaf tobacco that is intended to be placed in the mouth without being smoked.

105 ILCS 5/34-84a. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline, except that the rules of the board must provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and must include provisions which provide due process to students.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board or governing body of a charter school policy guidelines on pupil discipline, including school searches and bullying prevention as set forth in Section 27-23.7 of this Code [105 ILCS 5/27-23.7]. School authorities shall furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and the school board or governing body of a charter school shall require that a school inform its pupils of the contents of the policy. School boards and the governing bodies of charter schools, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

105 ILCS 5/27-23.7. Bullying prevention.

(b) In this Section:

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

(10) Is posted on the school district's, charter school's, or non-public, non-sectarian elementary or secondary school's existing Internet website, is included in the student handbook, and, where applicable, posted where other policies, rules, and standards of conduct are currently posted in the school and provided periodically throughout the school year to students and faculty, and is distributed annually to parents, guardians, students, and school personnel, including new employees when hired.

REGULATIONS

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5] provides for teachers, other licensed educational employees (except for individuals employed as a paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code and disseminate that policy as provided in Section 10-20.14 of the School Code. Under no circumstance shall the policy authorize the use of isolated time out, time out or physical restraint as a form of discipline or punishment.

In-School Discipline

Discipline Frameworks

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board or governing body of a charter school policy guidelines on pupil discipline, including school searches and bullying prevention as set forth in Section 27-23.7 of this Code [105 ILCS 5/27-23.7]. School authorities shall furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and the school board or governing body of a charter school shall require that a school inform its pupils of the contents of the policy. School boards and the governing bodies of charter schools, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

(a-5) On or before September 15, 2016, each elementary and secondary school and charter school shall, at a minimum, adopt pupil discipline policies that fulfill the requirements set forth in this Section, subsections (a) and (b) of Section 10-22.6 of this Code [105 ILCS 5/10-22.6], Section 34-19 of this Code [105 ILCS 5/10-34-19] if applicable, and federal and State laws that provide special requirements for the discipline of students with disabilities.

(b) The parent-teacher advisory committee in cooperation with local law enforcement agencies shall develop, with the school board, policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students. School districts are encouraged to create memoranda of understanding with local law enforcement agencies that clearly define law enforcement's role in schools, in accordance with Section 10-22.6 of this Code.

(c) The parent-teacher advisory committee, in cooperation with school bus personnel, shall develop, with the school board, policy guideline procedures to establish and maintain school bus safety procedures. These procedures shall be incorporated into the district's pupil discipline policy.

(d) The school board, in consultation with the parent-teacher advisory committee and other community-based organizations, must include provisions in the student discipline policy to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including without limitation bullying, as defined in the policy. These provisions must include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means, pursuant to subsection (b-20) of this Section, and no action shall lie against them for such expulsion. Expulsion shall take place only after the parents or guardians have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior. Such request shall be made by registered or certified mail and shall state the time, place and purpose of the meeting. The board, or a hearing officer appointed by it, at such meeting shall state the reasons for dismissal and the date on which the expulsion is to become effective. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate. If the board acts to expel a pupil, the written expulsion decision shall detail the specific reasons why

removing the pupil from the learning environment is in the best interest of the school. The expulsion decision shall also include a rationale as to the specific duration of the expulsion. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 et seq. or 105 ILCS 5/13B-1 et seq.]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

(b) To suspend or by policy to authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of gross disobedience or misconduct, or to suspend pupils guilty of gross disobedience or misconduct on the school bus from riding the school bus, pursuant to subsections (b-15) and (b-20) of this Section, and no action shall lie against them for such suspension. The board may by policy authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of such acts for a period not to exceed 10 school days. If a pupil is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the pupil in excess of 10 school days for safety reasons.

Any suspension shall be reported immediately to the parents or guardians of a pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardians, the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review, the parents or guardians of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate. If a student is suspended pursuant to this subsection (b), the board shall, in the written suspension decision, detail the specific act of gross disobedience or misconduct resulting in the decision to suspend. The suspension decision shall also include a rationale as to the specific duration of the suspension. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

(b-5) Among the many possible disciplinary interventions and consequences available to school officials, school exclusions, such as out-of-school suspensions and expulsions, are the most serious. School officials shall limit the number and duration of expulsions and suspensions to the greatest extent practicable, and it is recommended that they use them only for legitimate educational purposes. To ensure that students are not excluded from school unnecessarily, it is recommended that school officials consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.

(b-10) Unless otherwise required by federal law or this Code, school boards may not institute zero-tolerance policies by which school administrators are required to suspend or expel students for particular behaviors.

(b-15) Out-of-school suspensions of 3 days or less may be used only if the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities. For purposes of this subsection (b-15), "threat to school safety or a disruption to other students' learning opportunities" shall be determined on a case-by-case basis by the school board or its designee. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable.

(b-20) Unless otherwise required by this Code, out-of-school suspensions of longer than 3 days, expulsions, and disciplinary removals to alternative schools may be used only if other appropriate and available behavioral and disciplinary interventions have been exhausted and the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the

school community or (ii) substantially disrupt, impede, or interfere with the operation of the school. For purposes of this subsection (b-20), "threat to the safety of other students, staff, or members of the school community" and "substantially disrupt, impede, or interfere with the operation of the school" shall be determined on a case-by-case basis by school officials. For purposes of this subsection (b-20), the determination of whether "appropriate and available behavioral and disciplinary interventions have been exhausted" shall be made by school officials. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of student exclusions to the greatest extent practicable. Within the suspension decision described in subsection (b) of this Section or the expulsion decision described in subsection (a) of this Section, it shall be documented whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

(b-25) Students who are suspended out-of-school for longer than 4 school days shall be provided appropriate and available support services during the period of their suspension. For purposes of this subsection (b-25), "appropriate and available support services" shall be determined by school authorities. Within the suspension decision described in subsection (b) of this Section, it shall be documented whether such services are to be provided or whether it was determined that there are no such appropriate and available services.

A school district may refer students who are expelled to appropriate and available support services.

A school district shall create a policy to facilitate the re-engagement of students who are suspended out- of-school, expelled, or returning from an alternative school setting.

(b-30) A school district shall create a policy by which suspended pupils, including those pupils suspended from the school bus who do not have alternate transportation to school, shall have the opportunity to make up work for equivalent academic credit. It shall be the responsibility of a pupil's parents or guardians to notify school officials that a pupil suspended from the school bus does not have alternate transportation to school.

(b-35) In all suspension review hearings conducted under subsection (b) or expulsion hearings conducted under subsection (a), a student may disclose any factor to be considered in mitigation, including his or her status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A. A representative of the parent's or guardian's choice, or of the student's choice if emancipated, must be permitted to represent the student throughout the proceedings and to address the school board or its appointed hearing officer. With the approval of the student's parent or guardian, or of the student if emancipated, a support person must be permitted to accompany the student to any disciplinary hearings or proceedings. The representative or support person must comply with any rules of the school district's hearing process. If the representative or support person violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or anyone else in attendance at the hearing, the representative or support person may be prohibited from further participation in the hearing or proceeding. A suspension or expulsion proceeding under this subsection (b-35) must be conducted independently from any ongoing criminal investigation or proceeding, and an absence of pending or possible criminal charges, criminal investigations, or proceedings may not be a factor in school disciplinary decisions.

(b-40) During a suspension review hearing conducted under subsection (b) or an expulsion hearing conducted under subsection (a) that involves allegations of sexual violence by the student who is subject to discipline, neither the student nor his or her representative shall directly question nor have direct contact with the alleged victim. The student who is subject to discipline or his or her representative may, at the discretion and direction of the school board or its appointed hearing officer, suggest questions to be posed by the school board or its appointed hearing officer to the alleged victim.

(c) The Department of Human Services shall be invited to send a representative to consult with the board at such meeting whenever there is evidence that mental illness may be the cause for expulsion or suspension.

(c-5) School districts shall make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.

(d) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 [430 ILCS 65/1.1] of the Firearm Owners Identification Card Act, or firearm as defined in Section 24-1 [720 ILCS 5/24-1] of the Criminal Code of 2012. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alikes" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

Expulsion or suspension shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act. A student who is subject to suspension or expulsion as provided in this Section may be eligible for a transfer to an alternative school program in accordance with Article 13A of the School Code.

(d-5) The board may suspend or by regulation authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend a student for a period not to exceed 10 school days or may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis, if (i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel, (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and (iii) the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school.

(e) To maintain order and security in the schools, school authorities may inspect and search places and areas such as lockers, desks, parking lots, and other school property and equipment owned or controlled by the school, as well as personal effects left in those places and areas by students, without notice to or the consent of the student, and without a search warrant. As a matter of public policy, the General Assembly finds that students have no reasonable expectation of privacy in these places and areas or in their personal effects left in these places and areas. School authorities may request the assistance of law enforcement officials for the purpose of conducting inspections and searches of lockers, desks, parking lots, and other school property and equipment owned or controlled by the school for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. If a search conducted in accordance with this Section produces evidence that the student has violated or is violating either the law, local ordinance, or the school's policies or rules, such evidence may be seized by school authorities, and disciplinary action may be taken. School authorities may also turn over such evidence to law enforcement authorities.

(f) Suspension or expulsion may include suspension or expulsion from school and all school activities and a prohibition from being present on school grounds.

(g) A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion in an alternative school program under Article 13A of this Code or an alternative learning opportunities program under Article 13B of this Code before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. . A school district that adopts a policy under this subsection (g) must include a provision allowing for consideration of any mitigating factors, including, but not limited to, a student's status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.

(h) School officials shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.

(i) A student may not be issued a monetary fine or fee as a disciplinary consequence, though this shall not preclude requiring a student to provide restitution for lost, stolen, or damaged property.

(j) Subsections (a) through (i) of this Section shall apply to elementary and secondary schools, charter schools, special charter districts, and school districts organized under Article 34 [105 ILCS 5/34-1 et seq.] of this Code.

(k) The expulsion of children enrolled in programs funded under Section 1C-2 of this Code [105 ILCS 5/1C-2] is subject to the requirements under paragraph (7) of subsection (a) of Section 2-3.71 [105 ILCS 5/2-3.71] of this Code.

(l) Beginning with the 2018-2019 school year, an in-school suspension program provided by a school district for any students in kindergarten through grade 12 may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel. A school district may employ a school social worker or a licensed mental health professional to oversee an in-school suspension program in kindergarten through grade 12.

105 ILCS 5/24-24. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

The board may make and enforce reasonable rules of conduct and sportsmanship for athletic and extracurricular school events. Any person who violates such rules may be denied admission to school events for not more than one year, provided that written 10 days notice of the violation is given such person and a hearing had thereon by the board pursuant to its rules and regulations. The administration of any school may sign complaints as agents of the school against persons committing any offense at school events.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

105 ILCS 5/24-24. Maintenance of discipline.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

105 ILCS 5/34-84a. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline, except that the rules of the board must provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and must include provisions which provide due process to students.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

105 ILCS 5/2-3.176. Safe schools and healthy learning environments grant program.

(a) The State Board of Education, subject to appropriation, is authorized to award competitive grants on an annual basis under a Safe Schools and Healthy Learning Environments Grant Program. The goal of this grant program is to promote school safety and healthy learning environments by providing schools with additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline, and to address the full range of students' intellectual, social, emotional, physical, psychological, and moral developmental needs.

(b) To receive a grant under this program, a school district must submit with its grant application a plan for implementing evidence-based and promising practices that are aligned with the goal of this program. The

application may include proposals to (i) hire additional school support personnel, including, but not limited to, restorative justice practitioners, school psychologists, school social workers, and other mental and behavioral health specialists; (ii) use existing school-based resources, community-based resources, or other experts and practitioners to expand alternatives to exclusionary discipline, mental and behavioral health supports, wraparound services, or drug and alcohol treatment; and (iii) provide training for school staff on trauma-informed approaches to meeting students' developmental needs, addressing the effects of toxic stress, restorative justice approaches, conflict resolution techniques, and the effective utilization of school support personnel and community-based services. For purposes of this subsection, "promising practices" means practices that present, based on preliminary information, potential for becoming evidence-based practices.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(b-5) Among the many possible disciplinary interventions and consequences available to school officials, school exclusions, such as out-of-school suspensions and expulsions, are the most serious. School officials shall limit the number and duration of expulsions and suspensions to the greatest extent practicable, and it is recommended that they use them only for legitimate educational purposes. To ensure that students are not excluded from school unnecessarily, it is recommended that school officials consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.

(b-10) Unless otherwise required by federal law or this Code, school boards may not institute zero-tolerance policies by which school administrators are required to suspend or expel students for particular behaviors. [...]

(l) Beginning with the 2018-2019 school year, an in-school suspension program provided by a school district for any students in kindergarten through grade 12 may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel. A school district may employ a school social worker or a licensed mental health professional to oversee an in-school suspension program in kindergarten through grade 12.

105 ILCS 5/13B-20.5. Eligible activities and services.

Alternative learning opportunities programs may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back to the regular school program, an adult education program, or a post-secondary education program.

105 ILCS 5/27-23.7. Bullying prevention.

(b) In this Section:

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

(6) Includes the interventions that can be taken to address bullying, which may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. [...]

"Restorative measures" means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school. and (vii) increase student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Illinois Human Rights Act

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

105 ILCS 5/24-24. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

The board may make and enforce reasonable rules of conduct and sportsmanship for athletic and extracurricular school events. Any person who violates such rules may be denied admission to school events for not more than one year, provided that written 10 days notice of the violation is given such person and a hearing had thereon by the board pursuant to its rules and regulations. The administration of any school may sign complaints as agents of the school against persons committing any offense at school events.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board or governing body of a charter school policy guidelines on pupil discipline, including school searches and bullying prevention as set forth in Section 27-23.7 of this Code [105 ILCS 5/27-23.7]. School authorities shall furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and the school board or governing body of a charter school shall require that a school inform its pupils of the contents of the policy. School boards and the governing bodies of charter schools, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(e) To maintain order and security in the schools, school authorities may inspect and search places and areas such as lockers, desks, parking lots, and other school property and equipment owned or controlled by the school, as well as personal effects left in those places and areas by students, without notice to or the consent of the student, and without a search warrant. As a matter of public policy, the General Assembly finds that students have no reasonable expectation of privacy in these places and areas or in their personal effects left in these places and areas. School authorities may request the assistance of law enforcement officials for the purpose of conducting inspections and searches of lockers, desks, parking lots, and other school property and equipment owned or controlled by the school for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. If a search conducted in accordance with this Section produces evidence that the student has violated or is violating either the law, local ordinance, or the school's policies or rules, such evidence may be seized by school authorities, and disciplinary action may be taken. School authorities may also turn over such evidence to law enforcement authorities.

105 ILCS 5/10-22.10a. Inspection for drugs.

School boards are empowered to adopt a policy to authorize school officials to request the assistance of law enforcement officials for the purpose of conducting reasonable searches of school grounds and lockers for illegal drugs, including searches conducted through the use of specially trained dogs.

105 ILCS 5/34-18.12. Inspection for drugs.

The Board of Education is empowered to authorize school officials to request the assistance of law enforcement officials for the purpose of conducting reasonable searches of school grounds and lockers for illegal drugs, including searches conducted through the use of specially trained dogs.

REGULATIONS

830.60. Search and seizure.

- a) The superintendent or designee of a State School has the authority to approve the search of any student's person, locker, room or property when the superintendent/designee has a reasonable belief that the student has alcohol, drugs, a weapon, stolen goods or any other item prohibited by the State School's rules. Any search of person must be made by staff of the same gender as the student being searched with another staff person present as a witness.
- b) Any contraband, as defined by the Criminal Code of 1961 [720 ILCS 5], found during the search shall be seized and held until its proper disposition is determined through consultations with Central Office staff or local or state law enforcement officials as indicated by the situation.
- c) The superintendent shall not approve a search as a means of embarrassing or punishing a student. Insofar as feasible, any search shall be made in such a manner that it is not observed by or known to other students.
- d) Nothing in this policy shall be construed to prohibit State School staff and representatives from various regulatory bodies from entering students' rooms in the course of their normal duties.

Restraint and Seclusion

LAWS

105 ILCS 5/2-3.130. Time out and physical restraint rules.

The State Board of Education shall promulgate rules governing the use of time out and physical restraint in the public schools. The rules shall include provisions governing recordkeeping that is required when physical restraint or more restrictive forms of time out are used.

105 ILCS 5/10-20.33. Time out and physical restraint.

Until rules are adopted under Section 2-3.130 of this Code [105 ILCS 5/2-3.130], the use of any of the following rooms or enclosures for time out purposes is prohibited:

- (1) a locked room other than one with a locking mechanism that engages only when a key or handle is being held by a person;
- (2) a confining space such as a closet or box;
- (3) a room where the student cannot be continually observed; or
- (4) any other room or enclosure or time out procedure that is contrary to current guidelines of the State Board of Education.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

105 ILCS 5/34-18.20. Time out and physical restraint.

Until rules are adopted under Section 2-3.130 of this Code [105 ILCS 5/2-3.130], the use of any of the following rooms or enclosures for time out purposes is prohibited:

- (1) a locked room other than one with a locking mechanism that engages only when a key or handle is being held by a person;
- (2) a confining space such as a closet or box;
- (3) a room where the student cannot be continually observed; or
- (4) any other room or enclosure or time out procedure that is contrary to current guidelines of the State Board of Education.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

REGULATIONS

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5] provides for teachers, other licensed educational employees (except for individuals employed as a paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code and disseminate that policy as provided in Section 10-20.14 of the School Code. Under no circumstance shall the policy authorize the use of isolated time out, time out or physical restraint as a form of discipline or punishment.

1.285. Requirements for the use of isolated time out, time out, and physical restraint.

Isolated time out, time out, and physical restraint, as defined in this Section, shall be used only when the student's behavior presents an imminent danger of serious physical harm to the student or others and other less restrictive and intrusive measures have been tried and proven ineffective in stopping the imminent danger of serious physical harm. Isolated time out, time out, or physical restraint shall not be used as discipline or punishment, convenience for staff, retaliation, a substitute for appropriate educational or behavioral support, a routine safety matter, or to prevent property damage in the absence of imminent danger of serious physical harm to the student or others.

a) Isolated Time Out or Time Out

1) "Isolated time out" means the involuntary confinement of a student alone in a time out room or other enclosure outside the classroom without a supervising adult in the time out room or enclosure. Isolated time out is allowed only under limited circumstances. If all other requirements under this Section are met, isolated time out may be used only when the adult in the time out room or enclosure is in imminent danger of serious physical harm because the student is unable to cease actively engaging in extreme physical aggression.

2) "Time out" means a behavior management technique for the purpose of calming or de-escalation that involves the involuntary monitored separation of a student from classmates with an adult trained under subsection (i) for part of the school day, only for a brief time, in a non-locked setting.

3) "Isolated time out" or "time out" does not include a student-initiated or student-requested break, a student-initiated or teacher-initiated sensory break, including a sensory room containing sensory tools to assist a student to calm and de-escalate, an in-school suspension or detention, or any other appropriate disciplinary measure, including a student's brief removal to the hallway or similar environment.

4) Any enclosure used for isolated time out or time out shall:

A) meet all of the health/life safety requirements of 23 Ill. Adm. Code 180;

B) have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being placed in isolated time out or time out but also, if applicable, any other individual who is required to accompany that student under this Section;

C) be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls;

D) be designed to permit continuous visual monitoring of and communication with the student; and

E) if fitted with a door, be fitted with either a steel door or a wooden door of solid-core construction. If the door includes a viewing panel, the panel shall be unbreakable. The door shall not be fitted with a locking mechanism or be physically blocked by furniture or any other inanimate object at any time during the isolated time out or time out.

5) For an isolated time out, an adult who is responsible for supervising the student must remain within two feet of the enclosure. The supervising staff member must always be able to see, hear, and communicate with the student. The door shall not be locked or held to block egress. A student in isolated time out shall not be supervised using cameras, audio recording, or any other electronic monitoring device.

6) For time out, an adult trained under subsection (i) who is responsible for supervising the student must remain in the same room as the student at all times during the time out.

7) A student placed in isolated time out or time out must have reasonable access to food, water, medication, and toileting facilities. Except in circumstances in which there is a risk of self-injury or injury to staff or others, a student in isolated time out or time out shall not have his or her clothing removed, including, but not limited to, shoes, shoelaces, boots, or belts.

b) "Physical restraint" means holding a student or otherwise restricting a student's movements. "Physical restraint" as permitted pursuant to this Section includes only the use of specific, planned techniques.

c) The requirements set forth in subsections (d) through (i) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.33 of the School Code [105 ILCS 5], "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:

- 1) prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or
- 2) remove a disruptive student who is unwilling to leave the area voluntarily.

d) The use of physical restraint shall be subject to the following requirements and limitations.

1) Pursuant to Section 10-20.33 of the School Code, physical restraint may only be employed when:

- A) the student poses a physical risk to himself, herself, or others,
- B) there is no medical contraindication to its use, and
- C) the staff applying the restraint have been trained in its safe application as specified in subsection (i) of this Section.

2) Physical restraint must end immediately when:

- A) the threat of imminent danger of serious physical harm ends; or
- B) the student indicates that he or she cannot breathe or staff supervising the student recognizes that the student may be in respiratory distress.

3) The staff involved in physically restraining a student must periodically halt the restraint to evaluate if the imminent danger of serious physical harm continues to exist. If the imminent danger of serious physical harm continues to exist, staff may continue to use the physical restraint and the continued use may not be considered a separate instance of physical restraint.

4) A physical restraint shall not impair a student's ability to breathe or communicate normally, obstruct a student's airway, or interfere with a student's ability to speak. If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief periods, unless the supervising adult determines that this freedom appears likely to result in harm to the student or others.

5) "Prone physical restraint" means a physical restraint in which a student is held face down on the floor or other surface and physical pressure is applied to the student's body to keep the student in the prone position. Prone physical restraint is prohibited except in special education nonpublic facilities under Section 14-7.02 of the School Code when all of the following conditions are met:

- A) the student's Behavior Intervention Plan specifically allows for prone restraint of the student;
- B) the Behavior Intervention Plan was put into place before January 1, 2021;
- C) the student's Behavior Intervention Plan has been approved by the IEP team;
- D) the school staff member or staff members applying the use of prone restraint on a student have been trained in its safe application under this Section;

E) the special education nonpublic facility must be able to document and demonstrate to the IEP team that the use of other de-escalation techniques provided for in the student's Behavior Intervention Plan were ineffective; and

F) the use of prone restraint occurs in the 2021-2022 school year.

6) "Supine physical restraint" means a physical restraint in which a student is held face up on the floor or other surface and physical pressure is applied to the student's body to keep the student in the supine position. Supine physical restraint is prohibited, unless all of the following criteria are met:

A) Before using a supine physical restraint, the school district or other entity serving the student shall review and determine if there are any known medical or psychological limitations that contraindicate the use of a supine physical restraint.

B) The school district or other entity serving the student deems the situation an emergency, defined as a situation in which immediate intervention is needed to protect a student or other individual from imminent danger of serious physical harm to himself, herself, or others and less restrictive and intrusive interventions have been tried and proven ineffective in stopping the imminent danger.

C) Supine physical restraint is used in a manner that does not restrict or impair a student's ability to breathe or communicate normally, obstruct a student's airway, or interfere with a student's primary mode of communication.

D) Supine physical restraint is used only by personnel who have completed required training under subsection (i).

E) Supine physical restraint is used only if those interventions are the least restrictive and intrusive interventions to address the emergency and stop the imminent danger of serious physical harm to the student or others. During each incident, one school staff person trained in identifying the signs of distress must be assigned to observe and monitor the student during the entire incident. That staff person may not be involved in the physical holding of the student. The number of staff involved in physically restraining the student may not exceed the number necessary to safely hold the student. Staff involved in the restraint must use the least amount of force and the fewest points of contact necessary and must afford the student maximum freedom of movement while maintaining safety.

F) The supine physical restraint ends immediately when the threat of imminent danger of serious physical harm ends, but in no event shall supine physical restraint last longer than 30 minutes. If after 30 minutes the emergency has not resolved, or if an additional emergency arises the same school day that meets the standards of this subsection (d), a school administrator, in consultation with a psychologist, social worker, nurse, or behavior specialist, may authorize the continuation of the restraint or an additional supine physical restraint. No restraint may be continued, nor may additional restraints be applied, unless continuation is authorized by a school administrator.

G) If the student is restrained in a supine physical restraint in at least 2 separate instances within a 30-school day period, the school personnel who initiated, monitored, and supervised the incidents shall initiate a Restraint Review, which is a review of the effectiveness of the procedures used. If the personnel involved in the restraints do not include a psychologist, social worker, nurse, or behavior specialist, at least one of those staff members shall be included in the Restraint Review. The Restraint Review must include, but is not limited to:

i) conducting or reviewing a functional behavioral analysis, reviewing data, considering the development of additional or revised positive behavioral interventions and supports, considering actions to reduce the use of restrictive procedures, or, if applicable, modifying the student's individualized educational program, federal Section 504 plan, behavior intervention plan, or other plan of care, as appropriate; and

ii) reviewing any known medical or psychological limitations that contraindicate the use of a restrictive procedure, considering whether to prohibit that restrictive procedure, and, if applicable,

documenting any prohibitions in the student's individualized education program, federal Section 504 plan, behavior intervention plan, or other plan of care.

7) Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to immediately carry out the threat.

8) Except as permitted by the administrative rules of another State agency operating or licensing a facility in which elementary or secondary educational services are provided (e.g., the Illinois Department of Corrections, the Illinois Department of Juvenile Justice, or the Illinois Department of Human Services), mechanical restraint or chemical restraint, as defined in subsection (d)(12), shall not be employed.

9) Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.

10) Any application of physical restraint shall take into consideration the safety and security of the student. Physical restraint shall not rely upon pain as an intentional method of control.

11) In determining whether a student who is being physically restrained should be removed from the area where the restraint was initiated, the supervising adult shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.

12) "Chemical restraint" means the use of medication to control a student's behavior or restrict a student's freedom of movement. Chemical restraint is prohibited. "Chemical restraint" does not include medication that is legally prescribed and administered as part of a student's regular medical regimen to manage behavioral symptoms and treat medical symptoms.

13) "Mechanical restraint" means the use of any device or equipment to limit a student's movement or hold a student immobile. Mechanical restraint is prohibited. "Mechanical restraint" does not include any restraint used to:

- A) treat a student's medical needs;
- B) protect a student known to be at risk of injury resulting from lack of coordination or frequent loss of consciousness;
- C) position a student with physical disabilities in a manner specified in the student's individualized education program, federal Section 504 plan, or other plan of care;
- D) provide a supplementary aid or service or an accommodation, including, but not limited to, assistive technology that provides proprioceptive input or aids in self-regulation; or
- E) promote student safety in vehicles used to transport students.

e) Time Limits

1) A student shall be released from isolated time out or time out immediately upon determination by the staff member that the student is no longer an imminent danger of serious physical harm to the student or others. No less than once every 15 minutes, an adult trained under subsection (i) must assess whether the student has ceased presenting the specific behavior for which the time out was imposed.

2) A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing serious physical harm to the student or others.

f) Documentation and Evaluation

1) In a form and manner prescribed by the State Superintendent, a written record of each episode of isolated time out, time out, or physical restraint shall be maintained in the student's temporary record.

The official designated under this Section shall also maintain a copy of each of these records. Each record shall include, but is not limited to, all of the following:

- A) the student's name;
 - B) the date of the incident;
 - C) the beginning and ending times of the incident;
 - D) a description of any relevant events leading up to the incident;
 - E) a description of any interventions used prior to the implementation of isolated time out, time out, or physical restraint;
 - F) a description of the incident or student behavior that resulted in isolated time out, time out, or physical restraint, including the specific imminent danger of serious physical harm to the student or others;
 - G) for isolated time out, a description of the rationale of why the needs of the student cannot be met by a lesser restrictive intervention and why an adult could not be present in the time out room;
 - H) a log of the student's behavior in isolated time out, time out, or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;
 - I) a description of any injuries (whether to students, staff, or others) or property damage;
 - J) a description of any planned approach to dealing with the student's behavior in the future, including any de-escalation methods or procedures that may be used to avoid the use of isolated time out, time out, or physical restraint;
 - K) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out, time out, or physical restraint; and
 - L) the date on which parental or guardian notification took place, as required by subsection (g).
- 2) The school official designated under subsection (j)(3) shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.
- 3) The requirements of this subsection (f)(3) shall apply whenever an episode of isolated time out or time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.
- A) A licensed educator or licensed clinical practitioner knowledgeable about the use of isolated time out or time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.
 - B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).
 - C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated under subsection (j)(3).
- 4) When a student experiences instances of isolated time out, time out, or physical restraint on 3 days within a 30-day period, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program, for special education eligibility, or, for a student already eligible for special education, for a change in program.
- A) The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide ten days' notice of its date, time, and location.

B) The notification shall inform the parents or guardians that the student's potential need for special education, an alternative program, or, for students already eligible for special education, the student's potential need for a change in program, will be considered and that the results of the review will be entered into the temporary student record.

g) Notification to Parents or Guardians

- 1) A district whose policies allow for the use of isolated time out, time out, or physical restraint shall notify parents or guardians to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code.
- 2) If a student is subject to isolated time out, time out, or physical restraint, the school must make a reasonable attempt to notify the student's parent or guardian on the same day the isolated time out, time out, or physical restraint is imposed.
- 3) Within one business day after any use of isolated time out, time out, or physical restraint, the school district or other entity serving the student shall send the form required under subsection (f)(1) to the student's parents or guardians.

h) Report to the State Superintendent

- 1) No later than 2 school days after any use of isolated time out, time out, or physical restraint, the school district or other entity serving the student shall, in a form and manner prescribed by the State Superintendent, submit the information required under subsection (f)(1) to the State Superintendent.
- 2) The State Superintendent reserves the authority to require districts to submit the information required under subsection (f)(1) for previous school years.

i) Requirements for Training

1) Any adult who is supervising a student in isolated time out or time out, or who is involved in a physical restraint, shall receive at least 8 hours of developmentally appropriate training annually. Except for training on physical restraint, online training may be utilized for all training areas under this subsection (i)(1). Training is required in the following areas:

- A) crisis de-escalation;
- B) restorative practices;
- C) identifying signs of distress during physical restraint and time out;
- D) trauma-informed practices; and
- E) behavior management practices.

2) All adults trained under this subsection (i) must be provided a copy of the district's policies on isolated time out, time out, and physical restraint.

Isolated time out, time out, or physical restraint, as defined in this Section, shall be applied only by individuals who have received annual systematic training on less restrictive and intrusive strategies and techniques to reduce the use of isolated time out, time out, and physical restraint based on best practices and how to safely use time out and physical restraint when those alternative strategies and techniques have been tried and proven ineffective. This training must include all the elements described in this subsection (i) and must result in the receipt of a certificate of completion or other written evidence of participation. No individual may use isolated time out, time out, or physical restraint before receiving the required training and certificate. An individual who applies isolated time out, time out, or physical restraint shall use only techniques in which he or she has received prior annual training, as indicated by written evidence of participation.

The training required under this subsection (i) with respect to isolated time out, time out, or physical restraint may be provided either by the employer or by an external entity.

- A) All persons or entities who provide training must be trained and certified in the:

- i) effective use of less restrictive and intrusive alternatives to prevent imminent danger of serious physical harm to the student or others; and
 - ii) safe application of isolated time out, time out, and physical restraint when less restrictive and intrusive alternatives have been tried and proven ineffective.
- B) The training shall include, but need not be limited to:
- i) the dangers associated with the use of isolated time out, time out, and physical restraint and the need to use interventions that are less restrictive and intrusive to reduce the risk of harm to students;
 - ii) appropriate procedures for preventing the need for isolated time out, time out, or physical restraint, including the deescalation of problematic behavior, relationship-building, and the use of alternatives to restraint;
 - iii) recognizing and responding appropriately to the antecedent of a student's behavior;
 - iv) recognizing contraindications and other conditions and events that increase risk of death;
 - v) a description and identification of dangerous behaviors on the part of students that may indicate the need for isolated time out, time out, or physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
 - vi) the simulated experience of administering and receiving a variety of isolated time out, time out, and physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
 - vii) instruction regarding the effects of isolated time out, time out, and physical restraint on the person in restraint, isolated time out, or time out, including instruction on monitoring physical signs of distress and obtaining medical assistance;
 - viii) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
 - ix) demonstration by participants of proficiency in administering isolated time out, time out, and physical restraint.
- 5) An individual may provide training to others in a particular method of time out and physical restraint only if he or she has received written evidence of completing training in those techniques that meet the requirements of this subsection (i) within the preceding one-year period.
- j) Any use of isolated time out, time out, or physical restraint permitted by a board's policy shall be implemented in accordance with written procedures that include:
- 1) the circumstances under which isolated time out, time out, or physical restraint will be applied;
 - 2) a written procedure to be followed by staff in cases of isolated time out, time out, or physical restraint;
 - 3) designation of a school official who will be informed of incidents and maintain the documentation required under this Section when isolated time out, time out, or physical restraint is used;
 - 4) the process the district or other entity serving public school students will use to evaluate any incident that results in an injury to the affected student; and
 - 5) a description of the district's or other entity's annual review of the use of isolated time out, time out, or physical restraint, which, at a minimum, shall include:
 - A) the number of incidents involving the use of these interventions;
 - B) the location and duration of each incident;
 - C) identification of the staff members who were involved;
 - D) any injuries or property damage that occurred; and

E) the timeliness of parental or guardian notification, timelines of agency notification, and administrative review.

k) Complaint Procedures

1) Any parent or guardian, individual, organization, or advocate may file a signed, written complaint with the State Superintendent alleging that a local school district or other entity serving the student has violated this Section. The complaint shall include all of the following:

- A) the facts on which the complaint is based;
- B) the signature and contact information for the complainant;
- C) if known, the names and addresses of the students involved and the name of the school of attendance;
- D) a description of the nature of the problem, including any facts relating to the problem; and
- E) a proposed resolution of the problem to the extent known.

2) The State Superintendent shall only consider a complaint if it alleges a violation occurring not more than one year prior to the date in which the complaint is received.

3) After receiving a complaint that meets the requirements of this subsection (k), the State Superintendent shall:

- A) carry out an independent on-site investigation, if deemed necessary by the State Superintendent;
- B) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
- C) require that the public entity that is the subject of the complaint submit a written response to the complaint. The public entity shall submit its response and all other documentation to the State Superintendent and the parent, individual, or organization filing the complaint no later than the date indicated in the written correspondence received under this subsection (k).

4) The State Superintendent must issue a written decision to the complainant that addresses each allegation in the complaint and that contains all of the following:

- A) findings of fact and conclusion;
- B) the reasons for the State Board of Education's final decision; and
- C) orders for any action, including technical assistance.

5) The complaint procedure under this subsection (k) does not limit, diminish, or otherwise deny the federal and State rights and procedural safeguards afforded to students.

401.250. Staff training.

Each provider subject to this Part shall develop and implement ongoing inservice training programs related to the duties of all staff.

a) Each provider shall prepare and keep on file an annual plan for inservice training in areas where improvement is desirable. The provider shall identify these areas based upon an analysis of each program's outcome data and based on student achievement in relation to the goals and objectives of the program. Training sessions shall be planned and designed to assist staff members in improving their ability to fulfill their duties as defined in their job descriptions, as necessary to educate the student population served and with specific reference to areas of need identified in the annual plan.

b) As appropriate to the student population served, each provider shall provide specific training to all personnel, including, but not limited to, the following:

- 1) The policy and procedures regarding the maintenance of student privacy and dignity;
- 2) Disposal of hazardous waste materials;
- 3) Procedures for preventing the transmission of blood-borne pathogens;

- 4) The use of isolated time out or physical restraint, if any, subject to the requirements of 23 Ill. Adm. Code 1.280 (Discipline) and 1.285 (Requirements for the Use of Isolated Time Out and Physical Restraint);
 - 5) Behavioral intervention strategies; and
 - 6) The administration of medication.
- c) Each provider shall provide training to all paraprofessionals and individual student aides (noninstructional duties) before they assume their duties.
 - d) Each provider shall maintain accurate, written and dated records of all training provided, as described in Section 401.260.

830.150. Behavior Intervention.

- a) Behavior intervention is a therapeutic measure which is to be used only to prevent a student from causing damage to property or physical harm to himself/herself or others. The following procedures shall be used, as part of a behavior modification or management program. In no event shall restraint be used to punish or discipline a student or as a convenience to staff.
- b) Behavior intervention may include physically holding, or otherwise restricting the movement of the student's limbs, head or body. No mechanical or chemical restraint shall be permitted. Medically prescribed or monitored procedures for the treatment of an existing physical condition or the amelioration of a physical disability, such as braces and other medical equipment, are not considered restraints. The partial or total immobilization of a student for the purpose of performing a medical/surgical procedure is not restraint.
- c) Procedures for the use of physical restraint at the State Schools are as follows:
 - 1) physical restraint shall be employed in a humane and therapeutic manner. In no event shall restraint be used when it is medically contraindicated (i.e., could adversely affect the health of the student).
 - 2) whenever physical restraint is used with a student whose primary communication is sign language, writing, or computer, the student shall be permitted to have his/her hands free from restraint for brief periods, except when freedom may result in physical harm to the student or others. A staff member skilled in the student's mode of communication shall be in attendance when the student's hands are free.
 - 3) the student must be released from restraint as soon as possible. The use of restraint shall not exceed 30 consecutive minutes.
 - 4) the person who initiates the restraint shall inform his/her supervisor as soon as possible and must submit a written detailed anecdotal report of the cause/conditions that called for the use of physical restraint. The report shall include the date, time, and location that the physical restraint took place. This report will be placed in the student's temporary records maintained by the State School with a copy to be sent to the parent of the student and through the chain of command to the facility administrator.
- d) All direct care staff shall be trained in behavior intervention techniques, including physical restraint, to prevent injury to the students. Documentation of training shall be maintained in the employee personnel files kept at each State School. Employees that have not completed the training may not employ physical restraint.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means, pursuant to subsection (b-20) of this Section, and no action shall lie against them for such expulsion. Expulsion shall take place only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior. Such request shall be made by registered or certified mail and shall state the time, place and purpose of the meeting. The board, or a hearing officer appointed by it, at such meeting shall state the reasons for dismissal and the date on which the expulsion is to become effective. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate. If the board acts to expel a pupil, the written expulsion decision shall detail the specific reasons why removing the pupil from the learning environment is in the best interest of the school. The expulsion decision shall also include a rationale as to the specific duration of the expulsion. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 et seq. or 105 ILCS 5/13B-1 et seq.]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

(b) To suspend or by policy to authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of gross disobedience or misconduct, or to suspend pupils guilty of gross disobedience or misconduct on the school bus from riding the school bus, pursuant to subsections (b-15) and (b-20) of this Section, and no action shall lie against them for such suspension. The board may by policy authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of such acts for a period not to exceed 10 school days. If a pupil is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the pupil in excess of 10 school days for safety reasons.

Any suspension shall be reported immediately to the parents or guardians of a pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardians, the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review, the parents or guardians of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate. If a student is suspended pursuant to this subsection (b), the board shall, in the written suspension decision, detail the specific act of gross disobedience or misconduct resulting in the decision to suspend. The suspension decision shall also include a rationale as to the specific duration of the suspension. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

(b-5) Among the many possible disciplinary interventions and consequences available to school officials, school exclusions, such as out-of-school suspensions and expulsions, are the most serious. School

officials shall limit the number and duration of expulsions and suspensions to the greatest extent practicable, and it is recommended that they use them only for legitimate educational purposes. To ensure that students are not excluded from school unnecessarily, it is recommended that school officials consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.

(b-10) Unless otherwise required by federal law or this Code, school boards may not institute zero-tolerance policies by which school administrators are required to suspend or expel students for particular behaviors.

(b-15) Out-of-school suspensions of 3 days or less may be used only if the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities. For purposes of this subsection (b-15), "threat to school safety or a disruption to other students' learning opportunities" shall be determined on a case-by-case basis by the school board or its designee. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable.

(b-20) Unless otherwise required by this Code, out-of-school suspensions of longer than 3 days, expulsions, and disciplinary removals to alternative schools may be used only if other appropriate and available behavioral and disciplinary interventions have been exhausted and the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community or (ii) substantially disrupt, impede, or interfere with the operation of the school. For purposes of this subsection (b-20), "threat to the safety of other students, staff, or members of the school community" and "substantially disrupt, impede, or interfere with the operation of the school" shall be determined on a case-by-case basis by school officials. For purposes of this subsection (b-20), the determination of whether "appropriate and available behavioral and disciplinary interventions have been exhausted" shall be made by school officials. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of student exclusions to the greatest extent practicable. Within the suspension decision described in subsection (b) of this Section or the expulsion decision described in subsection (a) of this Section, it shall be documented whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

(b-25) Students who are suspended out-of-school for longer than 4 school days shall be provided appropriate and available support services during the period of their suspension. For purposes of this subsection (b-25), "appropriate and available support services" shall be determined by school authorities. Within the suspension decision described in subsection (b) of this Section, it shall be documented whether such services are to be provided or whether it was determined that there are no such appropriate and available services.

A school district may refer students who are expelled to appropriate and available support services.

A school district shall create a policy to facilitate the re-engagement of students who are suspended out- of-school, expelled, or returning from an alternative school setting.

(b-30) A school district shall create a policy by which suspended pupils, including those pupils suspended from the school bus who do not have alternate transportation to school, shall have the opportunity to make up work for equivalent academic credit. It shall be the responsibility of a pupil's parents or guardians to notify school officials that a pupil suspended from the school bus does not have alternate transportation to school.

(b-35) In all suspension review hearings conducted under subsection (b) or expulsion hearings conducted under subsection (a), a student may disclose any factor to be considered in mitigation, including his or her status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A. A representative of the parent's or guardian's choice, or of the student's choice if emancipated, must be permitted to represent the student throughout the proceedings and to address the school board or its appointed hearing officer. With the approval of the student's parent or guardian, or of the student if emancipated, a support person must be permitted to accompany the student to any disciplinary hearings or

proceedings. The representative or support person must comply with any rules of the school district's hearing process. If the representative or support person violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or anyone else in attendance at the hearing, the representative or support person may be prohibited from further participation in the hearing or proceeding. A suspension or expulsion proceeding under this subsection (b-35) must be conducted independently from any ongoing criminal investigation or proceeding, and an absence of pending or possible criminal charges, criminal investigations, or proceedings may not be a factor in school disciplinary decisions.

(b-40) During a suspension review hearing conducted under subsection (b) or an expulsion hearing conducted under subsection (a) that involves allegations of sexual violence by the student who is subject to discipline, neither the student nor his or her representative shall directly question nor have direct contact with the alleged victim. The student who is subject to discipline or his or her representative may, at the discretion and direction of the school board or its appointed hearing officer, suggest questions to be posed by the school board or its appointed hearing officer to the alleged victim.

The Department of Human Services shall be invited to send a representative to consult with the board at such meeting whenever there is evidence that mental illness may be the cause for expulsion or suspension.

(c-5) School districts shall make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.

(c) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 [430 ILCS 65/1.1] of the Firearm Owners Identification Card Act, or firearm as defined in Section 24-1 [720 ILCS 5/24-1] of the Criminal Code of 2012. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alikes" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

Expulsion or suspension shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act. A student who is subject to suspension or expulsion as provided in this Section may be eligible for a transfer to an alternative school program in accordance with Article 13A of the School Code.

(d-5) The board may suspend or by regulation authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend a student for a period not to exceed 10 school days or may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis, if (i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel, (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and (iii) the threat could be reasonably interpreted as

threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school.

(d) To maintain order and security in the schools, school authorities may inspect and search places and areas such as lockers, desks, parking lots, and other school property and equipment owned or controlled by the school, as well as personal effects left in those places and areas by students, without notice to or the consent of the student, and without a search warrant. As a matter of public policy, the General Assembly finds that students have no reasonable expectation of privacy in these places and areas or in their personal effects left in these places and areas. School authorities may request the assistance of law enforcement officials for the purpose of conducting inspections and searches of lockers, desks, parking lots, and other school property and equipment owned or controlled by the school for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. If a search conducted in accordance with this Section produces evidence that the student has violated or is violating either the law, local ordinance, or the school's policies or rules, such evidence may be seized by school authorities, and disciplinary action may be taken. School authorities may also turn over such evidence to law enforcement authorities.

(e) Suspension or expulsion may include suspension or expulsion from school and all school activities and a prohibition from being present on school grounds.

(f) A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion in an alternative school program under Article 13A of this Code or an alternative learning opportunities program under Article 13B of this Code before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. A school district that adopts a policy under this subsection (g) must include a provision allowing for consideration of any mitigating factors, including, but not limited to, a student's status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.

(g) School officials shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.

(h) A student may not be issued a monetary fine or fee as a disciplinary consequence, though this shall not preclude requiring a student to provide restitution for lost, stolen, or damaged property.

(i) Subsections (a) through (i) of this Section shall apply to elementary and secondary schools, charter schools, special charter districts, and school districts organized under Article 34 [105 ILCS 5/34-1 et seq.] of this Code.

(j) The expulsion of children enrolled in programs funded under Section 1C-2 of this Code [105 ILCS 5/1C-2] is subject to the requirements under paragraph (7) of subsection (a) of Section 2-3.71 [105 ILCS 5/2-3.71] of this Code.

- (1) Beginning with the 2018-2019 school year, an in-school suspension program provided by a school district for any students in kindergarten through grade 12 may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel. A school district may employ a school social worker or a licensed mental health professional to oversee an in-school suspension program in kindergarten through grade 12.

105 ILCS 5/34-19. By-laws, rules and regulations; business transacted at regular meetings; voting; records.

The board shall, subject to the limitations in this Article, establish by-laws, rules and regulations, which shall have the force of ordinances, for the proper maintenance of a uniform system of discipline for both employees and pupils, and for the entire management of the schools, and may fix the school age of pupils, the minimum of which in kindergartens shall not be under 4 years, except that, based upon an assessment of the child's readiness, children who have attended a non-public preschool and continued their education at

that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain the age of 6 years on or before December 31 of the year of the 2009- 2010 school term and each school term thereafter may attend first grade upon commencement of such term, and in grade schools shall not be under 6 years. It may expel, suspend or, subject to the limitations of all policies established or adopted under Section 10-22.6 or 14-8.05 [105 ILCS 5/10-22.6 or 105 ILCS 5/14-8.05], otherwise discipline any pupil found guilty of gross disobedience, misconduct, or other violation of the by-laws, rules, and regulations, including gross disobedience or misconduct perpetuated by electronic means. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 or 105 ILCS 5/13B-1]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. The bylaws, rules and regulations of the board shall be enacted, money shall be appropriated or expended, salaries shall be fixed or changed, and textbooks, electronic textbooks, and courses of instruction shall be adopted or changed only at the regular meetings of the board and by a vote of a majority of the full membership of the board; provided that notwithstanding any other provision of this Article or the School Code, neither the board or any local school council may purchase any textbook for use in any public school of the district from any textbook publisher that fails to furnish any computer diskettes as required under Section 28-21 [105 ILCS 5/28-21]. Funds appropriated for textbook purchases must be available for electronic textbook purchases and the technological equipment necessary to gain access to and use electronic textbooks at the local school council's discretion. The board shall be further encouraged to provide opportunities for public hearing and testimony before the adoption of bylaws, rules and regulations. Upon all propositions requiring for their adoption at least a majority of all the members of the board the yeas and nays shall be taken and reported. The by-laws, rules and regulations of the board shall not be repealed, amended or added to, except by a vote of 2/3 of the full membership of the board. The board shall keep a record of all its proceedings. Such records and all by-laws, rules and regulations, or parts thereof, may be proved by a copy thereof certified to be such by the secretary of the board, but if they are printed in book or pamphlet form which are purported to be published by authority of the board they need not be otherwise published and the book or pamphlet shall be received as evidence, without further proof, of the records, by-laws, rules and regulations, or any part thereof, as of the dates thereof as shown in such book or pamphlet, in all courts and places where judicial proceedings are had.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(b-5) Among the many possible disciplinary interventions and consequences available to school officials, school exclusions, such as out-of-school suspensions and expulsions, are the most serious. School officials shall limit the number and duration of expulsions and suspensions to the greatest extent practicable, and it is recommended that they use them only for legitimate educational purposes. To ensure that students are not excluded from school unnecessarily, it is recommended that school officials consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.

(b-10) Unless otherwise required by federal law or this Code, school boards may not institute zero-tolerance policies by which school administrators are required to suspend or expel students for particular behaviors.

(b-15) Out-of-school suspensions of 3 days or less may be used only if the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities. For purposes of this subsection (b-15), "threat to school safety or a disruption to other students' learning opportunities" shall be determined on a case-by-case basis by the school board or its designee. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable.

(b-20) Unless otherwise required by this Code, out-of-school suspensions of longer than 3 days, expulsions, and disciplinary removals to alternative schools may be used only if other appropriate and available behavioral and disciplinary interventions have been exhausted and the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community or (ii) substantially disrupt, impede, or interfere with the operation of the school. For purposes of this subsection (b-20), "threat to the safety of other students, staff, or members of the school community" and "substantially disrupt, impede, or interfere with the operation of the school" shall be determined on a case-by-case basis by school officials. For purposes of this subsection (b-20), the determination of whether "appropriate and available behavioral and disciplinary interventions have been exhausted" shall be made by school officials. School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of student exclusions to the greatest extent practicable. Within the suspension decision described in subsection (b) of this Section or the expulsion decision described in subsection (a) of this Section, it shall be documented whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions. [...]

(d) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 [430 ILCS 65/1.1] of the Firearm Owners Identification Card Act, or firearm as defined in Section 24-1 [720 ILCS 5/24-1] of the Criminal Code of 2012. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alike" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

105 ILCS 5/26-12. Punitive action.

(a) No punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against truant minors for such truancy unless appropriate and available supportive services and other school resources have been provided to the student. Notwithstanding the provisions of Section 10-22.6 of this Code [105 ILCS 5/26-10-22.6], a truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available supportive services, compel the student to return to school.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means, pursuant to subsection (b-20) of this Section, and no action shall lie against them for such expulsion. Expulsion shall take place only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior. Such request shall be made by registered or certified mail and shall state the time, place and purpose of the meeting. The board, or a hearing officer appointed by it, at such meeting shall state the reasons for dismissal and the date on which the expulsion is to become effective. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate. If the board acts to expel a pupil, the written expulsion decision shall detail the specific reasons why removing the pupil from the learning environment is in the best interest of the school. The expulsion decision shall also include a rationale as to the specific duration of the expulsion. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 et seq. or 105 ILCS 5/13B-1 et seq.]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. [...]

Any suspension shall be reported immediately to the parents or guardians of a pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardians, the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review, the parents or guardians of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate. If a student is suspended pursuant to this subsection (b), the board shall, in the written suspension decision, detail the specific act of gross disobedience or misconduct resulting in the decision to suspend. The suspension decision shall also include a rationale as to the specific duration of the suspension. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

105 ILCS 5/13A-3. Alternative schools.

(b) Each regional superintendent shall hold a public hearing, by December 1 of the school year following the effective date of this amendatory Act of 1995, to determine the need for an alternative school. The hearing shall be held before the regional board. The regional superintendent, after consulting with the district superintendent of each school district located within the regional superintendent's educational service region and the regional board, shall determine the location and the need of the alternative school within that region. In making this determination, the regional superintendent shall consider the following:

- (1) the possible utilization of existing buildings, including but not limited to governmental buildings, that are, or could reasonably be made, usable as an alternative school;
- (2) which available option would be least costly; and
- (3) distances that administratively transferred students would need to travel and the costs of that travel.

105 ILCS 5/13A-4. Administrative transfers.

A student who is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 [105 ILCS 5/10-22.6] (or, in the case of a student enrolled in the public schools of a school district organized under Article 34, in accordance with the uniform system of discipline established under Section 34-19 [105 ILCS 5/34-19]) may be immediately transferred to the alternative program. At the earliest time following that transfer appropriate personnel from the sending school district and appropriate personnel of the alternative program shall meet to develop an alternative education plan for the student. The student's parent or guardian shall be invited to this meeting. The student may be invited. The alternative educational plan shall include, but not be limited to all of the following:

- (1) The duration of the plan, including a date after which the student may be returned to the regular educational program in the public schools of the transferring district. If the parent or guardian of a student who is scheduled to be returned to the regular education program in the public schools of the district files a written objection to the return with the principal of the alternative school, the matter shall be referred by the principal to the regional superintendent of the educational service region in which the alternative school program is located for a hearing. Notice of the hearing shall be given by the regional superintendent to the student's parent or guardian. After the hearing, the regional superintendent may take such action as he or she finds appropriate and in the best interests of the student. The determination of the regional superintendent shall be final.
- (2) The specific academic and behavioral components of the plan.
- (3) A method and time frame for reviewing the student's progress.

Notwithstanding any other provision of this Article, if a student for whom an individualized educational program has been developed under Article 14 is transferred to an alternative school program under this Article 13A, that individualized educational program shall continue to apply to that student following the transfer unless modified in accordance with the provisions of Article 14.

105 ILCS 5/24-24. Maintenance of discipline.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

The board may make and enforce reasonable rules of conduct and sportsmanship for athletic and extracurricular school events. Any person who violates such rules may be denied admission to school events for not more than one year, provided that written 10 days notice of the violation is given such person and a hearing had thereon by the board pursuant to its rules and regulations. The administration of any school may sign complaints as agents of the school against persons committing any offense at school events.

105 ILCS 5/34-4.5. Chronic truants.

(a) Office of Chronic Truant Adjudication. The board shall establish and implement an Office of Chronic Truant Adjudication, which shall be responsible for administratively adjudicating cases of chronic truancy and imposing appropriate sanctions. The board shall appoint or employ hearing officers to perform the adjudicatory functions of that Office. Principals and other appropriate personnel may refer pupils suspected of being chronic truants, as defined in Section 26-2a of this Code [105 ILCS 5/26-2a], to the Office of Chronic Truant Adjudication.

(b) Notices. Before any hearing may be held under subsection (c), the principal of the school attended by the pupil or the principal's designee shall notify the pupil's parent or guardian by personal visit, letter, or telephone of each unexcused absence of the pupil. After giving the parent or guardian notice of the tenth unexcused absence of the pupil, the principal or the principal's designee shall send the pupil's parent or guardian a letter, by certified mail, return receipt requested, notifying the parent or guardian that he or she is subjecting himself or herself to a hearing procedure as provided under subsection (c) and clearly describing any and all possible penalties that may be imposed as provided for in subsections (d) and (e) of this Section.

(c) Hearing. Once a pupil has been referred to the Office of Chronic Truant Adjudication, a hearing shall be scheduled before an appointed hearing officer, and the pupil and the pupil's parents or guardian shall be notified by certified mail, return receipt requested stating the time, place, and purpose of the hearing. The hearing officer shall hold a hearing and render a written decision within 14 days determining whether the pupil is a chronic truant as defined in Section 26-2a of this Code [105 ILCS 5/26-2a] and whether the parent or guardian took reasonable steps to assure the pupil's attendance at school. The hearing shall be private unless a public hearing is requested by the pupil's parent or guardian, and the pupil may be present at the hearing with a representative in addition to the pupil's parent or guardian. The board shall present evidence of the pupil's truancy, and the pupil and the parent or guardian or representative of the pupil may cross examine witnesses, present witnesses and evidence, and present defenses to the charges. All testimony at the hearing shall be taken under oath administered by the hearing officer. The decision of the hearing officer shall constitute an "administrative decision" for purposes of judicial review under the Administrative Review Law [735 ILCS 5/3-101 et seq.].

(d) Penalties. The hearing officer may require the pupil or the pupil's parent or guardian or both the pupil and the pupil's parent or guardian to do any or all of the following: perform reasonable school or community services for a period not to exceed 30 days; complete a parenting education program; obtain counseling or other supportive services; and comply with an individualized educational plan or service plan as provided by appropriate school officials. If the parent or guardian of the chronic truant shows that he or she took reasonable steps to insure attendance of the pupil at school, he or she shall not be required to perform services.

(e) Non-compliance with sanctions. If a pupil determined by a hearing officer to be a chronic truant or the parent or guardian of the pupil fails to comply with the sanctions ordered by the hearing officer under subsection (c) of this Section, the Office of Chronic Truant Adjudication may refer the matter to the State's Attorney for prosecution under Section 3-33.5 of the Juvenile Court Act of 1987 [705 ILCS 405/3-33.5].

(f) Limitation on applicability. Nothing in this Section shall be construed to apply to a parent or guardian of a pupil not required to attend a public school pursuant to Section 26-1 [105 ILCS 5/26-1].

105 ILCS 5/34-84a. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline, except that the rules of the board must provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, shall provide that

a teacher may remove a student from the classroom for disruptive behavior, and must include provisions which provide due process to students.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

105 ILCS 5/2-3.13a. School records; transferring students.

(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act [105 ILCS 10/1 et seq.]. In addition, if a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act [20 U.S.C.S. § 7151 et seq.], for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring, provided that the school board may approve the placement of the student in an alternative school program established under Article 13A of this Code [105 ILCS 5/13A-0.5 et seq.]. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion before being admitted into the school district. This policy may allow placement of the student in an alternative school program established under Article 13A of this Code, if available, for the remainder of the suspension or expulsion. Each public school and each private or nonpublic elementary or secondary school in this State shall within 10 days after the student has paid all of his or her outstanding fines and fees and at its own expense forward an official transcript of the scholastic records of each student transferring from that school in strict accordance with the provisions of this Section and the rules established by the State Board of Education as herein provided.

105 ILCS 5/13B-25.10. District policies, guidelines, and procedures; notification.

Before receiving State funds for an alternative learning opportunities program, a school district must adopt policies and guidelines for the admission and transfer of students to the program and for transitioning students as appropriate back to the regular school program in a manner consistent with guidelines provided by the State Board. A school district must adopt policies and procedures for the establishment of a new alternative learning opportunities program or for securing State approval for an existing program. Any district that plans to establish an alternative learning opportunities program must notify the State Superintendent of Education before enrolling students in the program.

105 ILCS 5/13B-25.20. Requirements for the district plan.

The district plan must be consistent with the school district's overall mission and goals and aligned with the local school improvement plans of each participating school. The district plan must include all of the following:

- (12) How students will be admitted to the program and how students will make an effective transition back to the regular school program, as appropriate.

105 ILCS 5/26-2. Enrolled pupils not of compulsory school age.

(c) A school or school district may deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum attendance standards if all of the following conditions are met:

- (1) The student was absent without valid cause for 20% or more of the attendance days in the semester immediately prior to the current semester.
- (2) The student and the student's parent or guardian are given written notice warning that the student is subject to denial from enrollment for one semester unless the student is absent without valid cause less than 20% of the attendance days in the current semester.
- (3) The student's parent or guardian is provided with the right to appeal the notice, as determined by the State Board of Education in accordance with due process.
- (4) The student is provided with attendance remediation services, including without limitation assessment, counseling, and support services.
- (5) The student is absent without valid cause for 20% or more of the attendance days in the current semester.

A school or school district may not deny enrollment to a student (or reenrollment to a dropout) who is at least 17 years of age or older but below 19 years for more than one consecutive semester for failure to meet attendance standards.

REGULATIONS**240.20. Requirements for Student Participation.**

Students in grades 4 through 12 who meet enrollment criteria established by the school district and who meet the definition of "at risk of academic failure" are eligible to participate in an Alternative Learning Opportunities Program [105 ILCS 5/13B-20.25] approved under this Part.

p) Notwithstanding the eligibility criteria stated in Section 13B-20.25 of the School Code, a school district may enroll in its Alternative Learning Opportunities Program any student it has suspended or expelled, in accordance with the provisions of Section 10-22.6 or 34-19 of the School Code [105 ILCS 5/10-22.6 or 34-19].

- 1) The enrolling school district shall ensure that the educational program and other services provided for the suspended or expelled student meet each of the requirements set forth in this Part.
- 2) A suspended or expelled student shall not be permitted to return to or re-enroll in his or her home school pursuant to subsection (j) of this Section until the term of the suspension or expulsion is completed.

240.50. Requirements for returning the student to the regular school program.

a) It shall be the goal of the Alternative Learning Opportunities Program (ALOP) to assist students in successfully completing their education, including, but not limited to, returning to the regular school program, or to a postsecondary or adult education program, as soon as appropriate. In establishing procedures for the transition of students to the regular or another program, districts shall ensure that:

- 1) an assessment is conducted prior to the student's leaving the ALOP to identify the educational supports and/or other support services the student would need to successfully progress in the regular school curriculum;

2) a staff member is assigned to monitor the student's progress in the regular school program for not less than two semesters after the student leaves the ALOP; and

3) for a student who has been suspended or expelled from his or her home school and enrolled by a district in its ALOP, the student shall not be permitted to return to or re-enroll in his or her home school until the term of the suspension or expulsion is completed.

b) The requirements of subsection (a) of this Section apply in instances where a student is removed from the ALOP by his or her parent or guardian before completion of the objectives stated in his or her Student Success Plan.

Alternative Placements

LAWS

105 ILCS 5/2-3.13a. School records; transferring students.

(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act [105 ILCS 10/1 et seq.]. In addition, if a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act [20 U.S.C.S. § 7151 et seq.], for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring, provided that the school board may approve the placement of the student in an alternative school program established under Article 13A of this Code [105 ILCS 5/13A-0.5 et seq.]. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion before being admitted into the school district. This policy may allow placement of the student in an alternative school program established under Article 13A of this Code, if available, for the remainder of the suspension or expulsion. Each public school and each private or nonpublic elementary or secondary school in this State shall within 10 days after the student has paid all of his or her outstanding fines and fees and at its own expense forward an official transcript of the scholastic records of each student transferring from that school in strict accordance with the provisions of this Section and the rules established by the State Board of Education as herein provided.

105 ILCS 5/2-3.66. Truants' alternative and optional education programs.

To establish projects to offer modified instructional programs or other services designed to prevent students from dropping out of school, including programs pursuant to Section 2-3.41 [105 ILCS 5/2-3.41], and to serve as a part time or full time option in lieu of regular school attendance and to award grants to local school districts, educational service regions or community college districts from appropriated funds to assist districts in establishing such projects. The education agency may operate its own program or enter into a contract with another not-for-profit entity to implement the program. The projects shall allow

dropouts, up to and including age 21, potential dropouts, including truants, uninvolved, unmotivated and disaffected students, as defined by State Board of Education rules and regulations, to enroll, as an alternative to regular school attendance, in an optional education program which may be established by school board policy and is in conformance with rules adopted by the State Board of Education. Truants' Alternative and Optional Education programs funded pursuant to this Section shall be planned by a student, the student's parents or legal guardians, unless the student is 18 years or older, and school officials and shall culminate in an individualized optional education plan. Such plan shall focus on academic or vocational skills, or both, and may include, but not be limited to, evening school, summer school, community college courses, adult education, preparation courses for high school equivalency testing, vocational training, work experience, programs to enhance self concept and parenting courses. School districts which are awarded grants pursuant to this Section shall be authorized to provide day care services to children of students who are eligible and desire to enroll in programs established and funded under this Section, but only if and to the extent that such day care is necessary to enable those eligible students to attend and participate in the programs and courses which are conducted pursuant to this Section. School districts and regional offices of education may claim general State aid under Section 18-

8.05 [105 ILCS 5/18-8.05] or evidence-based funding under Section 18-8.15 [105 ILCS 5/18-8.15] for students enrolled in truants' alternative and optional education programs, provided that such students are receiving services that are supplemental to a program leading to a high school diploma and are otherwise eligible to be claimed for general State aid under Section 18-8.05 or evidence-based funding under Section 18-8.15, as applicable.

105 ILCS 5/3-16. Grants to alternative schools, safe schools, and alternative learning opportunities programs.

The State Board of Education, subject to appropriation, shall award grants to alternative schools, safe schools, and alternative learning opportunities programs operated by a regional office of education. For fiscal year 2018, to calculate grant amounts to the programs operated by regional offices of education, the State Board shall calculate an amount equal to the greater of the regional program's best 3 months of average daily attendance for the 2016-2017 school year or the average of the best 3 months of average daily attendance for the 2014-2015 school year through the 2016-2017 school year, multiplied by the amount of \$6,119. For fiscal year 2019, to calculate grant amounts to the programs operated by regional offices of education, the State Board shall calculate an amount equal to the greater of the regional program's best 3 months of average daily attendance for the 2017-2018 school year or the average of the best 3 months of average daily attendance for the 2015-2016 school year through the 2017-2018 school year, multiplied by the amount of \$6,119. These amounts shall be termed the "Regional Program Increased Enrollment Recognition". If the amount of the Regional Program Increased Enrollment Recognition is greater than the amount of the regional office of education program's Base Funding Minimum for fiscal year 2018 or fiscal year 2019, calculated under Section 18-8.15 [105 ILCS 5/18-8.15], then the State Board of Education shall pay the regional program a grant equal to the difference between the regional program's Regional Program Increased Enrollment Recognition and the Base Funding Minimum for fiscal year 2018 or fiscal year 2019, respectively. Nothing in this Section shall be construed to alter any payments or calculations under Section 18-8.15.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means, pursuant to subsection (b-20) of this Section, and no action shall lie against them for such expulsion. Expulsion shall take place only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior. Such request shall be made by registered or certified mail and shall state the time, place and purpose of the meeting. The board, or a hearing officer appointed by it, at such meeting shall state the reasons for dismissal and the date on which the expulsion is to become effective. If a hearing

officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate. If the board acts to expel a pupil, the written expulsion decision shall detail the specific reasons why removing the pupil from the learning environment is in the best interest of the school. The expulsion decision shall also include a rationale as to the specific duration of the expulsion. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 et seq. or 105 ILCS 5/13B-1 et seq.]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. [...]

Any suspension shall be reported immediately to the parents or guardians of a pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardians, the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review, the parents or guardians of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate. If a student is suspended pursuant to this subsection (b), the board shall, in the written suspension decision, detail the specific act of gross disobedience or misconduct resulting in the decision to suspend. The suspension decision shall also include a rationale as to the specific duration of the suspension. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. [...]

(g) A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion in an alternative school program under Article 13A of this Code or an alternative learning opportunities program under Article 13B of this Code before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. A school district that adopts a policy under this subsection (g) must include a provision allowing for consideration of any mitigating factors, including, but not limited to, a student's status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.

105 ILCS 5/13A-1. Legislative declaration.

The General Assembly finds and declares as follows: [...]

(e) Disruptive students typically derive little benefit from traditional school programs and may benefit substantially by being transferred from their current school into an alternative public school program, where their particular needs may be more appropriately and individually addressed and where they may benefit from the opportunity for a fresh start in a new educational environment. At those alternative school programs, innovative academic and school-to-work programs, including but not limited to the techniques of work based learning and technology delivered learning, can be utilized to best help the students enrolled in those schools to become productive citizens. [...]

(h) Every school district in the State shall do all it can to ensure a safe and appropriate educational environment for all of its students, and the first, but not the only, step school districts must take to achieve that goal is to administratively transfer disruptive students from the schools they currently attend to the alternative school programs created by this Article. Those administrative transfers will also provide optional educational programs to best fit the needs of the transferred students.

- (i) Administrative transfers may prove more productive for dealing with disruptive students than out-of-school suspensions or expulsions, which have been the subject of much criticism.
- (j) Because of the urgency of the problems described in this Section, as well as their statewide impact, the State of Illinois bears the responsibility to establish and fully fund alternative schools as soon as possible, thereby providing school districts with an option for dealing with disruptive students that they do not now possess.
- (k) While school districts shall comply with all applicable federal laws and regulations, they should do so consistent with the goals and policies stated in this Article. Further, this Article is intended to be consistent with all applicable federal laws and regulations.
- (l) An alternative school program established under this Article is subject to the other provisions of this Code that apply generally in the public schools of this State and to the rules and regulations promulgated thereunder, except as otherwise provided in this Article.
- (m) The provisions of the Illinois Educational Labor Relations Act [115 ILCS 5/1 et seq.] apply to those alternative school programs that are created on or after the effective date of this amendatory Act of 1995.

105 ILCS 5/13A-3. Alternative schools.

- (a) Except with respect to the Chicago public school system as provided in Section 13A-11 [105 ILCS 5/13A-11], beginning with the 1996-97 school year, there is hereby created in this State a system of alternative school education programs. At least one alternative school program may be located within each educational service region or established jointly by more than one regional office of education to serve more than one educational service region.
- (b) Each regional superintendent shall hold a public hearing, by December 1 of the school year following the effective date of this amendatory Act of 1995, to determine the need for an alternative school. The hearing shall be held before the regional board. The regional superintendent, after consulting with the district superintendent of each school district located within the regional superintendent's educational service region and the regional board, shall determine the location and the need of the alternative school within that region. In making this determination, the regional superintendent shall consider the following:
 - (1) the possible utilization of existing buildings, including but not limited to governmental buildings, that are, or could reasonably be made, usable as an alternative school;
 - (2) which available option would be least costly; and
 - (3) distances that administratively transferred students would need to travel and the costs of that travel.
- (c) Upon determination of the need for establishment of an alternative school program, each school district located within the region shall provide the regional superintendent with a copy of the district's discipline policy and procedure for effecting the suspension or expulsion of the students of that district. Thereafter, the regional superintendent in cooperation with a representative from each school district in the region shall establish and each school district in the region shall adopt policies and procedures that shall guide each district in the identification and placement of students in the alternative school program.
- (d) The regional superintendent shall locate the alternative school program so that it is as far away from any other school buildings or school grounds in that educational service region as circumstances permit.
- (e) With the approval of the State board, additional alternative school programs may be established in an educational service region. If the regional superintendent determines that an additional alternative school is required in the regional superintendent's educational service region, he or she may petition the State board to authorize one or more additional alternative school programs in that region.
- (f) In determining whether an additional alternative school program is necessary and appropriate for an educational service region requesting it, the State board shall consider, among other factors, the following:

- (1) the geographic size of the educational service region and distances that students within that region must travel in order to attend the existing alternative school program;
 - (2) the student population of schools comprising the educational service region and the likely student population of all alternative school programs within that region if the petition is granted;
 - (3) any other logistical considerations; and
 - (4) the costs necessitated by establishing an additional alternative school in that educational service region.
- (g) In the event the State board grants a petition for an additional alternative school program, then the State board, after consulting the regional superintendent, shall decide where the additional alternative school program shall be located within that region.

105 ILCS 5/13A-4. Administrative transfers.

A student who is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 [105 ILCS 5/10-22.6] (or, in the case of a student enrolled in the public schools of a school district organized under Article 34, in accordance with the uniform system of discipline established under Section 34-19 [105 ILCS 5/34-19]) may be immediately transferred to the alternative program. At the earliest time following that transfer appropriate personnel from the sending school district and appropriate personnel of the alternative program shall meet to develop an alternative education plan for the student. The student's parent or guardian shall be invited to this meeting. The student may be invited. The alternative educational plan shall include, but not be limited to all of the following:

- (1) The duration of the plan, including a date after which the student may be returned to the regular educational program in the public schools of the transferring district. If the parent or guardian of a student who is scheduled to be returned to the regular education program in the public schools of the district files a written objection to the return with the principal of the alternative school, the matter shall be referred by the principal to the regional superintendent of the educational service region in which the alternative school program is located for a hearing. Notice of the hearing shall be given by the regional superintendent to the student's parent or guardian. After the hearing, the regional superintendent may take such action as he or she finds appropriate and in the best interests of the student. The determination of the regional superintendent shall be final.
- (2) The specific academic and behavioral components of the plan.
- (3) A method and time frame for reviewing the student's progress.

Notwithstanding any other provision of this Article, if a student for whom an individualized educational program has been developed under Article 14 is transferred to an alternative school program under this Article 13A, that individualized educational program shall continue to apply to that student following the transfer unless modified in accordance with the provisions of Article 14.

105 ILCS 5/13A-5. Alternative school program curriculum.

(a) The regional superintendent shall implement, or contract with one or more school districts to implement, a multi-disciplinary curriculum, which may include work-based learning and community service work approved by the regional superintendent of schools in consultation with the State Board of Education for which academic credit is earned, for the alternative school program designed to address the individualized needs of the students of that program, with special emphasis toward making the educational experience of each student meaningful and worthwhile. In the design and implementation of that curriculum, the regional superintendent or school district shall give due consideration to the rules and regulations adopted by the State Board of Education for alternative schools and optional education programs. The regional superintendent or school district (i) may contract with third parties for any services otherwise performed by employees and (ii) may apply for waivers or modifications of mandates of this Code or of administrative rules as provided in Section 2-3.25g of this Code [105 ILCS 5/2-3.25g] and as are necessary for the alternative school program.

(b) An administratively transferred student who successfully completes the requirements for his or her high school graduation shall receive a diploma identifying the student as graduating from the transferring high school. In the event the student is administratively transferred before enrolling in a high school, then that student shall receive a diploma from the high school the student would have attended if the student had not attended an alternative school program.

105 ILCS 5/13A-6. Administration; contracts; waivers.

(a) The regional superintendent shall administer, or contract with one or more school districts to administer, alternative school programs located within the educational service region. The regional superintendent or school district (i) may contract with third parties for any services otherwise performed by employees and (ii) may apply for waivers or modifications of mandates of this Code or of administrative rules as provided in Section 2-3.25g of this Code [105 ILCS 5/2-3.25g] and as are necessary for the alternative school program.

(b) The regional superintendent is responsible for the administrative and fiscal structure for the program.

105 ILCS 5/13A-8. Funding.

(a) The State of Illinois shall provide funding for the alternative school programs within each educational service region and within the Chicago public school system by line item appropriation made to the State Board of Education for that purpose. This money, when appropriated, shall be provided to the regional superintendent and to the Chicago Board of Education, who shall establish a budget, including salaries, for their alternative school programs. Each program shall receive funding in the amount of \$30,000 plus an amount based on the ratio of the region's or Chicago's best 3 months' average daily attendance in grades pre-kindergarten through 12 to the statewide totals of these amounts. For purposes of this calculation, the best 3 months' average daily attendance for each region or Chicago shall be calculated by adding to the best 3 months' average daily attendance the number of low-income students identified in the most recently available federal census multiplied by one-half times the percentage of the region's or Chicago's low-income students to the State's total low-income students. The State Board of Education shall retain up to 1.1% of the appropriation to be used to provide technical assistance, professional development, and evaluations for the programs.

(a-5) Notwithstanding any other provisions of this Section, for the 1998-1999 fiscal year, the total amount distributed under subsection (a) for an alternative school program shall be not less than the total amount that was distributed under that subsection for that alternative school program for the 1997-1998 fiscal year. If an alternative school program is to receive a total distribution under subsection (a) for the 1998-1999 fiscal year that is less than the total distribution that the program received under that subsection for the 1997-1998 fiscal year, that alternative school program shall also receive, from a separate appropriation made for purposes of this subsection (a-5), a supplementary payment equal to the amount by which its total distribution under subsection (a) for the 1997-1998 fiscal year exceeds the amount of the total distribution that the alternative school program receives under that subsection for the 1998-1999 fiscal year. If the amount appropriated for supplementary payments to alternative school programs under this subsection (a-5) is insufficient for that purpose, those supplementary payments shall be prorated among the alternative school programs entitled to receive those supplementary payments according to the aggregate amount of the appropriation made for purposes of this subsection (a-5).

(b) An alternative school program shall be entitled to receive general State aid as calculated in subsection (K) of Section 18-8.05 [105 ILCS 5/18-8.05] or evidence-based funding as calculated in subsection (g) of Section 18-8.15 [105 ILCS 5/18-8.15] upon filing a claim as provided therein. Any time that a student who is enrolled in an alternative school program spends in work-based learning, community service, or a similar alternative educational setting shall be included in determining the student's minimum number of clock hours of daily school work that constitute a day of attendance for purposes of calculating general State aid or evidence-based funding.

(c) An alternative school program may receive additional funding from its school districts in such amount as may be agreed upon by the parties and necessary to support the program. In addition, an alternative school program is authorized to accept and expend gifts, legacies, and grants, including but not limited to federal grants, from any source for purposes directly related to the conduct and operation of the program.

105 ILCS 5/13B-10. Purpose.

The purpose of this Article is to specify the requirements for the operation of alternative learning opportunities programs, which are intended to provide students at risk of academic failure with the education and support services needed to meet Illinois Learning Standards and to complete their education in an orderly, safe, and secure learning environment. Services provided under this Article should be provided in a manner that addresses individual learning styles, career development, and social needs to enable students to successfully complete their education.

105 ILCS 5/13B-15.15. Student success plan.

"Student Success Plan" means a plan based on an assessment of a student's educational and social functioning and skills and that establishes goals and objectives for satisfactory performance in an alternative learning opportunities program. The Plan must (i) specify the curriculum and instructional methods to be used in improving the student's educational performance, (ii) outline the support services needed to remove barriers to learning, (iii) specify, when appropriate, the career development experiences the student will receive to enhance his or her career awareness, (iv) set objectives to ensure a successful transition back to the regular school program or to post-secondary educational options, and (v) outline the student's responsibilities under the Plan.

105 ILCS 5/13B-20. Alternative learning opportunities program.

An alternative learning opportunities program shall provide a flexible standards-based learning environment, innovative and varied instructional strategies, a student-centered curriculum, social programs, and supplemental social, health, and support services to improve the educational achievement of students at risk of academic failure.

105 ILCS 5/13B-20.5. Eligible activities and services.

Alternative learning opportunities programs may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back to the regular school program, an adult education program, or a post-secondary education program.

105 ILCS 5/13B-20.10. Who may establish and operate programs.

School districts may establish alternative learning opportunities programs or may contract with regional offices of education, intermediate service centers, public community colleges, non-profit or for-profit education providers, youth service agencies, community-based organizations, or other appropriate entities to establish alternative learning opportunities programs within the public school system and provide a range of alternative learning opportunities for those students in the State who do not meet Illinois Learning Standards. Districts may individually operate alternative learning opportunities programs or may collaborate with 2 or more districts or one or more regional offices of education or both or with intermediate service centers to create and operate alternative learning opportunities programs.

105 ILCS 5/13B-20.15. Other eligible providers of alternative learning opportunities.

School districts may contract with health, mental health, or human service organizations, workforce development boards or agencies, juvenile court services, juvenile justice agencies, juvenile detention programs, programs operated by the Department of Juvenile Justice, or other appropriate agencies or

organizations to serve students whose needs are not being met in the regular school program by providing alternative learning opportunities.

105 ILCS 5/13B-20.20. Enrollment in other programs.

High school equivalency testing preparation programs are not eligible for funding under this Article. A student may enroll in a program approved under Section 18-8.05 or 18-8.15 of this Code [105 ILCS 5/18-8.05 or 105 ILCS 5/18-8.15], as appropriate, or attend both the alternative learning opportunities program and the regular school program to enhance student performance and facilitate on-time graduation.

105 ILCS 5/13B-20.25. Eligible students.

Students in grades 4 through 12 who meet enrollment criteria established by the school district and who meet the definition of "student at risk of academic failure" are eligible to participate in an alternative learning opportunities program funded under this Article. Notwithstanding any other provision of law to the contrary, enrollment in a charter alternative learning opportunities program shall be open to any pupil who has been expelled or suspended for more than 20 days under Section 10-22.6 or 34-19 of this Code [105 ILCS 5/10-22.6 or 105 ILCS 5/34-19]. All rights granted under this Article to a student's parent or guardian become exclusively those of the student upon the student's 18th birthday.

105 ILCS 5/13B-20.30. Location of program.

A school district must consider offering an alternative learning opportunities program on-site in the regular school. An alternative learning opportunities program may be provided at facilities separate from the regular school or in classrooms elsewhere on school premises.

105 ILCS 5/13B-25. Eligibility for funding.

The criteria set forth in the following Sections preceding Section 13B-30 of this Code [105 ILCS 5/13B-30] shall determine the eligibility of an alternative learning opportunities program for funding.

105 ILCS 5/13B-25.5. General standards for eligibility for funding.

To be eligible for funding, an alternative learning opportunities program must provide evidence of an administrative structure, program activities, program staff, a budget, and a specific curriculum that is consistent with Illinois Learning Standards but may be different from the regular school program in terms of location, length of school day, program sequence, pace, instructional activities, or any combination of these.

105 ILCS 5/13B-25.10. District policies, guidelines, and procedures; notification.

Before receiving State funds for an alternative learning opportunities program, a school district must adopt policies and guidelines for the admission and transfer of students to the program and for transitioning students as appropriate back to the regular school program in a manner consistent with guidelines provided by the State Board. A school district must adopt policies and procedures for the establishment of a new alternative learning opportunities program or for securing State approval for an existing program. Any district that plans to establish an alternative learning opportunities program must notify the State Superintendent of Education before enrolling students in the program.

105 ILCS 5/13B-25.15. Planning process and district plan.

To apply for funding to establish or maintain an alternative learning opportunities program, a school district must initiate a planning process to specify the type of program needed by the district. Before submission of the district plan, the school district or consortium may apply for a one-year planning grant. The planning process may involve key education and community stakeholders, such as teachers, administrators, parents, interested members of the community, and other agencies or organizations as appropriate.

105 ILCS 5/13B-25.20. Requirements for the district plan.

The district plan must be consistent with the school district's overall mission and goals and aligned with the local school improvement plans of each participating school. The district plan must include all of the following:

- (5) A detailed program budget that includes sources of funding to be used in conjunction with alternative learning opportunities grant funds and a plan for allocating costs to those funds.
- (6) A plan that outlines how funding for alternative learning opportunities will be coordinated with other State and federal funds to ensure the efficient and effective delivery of the program.

105 ILCS 5/13B-30.5. Program assistance, evaluation, and monitoring.

Subject to the availability of State funds, the State Board is authorized to assist school districts in developing and implementing alternative learning opportunities programs to meet the educational needs of students at risk of academic failure. The State Board shall develop research-based guidelines for alternative learning opportunities programs, provide technical assistance to ensure the establishment of quality programs aligned with Illinois Learning Standards, and contract for services to conduct an annual statewide evaluation. The State Board shall conduct compliance visits of and monitor programs, as appropriate. The State Board may conduct other program-related research and planning projects, as appropriate, to enhance student outcomes.

105 ILCS 5/13B-30.10. Compliance.

The State Board is responsible for ensuring that all alternative learning opportunities programs are in compliance with all applicable federal and State laws, unless otherwise specified in this Article.

105 ILCS 5/13B-5. Legislative findings and declarations.

The General Assembly finds and declares the following:

- (1) It is the responsibility of each school district to provide educational support for every student to meet Illinois Learning Standards.
- (2) School districts need flexibility and financial support to assist local schools in their efforts to provide students with educational and other services needed for students to successfully master the curriculum.
- (3) Alternative education in this State has traditionally provided student-centered curriculum, social services, and other support needed to help students succeed.
- (4) Standards-based reform requires a comprehensive approach to alternative education to ensure that every student has the opportunity to meet the State's rigorous learning standards.
- (5) While school districts operating alternative learning opportunities programs must comply with all applicable State and federal laws and rules, these districts should do so in a manner consistent with the goals and policies stated in this Article.

105 ILCS 5/13B-60.10. Parent conference.

Before being enrolled in an alternative learning opportunities program, the student and each of his or her parents or guardians shall receive written notice to attend a conference to determine if the student would benefit from attending an alternative learning opportunities program. The conference must provide all of the information necessary for the student and parent or guardian to make an informed decision regarding enrollment in an alternative learning opportunities program. The conference shall include a discussion of the extent to which the student, if enrolled in the program, may participate in school activities. No student shall be enrolled in an alternative learning opportunities program without the consent of the student's parent or guardian.

105 ILCS 5/13B-70. Truancy and attendance problems.

If a student is a chronic or habitual truant as defined in Section 26-2a of this Code [105 ILCS 5/26-2a] or if a child has been ordered to attend school, the school district may consider the student for placement in an alternative learning opportunities program specifically designed to prevent truancy, supplement instruction for students with attendance problems, intervene to decrease chronic truancy, and provide alternatives to high school completion. A program operating pursuant to the truants' alternative and optional education program may contract with a school district or consortium to provide these services.

105 ILCS 5/26-8a. [Court petition content].

The petition for court action shall include the name of the truant minor, the names and addresses of persons having custody or control of the student, the dates of the truant behavior, the dates and nature of contacts or conferences with the student and the persons having custody or control of the student, and the nature of the supportive services, alternative programs and other school resources the school district provided to that child in an effort to correct that child's truant behavior.

105 ILCS 5/26-16. Graduation incentives program.

(a) The General Assembly finds that it is critical to provide options for children to succeed in school. The purpose of this Section is to provide incentives for and encourage all Illinois students who have experienced or are experiencing difficulty in the traditional education system to enroll in alternative programs.

105 ILCS 5/34-19. By-laws, rules and regulations; business transacted at regular meetings; voting; records.

The board shall, subject to the limitations in this Article, establish by-laws, rules and regulations, which shall have the force of ordinances, for the proper maintenance of a uniform system of discipline for both employees and pupils, and for the entire management of the schools, and may fix the school age of pupils, the minimum of which in kindergartens shall not be under 4 years, except that, based upon an assessment of the child's readiness, children who have attended a non-public preschool and continued their education at that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain the age of 6 years on or before December 31 of the year of the 2009-2010 school term and each school term thereafter may attend first grade upon commencement of such term, and in grade schools shall not be under 6 years. It may expel, suspend or, subject to the limitations of all policies established or adopted under Section 10-22.6 or 14-8.05 [105 ILCS 5/10-22.6 or 105 ILCS 5/14-8.05], otherwise discipline any pupil found guilty of gross disobedience, misconduct, or other violation of the by-laws, rules, and regulations, including gross disobedience or misconduct perpetuated by electronic means. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 or 105 ILCS 5/13B-1]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program. The bylaws, rules and regulations of the board shall be enacted, money shall be appropriated or expended, salaries shall be fixed or changed, and textbooks, electronic textbooks, and courses of instruction shall be adopted or changed only at the regular meetings of the board and by a vote of a majority of the full membership of the board; provided that notwithstanding any other provision of this Article or the School Code, neither the board or any local school council may purchase any textbook for use in any public school of the district from any textbook publisher that fails to furnish any computer diskettes as required under Section 28-21 [105 ILCS 5/28-21]. Funds appropriated for textbook purchases must be available for electronic textbook purchases and the technological equipment necessary to gain access to and use electronic textbooks at the local school council's

discretion. The board shall be further encouraged to provide opportunities for public hearing and testimony before the adoption of bylaws, rules and regulations. Upon all propositions requiring for their adoption at least a majority of all the members of the board the yeas and nays shall be taken and reported. The by-laws, rules and regulations of the board shall not be repealed, amended or added to, except by a vote of 2/3 of the full membership of the board. The board shall keep a record of all its proceedings. Such records and all by-laws, rules and regulations, or parts thereof, may be proved by a copy thereof certified to be such by the secretary of the board, but if they are printed in book or pamphlet form which are purported to be published by authority of the board they need not be otherwise published and the book or pamphlet shall be received as evidence, without further proof, of the records, by-laws, rules and regulations, or any part thereof, as of the dates thereof as shown in such book or pamphlet, in all courts and places where judicial proceedings are had.

REGULATIONS

205.20. Purpose.

- a) This Part establishes the procedure and criteria for approval of applications, submitted by eligible applicants to the State Board of Education, for grants to assist the applicants in establishing truant's alternative and optional education programs as authorized in Section 2-3.66 of the School Code. [105 ILCS 5/2-3.66]
- b) Programs funded under this grant shall serve students identified as one of the following:
 - 1) a truant, as defined in Section 26-2a of the School Code [105 ILCS 5/26-2a]; or
 - 2) a chronic or habitual truant, as defined in Section 26-2a of the School Code; or
 - 3) a dropout, as defined in Section 26-2a of the School Code; or
 - 4) a potential dropout, which is any student subject to compulsory attendance as defined in Article 26 of the School Code [105 ILCS 5/Art. 26] and whose school absences or pattern of school attendance impedes the student's learning or contributes to the student's failure to meet State and/or district learning standards. Attendance problems may include chronic truancy, truancy, selective absences, excessive absences or a pattern of absences or tardiness. In assessing whether marginal school attendance problems would place a student within the definition of "potential dropout," consideration shall be given to a student's personal involvement in the education process, apparent motivation to receive an education, or any continued and obvious apathy or disaffection for education, particularly, when indications of uninvolvedness, lack of motivation or disaffection are coupled with currently known individual or family circumstances that, if they remain unresolved, would be reasonably expected to result in escalating attendance problems.

205.30. Eligible applicants.

- a) Proposals for grant awards under Section 2-3.66 of the School Code may be submitted only by public school districts, regional offices of education, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], charter schools, community college districts, or area vocational centers.
- b) Joint applications for funds may be submitted. If a joint application is submitted, then an administrative agent shall be designated.
 - 1) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.
 - 2) A school district or other eligible entity shall only participate in one proposal for a program.

205.35. Required program components.

Each program funded pursuant to Section 2-3.66 of the School Code shall include at least the following components.

a) A comprehensive community-based program planning process that includes, but is not limited to, the participation of business, community organizations, social service providers, government agencies, parents, school administrators and other staff members, including teachers, and students, and that leads to the development and implementation of a strategic plan.

1) The plan shall contain program goals and objectives developed by analyzing social and academic challenges in the community to be served by the truants' alternative and optional education program.

2) The plan shall identify available community resources and services and describe how these will be coordinated to meet the needs of students identified as eligible for the program (see Section 205.20(b) of this Part).

205.60. Allocation of funds.

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria. The final award amounts will be based on these criteria following negotiation with the grant recipient:

a) the total funds appropriated for truants' alternative and optional education programs;

b) the program needs, resources, and amounts requested in the top-ranked proposals determined pursuant to Section 205.50(a) and (b) of this Part; and

c) the need to assure delivery of truancy prevention services and truants' alternative and optional education programs on a statewide basis and in a manner that will have the greatest impact in preventing truancy and students from dropping out of school.

240.10. Purpose.

This Subpart A establishes the requirements for approval of Alternative Learning Opportunities Programs established pursuant to Article 13B of the School Code [105 ILCS 5/Art. 13B] by school districts, either individually or as specified in subsection (b) of this Section.

a) Alternative Learning Opportunities Programs shall broaden the range of academic, behavioral and social/emotional interventions that schools provide in order to increase the academic performance of students who are determined to be at risk of academic failure, as defined in Section 240.20 of this Part, so that those students can meet State standards (see 23 Ill. Adm. Code 1.Appendix D) and successfully complete their education.

b) School districts may establish Alternative Learning Opportunities Programs or may contract with one or more entities specified in Section 13B-20.10 of the School Code [105 ILCS 5/13B-20.10] to operate such programs.

1) A school district may collaborate with two or more school districts or with one or more Regional Offices of Education, or both, or with Intermediate Service Centers to create and operate an Alternative Learning Opportunities Program.

2) The school board of each school district operating a program jointly or under contract with eligible entities shall establish the local governance of the Alternative Learning Opportunities Program through a cooperative or intergovernmental agreement (see 105 ILCS 5/13B-35.5).

c) A school district may provide instructional services through a subcontractor only if the entity providing those instructional services is recognized by the State Board of Education (see 105 ILCS 5/13B-75). (See Section 240.30(a)(4) of this Part.)

240.20. Requirements for Student Participation.

Students in grades 4 through 12 who meet enrollment criteria established by the school district and who meet the definition of "at risk of academic failure" are eligible to participate in an Alternative Learning Opportunities Program [105 ILCS 5/13B-20.25] approved under this Part.

a) A student shall be considered "at risk of academic failure" if he or she:

- 1) is at risk of failing to meet the Illinois Learning Standards or failing to graduate from elementary or high school; and
 - 2) demonstrates a need for educational support or social services beyond those provided by the regular school program [105 ILCS 5/13B-15.10].
- b) For purposes of this Section, "poor academic performance" is defined as the student's:
- 1) scoring in the 50th percentile or below on district-administered standardized tests; or
 - 2) receiving a score on the State assessment that does not meet standards in one or more of the fundamental learning areas defined in Section 27-1 of the School Code [105 ILCS 5/27-1], as applicable for the student's grade level; or
 - 3) not meeting grade-level expectations on a district-designed assessment.
- c) In determining whether a particular student is at risk of academic failure, a school district shall at least consider whether any of the following applies.
- 1) The student demonstrates poor academic performance lasting for more than a semester, which has not responded to interventions routinely employed by the school.
 - 2) The student exhibited poor academic performance on district and State assessments in the previous school year that may be due to factors other than the student's academic ability (e.g., social, emotional, or behavioral problems; substance abuse; poor health and/or nutrition; changes in life circumstances that affect the student's ability to succeed or motivation to participate in the educational program).
 - 3) The student's poor academic performance has resulted in his or her not meeting district requirements for promotion in the current school year; however, the student could meet these requirements with modifications made to the instructional program that would include the provision of educational supports and/or other support services not currently available in the regular school program.
 - 4) The student's poor academic performance has resulted in the student's lacking sufficient high school credits for his or her grade level to such a degree that he or she is likely to drop out of high school or otherwise fail to graduate as a consequence of this credit deficiency.
- d) Each district's specific admission criteria shall conform to the following requirements.
- 1) The criteria used to determine a student's need for an Alternative Learning Opportunities Program shall be nondiscriminatory in purpose and effect (i.e., without regard to race, national origin, gender, religion or disability).
 - 2) The performance of a student recommended for enrollment in the program must be deficient in one or more of the fundamental learning areas (see Section 27-1 of the School Code) and not have shown improvement with interventions currently available at the student's school or within the student's school district. The district shall document the interventions that it employed and the results of those interventions before determining that the student would be served best in the Alternative Learning Opportunities Program.
 - 3) Indicators in addition to academic performance (e.g., family stress, problems with classmates, teachers' evaluations, excessive absences, information received from family members and other school personnel) should be considered when assessing the student's inability to successfully complete school work and achieve learning objectives for his or her grade level.
 - 4) The home school must be unable to provide, as part of its regular program, the educational supports and/or other support services (as identified by a review of evidence pursuant to subsection (c)(2) of this Section) needed by the student to improve his or her academic achievement. (See Section 240.70(c)(6) of this Part.)

5) In instances where the student considered for enrollment in the program has an Individualized Education Program (IEP), the district has followed the procedures specified in Subpart E of the State Board of Education's rules for Special Education (23 Ill. Adm. Code 226, Subpart E).

e) Each school district that establishes an Alternative Learning Opportunities Program shall provide information about the program to the parents or guardians of all students enrolled in grades 4 through 12 and shall identify a staff member who may be contacted for information or assistance.

f) When school district personnel believe that a student is eligible for and would benefit from enrollment in an Alternative Learning Opportunities Program, the district shall send a written notification to the student and the student's parent or guardian to attend a conference about the program (see 105 ILCS 5/13B-60.10). This notification also shall contain a statement of the rights of the parent or guardian (e.g., requirement for written parental permission to enroll in the program, ability to withdraw consent for enrollment, participation in development of the Student Success Plan).

1) The conference shall be designed to help the parent or guardian determine whether the student's participation in the Alternative Learning Opportunities Program would be beneficial.

2) Relevant educational records and information yielded by diagnostic assessments (e.g., academic, behavioral, risk) shall be available at the time of the conference.

3) The district shall provide documentation identifying the interventions available in the school district and demonstrate that these have already been provided to the student.

4) If the parent or guardian fails to participate in the conference (i.e., either attendance at the conference or participation through a telephone conference call), the student shall not be enrolled in the program (see 105 ILCS 5/13B-60.5).

5) If the parent or guardian attends the conference and determines that the program would be beneficial to the student, the parent or guardian may request the student's enrollment by providing written consent.

g) If a student's parent or guardian believes that the student is eligible for and would benefit from enrollment in an Alternative Learning Opportunities Program, the parent or guardian may initiate the conference described in subsection (f) of this Section by sending a written request to the contact person identified by the district pursuant to subsection (e) of this Section.

1) The district shall conduct the conference requested by a parent or guardian no later than ten school days after receipt of the written request.

2) The requirements of subsection (f) of this Section shall apply to any conference held pursuant to this subsection (g).

3) The district may limit the frequency with which a parent or guardian may request a conference in a given school year, provided that the limit imposed does not exceed 45 calendar days.

h) No student shall be enrolled in the Alternative Learning Opportunities Program without the consent of the student's parent or guardian (Section 13B-60.10 of the School Code). In the case of an existing alternative education program that receives approval to operate as an Alternative Learning Opportunities Program, the program shall provide written notification to the parent or guardian of each student enrolled in the existing program that:

1) the program has been changed to an Alternative Learning Opportunities Program;

2) the parent or guardian has a right to attend a conference about the program, held pursuant to the requirements of subsection (f) of this Section;

3) consent for the student's continued participation in the program shall be deemed granted unless the parent or guardian requests, within ten school days after receiving notification, that the student be returned to the regular school program; and

4) the parent or guardian has a right to participate in the development of the Student Success Plan (see Section 240.40 of this Part).

i) In no instance shall a student in grade 4 or 5 who is enrolled in an Alternative Learning Opportunities Program participate in that program or receive services outside of his or her home school. Every effort

should be made to ensure that the educational supports and other services are provided to the student as part of his or her activities in the classroom to which he or she is originally assigned, unless the nature of the services dictates otherwise (e.g., due to a need for privacy, services would cause a disruption for other students or interrupt instruction, one-on-one intervention is required).

j) A student enrolled in an Alternative Learning Opportunities Program shall be returned to the regular school program no later than ten school days after the district receives a written request to that effect from the parent or guardian (see 105 ILCS 5/13B-60.15). If notice is received within two weeks before the end of a grading period (i.e., a quarter or semester), then the student shall remain in the Alternative Learning Opportunities Program until the start of the next grading period.

k) A student may be enrolled both in an Alternative Learning Opportunities Program and in the regular school program (see 105 ILCS 13B-20.20).

l) A student enrolled in an Alternative Learning Opportunities Program with the intention of graduating from high school or qualifying to participate in the High School Equivalency Testing Program pursuant to Section 3-15.12 of the School Code [105 ILCS 5/3-15.12] may receive services up to the age of 21 (see Section 13B-15.10 of the School Code).

m) An approved Alternative Learning Opportunities Program may enroll nonresident students in accordance with Section 13B-55 of the School Code [105 ILCS 5/13B-55].

n) The enrollment of students with Individualized Education Programs in Alternative Learning Opportunities Programs shall be subject to the additional requirements set forth in Section 240.25 of this Part.

o) In accordance with Section 13B-20.25 of the School Code, all rights granted under Article 13B of the School Code and this Part to the student's parent or guardian shall become those of the student once the student reaches 18 years of age, subject to the provisions of the Emancipation of Mature Minors Act [750 ILCS 5/Art. 11a].

p) Notwithstanding the eligibility criteria stated in Section 13B-20.25 of the School Code, a school district may enroll in its Alternative Learning Opportunities Program any student it has suspended or expelled, in accordance with the provisions of Section 10-22.6 or 34-19 of the School Code [105 ILCS 5/10-22.6 or 34-19].

1) The enrolling school district shall ensure that the educational program and other services provided for the suspended or expelled student meet each of the requirements set forth in this Part.

2) A suspended or expelled student shall not be permitted to return to or re-enroll in his or her home school pursuant to subsection (j) of this Section until the term of the suspension or expulsion is completed.

240.50. Requirements for returning the student to the regular school program.

a) It shall be the goal of the Alternative Learning Opportunities Program (ALOP) to assist students in successfully completing their education, including, but not limited to, returning to the regular school program, or to a postsecondary or adult education program, as soon as appropriate. In establishing procedures for the transition of students to the regular or another program, districts shall ensure that:

1) an assessment is conducted prior to the student's leaving the ALOP to identify the educational supports and/or other support services the student would need to successfully progress in the regular school curriculum;

2) a staff member is assigned to monitor the student's progress in the regular school program for not less than two semesters after the student leaves the ALOP; and

3) for a student who has been suspended or expelled from his or her home school and enrolled by a district in its ALOP, the student shall not be permitted to return to or re-enroll in his or her home school until the term of the suspension or expulsion is completed.

b) The requirements of subsection (a) of this Section apply in instances where a student is removed from the ALOP by his or her parent or guardian before completion of the objectives stated in his or her Student Success Plan.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

105 ILCS 5/2-3.13a. School records; transferring students.

(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act [105 ILCS 10/1 et seq.]. In addition, if a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act [20 U.S.C.S. § 7151 et seq.], for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring, provided that the school board may approve the placement of the student in an alternative school program established under Article 13A of this Code [105 ILCS 5/13A-0.5 et seq.]. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion before being admitted into the school district. This policy may allow placement of the student in an alternative school program established under Article 13A of this Code, if available, for the remainder of the suspension or expulsion. Each public school and each private or nonpublic elementary or secondary school in this State shall within 10 days after the student has paid all of his or her outstanding fines and fees and at its own expense forward an official transcript of the scholastic records of each student transferring from that school in strict accordance with the provisions of this Section and the rules established by the State Board of Education as herein provided.

105 ILCS 5/10-21.4a. Principals and assistant principals - Duties.

It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(d) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

- (1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 [430 ILCS 65/1.1] of the Firearm Owners Identification Card Act, or firearm as defined in Section 24-1 [720

ILCS 5/24-1] of the Criminal Code of 2012. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alikes" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

105 ILCS 5/10-27.1A. Firearms in schools.

(a) All school officials, including teachers, guidance counselors, and support staff, shall immediately notify the office of the principal in the event that they observe any person in possession of a firearm on school grounds; provided that taking such immediate action to notify the office of the principal would not immediately endanger the health, safety, or welfare of students who are under the direct supervision of the school official or the school official. If the health, safety, or welfare of students under the direct supervision of the school official or of the school official is immediately endangered, the school official shall notify the office of the principal as soon as the students under his or her supervision and he or she are no longer under immediate danger. A report is not required by this Section when the school official knows that the person in possession of the firearm is a law enforcement official engaged in the conduct of his or her official duties. Any school official acting in good faith who makes such a report under this Section shall have immunity from any civil or criminal liability that might otherwise be incurred as a result of making the report. The identity of the school official making such report shall not be disclosed except as expressly and specifically authorized by law. Knowingly and willfully failing to comply with this Section is a petty offense. A second or subsequent offense is a Class C misdemeanor.

(b) Upon receiving a report from any school official pursuant to this Section, or from any other person, the principal or his or her designee shall immediately notify a local law enforcement agency. If the person found to be in possession of a firearm on school grounds is a student, the principal or his or her designee shall also immediately notify that student's parent or guardian. Any principal or his or her designee acting in good faith who makes such reports under this Section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as a result of making the reports. Knowingly and willfully failing to comply with this Section is a petty offense. A second or subsequent offense is a Class C misdemeanor. If the person found to be in possession of the firearm on school grounds is a minor, the law enforcement agency shall detain that minor until such time as the agency makes a determination pursuant to clause (a) of subsection (1) of Section 5-401 of the Juvenile Court Act of 1987 [705 ILCS 405/5-401], as to whether the agency reasonably believes that the minor is delinquent. If the law enforcement agency determines that probable cause exists to believe that the minor committed a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 2012 [720 ILCS 5/24-1] while on school grounds, the agency shall detain the minor for processing pursuant to Section 5-407 of the Juvenile Court Act of 1987 [705 ILCS 405/5-407].

(c) On or after January 1, 1997, upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving a firearm in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee shall report all such firearm-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

The State Board of Education shall receive an annual statistical compilation and related data associated with incidents involving firearms in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

(d) As used in this Section, the term "firearm" shall have the meaning ascribed to it in Section 1.1 of the Firearm Owners Identification Card Act [430 ILCS 65/1.1].

As used in this Section, the term "school" means any public or private elementary or secondary school.

As used in this Section, the term "school grounds" includes the real property comprising any school, any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or any public way within 1,000 feet of the real property comprising any school.

105 ILCS 5/34-8.05. Reporting firearms in schools.

On or after January 1, 1997, upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving a firearm in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the general superintendent or his or her designee shall report all such firearm-related incidents occurring in a school or on school property to the local law enforcement authorities no later than 24 hours after the occurrence of the incident and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

The State Board of Education shall receive an annual statistical compilation and related data associated with incidents involving firearms in schools from the Department of State Police. As used in this Section, the term "firearm" shall have the meaning ascribed to it in Section 1.1 of the Firearm Owners Identification Card Act [430 ILCS 65/1.1].

105 ILCS 5/34-8.1. Principals.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 [105 ILCS 5/34-2.4] and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the professional personnel leadership committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

105 ILCS 5/2-3.41. Chronic truants and truancy prevention.

The State Board of Education is empowered to enter into contracts with public or private agencies for the provision of educational services to chronic truants and for the prevention of truancy including training and developmental assistance provided an appropriation is made specifically for such purpose.

105 ILCS 5/2-3.66. Truants' alternative and optional education programs.

To establish projects to offer modified instructional programs or other services designed to prevent students from dropping out of school, including programs pursuant to Section 2-3.41 [105 ILCS 5/2-3.41], and to serve as a part time or full time option in lieu of regular school attendance and to award grants to local school districts, educational service regions or community college districts from appropriated funds to assist districts in establishing such projects. The education agency may operate its own program or enter into a contract with another not-for-profit entity to implement the program. The projects shall allow dropouts, up to and including age 21, potential dropouts, including truants, uninvolved, unmotivated and disaffected students, as defined by State Board of Education rules and regulations, to enroll, as an alternative to regular school attendance, in an optional education program which may be established by school board policy and is in conformance with rules adopted by the State Board of Education. Truants' Alternative and Optional Education programs funded pursuant to this Section shall be planned by a student, the student's parents or legal guardians, unless the student is 18 years or older, and school officials and shall culminate in an individualized optional education plan. Such plan shall focus on academic or vocational skills, or both, and may include, but not be limited to, evening school, summer school, community college courses, adult education, preparation courses for high school equivalency testing, vocational training, work experience, programs to enhance self concept and parenting courses. School districts which are awarded grants pursuant to this Section shall be authorized to provide day care services to children of students who are eligible and desire to enroll in programs established and funded under this Section, but only if and to the extent that such day care is necessary to enable those eligible students to attend and participate in the programs and courses which are conducted pursuant to this Section. School districts and regional offices of education may claim general State aid under Section 18-8.05 [105 ILCS 5/18-8.05] or evidence-based funding under Section 18-8.15 [105 ILCS 5/18-8.15] for students enrolled in truants' alternative and optional education programs, provided that such students are receiving services that are supplemental to a program leading to a high school diploma and are otherwise eligible to be claimed for general State aid under Section 18-8.05 or evidence-based funding under Section 18-8.15, as applicable.

105 ILCS 5/13B-70. Truancy and attendance problems.

If a student is a chronic or habitual truant as defined in Section 26-2a of this Code [105 ILCS 5/26-2a] or if a child has been ordered to attend school, the school district may consider the student for placement in an alternative learning opportunities program specifically designed to prevent truancy, supplement instruction for students with attendance problems, intervene to decrease chronic truancy, and provide alternatives to high school completion. A program operating pursuant to the truants' alternative and optional education program may contract with a school district or consortium to provide these services.

105 ILCS 5/26-1. Compulsory school age; exemptions.

Whoever has custody or control of any child (i) between the ages of 7 and 17 years (unless the child has already graduated from high school) for school years before the 2014-2015 school year or (ii) between the ages of 6 (on or before September 1) and 17 years (unless the child has already graduated from high school) beginning with the 2014-2015 school year shall cause such child to attend some public school in the district wherein the child resides the entire time it is in session during the regular school

term, except as provided in Section 10-19.1 [105 ILCS 5/10-19.1], and during a required summer school program established under Section 10-22.33B [105 ILCS 5/10-22.33B]; provided, that the following children shall not be required to attend the public schools:

1. Any child attending a private or a parochial school where children are taught the branches of education taught to children of corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;
2. Any child who is physically or mentally unable to attend school, such disability being certified to the county or district truant officer by a competent physician licensed in Illinois to practice medicine and surgery in all its branches, a chiropractic physician licensed under the Medical Practice Act of 1987 [225 ILCS 60/1 et seq.], a licensed advanced practice registered nurse, a licensed physician assistant, or a Christian Science practitioner residing in this State and listed in the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends, with absence for cause by illness being required to include the mental or behavioral health of the child for up to 5 days for which the child need not provide a medical note, in which case the child shall be given the opportunity to make up any school work missed during the mental or behavioral health absence and, after the second mental health day used, may be referred to the appropriate school support personnel; the exemptions in this paragraph (2) do not apply to any female who is pregnant or the mother of one or more children, except where a female is unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the county or district truant officer by a competent physician;
3. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the county superintendent of schools or the superintendent of the public school which the child should be attending, on certification of the facts by and the recommendation of the school board of the public school district in which the child resides. In districts having part-time continuation schools, children so excused shall attend such schools at least 8 hours each week;
4. Any child over 12 and under 14 years of age while in attendance at confirmation classes;
5. Any child absent from a public school on a particular day or days or at a particular time of day for the reason that he is unable to attend classes or to participate in any examination, study or work requirements on a particular day or days or at a particular time of day, because of religious reasons, including the observance of a religious holiday or participation in religious instruction, or because the tenets of his religion forbid secular activity on a particular day or days or at a particular time of day. A school board may require the parent or guardian of a child who is to be excused from attending school because of religious reasons to give notice, not exceeding 5 days, of the child's absence to the school principal or other school personnel. Any child excused from attending school under this paragraph 5 shall not be required to submit a written excuse for such absence after returning to school;

A district superintendent shall develop and distribute to schools appropriate procedures regarding a student's absence for religious reasons, how schools are notified of a student's impending absence for religious reasons, and the requirements of Section 26-2b of this. Any child 16 years of age or older who (i) submits to a school district evidence of necessary and lawful employment pursuant to paragraph 3 of this Section and (ii) is enrolled in a graduation incentives program pursuant to Section 26-16 of this Code [105 ILCS 5/26-16] or an alternative learning opportunities program established pursuant to Article 13B of this Code [105 ILCS 5/13B-1 et seq.];

6. A child in any of grades 6 through 12 absent from a public school on a particular day or days or at a particular time of day for the purpose of sounding "Taps" at a military honors funeral held in this State for a deceased veteran. In order to be excused under this paragraph 7, the student shall notify the school's administration at least 2 days prior to the date of the absence and shall provide the school's administration with the date, time, and location of the military honors funeral. The school's administration may waive this 2-day notification requirement if the student did not receive at least 2

days advance notice, but the student shall notify the school's administration as soon as possible of the absence. A student whose absence is excused under this paragraph 7 shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under this paragraph 7 must be allowed a reasonable time to make up school work missed during the absence. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance and he or she may not be penalized for that absence; and

7. Any child absent from a public school on a particular day or days or at a particular time of day for the reason that his or her parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings. Such a student shall be granted 5 days of excused absences in any school year and, at the discretion of the school board, additional excused absences to visit the student's parent or legal guardian relative to such leave or deployment of the parent or legal guardian. In the case of excused absences pursuant to this paragraph 8, the student and parent or legal guardian shall be responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his or her return to school from such period of excused absence.

105 ILCS 5/26-2a. [Terms defined].

A "truant" is defined as a child who is subject to compulsory school attendance and who is absent without valid cause, as defined under this Section, from such attendance for more than 1% but less than 5% of the past 180 school days. [...]

"Chronic or habitual truant" shall be defined as a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days.

"Truant minor" is defined as a chronic truant to whom supportive services, including prevention, diagnostic, intervention and remedial services, alternative programs and other school and community resources have been provided and have failed to result in the cessation of chronic truancy, or have been offered and refused.

105 ILCS 5/26-3. Teachers furnished list-Report of non-attendance-Report of persons not on list.

The clerk or secretary of the school board of all school districts except those employing district truant officers shall furnish the superintendent of schools at the beginning of the school year a list of the names and addresses of the children living in the district who come under the provisions of this Article and of persons having custody or control of such children. The superintendent shall at the opening of school and at other times when required by the regional superintendent of schools compare the list with the enrollment of the school or schools and report to the regional superintendent of schools the names of persons having custody or control of children included under the provisions of this Article who are truant or who are chronic or habitual truants for whom supportive services and other school resources have failed to correct the truant behavior and who are not in regular attendance at the public school, and the names of such children and their ages, stating in each case, if known, the cause of such absence. The report shall also contain the names of any other persons who were not enumerated in the list at the beginning of school and who have the custody or control of children not attending school. The regional superintendent shall, without delay, place such information at the disposal of the regional truant officer.

105 ILCS 5/26-3a. Report of pupils no longer enrolled in school.

The clerk or secretary of the school board of all school districts shall furnish quarterly on the first school day of October, January, April and July to the regional superintendent and to the Secretary of State a list of pupils, excluding transferees, who have been expelled or have withdrawn or who have left school and

have been removed from the regular attendance rolls during the period of time school was in regular session from the time of the previous quarterly report. Such list shall include the names and addresses of pupils formerly in attendance, the names and addresses of persons having custody or control of such pupils, the reason, if known, such pupils are no longer in attendance and the date of removal from the attendance rolls. The list shall also include the names of: pupils whose withdrawal is due to extraordinary circumstances, including but not limited to economic or medical necessity or family hardship, as determined by the criteria established by the school district; pupils who have re-enrolled in school since their names were removed from the attendance rolls; any pupil certified to be a chronic or habitual truant, as defined in Section 26-2a [105 ILCS 5/26-2a]; and pupils previously certified as chronic or habitual truants who have resumed regular school attendance. The regional superintendent shall inform the county or district truant officer who shall investigate to see that such pupils are in compliance with the requirements of this Article.

Each local school district shall establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship.

If a pupil re-enrolls in school after his or her name was removed from the attendance rolls or resumes regular attendance after being certified a chronic or habitual truant, the pupil must obtain and forward to the Secretary of State, on a form designated by the Secretary of State, verification of his or her re-enrollment. The verification may be in the form of a signature or seal or in any other form determined by the school board.

The State Board of Education shall, if possible, make available to any person, upon request, a comparison of drop out rates before and after the effective date of this amendatory Act of the 94th General Assembly [P.A. 94-916].

105 ILCS 5/26-3b. [Notification of unexcused absence].

Beginning July 1, 1986, if any child enrolled in a public school in grades Kindergarten through 8 is absent from school, and there is no record that such absence is for a valid cause, as defined under Article 26 of this Code [105 ILCS 5/26-1 et seq.], nor notification that the absence has been authorized by the parent, legal guardian or other person having legal custody of such child, an employee or other agent, whether a volunteer or otherwise, designated by the public school in which the child is enrolled shall, within 2 hours after the first class in which the child is enrolled, make a reasonable effort to promptly telephone and notify the parent, legal guardian, or other person having legal custody of the child, of the child's absence from school. Such notification shall not be given for an absence authorized by the parent, legal guardian or other person having legal custody of such child. Prior to any enrollment of a child in a public school, the school district shall notify parents, legal guardians, or other persons having legal custody of a child, of their responsibility to authorize any absence and to notify the school in advance or at the time of any such absence, and that the school requires at least one and not more than 2 telephone numbers be given for purposes of this Section. The school district shall require that such telephone numbers be given at the time of enrollment of the child in school, which said numbers may be changed from time to time upon notification to the school.

The requirements of this Section shall have been met by the school if notification of an absence has been attempted by telephoning the 1 or 2 numbers given the school by the parent, legal guardian or other person having legal custody of a child, whether or not there is any answer at such telephone number or numbers. Further, the requirements of this Section shall have been met if the said notification is given to a member of the household of the child's parent, legal guardian or other person having legal custody of the child, which said member of the household must be 10 years of age or older.

An employee or other agent designated by the public school who in good faith makes a reasonable effort to notify the parent, legal guardian or other person having legal custody of a child of the child's absence from school, when required by this Section, shall not, as a result of his acts or omissions, except wilful or

wanton misconduct on the part of such employee or agent in attempting to comply with the notification requirements of this Section, be liable for civil damages.

105 ILCS 5/26-3d. [Truants; collection of data].

All regional superintendents, district superintendents, and special education joint agreement directors shall collect data concerning truants, chronic truants, and truant minor pupils as designated by the State Board of Education. On or before August 15 of each year, this data must be submitted to the State Board of Education.

105 ILCS 5/26-5. Duties of truant officers.

The truant officer of the school district, whenever notified by the Superintendent, teacher, or other person of violations of this Article, or the county truant officer, when notified by the County Superintendent, shall investigate all cases of truancy or non-attendance at school in their respective jurisdictions, and if the children complained of are not exempt under the provisions of this Article, the truant officer shall proceed as is provided in this Article. The county truant officer, within the county and the district truant officers, within their respective districts, shall in the exercise of their duties be conservators of the peace and shall keep the same, suppress riots, routs, affray, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view and cause them to be brought before proper officials for trial or examination.

105 ILCS 5/26-6. List and reports in districts employing truant officers.

In school districts which employ truant officers the clerk or secretary of the school board shall at the beginning of each school year furnish a copy of the last school census to the superintendent of schools (or principal teacher) in the district, together with the names and addresses of the truant officers in the district, and the superintendent, (or principal teacher) shall compare the census list with the enrollment of the school or schools and, from time to time, report to the proper truant officers the names and addresses of persons having custody or control of children included under the provisions of this Article who are truant or who are chronic or habitual truants for whom supportive services and other school resources have failed to correct the truant behavior and who are not in regular attendance at public schools and also the names of persons having custody or control of children who are not in regular attendance at school and whose names are not included in the census list.

105 ILCS 5/26-7. Notice to custodian-Notice of non-compliance.

If any person fails to send any child under his custody or control to some lawful school, the truant officer or, in a school district that does not have a truant officer, the regional superintendent of schools or his or her designee shall, as soon as practicable after he is notified thereof, give notice in person or by mail to such person that such child shall be present at the proper public school on the day following the receipt of such notice. The notice shall state the date that attendance at school must begin and that such attendance must be continuous and consecutive in the district during the remainder of the school year. The truant officer or, in a school district that does not have a truant officer, the regional superintendent of schools or his or her designee shall at the same time that such notice is given notify the teacher or superintendent of the proper public school thereof and the teacher or superintendent shall notify the truant officer or regional superintendent of schools of any non-compliance therewith.

105 ILCS 5/26-8. Determination as to compliance - Complaint in circuit court.

A truant officer or, in a school district that does not have a truant officer, the regional superintendent of schools or his or her designee, after giving the notice provided in Section 26-7 [105 ILCS 5/26-7], shall determine whether the notice has been complied with. If 3 notices have been given and the notices have not been complied with, and if the persons having custody or control have knowingly and wilfully permitted the truant behavior to continue, the regional superintendent of schools, or his or her designee, of the school district where the child resides shall conduct a truancy hearing. If the regional superintendent determines as a result of the hearing that the child is truant, the regional superintendent

shall, if age appropriate at the discretion of the regional superintendent, require the student to complete 20 to 40 hours of community service over a period of 90 days. If the truancy persists, the regional superintendent shall (i) make complaint against the persons having custody or control to the state's attorney or in the circuit court in the county where such person resides for failure to comply with the provisions of this Article or (ii) conduct truancy mediation and encourage the student to enroll in a graduation incentives program under Section 26-16 of this Code [105 ILCS 5/26-16]. If, however, after giving the notice provided in Section 26-7 [105 ILCS 5/26-7] the truant behavior has continued, and the child is beyond the control of the parents, guardians or custodians, a truancy petition shall be filed under the provisions of Article III of the Juvenile Court Act of 1987 [705 ILCS 405/3-1 et seq.].

105 ILCS 5/26-8a. [Court petition content].

The petition for court action shall include the name of the truant minor, the names and addresses of persons having custody or control of the student, the dates of the truant behavior, the dates and nature of contacts or conferences with the student and the persons having custody or control of the student, and the nature of the supportive services, alternative programs and other school resources the school district provided to that child in an effort to correct that child's truant behavior.

105 ILCS 5/26-8b. [Court petition filing].

When a petition is filed, it shall be set for an adjudicatory hearing within 10 days and acted upon within 30 days, subject to the provisions of the Juvenile Court Act or the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.] if filed thereunder.

105 ILCS 5/26-9. School officers and teachers to assist truant officers.

School officers, superintendents, teachers or other persons shall render such assistance and furnish such information as they have to aid truant officers in the performance of their duties.

105 ILCS 5/26-12. Punitive action.

(a) No punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against truant minors for such truancy unless appropriate and available supportive services and other school resources have been provided to the student. Notwithstanding the provisions of Section 10-22.6 of this Code [105 ILCS 5/26-10-22.6], a truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available supportive services, compel the student to return to school.

(b) A school district may not refer a truant, chronic truant, or truant minor to any other local public entity, as defined under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10/1-206], for that local public entity to issue the child a fine or a fee as punishment for his or her truancy.

(c) A school district may refer any person having custody or control of a truant, chronic truant, or truant minor to any other local public entity, as defined under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act, for that local public entity to issue the person a fine or fee for the child's truancy only if the school district's truant officer, regional office of education, or intermediate service center has been notified of the truant behavior and the school district, regional office of education, or intermediate service center has offered all appropriate and available supportive services and other school resources to the child. Before a school district may refer a person having custody or control of a child to a municipality, as defined under Section 1-1-2 of the Illinois Municipal Code [65 ILCS 5/1-1-2], the school district must provide the following appropriate and available services:

- (1) For any child who is a homeless child, as defined under Section 1-5 of the Education for Homeless Children Act [105 ILCS 45/1-5], a meeting between the child, the person having custody or control of the child, relevant school personnel, and a homeless liaison to discuss any barriers to the child's

attendance due to the child's transitional living situation and to construct a plan that removes these barriers.

(2) For any child with a documented disability, a meeting between the child, the person having custody or control of the child, and relevant school personnel to review the child's current needs and address the appropriateness of the child's placement and services. For any child subject to Article 14 of this Code [105 ILCS 5/14-1.01 et seq.], this meeting shall be an individualized education program meeting and shall include relevant members of the individualized education program team. For any child with a disability under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794), this meeting shall be a Section 504 plan review and include relevant members of the Section 504 plan team.

(3) For any child currently being evaluated by a school district for a disability or for whom the school has a basis of knowledge that the child is a child with a disability under 20 U.S.C. 1415(k)(5), the completion of the evaluation and determination of the child's eligibility for special education services.

(d) Before a school district may refer a person having custody or control of a child to a local public entity under this Section, the school district must document any appropriate and available supportive services offered to the child. In the event a meeting under this Section does not occur, a school district must have documentation that it made reasonable efforts to convene the meeting at a mutually convenient time and date for the school district and the person having custody or control of the child and, but for the conduct of that person, the meeting would have occurred.

105 ILCS 5/26-13. Absenteeism and truancy policies.

School districts shall adopt policies, consistent with rules adopted by the State Board of Education, which identify the appropriate supportive services and available resources which are provided for truants and chronic truants.

105 ILCS 5/26-14. Truancy programs for dropouts.

Any dropout, as defined in Section 26-2a [105 ILCS 5/26-2a], who is 17 years of age may apply to a school district for status as a truant, and the school district shall permit such person to participate in the district's various programs and resources for truants. At the time of the person's application, the district may request documentation of his dropout status for the previous 6 months.

105 ILCS 5/26-15. Truant minors.

When a regional superintendent has reason to believe that a pupil is a truant minor as defined in Section 26-2a [105 ILCS 5/26-2a], the regional superintendent may report such pupil under the provisions of the Juvenile Court Act.

105 ILCS 5/26-18. Chronic absenteeism report and support.

(a) As used in this Section:

"Chronic absence" means absences that total 10% or more of school days of the most recent academic school year, including absences with and without valid cause, as defined in Section 26-2a of this Code [105 ILCS 5/26-2a], and out-of-school suspensions for an enrolled student.

"Student" means any enrolled student that is subject to compulsory attendance under Section 26-1 of this Code [105 ILCS 5/26-1] but does not mean a student for whom a documented homebound or hospital record is on file during the student's absence from school.

(b) The General Assembly finds that:

(1) The early years are a critical period in children's learning and development. Every child should be counted present every day. Every day of school matters.

(2) Being absent too many days from school can make it difficult for students to stay on-track academically and maintain the momentum to graduate from high school in order to be college-or career-ready.

(3) Every day of school attendance matters for all students and their families. It is crucial, therefore, that the implications of chronic absence be understood and reviewed regularly.

(c) Beginning July 1, 2018, every school district, charter school, or alternative school or any school receiving public funds shall collect and review its chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. The review shall include an analysis of chronic absence data from each attendance center or campus of the school district, charter school, or alternative school or other school receiving public funds.

(d) School districts, charter schools, or alternative schools or any school receiving public funds are encouraged to provide a system of support to students who are at risk of reaching or exceeding chronic absence levels with strategies such as those available through the Illinois Multi-tiered Systems of Support Network. Schools additionally are encouraged to make resources available to families such as those available through the State Board of Education's Family Engagement Framework to support and engage students and their families to encourage heightened school engagement and improved daily school attendance.

105 ILCS 5/34-4.5. Chronic truants.

(a) Office of Chronic Truant Adjudication. The board shall establish and implement an Office of Chronic Truant Adjudication, which shall be responsible for administratively adjudicating cases of chronic truancy and imposing appropriate sanctions. The board shall appoint or employ hearing officers to perform the adjudicatory functions of that Office. Principals and other appropriate personnel may refer pupils suspected of being chronic truants, as defined in Section 26-2a of this Code [105 ILCS 5/26-2a], to the Office of Chronic Truant Adjudication.

(b) Notices. Before any hearing may be held under subsection (c), the principal of the school attended by the pupil or the principal's designee shall notify the pupil's parent or guardian by personal visit, letter, or telephone of each unexcused absence of the pupil. After giving the parent or guardian notice of the tenth unexcused absence of the pupil, the principal or the principal's designee shall send the pupil's parent or guardian a letter, by certified mail, return receipt requested, notifying the parent or guardian that he or she is subjecting himself or herself to a hearing procedure as provided under subsection (c) and clearly describing any and all possible penalties that may be imposed as provided for in subsections (d) and (e) of this Section.

(c) Hearing. Once a pupil has been referred to the Office of Chronic Truant Adjudication, a hearing shall be scheduled before an appointed hearing officer, and the pupil and the pupil's parents or guardian shall be notified by certified mail, return receipt requested stating the time, place, and purpose of the hearing. The hearing officer shall hold a hearing and render a written decision within 14 days determining whether the pupil is a chronic truant as defined in Section 26-2a of this Code [105 ILCS 5/26-2a] and whether the parent or guardian took reasonable steps to assure the pupil's attendance at school. The hearing shall be private unless a public hearing is requested by the pupil's parent or guardian, and the pupil may be present at the hearing with a representative in addition to the pupil's parent or guardian. The board shall present evidence of the pupil's truancy, and the pupil and the parent or guardian or representative of the pupil may cross examine witnesses, present witnesses and evidence, and present defenses to the charges. All testimony at the hearing shall be taken under oath administered by the hearing officer. The decision of the hearing officer shall constitute an "administrative decision" for purposes of judicial review under the Administrative Review Law [735 ILCS 5/3-101 et seq.].

(d) Penalties. The hearing officer may require the pupil or the pupil's parent or guardian or both the pupil and the pupil's parent or guardian to do any or all of the following: perform reasonable school or community services for a period not to exceed 30 days; complete a parenting education program; obtain counseling or other supportive services; and comply with an individualized educational plan or service plan as provided by appropriate school officials. If the parent or guardian of the chronic truant shows that

he or she took reasonable steps to insure attendance of the pupil at school, he or she shall not be required to perform services.

(e) Non-compliance with sanctions. If a pupil determined by a hearing officer to be a chronic truant or the parent or guardian of the pupil fails to comply with the sanctions ordered by the hearing officer under subsection (c) of this Section, the Office of Chronic Truant Adjudication may refer the matter to the State's Attorney for prosecution under Section 3-33.5 of the Juvenile Court Act of 1987 [705 ILCS 405/3-33.5].

(f) Limitation on applicability. Nothing in this Section shall be construed to apply to a parent or guardian of a pupil not required to attend a public school pursuant to Section 26-1 [105 ILCS 5/26-1].

REGULATIONS

205.20. Purpose.

a) This Part establishes the procedure and criteria for approval of applications, submitted by eligible applicants to the State Board of Education, for grants to assist the applicants in establishing truants' alternative and optional education programs as authorized in Section 2-3.66 of the School Code. [105 ILCS 5/2-3.66]

b) Programs funded under this grant shall serve students identified as one of the following:

- 1) a truant, as defined in Section 26-2a of the School Code [105 ILCS 5/26-2a]; or
- 2) a chronic or habitual truant, as defined in Section 26-2a of the School Code; or
- 3) a dropout, as defined in Section 26-2a of the School Code; or
- 4) a potential dropout, which is any student subject to compulsory attendance as defined in Article 26 of the School Code [105 ILCS 5/Art. 26] and whose school absences or pattern of school attendance impedes the student's learning or contributes to the student's failure to meet State and/or district learning standards. Attendance problems may include chronic truancy, truancy, selective absences, excessive absences or a pattern of absences or tardiness. In assessing whether marginal school attendance problems would place a student within the definition of "potential dropout," consideration shall be given to a student's personal involvement in the education process, apparent motivation to receive an education, or any continued and obvious apathy or disaffection for education, particularly, when indications of uninvolvement, lack of motivation or disaffection are coupled with currently known individual or family circumstances that, if they remain unresolved, would be reasonably expected to result in escalating attendance problems.

205.30. Eligible applicants.

a) Proposals for grant awards under Section 2-3.66 of the School Code may be submitted only by public school districts, regional offices of education, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], charter schools, community college districts, or area vocational centers.

b) Joint applications for funds may be submitted. If a joint application is submitted, then an administrative agent shall be designated.

- 1) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.
- 2) A school district or other eligible entity shall only participate in one proposal for a program.

205.35. Required program components.

Each program funded pursuant to Section 2-3.66 of the School Code shall include at least the following components.

- a) A comprehensive community-based program planning process that includes, but is not limited to, the participation of business, community organizations, social service providers, government agencies,

parents, school administrators and other staff members, including teachers, and students, and that leads to the development and implementation of a strategic plan.

- 1) The plan shall contain program goals and objectives developed by analyzing social and academic challenges in the community to be served by the truants' alternative and optional education program.
- 2) The plan shall identify available community resources and services and describe how these will be coordinated to meet the needs of students identified as eligible for the program (see Section 205.20(b) of this Part).

205.60. Allocation of funds.

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria. The final award amounts will be based on these criteria following negotiation with the grant recipient:

- a) the total funds appropriated for truants' alternative and optional education programs;
- b) the program needs, resources, and amounts requested in the top-ranked proposals determined pursuant to Section 205.50(a) and (b) of this Part; and
- c) the need to assure delivery of truancy prevention services and truants' alternative and optional education programs on a statewide basis and in a manner that will have the greatest impact in preventing truancy and students from dropping out of school.

Substance Use

LAWS

105 ILCS 5/2-3.176. Safe schools and healthy learning environments grant program.

(a) The State Board of Education, subject to appropriation, is authorized to award competitive grants on an annual basis under a Safe Schools and Healthy Learning Environments Grant Program. The goal of this grant program is to promote school safety and healthy learning environments by providing schools with additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline, and to address the full range of students' intellectual, social, emotional, physical, psychological, and moral developmental needs.

(b) To receive a grant under this program, a school district must submit with its grant application a plan for implementing evidence-based and promising practices that are aligned with the goal of this program. The application may include proposals to (i) hire additional school support personnel, including, but not limited to, restorative justice practitioners, school psychologists, school social workers, and other mental and behavioral health specialists; (ii) use existing school-based resources, community-based resources, or other experts and practitioners to expand alternatives to exclusionary discipline, mental and behavioral health supports, wraparound services, or drug and alcohol treatment; and (iii) provide training for school staff on trauma-informed approaches to meeting students' developmental needs, addressing the effects of toxic stress, restorative justice approaches, conflict resolution techniques, and the effective utilization of school support personnel and community-based services. For purposes of this subsection, "promising practices" means practices that present, based on preliminary information, potential for becoming evidence-based practices.

105 ILCS 5/10-20.36. Psychotropic or psychostimulant medication; disciplinary action.

(a) In this Section:

"Psychostimulant medication" means medication that produces increased levels of mental and physical energy and alertness and an elevated mood by stimulating the central nervous system.

"Psychotropic medication" means psychotropic medication as defined in Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1].

(b) Each school board must adopt and implement a policy that prohibits any disciplinary action that is based totally or in part on the refusal of a student's parent or guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student.

The policy must require that, at least once every 2 years, the in-service training of certified school personnel and administrators include training on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children.

(c) This Section does not prohibit school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10 of this Code [105 ILCS 5/14-1.10]) from recommending that a student be evaluated by an appropriate medical practitioner or prohibit school personnel from consulting with the practitioner with the consent of the student's parents or guardian.

105 ILCS 5/10-20.5b. Tobacco prohibition.

Each school board shall prohibit the use of tobacco on school property by any school personnel, student, or other person when such property is being used for any school purposes. The school board may not authorize or permit any exception to or exemption from the prohibition at any place or at any time, including without limitation outside of school buildings or before or after the regular school day or on days when school is not in session. "School purposes" include but are not limited to all events or activities or other use of school property that the school board or school officials authorize or permit on school property, including without limitation all interscholastic or extracurricular athletic, academic, or other events sponsored by the school board or in which pupils of the district participate. For purposes of this Section "tobacco" shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco which is any loose, cut, shredded, ground, powdered, compressed or leaf tobacco that is intended to be placed in the mouth without being smoked.

105 ILCS 5/10-21.4a. Principals and assistant principals - Duties.

It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 5/10-22.10a. Inspection for drugs.

School boards are empowered to adopt a policy to authorize school officials to request the assistance of law enforcement officials for the purpose of conducting reasonable searches of school grounds and lockers for illegal drugs, including searches conducted through the use of specially trained dogs.

105 ILCS 5/10-27.1B. Reporting drug-related incidents in schools.

(a) In this Section:

"Drug" means "cannabis" as defined under subsection (a) of Section 3 of the Cannabis Control Act [720 ILCS 550/3], "narcotic drug" as defined under subsection (aa) of Section 102 of the Illinois Controlled Substances Act [720 ILCS 570/102], or "methamphetamine" as defined under Section 10 of the Methamphetamine Control and Community Protection Act [720 ILCS 646/10].

"School" means any public or private elementary or secondary school.

(b) Upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving drugs in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee, or other appropriate administrative officer for a private school, shall report all such drug-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

(c) The State Board of Education shall receive an annual statistical compilation and related data associated with drug-related incidents in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

105 ILCS 5/13B-15.20. Support services.

"Support services" include alcohol and drug rehabilitation; individual, group, and family counseling; mentoring; tutoring; school physicals; health and nutrition education; classroom aides; career counseling; child care; and any other social, health, or supplemental service approved as part of the Student Success Plan that is required by students for their academic success.

105 ILCS 5/24-26. Intervening to help students or their family members who may have alcohol or other drug problems.

Teachers and other employees of school districts may intervene to help students or their family members who appear to have problems with alcohol and other drugs by encouraging them to seek an assessment and treatment. School personnel who intervene shall have immunity from civil liability in accordance with the Alcoholism and Drug Addiction Intervenor and Reporter Immunity Law [745 ILCS 35/1 et seq.]. School personnel shall not be subject to disciplinary action by the school because of an intervention and may not be prohibited by school policy from intervening.

105 ILCS 5/34-18.11. Tobacco prohibition.

The Board of Education shall prohibit the use of tobacco on school property when such property is being used for any school purposes. Neither the board nor the local school council may authorize or permit any exception to or exemption from the prohibition at any place or at any time, including without limitation outside of school buildings or before or after the regular school day or on days when school is not in session. "School purposes" include but are not limited to all events or activities or other use of school property that the school board or school officials authorize or permit on school property, including without limitation all interscholastic or extracurricular athletic, academic or other events sponsored by the school board or in which pupils of the district participate. For purposes of this Section "tobacco" shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco which is any loose, cut, shredded, ground, powdered, compressed or leaf tobacco that is intended to be placed in the mouth without being smoked.

105 ILCS 5/34-8.1. Principals.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 [105 ILCS 5/34-2.4] and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the professional personnel leadership committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 127/2. Duty of school administrators.

It is the duty of the principal of a public elementary or secondary school, or his or her designee, and the chief administrative officer of a private elementary or secondary school or a public or private community college, college, or university, or his or her designee, to report to the municipal police department or office of the county sheriff of the municipality or county where the school is located violations of Section 5.2 of the Cannabis Control Act [720 ILCS 550/5.2], violations of Section 401 [720 ILCS 570/401] and subsection (b) of Section 407 of the Illinois Controlled Substances Act [720 ILCS 570/407], and violations of the Methamphetamine Control and Community Protection Act [720 ILCS 646/1 et seq.] occurring in a school, on the real property comprising any school, on a public way within 1,000 feet of a school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity within 48 hours of becoming aware of the incident.

REGULATIONS

830.190. Use of tobacco products on state school property.

In conjunction with Section 10-20 of the School Code [105 ILCS 5/10-20] and Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3], the Department, under its administrative authority, prohibits the use of all tobacco products on State School property. For purposes of this Section, tobacco products shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco, which is loose, cut, shredded, ground, powdered, compressed or leaf tobacco. The prohibition against the use of tobacco products is to include school personnel, students, or other persons when on State School property. No exception to this prohibition will be permitted, including all events or activities before or after the regular school day and on days when the State School is not in session.

Gang-related Activity

LAWS

105 ILCS 5/10-21.4a. Principals and assistant principals - Duties.

It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 5/22-20. All courts and law enforcement agencies of the State of Illinois.

All courts and law enforcement agencies of the State of Illinois and its political subdivisions shall report to the principal of any public school in this State whenever a child enrolled therein is detained for proceedings under the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.], as heretofore and hereafter amended, or for any criminal offense, including illegal gang activity, or any violation of a municipal or county ordinance. The report shall include the basis for detaining the child, circumstances surrounding the events which led to the child's detention, and status of proceedings. The report shall be updated as appropriate to notify the principal of developments and the disposition of the matter.

The information derived thereby shall be kept separate from and shall not become a part of the official school record of such child and shall not be a public record. Such information shall be used solely by the appropriate school official or officials whom the school has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of students and employees in the school.

105 ILCS 5/27-23.10. Gang resistance education and training.

(a) The General Assembly finds that the instance of youth delinquent gangs continues to rise on a statewide basis. Given the higher rates of criminal offending among gang members, as well as the

availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.

(b) As used in this Section:

"Gang resistance education and training" means and includes instruction in, without limitation, each of the following subject matters when accompanied by a stated objective of reducing gang activity and educating children in grades K through 12 about the consequences of gang involvement:

- (1) conflict resolution;
- (2) cultural sensitivity;
- (3) personal goal setting; and
- (4) resisting peer pressure.

(c) Each school district and non-public, non-sectarian elementary or secondary school in this State may make suitable provisions for instruction in gang resistance education and training in all grades and include that instruction in the courses of study regularly taught in those grades. For the purposes of gang resistance education and training, a school board or the governing body of a non-public, non-sectarian elementary or secondary school must collaborate with State and local law enforcement agencies. The State Board of Education may assist in the development of instructional materials and teacher training in relation to gang resistance education and training.

105 ILCS 5/34-8.1. Principals.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 [105 ILCS 5/34-2.4] and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the professional personnel leadership committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

20 ILCS 1705/76. Mental health database and resource page.

The Department shall create and maintain an online database and resource page on its website. The database and resource page shall contain mental health resources specifically geared toward school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting those people with mental health resources related to bullying and school shootings and encouraging information sharing among educational administrators, school security personnel, and school resource officers.

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board or governing body of a charter school policy guidelines on pupil discipline, including school searches and bullying prevention as set forth in Section 27-23.7 of this Code [105 ILCS 5/27-23.7]. School authorities shall furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and the school board or governing body of a charter school shall require that a school inform its pupils of the contents of the policy. School boards and the governing bodies of charter schools, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

105 ILCS 5/10-22.24b. School counseling services.

School counseling services may include, but are not limited to:

- (17) addressing bullying and conflict resolution with all students; [...]
- (31) developing and implementing school-based prevention programs, including, but not limited to, mediation and violence prevention, implementing social and emotional education programs and services, and establishing and implementing bullying prevention and intervention programs;
- (54) participating in mandates from the State Board of Education for bullying education and social-emotional literacy.

105 ILCS 5/14-1.09.2. School social work services.

School social work services may include, but are not limited to:

- (6) Developing and implementing school-based prevention programs, including mediation and violence prevention, implementing social and emotional education programs and services, and establishing and implementing bullying prevention and intervention programs.

105 ILCS 5/22-12. Preventing or interfering with a child's attendance at school.

Whoever by threat, menace, or intimidation prevents any child entitled to attend a public or nonpublic school in this State from attending such school or interferes with any such child's attendance at that school shall be guilty of a Class A misdemeanor.

105 ILCS 5/27-13.3. Internet safety education curriculum.

(a) The purpose of this Section is to inform and protect students from inappropriate or illegal communications and solicitation and to encourage school districts to provide education about Internet threats and risks, including without limitation child predators, fraud, and other dangers.

(b) The General Assembly finds and declares the following:

- (1) it is the policy of this State to protect consumers and Illinois residents from deceptive and unsafe communications that result in harassment, exploitation, or physical harm;
- (2) children have easy access to the Internet at home, school, and public places;
- (3) the Internet is used by sexual predators and other criminals to make initial contact with children and other vulnerable residents in Illinois; and
- (4) education is an effective method for preventing children from falling prey to online predators, identity theft, and other dangers.

(c) Each school may adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12. However, beginning with the 2009-2010 school year, a school district must incorporate into the school curriculum a component on Internet safety to be taught at least once each school year to students in grades 3 through 12. The school board shall determine the scope and

duration of this unit of instruction. The age-appropriate unit of instruction may be incorporated into the current courses of study regularly taught in the district's schools, as determined by the school board, and it is recommended that the unit of instruction include the following topics:

- (1) Safe and responsible use of social networking websites, chat rooms, electronic mail, bulletin boards, instant messaging, and other means of communication on the Internet.
 - (2) Recognizing, avoiding, and reporting online solicitations of students, their classmates, and their friends by sexual predators.
 - (3) Risks of transmitting personal information on the Internet.
 - (4) Recognizing and avoiding unsolicited or deceptive communications received online.
 - (5) Recognizing and reporting online harassment and cyber-bullying.
 - (6) Reporting illegal activities and communications on the Internet.
 - (7) Copyright laws on written materials, photographs, music, and video.
- (d) Curricula devised in accordance with subsection (c) of this Section may be submitted for review to the Office of the Illinois Attorney General.
- (e) The State Board of Education shall make available resource materials for educating children regarding child online safety and may take into consideration the curriculum on this subject developed by other states, as well as any other curricular materials suggested by education experts, child psychologists, or technology companies that work on child online safety issues. Materials may include without limitation safe online communications, privacy protection, cyber-bullying, viewing inappropriate material, file sharing, and the importance of open communication with responsible adults. The State Board of Education shall make these resource materials available on its Internet website.

105 ILCS 5/27-23.7. Bullying prevention.

(a) The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and emotional harm to students and interferes with students' ability to learn and participate in school activities. The General Assembly further finds that bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence. Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts, charter schools, and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district, charter school, or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts, charter schools, and non-public, non-sectarian elementary and secondary schools. No student shall be subjected to bullying:

- (1) during any school-sponsored education program or activity;
- (2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities;
- (3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment; or
- (4) through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by a school district or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This item (4) applies only in cases in which a

school administrator or teacher receives a report that bullying through this means has occurred and does not require a district or school to staff or monitor any nonschool-related activity, function, or program.

(a-5) Nothing in this Section is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the United States Constitution or under Section 3 of Article I of the Illinois Constitution.

(b) In this Section:

"Bullying" includes "cyber-bullying" and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

- (1) placing the student or students in reasonable fear of harm to the student's or students' person or property;
- (2) causing a substantially detrimental effect on the student's or students' physical or mental health;
- (3) substantially interfering with the student's or students' academic performance; or
- (4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school. Bullying, as defined in this subsection (b), may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

"Cyber-bullying" means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. "Cyber-bullying" includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of bullying in this Section. "Cyber-bullying" also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of bullying in this Section.

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

- (1) Includes the bullying definition provided in this Section.
- (2) Includes a statement that bullying is contrary to State law and the policy of the school district, charter school, or non-public, non-sectarian elementary or secondary school and is consistent with subsection (a-5) of this Section.
- (3) Includes procedures for promptly reporting bullying, including, but not limited to, identifying and providing the school e-mail address (if applicable) and school telephone number for the staff person or persons responsible for receiving such reports and a procedure for anonymous reporting; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.
- (4) Consistent with federal and State laws and rules governing student privacy rights, includes procedures for promptly informing parents or guardians of all students involved in the alleged incident of bullying and discussing, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures.
- (5) Contains procedures for promptly investigating and addressing reports of bullying, including the following:

(A) Making all reasonable efforts to complete the investigation within 10 school days after the date the report of the incident of bullying was received and taking into consideration additional relevant information received during the course of the investigation about the reported incident of bullying.

(B) Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.

(C) Notifying the principal or school administrator or his or her designee of the report of the incident of bullying as soon as possible after the report is received.

(D) Consistent with federal and State laws and rules governing student privacy rights, providing parents and guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

(6) Includes the interventions that can be taken to address bullying, which may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services.

(7) Includes a statement prohibiting reprisal or retaliation against any person who reports an act of bullying and the consequences and appropriate remedial actions for a person who engages in reprisal or retaliation.

(8) Includes consequences and appropriate remedial actions for a person found to have falsely accused another of bullying as a means of retaliation or as a means of bullying.

(9) Is based on the engagement of a range of school stakeholders, including students and parents or guardians.

(10) Is posted on the school district's, charter school's, or non-public, non-sectarian elementary or secondary school's existing Internet website, is included in the student handbook, and, where applicable, posted where other policies, rules, and standards of conduct are currently posted in the school and provided periodically throughout the school year to students and faculty, and is distributed annually to parents, guardians, students, and school personnel, including new employees when hired.

(11) As part of the process of reviewing and re-evaluating the policy under subsection (d) of this Section, contains a policy evaluation process to assess the outcomes and effectiveness of the policy that includes, but is not limited to, factors such as the frequency of victimization; student, staff, and family observations of safety at a school; identification of areas of a school where bullying occurs; the types of bullying utilized; and bystander intervention or participation. The school district, charter school, or non-public, non-sectarian elementary or secondary school may use relevant data and information it already collects for other purposes in the policy evaluation. The information developed as a result of the policy evaluation must be made available on the Internet website of the school district, charter school, or non-public, non-sectarian elementary or secondary school. If an Internet website is not available, the information must be provided to school administrators, school board members, school personnel, parents, guardians, and students.

(12) Is consistent with the policies of the school board, charter school, or non-public, non-sectarian elementary or secondary school.

"Restorative measures" means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community,

(ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school. and (vii) increase

student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Illinois Human Rights Act

"School personnel" means persons employed by, on contract with, or who volunteer in a school district, charter school, or non-public, non-sectarian elementary or secondary school, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

(c) (Blank).

(d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district's or school's jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. School personnel available for help with a bully or to make a report about bullying shall be made known to parents or legal guardians, students, and school personnel. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall monitor and provide technical support for the implementation of policies created under this subsection (d).

(e) This Section shall not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law.

105 ILCS 5/34-84a.1. Principals shall report incidents of intimidation.

The principal of each attendance center shall promptly notify and report to the local law enforcement authorities for inclusion in the Department of State Police's Illinois Uniform Crime Reporting Program each incident of intimidation of which he or she has knowledge and each alleged incident of intimidation which is reported to him or her, either orally or in writing, by any pupil or by any teacher or other certificated or non-certificated personnel employed at the attendance center. "Intimidation" shall have the meaning ascribed to it by Section 12-6 of the Criminal Code of 2012 [720 ILCS 5/12-6].

720 ILCS 5/12C-50. Hazing.

(a) A person commits hazing when he or she knowingly requires the performance of any act by a student or other person in a school, college, university, or other educational institution of this State, for the purpose of induction or admission into any group, organization, or society associated or connected with that institution, if:

- (1) the act is not sanctioned or authorized by that educational institution; and
- (2) the act results in bodily harm to any person.

(b) Sentence. Hazing is a Class A misdemeanor, except that hazing that results in death or great bodily harm is a Class 4 felony.

720 ILCS 5/12C-50.1. Failure to report hazing.

(a) For purposes of this Section, "school official" includes any and all paid school administrators, teachers, counselors, support staff, and coaches and any and all volunteer coaches employed by a school, college, university, or other educational institution of this State.

(b) A school official commits failure to report hazing when:

- (1) while fulfilling his or her official responsibilities as a school official, he or she personally observes an act which is not sanctioned or authorized by that educational institution;
- (2) the act results in bodily harm to any person; and

(3) the school official knowingly fails to report the act to supervising educational authorities or, in the event of death or great bodily harm, to law enforcement.

(c) Sentence. Failure to report hazing is a Class B misdemeanor. If the act which the person failed to report resulted in death or great bodily harm, the offense is a Class A misdemeanor.

(d) It is an affirmative defense to a charge of failure to report hazing under this Section that the person who personally observed the act had a reasonable apprehension that timely action to stop the act would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

(e) Nothing in this Section shall be construed to allow prosecution of a person who personally observes the act of hazing and assists with an investigation and any subsequent prosecution of the offender.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

105 ILCS 110/3. Comprehensive health education program.

The program established under this Act shall include, but not be limited to, the following major educational areas as a basis for curricula in all elementary and secondary schools in this State: [...] teen dating violence in grades 7 through 12.

105 ILCS 110/3.10. Policy on teen dating violence.

(a) As used in this Section:

"Dating" or "dating relationship" means an ongoing social relationship of a romantic or intimate nature between 2 persons. "Dating" or "dating relationship" does not include a casual relationship or ordinary fraternization between 2 persons in a business or social context.

"Teen dating violence" means either of the following:

(1) A pattern of behavior in which a person uses or threatens to use physical, mental, or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

(2) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

(b) The school board of each public school district in this State shall adopt a policy that does all of the following:

(1) States that teen dating violence is unacceptable and is prohibited and that each student has the right to a safe learning environment.

(2) Incorporates age-appropriate education about teen dating violence into new or existing training programs for students in grades 7 through 12 and school employees, as recommended by the school officials identified under subdivision (4) of this subsection (b).

(3) Establishes procedures for the manner in which employees of a school are to respond to incidents of teen dating violence that take place at the school, on school grounds, at school-sponsored activities, or in vehicles used for school-provided transportation.

(4) Identifies by job title the school officials who are responsible for receiving reports related to teen dating violence.

(5) Notifies students and parents of the teen dating violence policy adopted by the board.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

20 ILCS 1705/76. Mental health database and resource page.

The Department shall create and maintain an online database and resource page on its website. The database and resource page shall contain mental health resources specifically geared toward school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting those people with mental health resources related to bullying and school shootings and encouraging information sharing among educational administrators, school security personnel, and school resource officers.

105 ILCS 5/27-23.7. Bullying prevention.

(d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district's or school's jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. School personnel available for help with a bully or to make a report about bullying shall be made known to parents or legal guardians, students, and school personnel. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall monitor and provide technical support for the implementation of policies created under this subsection (d).

405 ILCS 49/5. Children's Mental Health Plan.

(a) The State of Illinois shall develop a Children's Mental Health Plan containing short-term and long-term recommendations to provide comprehensive, coordinated mental health prevention, early intervention, and treatment services for children from birth through age 18. This Plan shall include but not be limited to:

(2) Guidelines for incorporating social and emotional development into school learning standards and educational programs, pursuant to Section 15 of this Act [405 ILCS 49/15].

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

105 ILCS 5/10-22.24b. School counseling services.

School counseling services may include, but are not limited to:

(38) collaborating as a team member in Response to Intervention (RtI) and other school initiatives.

105 ILCS 5/26-18. Chronic absenteeism report and support.

(d) School districts, charter schools, or alternative schools or any school receiving public funds are encouraged to provide a system of support to students who are at risk of reaching or exceeding chronic

absence levels with strategies such as those available through the Illinois Multi-tiered Systems of Support Network. Schools additionally are encouraged to make resources available to families such as those available through the State Board of Education's Family Engagement Framework to support and engage students and their families to encourage heightened school engagement and improved daily school attendance.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

105 ILCS 5/10-22.24b. School counseling services.

School counseling services in public schools may be provided by school counselors as defined in Section 10-22.24a of this Code [105 ILCS 5/10-22.24a] or by individuals who hold a Professional Educator License with a school support personnel endorsement in the area of school counseling under Section 21B-25 of this Code [105 ILCS 5/10-21B.25].

School counseling services may include, but are not limited to:

- (31) developing and implementing school-based prevention programs, including, but not limited to, mediation and violence prevention, implementing social and emotional education programs and services, and establishing and implementing bullying prevention and intervention programs

105 ILCS 5/14-1.09.2. School social work services.

In the public schools, social work services may be provided by qualified specialists who hold Type 73 School Service Personnel Certificates endorsed for school social work issued by the State Teacher Certification Board or who hold a Professional Educator License with a school support personnel endorsement in the area of school social worker under Section 21B-25 of this Code [105 ILCS 5/21B-25].

School social work services may include, but are not limited to:

- (6) Developing and implementing school-based prevention programs, including mediation and violence prevention, implementing social and emotional education programs and services, and establishing and implementing bullying prevention and intervention programs.

105 ILCS 5/27-13.2. Required instruction.

In every public school there shall be instruction, study, and discussion of effective methods by which pupils may recognize the danger of and avoid abduction, and in every public school maintaining any of grades kindergarten through 8 there shall be, for such grades, instruction, study, and discussion of effective methods for the prevention and avoidance of drugs and the dangers of opioid and substance abuse. School boards may include such required instruction, study and discussion in the courses of study regularly taught in the public schools of their respective districts; provided, however, that such instruction shall be given each year to all pupils in grades kindergarten through 8. The State Superintendent of Education may prepare and make available to all public and non-public schools instructional materials which may be used by such schools as guidelines for development of a program of instruction under this Section; provided, however, that each school board shall itself determine the minimum amount of instruction time which shall qualify as a program of instruction which will satisfy the requirements of this Section.

105 ILCS 5/27-23.4. Violence prevention and conflict resolution education.

School districts shall provide instruction in violence prevention and conflict resolution education for grades kindergarten through 12 and may include such instruction in the courses of study regularly taught therein. School districts may give regular school credit for satisfactory completion by the student of such courses.

As used in this Section, "violence prevention and conflict resolution education" means and includes instruction in the following:

- (1) The consequences of violent behavior.
- (2) The causes of violent reactions to conflict.
- (3) Nonviolent conflict resolution techniques.
- (4) The relationship between drugs, alcohol and violence.

The State Board of Education shall prepare and make available to all school boards instructional materials that may be used as guidelines for development of a violence prevention program under this Section, provided that each school board shall determine the appropriate curriculum for satisfying the requirements of this Section. The State Board of Education shall assist in training teachers to provide effective instruction in the violence prevention curriculum.

The State Board of Education and local school boards shall not be required to implement the provisions of this Section unless grants of funds are made available and are received after July 1, 1993 from private sources or from the federal government in amounts sufficient to enable the State Board and local school boards to meet the requirements of this Section. Any funds received by the State or a local educational agency pursuant to the federal Safe and Drug-Free Schools and Communities Act of 1994 [20 U.S.C. § 7101] shall first be applied or appropriated to meet the requirements and implement the provisions of this Section.

105 ILCS 5/34-21.8. Chicago public schools violence prevention hotline.

- (a) In consultation with the Chicago Police Department, the Board must establish a hotline for the purpose of receiving anonymous phone calls for information that may prevent violence.
- (b) Calls that are placed to the hotline must be answered by the Chicago Police Department.
- (c) Each call placed to the hotline must be recorded and investigated by the Chicago Police Department.
- (d) Prior to receiving any information, notice must be provided to the caller that the call is being recorded for investigation by the Chicago Police Department. The notice may be provided by a pre-recorded message or otherwise.
- (e) The hotline shall be known as the "CPS Violence Prevention Hotline" and its number and anonymous nature must be posted in all Chicago Public Schools.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

105 ILCS 5/10-22.24b. School counseling services.

School counseling services may include, but are not limited to:

- (30) teaming and partnering with staff, parents, businesses, and community organizations to support student achievement and social-emotional learning standards for all students;
- (31) developing and implementing school-based prevention programs, including, but not limited to, mediation and violence prevention, implementing social and emotional education programs and services, and establishing and implementing bullying prevention and intervention programs; [...]
- (45) infusing the Social-Emotional Standards, as presented in the State Board of Education standards, across the curriculum and in the counselor's role in ways that empower and enable students to achieve academic success across all grade levels; [...]

(54) participating in mandates from the State Board of Education for bullying education and social-emotional literacy.

105 ILCS 5/27-12. Character education.

Every public school teacher shall teach character education, which includes the teaching of respect, responsibility, fairness, caring, trustworthiness, and citizenship, in order to raise pupils' honesty, kindness, justice, discipline, respect for others, and moral courage for the purpose of lessening crime and raising the standard of good character.

405 ILCS 49/15. Mental health and schools.

(a) The Illinois State Board of Education shall develop and implement a plan to incorporate social and emotional development standards as part of the Illinois Learning Standards for the purpose of enhancing and measuring children's school readiness and ability to achieve academic success. The plan shall be submitted to the Governor, the General Assembly, and the Partnership by December 31, 2004.

(b) Every Illinois school district shall develop a policy for incorporating social and emotional development into the district's educational program. The policy shall address teaching and assessing social and emotional skills and protocols for responding to children with social, emotional, or mental health problems, or a combination of such problems, that impact learning ability. School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs. Each district must submit this policy to the Illinois State Board of Education by August 31, 2004.

405 ILCS 49/5. Children's Mental Health Plan.

(a) The State of Illinois shall develop a Children's Mental Health Plan containing short-term and long-term recommendations to provide comprehensive, coordinated mental health prevention, early intervention, and treatment services for children from birth through age 18. This Plan shall include but not be limited to:

(2) Guidelines for incorporating social and emotional development into school learning standards and educational programs, pursuant to Section 15 of this Act [405 ILCS 49/15].

REGULATIONS

555.110. Purpose and Applicability.

This Subpart B establishes the application procedure and criteria for selection by the State Superintendent of Education of the entities that will receive grant funds for activities associated with implementing the social and emotional learning standards set forth in Appendix A to this Part, including participation in relevant training and technical assistance.

555.130. Program specifications - Planning and training grants.

The goal of each planning and training grant project under this Subpart B shall be the development of a three-year plan for implementation of the social and emotional learning (SEL) standards set forth in Appendix A to this Part, as applicable to the grade levels of the participating schools.

a) Each participating school shall be required to establish an implementation team consisting of at least a school administrator, a teacher, and a representative of the families whose children attend the school. Activities to be conducted with planning and training grant funds shall include, but need not be limited to:

1) participation by each school's implementation team in training and technical assistance activities made available by the regionally based training entity designated by the State Superintendent of Education;

2) conducting at least two family education sessions relating to the social and emotional learning standards;

3) identifying gaps in available resources and services related to social and emotional learning; and

4) preparation of a plan setting forth a specific, three-year sequence of steps for moving toward the comprehensive integration of the social and emotional learning standards into the participating schools' educational programs, school environment, and other mental health supports.

b) Each proposed planning and training project shall encompass all students housed in any attendance center for which funding is provided.

c) No more than five percent of the grant funds may be used for general administrative expenses. Stipends for extra work or time on the part of district employees, as well as necessary costs for substitute teachers, shall be allowable expenses. Grant funds may be used to pay the salaries of district personnel only when at least six schools in a district are participating in planning and training projects under this Subpart B.

555.135. Program specifications - Implementation grants.

Implementation grant funds provided under this Subpart B shall be used for the purpose of integrating the SEL standards into the participating schools' curricula and programs.

a) Grant funds shall be used only to defray costs associated with the time-specific, measurable steps outlined in the recipient's plan (e.g., working to identify specific additions and modifications that will be made to particular aspects of schools' services or curricula, assigning responsibility for the accomplishment of those modifications, and ensuring that responsible staff receive any necessary professional development in order to deliver the curriculum and address the standards effectively). The use of grant funds to pay the salaries of district personnel shall be limited as provided in Section 555.130(c) of this Part.

b) Each implementation project shall encompass all students housed in any attendance center for which funding is provided.

c) A district that has received two years' implementation funding under this Subpart B shall be eligible to submit a planning and training grant proposal as a new applicant in a subsequent year, provided that:

1) the applicant, if other than a district organized under Article 34 of the School Code [105 ILCS 5/Art. 34], has successfully completed the entire previous grant cycle; and

2) the new project will involve only schools not already served under a project previously funded.

555.Appx.A. Social and Emotional Learning Standards.

Goal 1: Develop self-awareness and self-management skills to achieve school and life success.

Learning Standard A: Identify and manage one's emotions and behavior.

Learning Standard B: Recognize personal qualities and external supports. Learning Standard C: Demonstrate skills related to achieving personal and academic goals.

Goal 2: Use social awareness and interpersonal skills to establish and maintain positive relationships.

Learning Standard A: Recognize the feelings and perspectives of others. Learning Standard B: Recognize individual and group similarities and differences.

Learning Standard C: Use communication and social skills to interact effectively with others.

Learning Standard D: Demonstrate an ability to prevent, manage, and resolve interpersonal conflicts in constructive ways.

Goal 3: Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

Learning Standard A: Consider ethical, safety, and societal factors in making decisions.

Learning Standard B: Apply decision-making skills to deal responsibly with daily academic and social situations.

Learning Standard C: Contribute to the well-being of one's school and community.

Trauma-informed Practices

LAWS

105 ILCS 5/2-3.176. Safe schools and healthy learning environments grant program.

(a) The State Board of Education, subject to appropriation, is authorized to award competitive grants on an annual basis under a Safe Schools and Healthy Learning Environments Grant Program. The goal of this grant program is to promote school safety and healthy learning environments by providing schools with additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline, and to address the full range of students' intellectual, social, emotional, physical, psychological, and moral developmental needs.

(b) To receive a grant under this program, a school district must submit with its grant application a plan for implementing evidence-based and promising practices that are aligned with the goal of this program. The application may include proposals to (i) hire additional school support personnel, including, but not limited to, restorative justice practitioners, school psychologists, school social workers, and other mental and behavioral health specialists; (ii) use existing school-based resources, community-based resources, or other experts and practitioners to expand alternatives to exclusionary discipline, mental and behavioral health supports, wraparound services, or drug and alcohol treatment; and (iii) provide training for school staff on trauma-informed approaches to meeting students' developmental needs, addressing the effects of toxic stress, restorative justice approaches, conflict resolution techniques, and the effective utilization of school support personnel and community-based services. For purposes of this subsection, "promising practices" means practices that present, based on preliminary information, potential for becoming evidence-based practices.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

105 ILCS 5/10-22.24b. School counseling services.

School counseling services may include, but are not limited to:

(52) participating, in addition to other topics at in-service training programs, in training to identify the warning signs of mental illness and suicidal behavior in adolescents and teenagers and learning appropriate intervention and referral techniques.

105 ILCS 5/10-22.39. In-service training programs.

(a) To conduct in-service training programs for teachers.

(b) In addition to other topics at in-service training programs, at least once every 2 years, licensed school personnel and administrators who work with pupils in kindergarten through grade 12 shall be trained to identify the warning signs of mental illness and suicidal behavior in youth and shall be taught appropriate intervention and referral techniques. A school district may utilize the Illinois Mental Health First Aid training program, established under the Illinois Mental Health First Aid Training Act [405 ILCS 105/1 et seq.]and administered by certified instructors trained by a national association recognized as an authority in behavioral health, to provide the training and meet the requirements under this subsection. If licensed school personnel or an administrator obtains mental health first aid training outside of an in-service

training program, he or she may present a certificate of successful completion of the training to the school district to satisfy the requirements of this subsection.

Training regarding the implementation of trauma-informed practices satisfies the requirements of this subsection (b).

A course of instruction as described in this subsection (b) may provide information that is relevant to and within the scope of the duties of licensed school personnel or school administrators. Such information may include, but is not limited to:

- (1) the recognition of and care for trauma in students and staff;
- (2) the relationship between educator wellness and student learning;
- (3) the effect of trauma on student behavior and learning;
- (4) the prevalence of trauma among students, including the prevalence of trauma among student populations at higher risk of experiencing trauma;
- (5) the effects of implicit or explicit bias on recognizing trauma among various student groups in connection with race, ethnicity, gender identity, sexual orientation, socio-economic status, and other relevant factors; and
- (6) effective district practices that are shown to:
 - (A) prevent and mitigate the negative effect of trauma on student behavior and learning; and
 - (B) support the emotional wellness of staff.

(c) School guidance counselors, nurses, teachers and other school personnel who work with pupils may be trained to have a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS), including the nature of the disease, its causes and effects, the means of detecting it and preventing its transmission, and the availability of appropriate sources of counseling and referral, and any other information that may be appropriate considering the age and grade level of such pupils. The School Board shall supervise such training. The State Board of Education and the Department of Public Health shall jointly develop standards for such training.

105 ILCS 5/34-18.25. Psychotropic or psychostimulant medication; disciplinary action.

(a) In this Section:

"Psychostimulant medication" means medication that produces increased levels of mental and physical energy and alertness and an elevated mood by stimulating the central nervous system.

"Psychotropic medication" means psychotropic medication as defined in Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1].

(b) The board must adopt and implement a policy that prohibits any disciplinary action that is based totally or in part on the refusal of a student's parent or guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student.

The policy must require that, at least once every 2 years, the in-service training of certified school personnel and administrators include training on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children.

(c) This Section does not prohibit school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10 of this Code) [105 ILCS 5/14-1.10] from recommending that a student be evaluated by an appropriate medical practitioner or prohibit school personnel from consulting with the practitioner with the consent of the student's parents or guardian.

105 ILCS 5/34-18.7. Youth mental illness and suicide detection and intervention.

At least once every 2 years, licensed school personnel and administrators who work with pupils in kindergarten through grade 12 shall be trained to identify the warning signs of mental illness and suicidal behavior in youth and shall be taught various intervention techniques. The school district may utilize the Illinois Mental Health First Aid training program, established under the Illinois Mental Health First Aid Training Act [405 ILCS 105/1 et seq.] and administered by certified instructors trained by a national association recognized as an authority in behavioral health, to provide the training and meet the requirements under this Section. If licensed school personnel or an administrator obtains mental health first aid training outside of an in-service training program, he or she may present a certificate of successful completion of the training to the school district to satisfy the requirements of this Section. The training shall be provided within the framework of existing in-service training programs offered by the Board or as part of the professional development activities required under Section 21-14 of this Code [105 ILCS 5/21-14].

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

20 ILCS 1705/76. Mental health database and resource page.

The Department shall create and maintain an online database and resource page on its website. The database and resource page shall contain mental health resources specifically geared toward school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting those people with mental health resources related to bullying and school shootings and encouraging information sharing among educational administrators, school security personnel, and school resource officers.

105 ILCS 5/2-3.176. Safe schools and healthy learning environments grant program.

(a) The State Board of Education, subject to appropriation, is authorized to award competitive grants on an annual basis under a Safe Schools and Healthy Learning Environments Grant Program. The goal of this grant program is to promote school safety and healthy learning environments by providing schools with additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline, and to address the full range of students' intellectual, social, emotional, physical, psychological, and moral developmental needs.

(b) To receive a grant under this program, a school district must submit with its grant application a plan for implementing evidence-based and promising practices that are aligned with the goal of this program. The application may include proposals to (i) hire additional school support personnel, including, but not limited to, restorative justice practitioners, school psychologists, school social workers, and other mental and behavioral health specialists; (ii) use existing school-based resources, community-based resources, or other experts and practitioners to expand alternatives to exclusionary discipline, mental and behavioral health supports, wraparound services, or drug and alcohol treatment; and (iii) provide training for school staff on trauma-informed approaches to meeting students' developmental needs, addressing the effects of toxic stress, restorative justice approaches, conflict resolution techniques, and the effective utilization of school support personnel and community-based services. For purposes of this subsection, "promising practices" means practices that present, based on preliminary information, potential for becoming evidence-based practices.

105 ILCS 5/10-22.24b. School counseling services.

School counseling services may include, but are not limited to:

(16) providing resources for those students who do not have access to mental health services.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(l) Beginning with the 2018-2019 school year, an in-school suspension program provided by a school district for any students in kindergarten through grade 12 may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel. A school district may employ a school social worker or a licensed mental health professional to oversee an in-school suspension program in kindergarten through grade 12.

105 ILCS 5/14-1.09.1. School psychological services.

In the public schools, school psychological services provided by qualified specialists who hold Type 73 School Service Personnel Certificates endorsed for school psychology issued by the State Teacher Certification Board may include, but are not limited to: (i) administration and interpretation of psychological and educational evaluations; (ii) developing school-based prevention programs, including violence prevention programs; (iii) counseling with students, parents, and teachers on educational and mental health issues; (iv) acting as liaisons between public schools and community agencies; (v) evaluating program effectiveness; (vi) providing crisis intervention within the school setting; (vii) helping teachers, parents, and others involved in the educational process to provide optimum teaching and learning conditions for all students; (viii) supervising school psychologist interns enrolled in school psychology programs that meet the standards established by the State Board of Education; and (ix) screening of school enrollments to identify children who should be referred for individual study. Nothing in this Section prohibits other qualified professionals from providing those services listed for which they are appropriately trained.

REGULATIONS

555.10. Purpose and Applicability.

This Subpart A establishes the application procedure and criteria for selection by the State Superintendent of Education of the entities that will receive grant funds for programs designed to support students' mental health by:

- a) enhancing the recipients' capacity to identify and meet students' needs for early, coordinated mental health intervention services in "natural" settings;
- b) contributing to the development of a mental health support system for students that is integrated with community mental health agencies and other agencies and systems that serve children; and
- c) reducing the stigma associated with mental health and mental illness within the school community.

555.30. Program Specifications.

a) In order to achieve the goals specified in Section 555.10 of this Part, each proposed project shall include objectives and activities related to:

1) Developing a protocol and structures for meeting the early intervention mental health needs of students, including identifying, referring, and following up on those who could benefit from early intervention, involving parents and other care-givers, and planning for and providing services from qualified mental health professionals, such as:

- A) assessment,
- B) individual and group counseling,
- C) family support, and
- D) school-wide mental health awareness activities;

2) Coordinating services with those offered by other community-based service systems and providers by:

- A) developing a framework for the integration of social and emotional learning and mental health-related initiatives based on a team approach that includes school staff, community-based providers, students, and their families to build upon existing mental health structures,
 - B) implementing formal interagency working agreements, and
 - C) providing services in "natural" settings such as schools, youth-serving agencies, or family homes; and
- 3) Reducing the mental health stigma within the school community by:
- A) conducting events for the school faculty, students, and family members to increase awareness regarding the impact of mental illness, the efficacy of mental health treatment, and the importance of early identification,
 - B) addressing mental health stigmas that are specific to particular cultures or segments of the community, and
 - C) promoting leadership among students and support for peers with regard to issues of mental health.
- b) Each proposed project shall make services available to all students housed in any attendance center for which funding is provided under this Subpart A.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

105 ILCS 5/10-20.33. Time out and physical restraint.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

105 ILCS 5/10-27.1A. Firearms in schools.

(a) All school officials, including teachers, guidance counselors, and support staff, shall immediately notify the office of the principal in the event that they observe any person in possession of a firearm on school grounds; provided that taking such immediate action to notify the office of the principal would not immediately endanger the health, safety, or welfare of students who are under the direct supervision of the school official or the school official. If the health, safety, or welfare of students under the direct supervision of the school official or of the school official is immediately endangered, the school official shall notify the office of the principal as soon as the students under his or her supervision and he or she are no longer under immediate danger. A report is not required by this Section when the school official knows that the person in possession of the firearm is a law enforcement official engaged in the conduct of his or her official duties. Any school official acting in good faith who makes such a report under this Section shall have immunity from any civil or criminal liability that might otherwise be incurred as a result of making the report. The identity of the school official making such report shall not be disclosed except as expressly and specifically authorized by law. Knowingly and willfully failing to comply with this Section is a petty offense. A second or subsequent offense is a Class C misdemeanor.

(b) Upon receiving a report from any school official pursuant to this Section, or from any other person, the principal or his or her designee shall immediately notify a local law enforcement agency. If the person found to be in possession of a firearm on school grounds is a student, the principal or his or her designee shall also immediately notify that student's parent or guardian. Any principal or his or her designee acting in good faith who makes such reports under this Section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as a result of making the reports. Knowingly and willfully failing to comply with this Section is a petty offense. A second or subsequent offense is a Class C misdemeanor. If the person found to be in possession of the firearm on school grounds is a minor, the law enforcement agency shall detain that minor until such time as the agency makes a determination pursuant to clause (a) of subsection (1) of Section 5-401 of the Juvenile Court Act of 1987 [705 ILCS 405/5-401], as to whether the agency reasonably believes that the minor is delinquent. If the law enforcement agency determines that probable cause exists to believe that the minor committed a

violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 2012 [720 ILCS 5/24-1] while on school grounds, the agency shall detain the minor for processing pursuant to Section 5-407 of the Juvenile Court Act of 1987 [705 ILCS 405/5-407].

(c) On or after January 1, 1997, upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving a firearm in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee shall report all such firearm-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

The State Board of Education shall receive an annual statistical compilation and related data associated with incidents involving firearms in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

(d) As used in this Section, the term "firearm" shall have the meaning ascribed to it in Section 1.1 of the Firearm Owners Identification Card Act [430 ILCS 65/1.1].

As used in this Section, the term "school" means any public or private elementary or secondary school.

As used in this Section, the term "school grounds" includes the real property comprising any school, any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or any public way within 1,000 feet of the real property comprising any school.

105 ILCS 5/27-23.7. Bullying prevention.

(b) In this Section:

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

- (3) Includes procedures for promptly reporting bullying, including, but not limited to, identifying and providing the school e-mail address (if applicable) and school telephone number for the staff person or persons responsible for receiving such reports and a procedure for anonymous reporting; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.
[...]

(d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district's or school's jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. School personnel available for help with a bully or to make a report about bullying shall be made known to parents or legal guardians, students, and school personnel. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall monitor and provide technical support for the implementation of policies created under this subsection (d).

REGULATIONS

1.285. Requirements for the use of isolated time out, time out, and physical restraint.

f) Documentation and Evaluation

- 1) In a form and manner prescribed by the State Superintendent, a written record of each episode of isolated time out, time out, or physical restraint shall be maintained in the student's temporary record.

The official designated under this Section shall also maintain a copy of each of these records. Each record shall include, but is not limited to, all of the following:

- A) the student's name;
- B) the date of the incident;
- C) the beginning and ending times of the incident;
- D) a description of any relevant events leading up to the incident;
- E) a description of any interventions used prior to the implementation of isolated time out, time out, or physical restraint;
- F) a description of the incident or student behavior that resulted in isolated time out, time out, or physical restraint, including the specific imminent danger of serious physical harm to the student or others;
- G) for isolated time out, a description of the rationale of why the needs of the student cannot be met by a lesser restrictive intervention and why an adult could not be present in the time out room;
- H) a log of the student's behavior in isolated time out, time out, or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;
- I) a description of any injuries (whether to students, staff, or others) or property damage;
- J) a description of any planned approach to dealing with the student's behavior in the future, including any de-escalation methods or procedures that may be used to avoid the use of isolated time out, time out, or physical restraint;
- K) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out, time out, or physical restraint; and
- L) the date on which parental or guardian notification took place, as required by subsection (g).

Parental Notification

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(d) The school board, in consultation with the parent-teacher advisory committee and other community-based organizations, must include provisions in the student discipline policy to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including without limitation bullying, as defined in the policy. These provisions must include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources.

105 ILCS 5/10-20.33. Time out and physical restraint.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

Any suspension shall be reported immediately to the parents or guardians of a pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardians, the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review, the parents or guardians of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board, he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate. If a student is suspended pursuant to this subsection (b), the board shall, in the written suspension decision, detail the specific act of gross disobedience or misconduct resulting in the decision to suspend. The suspension decision shall also include a rationale as to the specific duration of the suspension. A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

105 ILCS 5/13B-60.10. Parent conference.

Before being enrolled in an alternative learning opportunities program, the student and each of his or her parents or guardians shall receive written notice to attend a conference to determine if the student would benefit from attending an alternative learning opportunities program. The conference must provide all of the information necessary for the student and parent or guardian to make an informed decision regarding enrollment in an alternative learning opportunities program. The conference shall include a discussion of the extent to which the student, if enrolled in the program, may participate in school activities. No student shall be enrolled in an alternative learning opportunities program without the consent of the student's parent or guardian.

105 ILCS 5/22-85. Parental notification of law enforcement detainment and questioning on school grounds.

(a) In this Section, "school grounds" means the real property comprising an active and operational elementary or secondary school during the regular hours in which school is in session and when students are present.

(b) Before detaining and questioning a student on school grounds who is under 18 years of age and who is suspected of committing a criminal act, a law enforcement officer, school resource officer, or other school security personnel must do all of the following:

- (1) Ensure that notification or attempted notification of the student's parent or guardian is made.
- (2) Document the time and manner in which the notification or attempted notification under paragraph (1) occurred.
- (3) Make reasonable efforts to ensure that the student's parent or guardian is present during the questioning or, if the parent or guardian is not present, ensure that school personnel, including, but not limited to, a school social worker, a school psychologist, a school nurse, a school guidance counselor, or any other mental health professional, are present during the questioning.
- (4) If practicable, make reasonable efforts to ensure that a law enforcement officer trained in promoting safe interactions and communications with youth is present during the questioning. An officer who received training in youth investigations approved or certified by his or her law enforcement agency or under Section 10.22 of the Police Training Act [50 ILCS 705/10.22] or a juvenile police officer, as defined under Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3], satisfies the requirement under this paragraph.

(c) This Section does not limit the authority of a law enforcement officer to make an arrest on school grounds. This Section does not apply to circumstances that would cause a reasonable person to believe that urgent and immediate action is necessary to do any of the following:

- (1) Prevent bodily harm or injury to the student or any other person.
- (2) Apprehend an armed or fleeing suspect.
- (3) Prevent the destruction of evidence.
- (4) Address an emergency or other dangerous situation.

105 ILCS 5/26-3b. [Notification of unexcused absence].

Beginning July 1, 1986, if any child enrolled in a public school in grades Kindergarten through 8 is absent from school, and there is no record that such absence is for a valid cause, as defined under Article 26 of this Code [105 ILCS 5/26-1 et seq.], nor notification that the absence has been authorized by the parent, legal guardian or other person having legal custody of such child, an employee or other agent, whether a volunteer or otherwise, designated by the public school in which the child is enrolled shall, within 2 hours after the first class in which the child is enrolled, make a reasonable effort to promptly telephone and notify the parent, legal guardian, or other person having legal custody of the child, of the child's absence from school. Such notification shall not be given for an absence authorized by the parent, legal guardian or other person having legal custody of such child. Prior to any enrollment of a child in a public school, the school district shall notify parents, legal guardians, or other persons having legal custody of a child, of their responsibility to authorize any absence and to notify the school in advance or at the time of any such absence, and that the school requires at least one and not more than 2 telephone numbers be given for purposes of this Section. The school district shall require that such telephone numbers be given at the time of enrollment of the child in school, which said numbers may be changed from time to time upon notification to the school.

The requirements of this Section shall have been met by the school if notification of an absence has been attempted by telephoning the 1 or 2 numbers given the school by the parent, legal guardian or other person having legal custody of a child, whether or not there is any answer at such telephone number or numbers. Further, the requirements of this Section shall have been met if the said notification is given to a member of the household of the child's parent, legal guardian or other person having legal custody of the child, which said member of the household must be 10 years of age or older.

An employee or other agent designated by the public school who in good faith makes a reasonable effort to notify the parent, legal guardian or other person having legal custody of a child of the child's absence from school, when required by this Section, shall not, as a result of his acts or omissions, except wilful or wanton misconduct on the part of such employee or agent in attempting to comply with the notification requirements of this Section, be liable for civil damages.

105 ILCS 5/27-23.7. Bullying prevention.

(b) In this Section:

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

- (4) Consistent with federal and State laws and rules governing student privacy rights, includes procedures for promptly informing parents or guardians of all students involved in the alleged incident of bullying and discussing, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. [...]
- (d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district's or school's jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. School

personnel available for help with a bully or to make a report about bullying shall be made known to parents or legal guardians, students, and school personnel. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall monitor and provide technical support for the implementation of policies created under this subsection (d).

105 ILCS 5/34-18.20. Time out and physical restraint.

Until rules are adopted under Section 2-3.130 of this Code [105 ILCS 5/2-3.130], the use of any of the following rooms or enclosures for time out purposes is prohibited:

- (1) a locked room other than one with a locking mechanism that engages only when a key or handle is being held by a person;
- (2) a confining space such as a closet or box;
- (3) a room where the student cannot be continually observed; or
- (4) any other room or enclosure or time out procedure that is contrary to current guidelines of the State Board of Education.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

105 ILCS 5/34-4.5. Chronic truants.

(b) Notices. Before any hearing may be held under subsection (c), the principal of the school attended by the pupil or the principal's designee shall notify the pupil's parent or guardian by personal visit, letter, or telephone of each unexcused absence of the pupil. After giving the parent or guardian notice of the tenth unexcused absence of the pupil, the principal or the principal's designee shall send the pupil's parent or guardian a letter, by certified mail, return receipt requested, notifying the parent or guardian that he or she is subjecting himself or herself to a hearing procedure as provided under subsection (c) and clearly describing any and all possible penalties that may be imposed as provided for in subsections (d) and (e) of this Section.

REGULATIONS

1.285. Requirements for the use of isolated time out, time out, and physical restraint.

g) Notification to Parents or Guardians

- 1) A district whose policies allow for the use of isolated time out, time out, or physical restraint shall notify parents or guardians to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code.
- 2) If a student is subject to isolated time out, time out, or physical restraint, the school must make a reasonable attempt to notify the student's parent or guardian on the same day the isolated time out, time out, or physical restraint is imposed.

3) Within one business day after any use of isolated time out, time out, or physical restraint, the school district or other entity serving the student shall send the form required under subsection (f)(1) to the student's parents or guardians.

240.20. Requirements for Student Participation.

Students in grades 4 through 12 who meet enrollment criteria established by the school district and who meet the definition of "at risk of academic failure" are eligible to participate in an Alternative Learning Opportunities Program [105 ILCS 5/13B-20.25] approved under this Part.

f) When school district personnel believe that a student is eligible for and would benefit from enrollment in an Alternative Learning Opportunities Program, the district shall send a written notification to the student and the student's parent or guardian to attend a conference about the program (see 105 ILCS 5/13B-60.10). This notification also shall contain a statement of the rights of the parent or guardian (e.g., requirement for written parental permission to enroll in the program, ability to withdraw consent for enrollment, participation in development of the Student Success Plan).

- 1) The conference shall be designed to help the parent or guardian determine whether the student's participation in the Alternative Learning Opportunities Program would be beneficial.
- 2) Relevant educational records and information yielded by diagnostic assessments (e.g., academic, behavioral, risk) shall be available at the time of the conference.
- 3) The district shall provide documentation identifying the interventions available in the school district and demonstrate that these have already been provided to the student.
- 4) If the parent or guardian fails to participate in the conference (i.e., either attendance at the conference or participation through a telephone conference call), the student shall not be enrolled in the program (see 105 ILCS 5/13B-60.5).
- 5) If the parent or guardian attends the conference and determines that the program would be beneficial to the student, the parent or guardian may request the student's enrollment by providing written consent.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

105 ILCS 5/2-3.130. Time out and physical restraint rules.

The State Board of Education shall promulgate rules governing the use of time out and physical restraint in the public schools. The rules shall include provisions governing recordkeeping that is required when physical restraint or more restrictive forms of time out are used.

105 ILCS 5/2-3.162. Student discipline report; school discipline improvement plan.

(a) On or before October 31, 2015 and on or before October 31 of each subsequent year, the State Board of Education, through the State Superintendent of Education, shall prepare a report on student discipline in all school districts in this State, including State-authorized charter schools. This report shall include data from all public schools within school districts, including district-authorized charter schools. This report must be posted on the Internet website of the State Board of Education. The report shall include data on the issuance of out-of-school suspensions, expulsions, and removals to alternative settings in lieu of another disciplinary action, disaggregated by race and ethnicity, gender, age, grade level, whether a student is an English learner, incident type, and discipline duration.

(b) The State Board of Education shall analyze the data under subsection (a) of this Section on an annual basis and determine the top 20% of school districts for the following metrics:

(1) Total number of out-of-school suspensions divided by the total district enrollment by the last school day in September for the year in which the data was collected, multiplied by 100.

(2) Total number of out-of-school expulsions divided by the total district enrollment by the last school day in September for the year in which the data was collected, multiplied by 100.

(3) Racial disproportionality, defined as the overrepresentation of students of color or white students in comparison to the total number of students of color or white students on October 1st of the school year in which data are collected, with respect to the use of out-of-school suspensions and expulsions, which must be calculated using the same method as the U.S. Department of Education's Office for Civil Rights uses.

The analysis must be based on data collected over 3 consecutive school years, beginning with the 2014-2015 school year.

Beginning with the 2017-2018 school year, the State Board of Education shall require each of the school districts that are identified in the top 20% of any of the metrics described in this subsection (b) for 3 consecutive years to submit a plan identifying the strategies the school district will implement to reduce the use of exclusionary disciplinary practices or racial disproportionality or both, if applicable. School districts that no longer meet the criteria described in any of the metrics described in this subsection (b) for 3 consecutive years shall no longer be required to submit a plan.

This plan may be combined with any other improvement plans required under federal or State law.

The calculation of the top 20% of any of the metrics described in this subsection (b) shall exclude all school districts, State-authorized charter schools, and special charter districts that issued fewer than a total of 10 out-of-school suspensions or expulsions, whichever is applicable, during the school year. The calculation of the top 20% of the metric described in subdivision (3) of this subsection (b) shall exclude all school districts with an enrollment of fewer than 50 white students or fewer than 50 students of color.

The plan must be approved at a public school board meeting and posted on the school district's Internet website. Within one year after being identified, the school district shall submit to the State Board of Education and post on the district's Internet website a progress report describing the implementation of the plan and the results achieved.

105 ILCS 5/10-17A. State, school district, and school report cards.

(1) By October 31, 2013 and October 31 of each subsequent school year, the State Board of Education, through the State Superintendent of Education, shall prepare a State report card, school district report cards, and school report cards, and shall by the most economical means provide to each school district in this State, including special charter districts and districts subject to the provisions of Article 34, the report cards for the school district and each of its schools. Because of the impacts of the COVID-19 public health emergency during school year 2020-2021, the State Board of Education shall have until December 31, 2021 to prepare and provide the report cards that would otherwise be due by October 31, 2021. During a school year in which the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act, the report cards for the school districts and each of its schools shall be prepared by December 31.

(2) In addition to any information required by federal law, the State Superintendent shall determine the indicators and presentation of the school report card, which must include, at a minimum, the most current data collected and maintained by the State Board of Education related to the following:

(E) the school environment, including, where applicable, high school dropout rate by grade level, the percentage of students with less than 10 absences in a school year, the percentage of teachers with less than 10 absences in a school year for reasons other than professional development, leaves taken pursuant to the federal Family Medical Leave Act of 1993, long-term disability, or parental leaves, the 3-year average of the percentage of teachers returning to the school from the previous year, the number of different principals at the school in the last 6 years, the number of teachers who hold a gifted education endorsement, the process and criteria used by the district to determine whether a student is eligible for participation in a gifted education program or advanced academic program and the manner in which

parents and guardians are made aware of the process and criteria, the number of teachers who are National Board Certified Teachers, disaggregated by race and ethnicity, 2 or more indicators from any school climate survey selected or approved by the State and administered pursuant to Section 2-3.153 of this Code, with the same or similar indicators included on school report cards for all surveys selected or approved by the State pursuant to Section 2-3.153 of this Code, the combined percentage of teachers rated as proficient or excellent in their most recent evaluation, and, beginning with the 2022-2023 school year, data on the number of incidents of violence that occurred on school grounds or during school-related activities and that resulted in an out-of-school suspension, expulsion, or removal to an alternative setting, as reported pursuant to Section 2-3.162;

105 ILCS 5/10-27.1A. Firearms in schools.

The State Board of Education shall receive an annual statistical compilation and related data associated with incidents involving firearms in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

105 ILCS 5/10-27.1B. Reporting drug-related incidents in schools.

(c) The State Board of Education shall receive an annual statistical compilation and related data associated with drug-related incidents in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

105 ILCS 5/26-18. Chronic absenteeism report and support.

(c) Beginning July 1, 2018, every school district, charter school, or alternative school or any school receiving public funds shall collect and review its chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. The review shall include an analysis of chronic absence data from each attendance center or campus of the school district, charter school, or alternative school or other school receiving public funds.

105 ILCS 5/26-3d. [Truants; collection of data].

All regional superintendents, district superintendents, and special education joint agreement directors shall collect data concerning truants, chronic truants, and truant minor pupils as designated by the State Board of Education. On or before August 15 of each year, this data must be submitted to the State Board of Education.

105 ILCS 5/27-23.7. Bullying prevention.

(b) In this Section:

"Policy on bullying" means a bullying prevention policy that meets the following criteria:

(11) As part of the process of reviewing and re-evaluating the policy under subsection (d) of this Section, contains a policy evaluation process to assess the outcomes and effectiveness of the policy that includes, but is not limited to, factors such as the frequency of victimization; student, staff, and family observations of safety at a school; identification of areas of a school where bullying occurs; the types of bullying utilized; and bystander intervention or participation. The school district, charter school, or non-public, non-sectarian elementary or secondary school may use relevant data and information it already collects for other purposes in the policy evaluation. The information developed as a result of the policy evaluation must be made available on the Internet website of the school district, charter school, or non-public, non-sectarian elementary or secondary school. If an Internet website is not available, the information must be provided to school administrators, school board members, school personnel, parents, guardians, and students.

105 ILCS 5/34-8.05. Reporting firearms in schools.

The State Board of Education shall receive an annual statistical compilation and related data associated with incidents involving firearms in schools from the Department of State Police. As used in this Section, the term "firearm" shall have the meaning ascribed to it in Section 1.1 of the Firearm Owners Identification Card Act [430 ILCS 65/1.1].

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(b) The parent-teacher advisory committee in cooperation with local law enforcement agencies shall develop, with the school board, policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students. School districts are encouraged to create memoranda of understanding with local law enforcement agencies that clearly define law enforcement's role in schools, in accordance with Section 10-22.6 of this Code.

105 ILCS 5/10-20.64. Booking stations on school grounds.

(a) There shall be no student booking station established or maintained on the grounds of any school.

(b) This prohibition shall be applied to student booking stations only, as defined in this Section. The prohibition does not prohibit or affect the establishment or maintenance of any place operated by or under the control of law enforcement personnel, school resource officers, or other security personnel that does not also qualify as a student booking station as defined in paragraph (2) of subsection (d) of this Section. The prohibition does not affect or limit the powers afforded law enforcement officers to perform their duties within schools as otherwise prescribed by law.

(c) When the underlying suspected or alleged criminal act is an act of violence, and isolation of a student or students is deemed necessary to the interest of public safety, and no other location is adequate for secure isolation of the student or students, offices as described in paragraph (1) of subsection (d) of this Section may be employed to detain students for a period no longer than that required to alleviate that threat to public safety.

(d) As used in this Section, "student booking station" means a building, office, room, or any indefinitely established space or site, mobile or fixed, which operates concurrently as:

- (1) predominantly or regularly a place of operation for a municipal police department, county sheriff department, or other law enforcement agency, or under the primary control thereof; and
- (2) a site at which students are detained in connection with criminal charges or allegations against those students, taken into custody, or engaged with law enforcement personnel in any process that creates a law enforcement record of that contact with law enforcement personnel or processes.

105 ILCS 5/10-21.4a. Principals and assistant principals - Duties.

It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 5/10-22.10a. Inspection for drugs.

School boards are empowered to adopt a policy to authorize school officials to request the assistance of law enforcement officials for the purpose of conducting reasonable searches of school grounds and lockers for illegal drugs, including searches conducted through the use of specially trained dogs.

105 ILCS 5/10-27.1A. Firearms in schools.

(b) Upon receiving a report from any school official pursuant to this Section, or from any other person, the principal or his or her designee shall immediately notify a local law enforcement agency. If the person found to be in possession of a firearm on school grounds is a student, the principal or his or her designee

shall also immediately notify that student's parent or guardian. Any principal or his or her designee acting in good faith who makes such reports under this Section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as a result of making the reports. Knowingly and willfully failing to comply with this Section is a petty offense. A second or subsequent offense is a Class C misdemeanor. If the person found to be in possession of the firearm on school grounds is a minor, the law enforcement agency shall detain that minor until such time as the agency makes a determination pursuant to clause (a) of subsection (1) of Section 5-401 of the Juvenile Court Act of 1987 [705 ILCS 405/5-401], as to whether the agency reasonably believes that the minor is delinquent. If the law enforcement agency determines that probable cause exists to believe that the minor committed a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 2012 [720 ILCS 5/24-1] while on school grounds, the agency shall detain the minor for processing pursuant to Section 5-407 of the Juvenile Court Act of 1987 [705 ILCS 405/5-407].

(c) On or after January 1, 1997, upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving a firearm in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee shall report all such firearm-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

105 ILCS 5/10-27.1B. Reporting drug-related incidents in schools.

(b) Upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving drugs in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee, or other appropriate administrative officer for a private school, shall report all such drug-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

105 ILCS 5/22-20. All courts and law enforcement agencies of the State of Illinois.

All courts and law enforcement agencies of the State of Illinois and its political subdivisions shall report to the principal of any public school in this State whenever a child enrolled therein is detained for proceedings under the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.], as heretofore and hereafter amended, or for any criminal offense, including illegal gang activity, or any violation of a municipal or county ordinance. The report shall include the basis for detaining the child, circumstances surrounding the events which led to the child's detention, and status of proceedings. The report shall be updated as appropriate to notify the principal of developments and the disposition of the matter.

The information derived thereby shall be kept separate from and shall not become a part of the official school record of such child and shall not be a public record. Such information shall be used solely by the appropriate school official or officials whom the school has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of students and employees in the school.

105 ILCS 5/22-85. Parental notification of law enforcement detainment and questioning on school grounds.

(a) In this Section, "school grounds" means the real property comprising an active and operational elementary or secondary school during the regular hours in which school is in session and when students are present.

(b) Before detaining and questioning a student on school grounds who is under 18 years of age and who is suspected of committing a criminal act, a law enforcement officer, school resource officer, or other school security personnel must do all of the following:

- (1) Ensure that notification or attempted notification of the student's parent or guardian is made.
- (2) Document the time and manner in which the notification or attempted notification under paragraph (1) occurred.
- (3) Make reasonable efforts to ensure that the student's parent or guardian is present during the questioning or, if the parent or guardian is not present, ensure that school personnel, including, but not limited to, a school social worker, a school psychologist, a school nurse, a school guidance counselor, or any other mental health professional, are present during the questioning.
- (4) If practicable, make reasonable efforts to ensure that a law enforcement officer trained in promoting safe interactions and communications with youth is present during the questioning. An officer who received training in youth investigations approved or certified by his or her law enforcement agency or under Section 10.22 of the Police Training Act [50 ILCS 705/10.22] or a juvenile police officer, as defined under Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3], satisfies the requirement under this paragraph.

(c) This Section does not limit the authority of a law enforcement officer to make an arrest on school grounds. This Section does not apply to circumstances that would cause a reasonable person to believe that urgent and immediate action is necessary to do any of the following:

- (1) Prevent bodily harm or injury to the student or any other person.
- (2) Apprehend an armed or fleeing suspect.
- (3) Prevent the destruction of evidence.
- (4) Address an emergency or other dangerous situation.

105 ILCS 5/34-8.05. Reporting firearms in schools.

On or after January 1, 1997, upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving a firearm in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the general superintendent or his or her designee shall report all such firearm-related incidents occurring in a school or on school property to the local law enforcement authorities no later than 24 hours after the occurrence of the incident and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

105 ILCS 5/34-8.1. Principals.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 [105 ILCS 5/34-2.4] and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the professional personnel leadership committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

105 ILCS 5/34-18.57. Booking stations on school grounds.

- (a) There shall be no student booking station established or maintained on the grounds of any school.
- (b) This prohibition shall be applied to student booking stations only, as defined in this Section. The prohibition does not prohibit or affect the establishment or maintenance of any place operated by or under the control of law enforcement personnel, school resource officers, or other security personnel that does not also qualify as a student booking station as defined in paragraph (2) of subsection (d) of this Section. The prohibition does not affect or limit the powers afforded law enforcement officers to perform their duties within schools as otherwise prescribed by law.
- (c) When the underlying suspected or alleged criminal act is an act of violence, and isolation of a student or students is deemed necessary to the interest of public safety, and no other location is adequate for secure isolation of the student or students, offices as described in paragraph (1) of subsection (d) of this Section may be employed to detain students for a period no longer than that required to alleviate that threat to public safety.
- (d) As used in this Section, "student booking station" means a building, office, room, or any indefinitely established space or site, mobile or fixed, which operates concurrently as:
 - (1) predominantly or regularly a place of operation for a municipal police department, county sheriff department, or other law enforcement agency, or under the primary control thereof; and
 - (2) a site at which students are detained in connection with criminal charges or allegations against those students, taken into custody, or engaged with law enforcement personnel in any process that creates a law enforcement record of that contact with law enforcement personnel or processes.

105 ILCS 5/34-21.8. Chicago public schools violence prevention hotline.

- (a) In consultation with the Chicago Police Department, the Board must establish a hotline for the purpose of receiving anonymous phone calls for information that may prevent violence.
- (b) Calls that are placed to the hotline must be answered by the Chicago Police Department.
- (c) Each call placed to the hotline must be recorded and investigated by the Chicago Police Department.
- (d) Prior to receiving any information, notice must be provided to the caller that the call is being recorded for investigation by the Chicago Police Department. The notice may be provided by a pre-recorded message or otherwise.
- (e) The hotline shall be known as the "CPS Violence Prevention Hotline" and its number and anonymous nature must be posted in all Chicago Public Schools.

105 ILCS 5/34-84a.1. Principals shall report incidents of intimidation.

The principal of each attendance center shall promptly notify and report to the local law enforcement authorities for inclusion in the Department of State Police's Illinois Uniform Crime Reporting Program each incident of intimidation of which he or she has knowledge and each alleged incident of intimidation which is reported to him or her, either orally or in writing, by any pupil or by any teacher or other certificated or non-certificated personnel employed at the attendance center. "Intimidation" shall have the meaning ascribed to it by Section 12-6 of the Criminal Code of 2012 [720 ILCS 5/12-6].

105 ILCS 127/2. Duty of school administrators.

It is the duty of the principal of a public elementary or secondary school, or his or her designee, and the chief administrative officer of a private elementary or secondary school or a public or private community college, college, or university, or his or her designee, to report to the municipal police department or office of the county sheriff of the municipality or county where the school is located violations of Section 5.2 of the Cannabis Control Act [720 ILCS 550/5.2], violations of Section 401 [720 ILCS 570/401] and subsection (b) of Section 407 of the Illinois Controlled Substances Act [720 ILCS 570/407], and violations of the Methamphetamine Control and Community Protection Act [720 ILCS 646/1 et seq.] occurring in a

school, on the real property comprising any school, on a public way within 1,000 feet of a school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity within 48 hours of becoming aware of the incident.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

50 ILCS 705/10.22. School resource officers.

(a) The Board shall develop or approve a course for school resource officers as defined in Section 10-20.68 of the School Code [105 ILCS 5/10-20.68].

(b) The school resource officer course shall be developed within one year after January 1, 2019 (the effective date of Public Act 100-984) and shall be created in consultation with organizations demonstrating expertise and or experience in the areas of youth and adolescent developmental issues, educational administrative issues, prevention of child abuse and exploitation, youth mental health treatment, and juvenile advocacy.

(c) The Board shall develop a process allowing law enforcement agencies to request a waiver of this training requirement for any specific individual assigned as a school resource officer. Applications for these waivers may be submitted by a local law enforcement agency chief administrator for any officer whose prior training and experience may qualify for a waiver of the training requirement of this subsection

(c). The Board may issue a waiver at its discretion, based solely on the prior training and experience of an officer.

(d) Upon completion, the employing agency shall be issued a certificate attesting to a specific officer's completion of the school resource officer training. Additionally, a letter of approval shall be issued to the employing agency for any officer who is approved for a training waiver under this subsection (d).

105 ILCS 5/10-20.68. School resource officer.

(a) In this Section, "school resource officer" means a law enforcement officer who has been primarily assigned to a school or school district under an agreement with a local law enforcement agency.

(b) Beginning January 1, 2021, any law enforcement agency that provides a school resource officer under this Section shall provide to the school district a certificate of completion, or approved waiver, issued by the Illinois Law Enforcement Training Standards Board under Section 10.22 of the Illinois Police Training Act [50 ILCS 705/10.22] indicating that the subject officer has completed the requisite course of instruction in the applicable subject areas within one year of assignment, or has prior experience and training which satisfies this requirement.

(c) In an effort to defray the related costs, any law enforcement agency that provides a school resource officer should apply for grant funding through the federal Community Oriented Policing Services grant program.

105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(c-5) School districts shall make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(b) The parent-teacher advisory committee in cooperation with local law enforcement agencies shall develop, with the school board, policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students. School districts are encouraged to create memoranda of understanding with local law enforcement agencies that clearly define law enforcement's role in schools, in accordance with Section 10-22.6 of this Code.

105 ILCS 5/10-20.68. School resource officer.

(a) In this Section, "school resource officer" means a law enforcement officer who has been primarily assigned to a school or school district under an agreement with a local law enforcement agency.

(b) Beginning January 1, 2021, any law enforcement agency that provides a school resource officer under this Section shall provide to the school district a certificate of completion, or approved waiver, issued by the Illinois Law Enforcement Training Standards Board under Section 10.22 of the Illinois Police Training Act [50 ILCS 705/10.22] indicating that the subject officer has completed the requisite course of instruction in the applicable subject areas within one year of assignment, or has prior experience and training which satisfies this requirement.

(c) In an effort to defray the related costs, any law enforcement agency that provides a school resource officer should apply for grant funding through the federal Community Oriented Policing Services grant program.

105 ILCS 5/26-9. School officers and teachers to assist truant officers.

School officers, superintendents, teachers or other persons shall render such assistance and furnish such information as they have to aid truant officers in the performance of their duties.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

105 ILCS 128/25. Annual review.

(a) Each public school district, through its school board or the board's designee, shall conduct a minimum of one annual meeting at which it will review each school building's emergency and crisis response plans, protocols, and procedures, including procedures regarding the school district's threat assessment team, the efficacy and effects of law enforcement drills, and each building's compliance with the school safety drill programs. The purpose of this annual review shall be to review and update the emergency and crisis response plans, protocols, and procedures and the school safety drill programs of the district and each of its school buildings. This review must be at no cost to the school district. In updating a school building's emergency and crisis response plans, consideration may be given to making the emergency and crisis response plans available to first responders, administrators, and teachers for implementation and utilization through the use of electronic applications on electronic devices, including, but not limited to, smartphones, tablets, and laptop computers.

105 ILCS 128/45. Threat assessment procedure.

(a) Each school district must implement a threat assessment procedure that may be part of a school board policy on targeted school violence prevention. The procedure must include the creation of a threat assessment team. The team must include all of the following members:

- (1) An administrator employed by the school district or a special education cooperative that serves the school district and is available to serve.
- (2) A teacher employed by the school district or a special education cooperative that serves the school district and is available to serve.
- (3) A school counselor employed by the school district or a special education cooperative that serves the school district and is available to serve.
- (4) A school psychologist employed by the school district or a special education cooperative that serves the school district and is available to serve.
- (5) A school social worker employed by the school district or a special education cooperative that serves the school district and is available to serve.
- (6) At least one law enforcement official.

If a school district is unable to establish a threat assessment team with school district staff and resources, it may utilize a regional behavioral threat assessment and intervention team that includes mental health professionals and representatives from the State, county, and local law enforcement agencies.

(b) A school district shall establish the threat assessment team under this Section no later than 180 days after the effective date of this amendatory Act of the 101st General Assembly and must implement an initial threat assessment procedure no later than 120 days after the effective date of this amendatory Act of the 101st General Assembly.

(c) Any sharing of student information under this Section must comply with the federal Family Educational Rights and Privacy Act of 1974 and the Illinois School Student Records Act [105 ILCS 10/1 et seq.].

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Illinois provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Anti-Bias and Anti-Hate Resources, Illinois State Board of Education (ISBE)	Provides information and links to resources addressing discrimination, bullying, harassment, and other forms of intimidation in schools.	https://www.isbe.net/Pages/Anti-Bias-Anti-Hate.aspx
Bullying Prevention, ISBE	Presents an overview of bullying in Illinois schools and provides links to articles, ISBE tools, and bullying resources.	https://www.isbe.net/Pages/Bullying-Prevention.aspx
Classroom Management and Discipline, ISBE	Provides comprehensive resources and materials on effective classroom management and discipline strategies with links to related resources.	https://www.isbe.net/Pages/Classroom-Management-and-Discipline.aspx
Positive Behavioral Interventions and Supports (PBIS), ISBE	Provides an overview of PBIS elements including primary, secondary, and tertiary prevention elements with links to related resources.	https://www.isbe.net/Pages/Positive-Behavioral-Intervention.aspx
School Climate, ISBE	Provides links to resources regarding school discipline, safety, and school climate.	https://www.isbe.net/Pages/School-Climate.aspx
School Discipline, ISBE	Addresses school discipline in Illinois schools with guidance and resources, professional learning and available technical assistance.	https://www.isbe.net/discipline
Social and Emotional Learning (SEL), ISBE	Provides an overview of Social and Emotional Learning (SEL) in Illinois schools and provides links to articles, ISBE tools, and other related topics such as positive behavioral interventions and supports and school climate.	https://www.isbe.net/Pages/Social-Emotional-Learning.aspx

Title	Description	Website address (if applicable)
Student Care, ISBE	Compiles information on the Student Care Department. Student Care oversees and monitors use of time out and physical restraint and serves as a point of contact for bullying prevention and bullying policy reviews and complaints, discipline reduction, supports and advocacy pertaining to LGBTQ inclusivity, and student or parent complaints related to areas of school code.	https://www.isbe.net/student-care
Student Voices, Resources for Students by Students, ISBE	Provides information and resources on the ISBE Student Advisory Council, which provides opportunities for Illinois students to serve as board advisors to share student perspectives and concerns on the state’s education policies.	https://www.isbe.net/Pages/Student-Voices.aspx
Student Wellness, ISBE	Provides information to support a whole-child approach to education encompassing physical health, social emotional learning, and the education needed to support these ideals.	https://www.isbe.net/Pages/School-Wellness.aspx
Trauma, ISBE	Addresses childhood trauma in Illinois schools and provides links to related articles and resources.	https://www.isbe.net/Pages/Trauma.aspx
Documents		
School Policies for Bullying Prevention (SY 2019-20), ISBE	Policy guidance document on the updates for the 2019-20 school year regarding bullying policies, the content of those policies and procedures/timelines for submission to ISBE.	https://www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf
Supporting Transgender, Nonbinary and Gender Nonconforming Students, Non-Regulatory Guidance (March 2020), ISBE	Non-regulatory guidance document identifying strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students.	https://www.isbe.net/Documents/ISBE-Guidance-Supporting-Transgender-Nonbinary-Gender-Nonconforming-Students.pdf
Other Resources		
Comprehensive System of Learning Supports, ISBE	Research-based indicators of effective practice describing the structural systems necessary to promote optimal conditions for learning.	https://www.isbe.net/Pages/Learning-Supports.aspx

Title	Description	Website address (if applicable)
Expulsions, Suspensions, and Truants by District (2019-2020), ISBE	Report for data collected during the 2019-2020 school year on expulsions, suspensions, and truants by district.	https://www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx
Physical Restraint and Time Out Form, ISBE	Reporting form used to document incidents of physical restraint or time out in compliance with state regulation.	https://www.isbe.net/Documents/11-01-Physical-Restraint-Time-Out-Form.pdf
Restraint, Isolated Time-Out, and Time-Out, ISBE	Incident reporting on use of isolated time out, time out, and physical restraint from public school districts as required by 23 IAC Section 1.285 of the School Code.	https://www.isbe.net/Pages/restraint-time-out.aspx
School Incident Reporting System, ISBE	Reporting system for Illinois schools to view reports of school incidents.	School Incident Reporting System (isbe.net)



Indiana Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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- 513 IAC 1-1-22. "Supine physical restraint" defined
- 513 IAC 1-1-23. "Time-out" defined

Rule 2. General Provisions

- 513 IAC 1-2-1. Scope
- 513 IAC 1-2-2. Commission's principles
- 513 IAC 1-2-3. Use of behavior intervention and support
- 513 IAC 1-2-4. Prevention
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- 513 IAC 1-2-6. Training
- 513 IAC 1-2-7. Monitoring and reporting
- 513 IAC 1-2-8. Distribution of school seclusion and restraint policy or plan to parents and the public
- 513 IAC 1-2-9. Incident documentation
- 513 IAC 1-2-10. Debriefing session
- 513 IAC 1-2-11. Seclusion and restraint plan

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

IC 20-33-8-10. Disciplinary powers of principals.

- (a) A principal may take action concerning the principal's school or a school activity within the principal's jurisdiction that is reasonably necessary to carry out or prevent interference with an educational function or school purposes.
- (b) Subsection (a) allows a principal to write regulations that govern student conduct.

IC 20-33-8-11. Disciplinary powers of superintendents and administrative staff members.

- A. (1) superintendent; or
- (2) member of the superintendent's administrative staff, with the superintendent's approval;
- may take any action with respect to all schools within the superintendent's jurisdiction that is reasonably necessary to carry out or prevent interference with an educational function or school purposes.

IC 20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

- (a) Except as provided under IC 20-33-8-16, the governing body of a school corporation must do the following:
- (1) Establish written discipline rules, which must include a graduated system of discipline and may include:
- (A) appropriate dress codes; and
 - (B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases; for the school corporation.
- (2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:
- (A) making a copy of the discipline rules available to students and students' parents; or
 - (B) delivering a copy of the discipline rules to students or the parents of students.
- This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.
- (b) The:
- (1) superintendent of a school corporation; and
 - (2) principals of each school in a school corporation;
- may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.
- (c) The governing body of a school corporation may delegate:
- (1) rulemaking;
 - (2) disciplinary; and
 - (3) other authority; as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

- (1) Movement of students.
- (2) Movement or parking of vehicles.
- (3) Day to day instructions concerning the operation of a classroom or teaching station.
- (4) Time for commencement of school.
- (5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

IC 20-33-8-29. Special schools.

(a) As used in this section, "special school" includes the following:

- (1) A career and technical education school.
- (2) A special education school or program.
- (3) An alternative school or program.

(b) To the extent possible, this chapter applies to a special school.

(c) The governing body of a special school may make necessary modifications to the responsibilities of school personnel under this chapter to accommodate the administrative structure of a special school.

(d) In addition to a disciplinary action imposed by a special school, the principal of the school where a student is enrolled may without additional procedures adopt a disciplinary action or decision of a special school as a disciplinary action of the school corporation.

REGULATIONS

No relevant regulations found.

Scope

LAWS

IC 20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 [IC 20-33-8-12] of this chapter must:

- (1) prohibit bullying; and
- (2) include:
 - (A) provisions concerning education, parental involvement, and intervention;
 - (B) a detailed procedure for the expedited investigation of incidents of bullying that includes:
 - (i) appropriate responses to bullying behaviors, wherever the behaviors occur;
 - (ii) provisions for anonymous and personal reporting of bullying to a teacher or other school staff;
 - (iii) timetables for reporting of bullying incidents to the parents of both the targeted student and the bully, in an expedited manner;
 - (iv) timetables for reporting of bullying incidents to school counselors, school administrators, the superintendent, or law enforcement, if it is determined that reporting the bullying incident to law enforcement is necessary;
 - (v) discipline provisions for teachers, school staff, or school administrators who fail to initiate or conduct an investigation of a bullying incident; and
 - (vi) discipline provisions for false reporting of bullying; and

(C) a detailed procedure outlining the use of follow-up services that includes:

- (i) support services for the victim; and
- (ii) bullying education for the bully.

(b) The discipline rules described in subsection (a) may be applied regardless of the physical location in which the bullying behavior occurred, whenever:

- (1) the individual committing the bullying behavior and any of the intended targets of the bullying behavior are students attending a school within a school corporation; and
- (2) disciplinary action is reasonably necessary to avoid substantial interference with school discipline or prevent an unreasonable threat to the rights of others to a safe and peaceful learning environment.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

- (1) computer;
- (2) computer system;
- (3) computer network; or
- (4) cellular telephone or other wireless or cellular communications device.

(d) This section may not be construed to give rise to a cause of action against a person or school corporation based on an allegation of noncompliance with this section. Noncompliance with this section may not be used as evidence against a school corporation in a cause of action.

(e) A record made of an investigation, a disciplinary action, or a follow-up action performed under rules adopted under this section is not a public record under IC 5-14-3.

(f) The department shall periodically review each policy adopted under this section to ensure the policy's compliance with this section.

IC 20-33-8-14. Grounds for suspension or expulsion.

(a) The following are the grounds for student suspension or expulsion, subject to the procedural requirements of this chapter and as stated by school corporation rules:

- (1) Student misconduct.
- (2) Substantial disobedience.

(b) The grounds for suspension or expulsion listed in subsection (a) apply when a student is:

- (1) on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group;
- (2) off school grounds at a school activity, function, or event; or
- (3) traveling to or from school or a school activity, function, or event.

IC 20-33-8-15. Unlawful activity by student.

In addition to the grounds specified in section 14 [IC 20-33-8-14] of this chapter, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if:

- (1) the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function; or
- (2) the student's removal is necessary to restore order or protect persons on school property; including an unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

IC 20-33-8-4. "School purposes".

As used in this chapter, "school purposes" refers to the purposes for which a school corporation operates, including the following:

- (1) To promote knowledge and learning generally.
- (2) To maintain an orderly and effective educational system.
- (3) To take any action under the authority granted to school corporations and their governing bodies by IC 20-26-5 or by any other statute.

IC 20-33-8-5. "School property".

As used in this chapter, "school property" means the following:

- (1) A building or other structure owned or rented by a school corporation.
- (2) The grounds adjacent to and owned or rented in common with a building or other structure owned or rented by a school corporation.

IC 20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

- (1) a violation described in section 1 [IC 20-33-9-1] of this chapter; or
- (2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult; in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

IC 20-26-18-3. Publication of policy.

A school corporation shall put a copy of the school corporation's criminal organization policy established under section 2 [IC 20-26-18-2] of this chapter:

- (1) on its Internet web site;
- (2) in school student handbooks; and
- (3) in any location the school corporation determines to be appropriate.

IC 20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

(a) Except as provided under IC 20-33-8-16, the governing body of a school corporation must do the following:

(1) Establish written discipline rules, which must include a graduated system of discipline and may include:

- (A) appropriate dress codes; and
- (B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases; for the school corporation.

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

- (A) making a copy of the discipline rules available to students and students' parents; or
- (B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The:

- (1) superintendent of a school corporation; and

(2) principals of each school in a school corporation;
may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate:

- (1) rulemaking;
- (2) disciplinary; and
- (3) other authority;

as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

- (1) Movement of students.
- (2) Movement or parking of vehicles.
- (3) Day to day instructions concerning the operation of a classroom or teaching station.
- (4) Time for commencement of school.
- (5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

IC 20-33-8-32. Locker searches.

(a) A school corporation must provide each:

- (1) student; and
- (2) student's parent;

a copy of the rules of the governing body on searches of students' lockers and locker contents.

(b) A student who uses a locker that is the property of a school corporation is presumed to have no expectation of privacy in:

- (1) that locker; or
- (2) the locker's contents.

(c) In accordance with the rules of the governing body, a principal may search:

- (1) a student's locker; and
 - (2) the locker's contents;
- at any time.

(d) A law enforcement agency having jurisdiction over the geographic area having a school facility containing a student's locker may:

- (1) at the request of the school principal; and
 - (2) in accordance with rules of the governing body of the school corporation;
- assist a school administrator in searching a student's locker and the locker's contents.

REGULATIONS

513 IAC 1-2-8. Distribution of school seclusion and restraint policy or plan to parents and the public.

(a) Each school shall make available a copy of the school's seclusion and restraint plan to the student's parents or guardians, or to the student if the student is at least eighteen (18) years of age and the provisions of 511 IAC 7-43-5(b) do not apply.

(b) Including the location of the plan in the student handbook satisfies subsection (a).

In-School Discipline

Discipline Frameworks

LAWS

IC 20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

(a) Except as provided under IC 20-33-8-16, the governing body of a school corporation must do the following:

(1) Establish written discipline rules, which must include a graduated system of discipline and may include:

(A) appropriate dress codes; and

(B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;

for the school corporation.

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

(A) making a copy of the discipline rules available to students and students' parents; or

(B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The:

(1) superintendent of a school corporation; and

(2) principals of each school in a school corporation;

may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate:

(1) rulemaking;

(2) disciplinary; and

(3) other authority;

as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

(1) Movement of students.

(2) Movement or parking of vehicles.

(3) Day to day instructions concerning the operation of a classroom or teaching station.

(4) Time for commencement of school.

(5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

IC 20-33-8-8. Duty and powers of school corporation to supervise and discipline students.

- (a) Student supervision and the desirable behavior of students in carrying out school purposes is the responsibility of:
- (1) a school corporation; and
 - (2) the students of a school corporation.
- (b) In all matters relating to the discipline and conduct of students, school corporation personnel:
- (1) stand in the relation of parents to the students of the school corporation;
 - (2) have the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective educational system, subject to this chapter; and
 - (3) have qualified immunity with respect to a disciplinary action taken to promote student conduct under subdivision (2) if the action is taken in good faith and is reasonable.
- (c) Students must:
- (1) follow responsible directions of school personnel in all educational settings; and
 - (2) refrain from disruptive behavior that interferes with the educational environment.

IC 20-33-8-9. Disciplinary powers of teachers and school staff members.

- (a) This section applies to an individual who:
- (1) is a teacher or other school staff member; and
 - (2) has students under the individual's charge.
- (b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.
- (c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.
- (d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into inschool suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

IC 20-33-8-9. Disciplinary powers of teachers and school staff members.

- (a) This section applies to an individual who:
- (1) is a teacher or other school staff member; and
 - (2) has students under the individual's charge.
- (b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into inschool suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

IC 20-33-8-25. Additional disciplinary actions authorized.

(a) This section applies to an individual who:

- (1) is a member of the administrative staff, a teacher, or other school staff member; and
- (2) has students under the individual's charge.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

- (1) Counseling with a student or group of students.
- (2) Conferences with a parent or group of parents.
- (3) Assigning additional work.
- (4) Rearranging class schedules.
- (5) Requiring a student to remain in school after regular school hours:
 - (A) to do additional school work; or
 - (B) for counseling.

(6) Restricting extracurricular activities.

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

- (A) five (5) class periods for middle, junior high, or high school students; or
- (B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

- (A) a special course of study;
- (B) an alternative educational program; or
- (C) an alternative school.

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

- (A) A principal may not assign a student under this subdivision unless the student's parent approves:
 - (i) the nonprofit organization where the student is assigned; and
 - (ii) the plan described in clause (B)(i).

A student's parent may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

- (i) A plan for the service that the student is expected to perform.

(ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.

(iii) Monitoring of the student's performance of service by the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

(10) Removal of a student from school sponsored transportation.

(11) Referral to the juvenile court having jurisdiction over the student.

(c) As used in this subsection, "physical assault" means the knowing or intentional touching of another person in a rude, insolent, or angry manner. When a student physically assaults a person having authority over the student, the principal of the school where the student is enrolled shall refer the student to the juvenile court having jurisdiction over the student. However, a student with a disability (as defined in IC 20-35-1-8) who physically assaults a person having authority over the student is subject to procedural safeguards under 20 U.S.C. 1415.

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

(a) The Indiana safe schools fund is established to do the following:

(7) Provide grants for school wide programs to improve school climate and professional development and training for school personnel concerning:

(A) alternatives to suspension and expulsion; and

(B) evidence based practices that contribute to a positive school environment, including classroom management skills, positive behavioral intervention and support, restorative practices, and social emotional learning.

IC 5-2-10.1-6. Application for grants; safety plan.

(a) A school corporation, school corporation career and technical education school described in IC 20-37-1-1, or charter school (as defined in IC 20-24-1-4) may receive a grant from the fund for programs, equipment, services, or activities included in a safety plan submitted with the application for funds to the institute.

(b) A safety plan submitted under this section must include provisions for zero (0) tolerance for alcohol, tobacco, drugs, and weapons on school property. If the institute approves the safety plan and application, the treasurer of state shall disburse from the fund to the applicant the amount of the grant certified to the treasurer of state by the institute.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

IC 20-33-8-32. Locker searches.

(a) A school corporation must provide each:

- (1) student; and
- (2) student's parent;

a copy of the rules of the governing body on searches of students' lockers and locker contents.

(b) A student who uses a locker that is the property of a school corporation is presumed to have no expectation of privacy in:

- (1) that locker; or
- (2) the locker's contents.

(c) In accordance with the rules of the governing body, a principal may search:

- (1) a student's locker; and
- (2) the locker's contents;

at any time.

(d) A law enforcement agency having jurisdiction over the geographic area having a school facility containing a student's locker may:

- (1) at the request of the school principal; and
- (2) in accordance with rules of the governing body of the school corporation;

assist a school administrator in searching a student's locker and the locker's contents.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

IC 20-20-40-1. "Behavioral intervention plan".

As used in this chapter, "behavioral intervention plan" means a plan that is agreed upon by the case conference committee (as defined in IC 20-35-9-3) and incorporated into a student's individualized education program (as defined in IC 20-18-2-9) and that describes the following:

- (1) The pattern of behavior that impedes the student's learning or the learning of others.
- (2) The purpose or function of the behavior as identified in a functional behavioral assessment.

- (3) The positive interventions and supports, and other strategies, to:
 - (A) address the behavior; and
 - (B) maximize consistency of implementation across people and settings in which the student is involved.
- (4) If applicable, the skills that will be taught and monitored in an effort to change a specific pattern of behavior of the student.

The behavioral intervention plan seeks to maximize consistency of implementation across people and settings in which the student is involved.

IC 20-20-40-2. "Chemical restraint".

As used in this chapter, "chemical restraint" means the administration of a drug or medication to manage a student's behavior or restrict a student's freedom of movement that is not a standard treatment and dosage for the student's medical or psychiatric condition.

IC 20-20-40-3. "Commission".

As used in this chapter, "commission" refers to the commission on seclusion and restraint in schools established by section 11 [IC 20-20-40-11] of this chapter.

IC 20-20-40-4. "Mechanical restraint".

- (a) As used in this chapter, "mechanical restraint" means the use of:
 - (1) a mechanical device;
 - (2) a material; or
 - (3) equipment;attached or adjacent to a student's body that the student cannot remove and that restricts the freedom of movement of all or part of the student's body or restricts normal access to the student's body.
- (b) The term does not include:
 - (1) mechanical devices;
 - (2) a material; or
 - (3) equipment;used as prescribed by a doctor.

IC 20-20-40-5. "Physical restraint".

- (a) As used in this chapter, "physical restraint" means physical contact between a school employee and a student:
 - (1) in which the student unwillingly participates; and
 - (2) that involves the use of a manual hold to restrict freedom of movement of all or part of a student's body or to restrict normal access to the student's body.
- (b) The term does not include:
 - (1) briefly holding a student without undue force in order to calm or comfort the student, or to prevent unsafe behavior, such as running into traffic or engaging in a physical altercation;
 - (2) physical escort; or
 - (3) physical contact intended to gently assist or prompt a student in performing a task or to guide or assist a student from one (1) area to another.

IC 20-20-40-6. "Positive behavior intervention and support".

As used in this chapter, "positive behavior intervention and support" means a systematic approach that:

(1) uses evidence based practices and data driven decision making to improve school climate and culture; and

(2) includes a range of systematic and individualized strategies to reinforce desired behavior and diminish reoccurrence of problem behavior;

to achieve improved academic and social outcomes and increase learning for all students.

IC 20-20-40-7. "School corporation".

As used in this chapter, "school corporation" includes a charter school that is not a virtual charter school.

IC 20-20-40-8. "School employee".

As used in this chapter, "school employee" means an individual employed by a school corporation or a state accredited nonpublic school.

IC 20-20-40-9. "Seclusion".

As used in this chapter, "seclusion" means the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student's individualized education program, in which an adult is continuously present in the room with the student.

IC 20-20-40-10. "Time-out".

As used in this chapter, "time-out" means a behavior reduction procedure in which access to reinforcement is withdrawn for a certain period of time. Time-out occurs when the ability of a student to receive normal reinforcement in the school environment is restricted.

IC 20-20-40-11. Establishment of the commission on seclusion and restraint.

(a) The commission on seclusion and restraint in schools is established.

(b) The commission has the following ten (10) members:

(1) The designee of the state superintendent, who serves at the pleasure of the state superintendent.

(2) A representative of the Autism Society of Indiana, chosen by the organization, who serves a two (2) year term.

(3) A representative of the Arc of Indiana, chosen by the organization, who serves a two (2) year term.

(4) A representative of the Indiana Council of Administrators of Special Education, chosen by the organization, who serves a two (2) year term.

(5) A representative of Mental Health America of Indiana, chosen by the organization, who serves a two (2) year term.

(6) A parent of a student with a disability, nominated by a member described in subdivisions (2), (3), and (5) and approved by a majority of the members described in subdivisions (1) through (5) and (8) through (10), who serves a two (2) year term.

(7) A parent of a student who does not have a disability, nominated by a member described in subdivisions (2), (3), and (5) and approved by a majority of the members described in subdivisions (1) through (5) and (8) through (10), who serves a two (2) year term.

(8) One (1) state accredited nonpublic school administrator nominated by the Indiana Non-public Education Association, who serves a two (2) year term.

(9) One (1) public school superintendent nominated by the Indiana Association of Public School Superintendents, who serves a two (2) year term.

(10) One (1) member of the Indiana School Resource Officers Association chosen by the organization, who serves a two (2) year term.

(c) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member who is not a state employee is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

IC 20-20-40-12. Chairperson; meetings; votes and actions of the commission.

(a) The designee of the secretary of education under section 11(b)(1) [IC 20-20-40-11(b)(1)] of this chapter serves as chairperson of the commission.

(b) The commission shall meet at least annually on the call of the chairperson, and may meet as often as is necessary. The chairperson shall provide not less than fourteen (14) days notice of a meeting to the members of the commission and to the public.

(c) The affirmative votes of at least five (5) members of the commission are necessary for the commission to take action. The votes of the commission must be recorded.

(d) All commission meetings shall be open to the public, and each meeting must include opportunities for public comment.

(e) The department shall provide staff support for the commission.

IC 20-20-40-13. Duties; rules; notice requirement; training; elements of the restraint and seclusion plan.

(a) The commission has the following duties:

(1) To adopt rules concerning the following:

(A) The use of restraint and seclusion in a school corporation or a state accredited nonpublic school, with an emphasis on eliminating or minimizing the use of restraint and seclusion.

(B) The prevention of the use of types of restraint or seclusion that may harm a student, a school employee, a school volunteer, or the educational environment of the school.

(C) Requirements for notifying parents.

(D) Training regarding the use of restraint and seclusion, including the frequency of training and what employees must be trained.

(E) The distribution of the seclusion and restraint policy to parents and the public.

(F) Requirements for the reporting of incidents of restraint and seclusion in the annual school performance report, including incidents of restraint and seclusion involving school resource officers (as defined in IC 20-26-18.2-1).

(G) Circumstances that may require more timely incident reporting and the requirements for such reporting.

(2) To develop, maintain, and revise a model restraint and seclusion plan for schools that includes the following elements:

(A) A statement on how students will be treated with dignity and respect and how appropriate student behavior will be promoted and taught.

(B) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:

(i) Seclusion.

(ii) Chemical restraint.

(iii) Mechanical restraint.

(iv) Physical restraint.

- (C) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or individualized education program, if applicable.
- (D) Definitions for restraint and seclusion, as defined in this chapter.
- (E) A statement ensuring that if a procedure listed in clause (B) is used, the procedure will be used:
 - (i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and
 - (ii) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.
- (F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.
- (G) A documentation and recording requirement governing instances in which procedures listed in clause (B) are used, including:
 - (i) how every incident will be documented and debriefed;
 - (ii) how responsibilities will be assigned to designated employees for evaluation and oversight; and
 - (iii) designation of a school employee to be the keeper of such documents.
- (H) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in clause (B).
- (I) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in clause (B).
- (J) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.

(3) To accept and review reports from the public and make nonbinding recommendations to the department of any suggested action to be taken.

(b) The model policy developed by the commission must take into consideration that implementation and reporting requirements for state accredited nonpublic schools may vary, and the model plan must provide state accredited nonpublic schools flexibility with regards to accountability under and implementation of the plan adopted by a state accredited nonpublic school under section 14 [IC 20-20-40-14] of this chapter.

IC 20-20-40-14. Adoption of restraint and seclusion plan; submission of plans.

(a) A school corporation or state accredited nonpublic school shall adopt a restraint and seclusion plan that incorporates, at a minimum, the elements of the model plan developed under section 13 [IC 20-20-40-13] of this chapter. The school corporation's or state accredited nonpublic school's plan must become effective not later than July 1, 2014.

(b) The department has the authority to require schools to submit plans developed in accordance with section 13 of this chapter.

IC 20-20-40-15. Immunity.

(a) Nothing in this chapter may be construed to prevent a school employee from stopping a physical altercation, acting to prevent physical harm to a student or another individual, or acting to address an emergency until the emergency is over, whether or not the school employee has received training under this chapter.

(b) This chapter may not be construed to give rise to a cause of action, either civil or criminal, against the state, the department, a school corporation, a state accredited nonpublic school, the commission, or a member of the commission.

(c) In all matters relating to the plan adopted under section 14 [IC 20-20-40-14] of this chapter, school corporation or state accredited nonpublic school personnel have qualified immunity with respect to an action taken to promote student conduct under a plan adopted under section 14 of this chapter if the action is taken in good faith and is reasonable.

IC 20-20-40-16. Rulemaking.

(a) The commission:

- (1) shall adopt rules under IC 4-22-2; and
- (2) may adopt emergency rules in the manner provided under IC 4-22-2-37.1; to carry out the purposes of this chapter.

(b) An emergency rule adopted under subsection (a)(2) expires on the earlier of:

- (1) November 15, 2018; or
- (2) the effective date of a rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 that supersedes the emergency rule.

IC 20-26-18.2-4. Reporting use of restraints and seclusion.

A school corporation, a state accredited nonpublic school, or a charter school shall report all instances of:

- (1) seclusion (as defined in IC 20-20-40-9);
- (2) chemical restraint (as defined in IC 20-20-40-2);
- (3) mechanical restraint (as defined in IC 20-20-40-4); and
- (4) physical restraint (as defined in IC 20-20-40-5);

involving a school resource officer in accordance with the restraint and seclusion plan adopted by the school corporation, state accredited nonpublic school, or charter school under IC 20-20-40-14.

REGULATIONS

513 IAC 1-1-2. "Behavioral intervention plan" defined.

(a) "Behavioral intervention plan" means a plan that is agreed upon by the case conference committee (as defined in IC 20-35-7-2 [IC 20-35-7 was repealed by P.L.233-2015, SECTION 286, effective July 1, 2015.]) and incorporated into a student's IEP (as defined in IC 20-18-2-9) and that describes the following:

- (1) The pattern of behavior that impedes the student's learning or the learning of others.
- (2) The purpose or function of the behavior as identified in a functional behavioral assessment.
- (3) The positive interventions and supports, and other strategies, to:
 - (A) address the behavior; and
 - (B) maximize consistency of implementation across people and settings in which the student is involved.
- (4) If applicable, the skills that will be taught and monitored in an effort to change a specific pattern of behavior of the student.

(b) The behavioral intervention plan seeks to maximize consistency of implementation across people and settings in which the student is involved.

513 IAC 1-1-3. "Chemical restraint" defined.

Sec. 3. "Chemical restraint" means the administration of a drug or medication to manage a student's behavior or restrict a student's freedom of movement that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition.

513 IAC 1-1-5. "Crisis intervention training" defined.

Sec. 5. "Crisis intervention training" refers to training provided to selected staff members that addresses how to deal with aggressive, violent, or out of control behaviors. The term includes specific techniques for seclusion and restraint. COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

513 IAC 1-1-10. "Mechanical restraint" defined.

(a) "Mechanical restraint" means the use of:

- (1) a mechanical device;
- (2) a material; or
- (3) equipment;

attached or adjacent to a student's body that the student cannot remove and that restricts the freedom of movement of all or part of the student's body or restricts normal access to the student's body.

(b) The term does not include:

- (1) a mechanical device;
- (2) a material; or
- (3) equipment;

that is used as authorized by a licensed physician or other qualified health care professional.

(c) The term does not include a bus harness or other safety equipment that is used to restrain a student during transport when the harness or safety equipment is necessary for safety purposes as provided under 575 IAC 1. COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

513 IAC 1-1-12. "Physical restraint" defined.

(a) "Physical restraint" means physical contact between a school employee, including a school resource officer (as defined in section 18.5 of this rule), and a student:

- (1) in which the student unwillingly participates; and
- (2) that involves the use of a manual hold to restrict freedom of movement of all or part of a student's body or to restrict normal access to the student's body.

(b) The term does not include:

- (1) briefly holding a student without undue force in order to calm or comfort the student, or to prevent unsafe behavior, such as running into traffic or engaging in a physical altercation;
- (2) physical escort; or
- (3) physical contact intended to gently assist or prompt a student in performing a task or to guide or assist a student from one (1) area to another.

(c) The term does not include the use of a bus harness or other safety equipment that is used to restrain a student during

transport when the harness or safety equipment is necessary for safety purposes as provided under 575 IAC 1.

513 IAC 1-1-13. "Positive behavior intervention and support" defined.

Sec. 13. "Positive behavior intervention and support" means a systematic approach that:

- (1) uses evidence based practices and data driven decision making to improve school climate and culture; and
- (2) includes a range of systematic and individualized strategies to reinforce desired behavior and diminish reoccurrence of problem behavior;

to achieve improved academic and social outcomes and increase learning for all students.

513 IAC 1-1-14. "Prevention and conflict de-escalation training" defined.

Sec. 14. "Prevention and conflict deescalation training" means training that is provided broadly to school staff on how to prevent, defuse, and deescalate potential behavioral crisis situations without physical contact between a school employee and a student. COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

513 IAC 1-1-15. "Prone physical restraint" defined.

Sec. 15. "Prone physical restraint" refers to when a person is being held face down on a horizontal surface such as the floor.

513 IAC 1-1-16. "Restraint" defined.

Sec. 16. "Restraint" encompasses chemical restraint, physical restraint, and mechanical restraint.

513 IAC 1-1-19. "Seclusion" defined.

Sec. 19. "Seclusion" means the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student's IEP and during which an adult is continuously present in the room with the student. COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

513 IAC 1-1-21. "Substantial risk" defined.

Sec. 21. "Substantial risk" means a situation where there is:

- (1) serious, imminent threat of bodily harm; and
- (2) the immediate ability to enact such harm.

513 IAC 1-1-22. "Supine physical restraint" defined.

Sec. 22. "Supine physical restraint" refers to a person being held face up on a horizontal surface such as the floor.

513 IAC 1-1-23. "Time-out" defined.

Sec. 23. "Time-out" means a behavior reduction procedure in which access to reinforcement is withdrawn for a certain period of time. Time-out occurs when the ability of a student to receive normal reinforcement in the school environment is restricted. COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

513 IAC 1-2-1. Scope.

(a) This article applies to the following:

- (1) All public school corporations, charter schools, or accredited nonpublic schools.
- (2) All public school corporations, charter schools, or accredited nonpublic schools students regardless of whether student has been identified as eligible for special education services.
- (3) All programs and services subject to the supervision of the state educational agency, including before and after school extracurricular activities programs conducted by or through the following:
 - (A) Public school corporations.

- (B) Charter schools.
- (C) Special education planning districts.
- (D) State agencies.
- (E) Other public agencies.

513 IAC 1-2-2. Commission's principles.

- (a) Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
- (b) Any behavioral intervention must be consistent with the student's rights to be treated with dignity and to be free from abuse.
- (c) Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
- (d) Physical restraint or seclusion should not be used except in situations where the student's behavior poses imminent risk of injury to self or others and other interventions are ineffective and should be discontinued as soon as imminent risk of injury to self or others has dissipated. (Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-2; filed Aug 5, 2014, 1:32 p.m.:20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA).

513 IAC 1-2-3. Use of behavior intervention and support.

Sec. 3. A school shall use prevention, positive behavior intervention and support, and conflict deescalation strategies to eliminate or minimize the need for the use of any of the following:

- (1) Seclusion.
- (2) Chemical restraint.
- (3) Mechanical restraint.
- (4) Physical restraint.(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-3; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA).

513 IAC 1-2-4. Prevention.

- (a) Every effort shall be made to prevent the need for the use of restraint or for the use of seclusion on a student.
- (b) Seclusion or physical restraint shall not be used except when used as a last resort in situations where:
 - (1) the student's behavior poses imminent risk of injury to self or others; and
 - (2) other less restrictive interventions are ineffective.
- (c) Any use of seclusion or restraint:
 - (1) may only be used for a short period of time; and
 - (2) shall be discontinued as soon as the imminent risk of injury to self or others has dissipated.(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-4; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA)

513 IAC 1-2-5. Mechanical and chemical restraints prohibited.

- (a) Except as provided in subsection (d), the use of mechanical restraints to restrict a student's freedom of movement is prohibited.
- (b) The use of any drug, medication, or other chemical to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health care professional) is prohibited.

(c) Schools shall never give a student any drug or medication that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition unless otherwise prescribed by a physician.

(d) While transporting a student on a moving vehicle, a bus harness or other safety equipment may be required and is permissible for safety purposes. However, the use of any bus harness or safety equipment, as described in 513 IAC 1-1-10, that is used to restrain a student during transportation must be documented. (Commission on Seclusion and Restraint in Schools; 513 IAC1-2-5; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA).

513 IAC 1-2-6. Training.

(a) Staff shall be trained according to the school's adopted plan on the appropriate use of effective alternatives to physical seclusion and restraint, such as positive behavioral interventions and supports, and, only for cases involving imminent risk of injury, on the safe use of physical seclusion and restraint.

(b) Each school shall identify appropriate school staff to be trained on the safe use of effective alternatives to physical seclusion and restraint. Recurrent training of staff should be done in accordance with the school's plan.

(c) Each school shall choose a training protocol that includes the following:

- (1) Positive supports and behavioral interventions techniques.
- (2) Conflict deescalation techniques.
- (3) The safe use of seclusion and restraint.
- (4) Steps to avoid the use of seclusion or restraint.
- (5) Debriefing practices and procedures.

(d) Training programs shall differentiate for levels of school personnel and training needs.

(e) Each school must maintain documentation that includes the following information:

- (1) The name and position of each person who has completed training.
- (2) Who provided the training.
- (3) When the training was completed.
- (4) What protocols and techniques were included in the training.

(f) Training may be provided by any person who is trained in the current best practices of the protocols listed in subsection (c).

513 IAC 1-2-7. Monitoring and reporting.

(a) Every incident in which seclusion or restraint is used shall be carefully and continuously visually monitored to ensure the safety of the following:

- (1) The student.
- (2) Other students.
- (3) Teachers.
- (4) Staff.

(b) Immediately after the student has restored emotional and behavioral control following the use of restraint or seclusion, or both, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the seclusion or restraint.

(c) The building administrator or designee shall attempt to report every incident, including every incident involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which seclusion or restraint is used on a student to the student's parent or guardian:

- (1) no later than the end of the school day or as soon as practical;
- (2) verbally; and

(3) in accordance with the seclusion and restraint plan adopted by a school.

(d) In addition to the verbal notice described in subsection (c), written notification, as described in the school's adopted plan, must also be sent to the student's parent or guardian after every incident in which seclusion or restraint is used on a student. Such notice shall be provided as soon as practical.

(e) Public school corporations and charter schools shall report the number of incidents, including the number of incidents involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which either seclusion or restraint is used in its annual performance report.

(f) A school resource officer is involved in an incident of restraint or seclusion of a student when the school resource officer:

- (1) directs the restraint or seclusion of a student;
- (2) assists with the restraint or seclusion of a student; or
- (3) initiates the seclusion or restraint of a student.

(g) Each accredited nonpublic school shall report, in writing, the number of incidents in which either seclusion or restraint is used in its school to its governing authority.

(h) Each school must conduct an annual review of its plan for the purposes of improvement and revision.

513 IAC 1-2-8. Distribution of school seclusion and restraint policy or plan to parents and the public.

(a) Each school shall make available a copy of the school's seclusion and restraint plan to the student's parents or guardians, or to the student if the student is at least eighteen (18) years of age and the provisions of 511 IAC 7-43-5(b) do not apply.

(b) Including the location of the plan in the student handbook satisfies subsection (a).

513 IAC 1-2-9. Incident documentation.

(a) Every incident in which seclusion or restraint is used on a student shall be documented in order to memorialize the events that led up to the use of either seclusion or restraint.

(b) Documentation may include the following:

- (1) The student's name.
- (2) The date and time of the incident.
- (3) The duration of any seclusion or restraint or the beginning and ending times of the restraint or seclusion, or both.
- (4) A description of any relevant events leading up to the incident.
- (5) A description of the incident or student behavior that resulted in implementation of seclusion or restraint including a description of the danger of injury which resulted in the seclusion or restraint.
- (6) A description of relevant interventions used immediately prior to the implementation of seclusion or restraint.
- (7) A summary of the student's behavior during seclusion or restraint, including a description of the restraint technique or techniques used and any other interaction between the student and staff.
- (8) A description of any injuries to students, staff, or others or property damage.
- (9) A list of the school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint. (10) If applicable, a statement that the intervention used was consistent with the student's most current behavioral intervention plan or IEP.

(c) The department shall, annually, review incident reports from not less than three percent (3%) of public schools, which schools shall be chosen at random by the department.

(d) Upon request, each school selected for review under subsection (c) shall provide the department, in a manner prescribed by the department, with a copy of any incident report involving the use of seclusion or restraint of a student.

(e) Upon request by the department, each school shall provide a copy of the school's seclusion and restraint plan under section 11 of this rule.

(f) The department shall provide the commission with a summary report of the department's annual review. The summary report shall be in a manner and form prescribed by the commission.

513 IAC 1-2-10. Debriefing session.

(a) As soon as practical, and consistent with the school's plan, after every instance in which seclusion or restraint is used on a student, the school administrator or designee shall do the following:

(1) Meet with at least one (1) school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion.

(2) Direct a proper staff person, including the administrator himself or herself, to debrief the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior or behaviors, if any, that precipitated the use of restraint or seclusion.

(3) In accordance with the school's plan, provide a copy of an incident report and offer the parent or parents or guardian or guardians the opportunity to request a meeting regarding the incident of restraint or seclusion.

513 IAC 1-2-11. Seclusion and restraint plan.

(a) No later than July 1, 2014, each Indiana school corporation, charter school, and accredited nonpublic school must adopt a seclusion and restraint plan. At a minimum, each seclusion and restraint plan shall include the following:

(1) A statement on how:

- (A) students will be treated with dignity and respect; and
- (B) appropriate student behavior will be promoted and taught.

(2) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:

- (A) Seclusion.
- (B) Chemical restraint.
- (C) Mechanical restraint.
- (D) Physical restraint.

(3) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or IEP, if applicable.

(4) Definitions for restraint and seclusion, as defined in this article.

(5) A statement ensuring that if a procedure listed in subdivision (2) is used, the procedure will be used:

- (A) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and
- (B) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.

(6) An indication that restraint or seclusion may be used only for a short time period or until the imminent risk of injury has passed.

(7) A documentation and recording requirement governing incidents in which procedures listed in subdivision (2) are used, including:

- (A) how every incident will be documented and debriefed;
- (B) how responsibilities will be assigned to designated employees for evaluation and oversight; and
- (C) designation of a school employee to be the keeper of such documents.

(8) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in subdivision (2).

(9) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in subdivision (2).

(10) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.

(b) The department shall accept reports from the public regarding school restraint and seclusion plans, which reports shall be

limited to:

(1) lack of compliance between a school's seclusion and restraint plan and the requirements of IC 20-20-40 and the requirements of subsection (a);

(2) the availability of a school's plan as described in section 8 of this rule; and

(3) the reporting of incidents of seclusion or restraint, including the reporting of the use of seclusion or restraint by a school's resource officer.

(c) The department shall provide the commission with a summary of the reports received.

(d) The summary report must comply with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).

(e) The commission, after reviewing the summary from the department, may instruct the department to require a school to provide a written explanation regarding a report.

(f) Upon request, each school shall provide the department with a written explanation and response to any questions posed by the department. The school shall provide the explanation in a manner prescribed by the department.

(g) After review of the explanation by the school and any supporting documentation, the department shall provide a summary of the department's findings.

(h) Based on the department's findings, the commission may make nonbinding recommendations to the department or to the

school related to professional development for the school related to the use of seclusion or restraint, this article, or IC 20-20-40.(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-11; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA).

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

IC 20-33-8-14. Grounds for suspension or expulsion.

(a) The following are the grounds for student suspension or expulsion, subject to the procedural requirements of this chapter and as stated by school corporation rules:

- (1) Student misconduct.
- (2) Substantial disobedience.

(b) The grounds for suspension or expulsion listed in subsection (a) apply when a student is:

- (1) on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group;
- (2) off school grounds at a school activity, function, or event; or
- (3) traveling to or from school or a school activity, function, or event.

IC 20-33-8-15. Unlawful activity by student.

In addition to the grounds specified in section 14 [IC 20-33-8-14] of this chapter, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if:

- (1) the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function; or
- (2) the student's removal is necessary to restore order or protect persons on school property; including an unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

IC 20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-31.5-2-86. The term does not include a firearm or destructive device.

(c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.

(d) Notwithstanding section 20 [IC 20-33-8-20] of this chapter, a student who is:

- (1) identified as bringing a firearm or destructive device to school or on school property; or
- (2) in possession of a firearm or destructive device on school property;

must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.

(f) Notwithstanding section 20 of this chapter, a student who is:

- (1) identified as bringing a deadly weapon to school or on school property; or
- (2) in possession of a deadly weapon on school property;

may be expelled for not more than one (1) calendar year.

(g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

(h) A student with a disability (as defined in IC 20-35-1-8) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

IC 20-33-8-17. Student's legal settlement not in attendance area.

A student may be expelled from school if the student's legal settlement is not in the attendance area of the school corporation where the student is enrolled.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

IC 20-33-8-9. Disciplinary powers of teachers and school staff members.

(a) This section applies to an individual who:

- (1) is a teacher or other school staff member; and
- (2) has students under the individual's charge.

(b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into inschool suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

IC 20-33-8-18. Maximum term of suspension; procedure; student assignments.

(a) A principal may suspend a student for not more than ten (10) school days under section 14, 15, or 16 [IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16] of this chapter. However, the student may be suspended for more than ten (10) school days under section 23 [IC 20-33-8-23] of this chapter.

(b) A principal may not suspend a student before the principal affords the student an opportunity for a meeting during which the student is entitled to the following:

- (1) A written or an oral statement of the charges against the student.
- (2) If the student denies the charges, a summary of the evidence against the student.
- (3) An opportunity for the student to explain the student's conduct.

(c) When misconduct requires immediate removal of a student, the meeting under subsection (b) must begin as soon as reasonably possible after the student's suspension.

(d) Following a suspension, the principal shall send a written statement to the parent of the suspended student describing the following:

- (1) The student's misconduct.
- (2) The action taken by the principal.

(e) If a student is suspended, the student is required to complete all assignments and school work assigned during the period of the student's suspension. The principal or the principal's designee shall ensure that the student receives:

- (1) notice of any assignments or school work due;
- (2) teacher contact information in the event the student has questions regarding the assignments or school work; and
- (3) credit, in the same manner that a student who is not suspended would receive, for any assignments or school work assigned during the period of the student's suspension that the student completes.

A student may be allowed to make up missed tests or quizzes when the student returns to school.

IC 20-33-8-20. Maximum term of expulsion; reenrollment in alternative program after expulsion or exclusion; reinstatement review.

(a) Except as provided in section 16 [IC 20-33-8-16] of this chapter, a student may not be expelled for a longer period than the remainder of the school year in which the expulsion took effect if the misconduct occurs during the first semester. If a student is expelled during the second semester, the expulsion remains in effect for summer school and may remain in effect for the first semester of the following school year, unless otherwise modified or terminated by order of the governing body. The appropriate authorities may require that a student who is at least sixteen (16) years of age and who wishes to reenroll after an expulsion or an exclusion attend an alternative program.

(b) An expulsion that takes effect more than three (3) weeks before the beginning of the second semester of a school year must be reviewed before the beginning of the second semester. The review:

- (1) shall be conducted by the superintendent or an individual designated under section 19(a) [IC 20-33-8-19(a)] of this chapter after notice of the review has been given to the student and the student's parent;
- (2) is limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original meeting; and
- (3) may lead to a recommendation by the person conducting the review that the student be reinstated for the second semester.

(c) An expulsion that will remain in effect during the first semester of the following school year must be reviewed before the beginning of the school year. The review:

- (1) shall be conducted by the superintendent or an individual designated under section 19(a) of this chapter after notice of the review has been given to the student and the student's parent;
- (2) is limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original meeting; and
- (3) may lead to a recommendation by the individual conducting the review that the student be reinstated for the upcoming school year.

IC 20-33-8-34. Disciplinary action for students with disabilities.

(a) Notwithstanding any other law, a suspension, an expulsion, or another disciplinary action against a student who is a student with a disability (as defined in IC 20-35-1-8) is subject to the:

- (1) procedural requirements of 20 U.S.C. 1415; and
- (2) rules adopted by the state board.

(b) The division of special education shall propose rules to the state board for adoption under IC 4-22-2 governing suspensions, expulsions, and other disciplinary action for a student who is a student with a disability (as defined in IC 20-35-1-8).

REGULATIONS

No relevant regulations found.

Due Process

LAWS

IC 20-33-8-18. Maximum term of suspension; procedure; student assignments.

(a) A principal may suspend a student for not more than ten (10) school days under section 14, 15, or 16 [IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16] of this chapter. However, the student may be suspended for more than ten (10) school days under section 23 [IC 20-33-8-23] of this chapter.

(b) A principal may not suspend a student before the principal affords the student an opportunity for a meeting during which the student is entitled to the following:

- (1) A written or an oral statement of the charges against the student.
- (2) If the student denies the charges, a summary of the evidence against the student.
- (3) An opportunity for the student to explain the student's conduct.

(c) When misconduct requires immediate removal of a student, the meeting under subsection (b) must begin as soon as reasonably possible after the student's suspension.

(d) Following a suspension, the principal shall send a written statement to the parent of the suspended student describing the following:

- (1) The student's misconduct.
- (2) The action taken by the principal.

(e) If a student is suspended, the student is required to complete all assignments and school work assigned during the period of the student's suspension. The principal or the principal's designee shall ensure that the student receives:

- (1) notice of any assignments or school work due;
- (2) teacher contact information in the event the student has questions regarding the assignments or school work; and
- (3) credit, in the same manner that a student who is not suspended would receive, for any assignments or school work assigned during the period of the student's suspension that the student completes.

A student may be allowed to make up missed tests or quizzes when the student returns to school.

IC 20-33-8-19. Expulsion procedure; appeals; preparation of list.

(a) A superintendent of a school corporation may conduct an expulsion meeting or appoint one (1) of the following to conduct an expulsion meeting:

- (1) Legal counsel.
- (2) A member of the administrative staff if the member:
 - (A) has not expelled the student during the current school year; and
 - (B) was not involved in the events giving rise to the expulsion.

The superintendent or a person designated under this subsection may issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at an expulsion meeting.

(b) An expulsion may take place only after the student and the student's parent are given notice of their right to appear at an expulsion meeting with the superintendent or a person designated under subsection

(a). Notice of the right to appear at an expulsion meeting must:

- (1) be made by certified mail or by personal delivery;
- (2) contain the reasons for the expulsion; and

(3) contain the procedure for requesting an expulsion meeting.

(c) The individual conducting an expulsion meeting:

(1) shall make a written summary of the evidence heard at the expulsion meeting;

(2) may take action that the individual finds appropriate;

(3) shall provide the information described in subsection (g) to the student and the student's parent; and

(4) must give notice of the action taken under subdivision (2) to the student and the student's parent.

(d) If the student or the student's parent not later than ten (10) days of receipt of a notice of action taken under subsection (c) makes a written appeal to the governing body, the governing body:

(1) shall hold a meeting to consider:

(A) the written summary of evidence prepared under subsection (c)(1); and

(B) the arguments of the principal and the student or the student's parent;

unless the governing body has voted under subsection (f) not to hear appeals of actions taken under subsection (c); and

(2) may take action that the governing body finds appropriate.

The decision of the governing body may be appealed only under section 21 [IC 20-33-8-21] of this chapter.

(e) A student or a student's parent who fails to request and appear at an expulsion meeting after receipt of notice of the right to appear at an expulsion meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at an expulsion meeting or notice of the action taken at an expulsion meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(f) The governing body may vote to not hear appeals of actions taken under subsection (c). If the governing body votes to not hear appeals, subsequent to the date on which the vote is taken, a student or parent may appeal only under section 21 of this chapter.

(g) Each school corporation shall annually prepare a list of:

(1) alternative education programs in the same county in which the school corporation is located or a county immediately adjacent to the county in which the school corporation is located; and

(2) virtual charter schools;

in which a student may enroll if the student is expelled. The list must contain contact information for the entities described in subdivisions (1) and (2) and must provide the student and the student's parent notice that the student may be required to comply with IC 20-33-2 or any statute relating to compulsory school attendance in accordance with section 31 [IC 20-33-8-31] of this chapter. A copy of the list shall be provided to the student or the student's parent at the expulsion meeting. If the student or student's parent fails to attend an expulsion meeting, a copy of the list shall be mailed to the student's residence.

IC 20-33-8-21. Scope of judicial review.

Judicial review of a governing body's action under this chapter by the circuit or superior court of the county in which a student who is the subject of the governing body's action resides is limited to the issue of whether the governing body acted without following the procedure required under this chapter.

IC 20-33-8-22. Effectiveness of statute during judicial review.

An expulsion that has been upheld by a governing body continues in effect during judicial review under section 21 [IC 20-33-8-21] of this chapter unless:

(1) the court grants a temporary restraining order under the Indiana Rules of Civil Procedure; and

(2) the school corporation was given the opportunity to appear at the hearing regarding the temporary restraining order.

IC 20-33-8-23. Suspension pending expulsion decision.

The superintendent or the person designated by the superintendent under section 19(a) [IC 20-33-8-19(a)] of this chapter may continue suspension of a student for more than the ten (10) school day period of the principal's suspension and until the time of the expulsion decision under section 19 [IC 20-33-8-19] of this chapter if the superintendent or the designated person determines that the student's continued suspension will prevent or substantially reduce the risk of:

- (1) interference with an educational function or school purposes; or
- (2) a physical injury to the student, other students, school employees, or visitors to the school.

However, a student may not be suspended from school pending a meeting on a student's proposed expulsion if the expulsion is ordered under section 17 [IC 20-33-8-17] of this chapter.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

IC 20-33-8-24. Requirements for reenrollment after expulsion.

- (a) This section applies to a student who:
 - (1) is at least sixteen (16) years of age; and
 - (2) wishes to reenroll after an expulsion.
- (b) A principal may require a student to attend one (1) or more of the following:
 - (1) An alternative school or alternative educational program.
 - (2) Evening classes.
 - (3) Classes established for students who are at least sixteen (16) years of age.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

IC 20-30-8-1. "Alternative education program".

As used in this chapter, "alternative education program" refers to an alternative school or educational program that is described in section 6 [IC 20-30-8-6] of this chapter. The term includes:

- (1) an alternative education program described in section 5(a)(1) [IC 20-30-8-5(a)(1)] of this chapter; or
- (2) an area alternative education program described in section 5(a)(2) [IC 20-30-8-5(a)(2)] of this chapter.

IC 20-30-8-10. Criteria for placement of students in program.

A student placed in an alternative education program must meet at least one (1) of the following criteria:

- (1) The student intends to withdraw or has withdrawn from school before graduation.
- (2) The student has been identified as a student who:
 - (A) has failed to comply academically; and
 - (B) would benefit from instruction offered in a manner different from the manner of instruction available in a traditional school.

(3) The student is a parent or an expectant parent and is unable to regularly attend the traditional school program.

(4) The student is employed and the employment:

(A) is necessary for the support of the student or the student's immediate family; and

(B) interferes with a part of the student's instructional day.

(5) The student is a disruptive student.

IC 20-30-8-13. Department to encourage and assist in establishing program; program for chronically disruptive students.

(a) The department shall encourage school corporations to assess the need in the school corporation for an alternative education program or an area alternative education program.

(b) Upon request of a school corporation, the department shall assist the school corporation in establishing an alternative education program.

IC 20-33-8-24. Requirements for reenrollment after expulsion.

(a) This section applies to a student who:

(1) is at least sixteen (16) years of age; and

(2) wishes to reenroll after an expulsion.

(b) A principal may require a student to attend one (1) or more of the following:

(1) An alternative school or alternative educational program.

(2) Evening classes.

(3) Classes established for students who are at least sixteen (16) years of age.

IC 20-33-8-25. Additional disciplinary actions authorized.

(a) This section applies to an individual who:

(1) is a member of the administrative staff, a teacher, or other school staff member; and

(2) has students under the individual's charge.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

IC 20-33-8-31. Effect of suspension or expulsion on compulsory attendance laws.

(a) If a student is suspended from school or from any educational function under this chapter, the student's absence from school because of the suspension is not a violation of:

(1) IC 20-33-2; or

(2) any other statute relating to compulsory school attendance.

(b) If a student is expelled from school or from any educational function under this chapter, the student's absence from school because of the expulsion is a violation of IC 20-33-2 or any other statute relating to compulsory school attendance if the student may enroll in:

- (1) an alternative education program in the county or in a county immediately adjacent to the county containing the school corporation from which the student was expelled; or
- (2) a virtual charter school;

during the student's expulsion. In the event an alternative education program or virtual charter school is not available for a student to attend under this subsection, the student's expulsion is not a violation of IC 20-33-2 or any other statute relating to compulsory school attendance.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

IC 5-2-10.1-6. Application for grants; safety plan.

(a) A school corporation, school corporation career and technical education school described in IC 20-37-1-1, or charter school (as defined in IC 20-24-1-4) may receive a grant from the fund for programs, equipment, services, or activities included in a safety plan submitted with the application for funds to the institute.

(b) A safety plan submitted under this section must include provisions for zero (0) tolerance for alcohol, tobacco, drugs, and weapons on school property. If the institute approves the safety plan and application, the treasurer of state shall disburse from the fund to the applicant the amount of the grant certified to the treasurer of state by the institute.

IC 20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-31.5-2-86. The term does not include a firearm or destructive device.

(c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.

(d) Notwithstanding section 20 [IC 20-33-8-20] of this chapter, a student who is:

- (1) identified as bringing a firearm or destructive device to school or on school property; or
- (2) in possession of a firearm or destructive device on school property;

must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.

(f) Notwithstanding section 20 of this chapter, a student who is:

- (1) identified as bringing a deadly weapon to school or on school property; or
- (2) in possession of a deadly weapon on school property;

may be expelled for not more than one (1) calendar year.

(g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

(h) A student with a disability (as defined in IC 20-35-1-8) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

IC 35-47-9-2. Possession of firearms on school property or a school bus; defense to a prosecution; possession of firearms in a motor vehicle parked in a school parking lot.

(a) A person may not be charged with an offense under this subsection if the person may be charged with an offense described in subsection (c). A person who knowingly or intentionally possesses a firearm:

- (1) in or on school property; or
- (2) on a school bus; commits a Level 6 felony.

(b) It is a defense to a prosecution under subsection (a) that:

(1) the person is permitted to legally possess the firearm; and

(2) the firearm is:

(A) locked in the trunk of the person's motor vehicle;

(B) kept in the glove compartment of the person's locked motor vehicle; or

(C) stored out of plain sight in the person's locked motor vehicle.

(c) A person who is permitted to legally possess a firearm and who knowingly, intentionally, or recklessly leaves the firearm in plain view in a motor vehicle that is parked in a school parking lot commits a Class A misdemeanor.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

IC 20-19-3-12.2. Reduction in absenteeism; policy priority; resources and guidance.

(a) The department shall make reduction of absenteeism in schools a policy priority and provide assistance and guidance to school corporations and schools in:

(1) identifying contributing factors of absenteeism; and

(2) developing chronic absence reduction plans that school corporations may elect to include as a component of the school improvement plans required under IC 20-31-5.

(b) The department shall provide resources and guidance to school corporations concerning evidence based practices and effective strategies that reduce absenteeism in schools. However, the department may not mandate a particular policy within a chronic absence reduction plan adopted by a school corporation or school.

IC 20-33-2-23. Powers of certain officers to take children into custody.

(a) Each school attendance officer, sheriff, marshal, and police officer in Indiana may take into custody any child who:

(1) is required to attend school under this chapter; and

(2) is found during school hours, unless accompanied:

(A) by a parent; or

(B) with the consent of a parent, by a relative by blood or marriage who is at least eighteen (18) years of age;

in a public place, in a public or private conveyance, or in a place of business open to the public.

(b) When an officer takes a child into custody under this section, the officer shall immediately deliver the child to the principal of the public or nonpublic school in which the child is enrolled. If a child is not enrolled in any school, then the officer shall deliver the child into the custody of the principal of the public

school in the attendance area in which the child resides. If a child is taken to the appropriate school and the principal is unavailable, the acting chief administrative officer of the school shall take custody of the child.

(c) The powers conferred under this section may be exercised without warrant and without subsequent legal proceedings.

IC 20-33-2-24. Principal; duties when truant child received.

(a) When a child is delivered into the custody of a principal or acting chief administrative officer under section 23 [IC 20-33-2-23] of this chapter, the principal or officer shall immediately place the child in class in the grade or course of study in which the child is enrolled or to which the child may be properly assigned.

(b) A child who is placed in class under this section shall not be kept at school beyond the regular hour of dismissal on that day for the grade or course of study in which the child is placed. As promptly as reasonably possible after placing a child in class under this section, the principal or acting chief administrative officer shall attempt to advise the child's parent of the facts of the case by telephone. The principal or acting chief administrative officer shall advise the parent of the facts of the case by mail on the same day the principal or officer receives the child.

IC 20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

IC 20-33-2-26. Enforcement of chapter.

(a) It is the duty of each:

- (1) superintendent;
- (2) attendance officer;
- (3) state attendance official;
- (4) security police officer appointed under IC 36-8-3-7; and
- (5) school corporation police officer appointed under IC 20-26-16;

to enforce this chapter in their respective jurisdictions and to execute the affidavits authorized under this section. The duty is several, and the failure of one (1) or more to act does not excuse another official from the obligation to enforce this chapter.

(b) An affidavit against a parent for a violation of this chapter shall be prepared and filed in the same manner and under the procedure prescribed for filing affidavits for the prosecution of public offenses.

(c) An affidavit under this section shall be filed in a court with jurisdiction in the county in which the affected child resides. The prosecuting attorney shall file and prosecute actions under this section as in other criminal cases. The court shall promptly hear cases brought under this section.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

IC 5-2-10.1-6. Application for grants; safety plan.

(a) A school corporation, school corporation career and technical education school described in IC 20-37-1-1, or charter school (as defined in IC 20-24-1-4) may receive a grant from the fund for programs, equipment, services, or activities included in a safety plan submitted with the application for funds to the institute.

(b) A safety plan submitted under this section must include provisions for zero (0) tolerance for alcohol, tobacco, drugs, and weapons on school property. If the institute approves the safety plan and application, the treasurer of state shall disburse from the fund to the applicant the amount of the grant certified to the treasurer of state by the institute.

IC 5-2-10-2. Purpose; composition of fund.

The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

- (1) under IC 33-37-9-4; and
- (2) from any other public or private source.

IC 20-30-5-11. Alcoholic beverages, tobacco, prescription drugs, and controlled substances; instruction in kindergarten through grade 12.

(a) For kindergarten through grade 12, the governing body of each school corporation shall provide instruction concerning the effects that:

- (1) alcoholic beverages;
- (2) tobacco;
- (3) prescription drugs; and
- (4) controlled substances;

have on the human body and society at large.

(b) The state board shall make available to all school corporations a list of appropriate available instructional material on the matters described in subsection (a).

(c) The department shall develop curriculum guides to assist teachers assigned to teach the material described in subsection (a).

(d) The state board shall approve drug education curricula for every grade from kindergarten through grade 12.

(e) The department shall provide assistance to each school corporation to train at least one (1) teacher in the school corporation in drug education.

IC 20-33-9-1. Application of chapter.

Sections 5 through 9 [IC 20-33-9-5 through IC 20-33-9-9] of this chapter apply to the following:

- (1) A violation under IC 7.1-5-7 (concerning minors and alcoholic beverages).
- (2) A violation under IC 35-48-4 (offenses related to controlled substances).

IC 20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

- (1) a violation described in section 1 [IC 20-33-9-1] of this chapter; or

(2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult; in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

IC 20-33-9-6. Controlled substance violations; reports by members of administrative staffs.

A member of the administrative staff who, based on personal knowledge or on the report of another employee of the school corporation, believes that a person has committed a violation described in section 1 [IC 20-33-9-1] of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the member, shall immediately report:

- (1) a general description of the violation;
 - (2) the name or a general description of each violator known to the member;
 - (3) the date, time, and and [sic] place of the violation;
 - (4) the name or a general description of each person who the member knows witnessed any part of the violation; and
 - (5) a general description and the location of any property that the member knows was involved in the violation;
- in writing to a law enforcement officer.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

IC 5-2-10.1-11. School safety specialist training and certification program.

- (c) The department of education shall do the following:
- (1) Assemble an advisory group of school safety specialists from around the state to make recommendations concerning the curriculum and standards for school safety specialist training.
 - (2) Develop an appropriate curriculum and the standards for the school safety specialist training and certification program. The department of education may consult with national school safety experts in developing the curriculum and standards. The curriculum developed under this subdivision must include training in:
 - (A) identifying, preventing, and intervening in bullying;
 - (B) identifying, preventing, and intervening in criminal organization activity; and
 - (C) identifying, preventing, and intervening in actions by a person who is present on school property with the intent to harm another person.
 - (3) Administer the school safety specialist training program and notify the institute of candidates for certification who have successfully completed the training program.

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

- (a) The Indiana safe schools fund is established to do the following:
- (6) Provide educational outreach to school personnel and training to school safety specialists and school resource officers concerning:
 - (A) the identification of;
 - (B) the prevention of; and
 - (C) intervention in; criminal organization activities.

IC 20-26-18-1. Application.

This chapter applies to every school corporation and to a school city to which IC 20-25 applies.

IC 20-26-18-2. Establishment of written policy.

(a) Not later than June 1, 2016, the governing body of each school corporation shall establish a written policy to address criminal organizations and criminal organization activity in schools. The governing body of a school corporation shall develop the policy in consultation with:

- (1) parents;
- (2) school employees;
- (3) local law enforcement officials;
- (4) the county prosecuting attorney;
- (5) the county public defender;
- (6) organizations that have expertise in criminal organization education, prevention, or intervention;
- (7) a juvenile court judge;
- (8) a school behavioral health or community mental health professional; and
- (9) any other person or entity the governing body of the school corporation determines to be appropriate.

(b) The policy must meet all the requirements for the department's model criminal organization policy set forth in IC 20-19-3-12(d).

(c) Not later than September 1, 2016, each school corporation shall submit a copy of its criminal organization policy to the department.

IC 20-26-18-3. Publication of policy.

A school corporation shall put a copy of the school corporation's criminal organization policy established under section 2 [IC 20-26-18-2] of this chapter:

- (1) on its Internet web site;
- (2) in school student handbooks; and
- (3) in any location the school corporation determines to be appropriate.

IC 20-26-18-4. Establishment of education programs.

A school corporation shall establish the following educational programs in its efforts to address criminal organization activity:

- (1) An evidence based educational criminal organization awareness program for students, school employees, and parents.
- (2) A school employee development program to provide training to school employees in the implementation of the criminal organization policy established under section 2 [IC 20-26-18-2] of this chapter.

IC 20-26-18-5. Establishment of criminal organization intervention program.

To foster the continuing coordination of criminal organization prevention, intervention, and suppression efforts, the governing body of a school corporation may establish a program to provide criminal organization intervention services to students. If a school corporation chooses to develop a program under this section, the governing body shall establish an advisory committee that includes the following members:

- (1) Parents.
- (2) School employees.

- (3) Local law enforcement officials.
- (4) The county prosecuting attorney.
- (5) The county public defender.
- (6) A juvenile court judge.
- (7) A school behavioral health or community mental health professional.
- (8) Representatives of organizations that have expertise in criminal organization education, prevention, or intervention.
- (9) Any other person or entity the governing body determines is appropriate.

IC 20-26-18-6. Reporting requirements.

(a) Not later than June 1, 2017, and before June 2 of each year thereafter, each school corporation shall submit to the department a written report, on forms developed by the department, outlining the activities undertaken as part of the school corporation's compliance with this chapter. The report must include school based data to monitor for disproportionality, with each school reporting the number of investigations disposed of internally and the number of cases referred to local law enforcement, disaggregated by race, ethnicity, age, and gender.

(b) Not later than November 1, 2017, and before November 2 of each year thereafter, the department shall submit a comprehensive report concerning criminal organization activity in schools to the governor and the general assembly. A report submitted to the general assembly under this subsection must be in an electronic format under IC 5-14-6. The report must include the following:

- (1) A summary of the activities reported to the department under subsection (a).
- (2) Any recommendations or conclusions made by the department to assist in the prevention of, education about, and intervention in criminal organization activity in schools.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

IC 5-2-10.1-11. School safety specialist training and certification program.

(c) The department of education shall do the following:

(2) Develop an appropriate curriculum and the standards for the school safety specialist training and certification program. The department of education may consult with national school safety experts in developing the curriculum and standards. The curriculum developed under this subdivision must include training in:

- (A) identifying, preventing, and intervening in bullying.

IC 5-2-10.1-12. Safe school committees; school plans; copies of floor plans to law enforcement agency and fire department .

(b) The department of education, the school corporation's school safety specialist, and, upon request, a school resource officer (as described in IC 20-26-18.2-1) shall provide materials and guidelines to assist a safe school committee in developing a plan and policy for the school that addresses the following issues:

- (1) Unsafe conditions, crime prevention, school violence, bullying, criminal organization activity, child abuse and child sexual abuse, and other issues that prevent the maintenance of a safe school. [...]

(d) The guidelines developed under subsection (b) must include age appropriate, research based information that assists school corporations and safe school committees in:

- (1) developing and implementing bullying prevention programs;

(2) establishing investigation and reporting procedures related to bullying; and

(3) adopting discipline rules that comply with IC 20-33-8-13.5.

(e) In addition to developing guidelines under subsection (b), the department of education shall establish categories of types of bullying incidents to allow school corporations to use the categories in making reports under IC 20-20-8-8 and IC 20-34-6-1.

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

(a) The Indiana safe schools fund is established to do the following:

(5) Provide educational outreach and training to school personnel concerning:

(A) the identification of;

(B) the prevention of; and

(C) intervention in;

bullying.

IC 20-19-3-11.5. Cyberbullying resources.

(a) As used in this section, "cyberbullying" refers to bullying (as defined in IC 20-33-8-0.2) that occurs through the use of data or computer software that is accessed through a:

(1) computer;

(2) computer system;

(3) computer network; or

(4) cellular telephone or other wireless or cellular communications device.

(b) The department shall maintain a link on the department's Internet web site that provides parents and school officials with resources or best practices regarding the prevention and reporting of bullying and cyberbullying. The resources must include guidance on how to report to law enforcement agencies instances of bullying and cyberbullying that occur off campus. The department shall also include guidelines developed by the department under IC 5-2-10.1-12(d).

(c) The department shall consult with law enforcement agencies, school officials, and organizations that have expertise in the prevention or reporting of bullying or cyberbullying for purposes of developing or providing the resources or best practices described in subsection (b).

(d) The following entities shall maintain a link on their Internet web sites to the Internet web site described in subsection (b):

(1) The state board.

(2) A school corporation.

IC 20-26-5-32. Involvement of parents with discipline plan; department's model discipline plan.

(a) The governing body of each school corporation shall work with parents to:

(1) develop; and

(2) review periodically;

an evidence based plan for improving student behavior and discipline in the school corporation after receiving a model plan developed by the department.

(b) The model plan developed by the department under subsection (a) must:

(1) reduce out-of-school suspension and disproportionality in discipline and expulsion;

(2) limit referrals to law enforcement and arrests on school property to cases in which referral to law enforcement or arrest is necessary to protect the health and safety of students or school employees; and

(3) include policies to address instances of bullying and cyberbullying on school property of a school corporation.

IC 20-26-5-34.2. Bullying prevention; training for employees and volunteers.

A school corporation shall provide training to the school corporation's employees and volunteers who have direct, ongoing contact with students concerning the school's bullying prevention and reporting policy adopted under IC 20-33-8-13.5. The training shall be conducted in a manner prescribed by the state board under IC 20-28-5.5-1.

IC 20-30-5-5.5. Bullying prevention; student instruction.

(a) Not later than October 15 of each year, each public school shall provide age appropriate, research based instruction as provided under IC 5-2-10.1-12(d)(1) focusing on bullying prevention for all students in grades 1 through 12.

(b) The department, in consultation with school safety specialists and school counselors, shall prepare outlines or materials for the instruction described in subsection (a) and incorporate the instruction in grades 1 through 12.

(c) Instruction on bullying prevention may be delivered by a school safety specialist, school counselor, or any other person with training and expertise in the area of bullying prevention and intervention.

IC 20-33-8-0.2. "Bullying".

(a) As used in this chapter, "bullying" means overt, unwanted, repeated acts or gestures, including verbal or written communications or images transmitted in any manner (including digitally or electronically), physical acts committed, aggression, or any other behaviors, that are committed by a student or group of students against another student with the intent to harass, ridicule, humiliate, intimidate, or harm the targeted student and create for the targeted student an objectively hostile school environment that:

- (1) places the targeted student in reasonable fear of harm to the targeted student's person or property;
- (2) has a substantially detrimental effect on the targeted student's physical or mental health;
- (3) has the effect of substantially interfering with the targeted student's academic performance; or
- (4) has the effect of substantially interfering with the targeted student's ability to participate in or benefit from the services, activities, and privileges provided by the school.

(b) The term may not be interpreted to impose any burden or sanction on, or include in the definition of the term, the following:

- (1) Participating in a religious event.
- (2) Acting in an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial danger.
- (3) Participating in an activity consisting of the exercise of a student's rights protected under the First Amendment to the United States Constitution or Article I, Section 31 of the Constitution of the State of Indiana, or both.
- (4) Participating in an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults.
- (5) Participating in an activity undertaken at the prior written direction of the student's parent.
- (6) Engaging in interstate or international travel from a location outside Indiana to another location outside Indiana.

IC 20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 [IC 20-33-8-12] of this chapter must:

- (1) prohibit bullying; and

(2) include:

(A) provisions concerning education, parental involvement, and intervention;

(B) a detailed procedure for the expedited investigation of incidents of bullying that includes:

(i) appropriate responses to bullying behaviors, wherever the behaviors occur;

(ii) provisions for anonymous and personal reporting of bullying to a teacher or other school staff;

(iii) timetables for reporting of bullying incidents to the parents of both the targeted student and the bully, in an expedited manner;

(iv) timetables for reporting of bullying incidents to school counselors, school administrators, the superintendent, or law enforcement, if it is determined that reporting the bullying incident to law enforcement is necessary;

(v) discipline provisions for teachers, school staff, or school administrators who fail to initiate or conduct an investigation of a bullying incident; and

(vi) discipline provisions for false reporting of bullying; and

(C) a detailed procedure outlining the use of follow-up services that includes:

(i) support services for the victim; and

(ii) bullying education for the bully.

(b) The discipline rules described in subsection (a) may be applied regardless of the physical location in which the bullying behavior occurred, whenever:

(1) the individual committing the bullying behavior and any of the intended targets of the bullying behavior are students attending a school within a school corporation; and

(2) disciplinary action is reasonably necessary to avoid substantial interference with school discipline or prevent an unreasonable threat to the rights of others to a safe and peaceful learning environment.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

(1) computer;

(2) computer system;

(3) computer network; or

(4) cellular telephone or other wireless or cellular communications device.

(d) This section may not be construed to give rise to a cause of action against a person or school corporation based on an allegation of noncompliance with this section. Noncompliance with this section may not be used as evidence against a school corporation in a cause of action.

(e) A record made of an investigation, a disciplinary action, or a follow-up action performed under rules adopted under this section is not a public record under IC 5-14-3.

(f) The department shall periodically review each policy adopted under this section to ensure the policy's compliance with this section.

IC 20-33-9-12. Relief of obligation to report.

This chapter does not relieve an individual of the obligation to report a threat, intimidation, a battery, or harassment on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

IC 20-34-6-1. School corporation reports; department reports.

(a) By July 1 of each year, each school corporation shall submit a report to the department detailing the following information for the current school year for each school in the school corporation and for the entire school corporation:

(8) The number of reported bullying incidents involving a student of the school corporation by category. However, nothing in this subdivision may be construed to require all bullying incidents to be reported to a law enforcement agency.

IC 20-34-6-2. Notice of reporting requirements; audits.

(a) Not later than June 1, 2018, and each June 1 thereafter, the department shall send notification via electronic mail or a letter to each school corporation explaining:

(1) the school corporation's obligation to report bullying incidents under section 1(a)(8) [IC 20-34-6-1(a)(8)] of this chapter; and

(2) that the department may conduct an audit of a school corporation under subsection (b) to ensure the school corporation's compliance with the requirements of section 1(a)(8) of this chapter.

(b) The department may conduct an audit of a school corporation to ensure that the school corporation is accurately reporting bullying incidents under section 1(a)(8) of this chapter. If the department finds discrepancies in the school corporation's reporting of bullying incidents under section 1(a)(8) of this chapter, the department shall post a copy of the department's findings on the department's Internet web site.

IC 20-40-20-6. Uses of money in the fund; distributions to a charter school.

(a) Subject to subsections (c) and (d), money in the fund may be used only for the following purposes:

(8) To establish and administer programs to address youth specific mental illness, addiction, anger management, bullying, and school violence.

IC 35-42-2-2.5. Hazing; good faith reporting.

(a) As used in this section, "hazing" means forcing or requiring another person:

(1) with or without the consent of the other person; and

(2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who knowingly or intentionally performs hazing commits a Class B misdemeanor. However, the offense is a Level 6 felony if it results in serious bodily injury to another person, and a Level 5 felony if it is committed by means of a deadly weapon.

(c) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator were an adult, who:

(1) makes a report of hazing in good faith;

(2) participates in good faith in a judicial proceeding resulting from a report of hazing;

(3) employs a reporting or participating person described in subdivision (1) or (2); or

(4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(d) A person described in subsection (c)(1) or (c)(2) is presumed to act in good faith.

(e) A person described in subsection (c)(1) or (c)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

(1) an offense under this section; or

(2) a delinquent act that would be an offense under this section if the offender were an adult.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

IC 20-19-3-10. Dating violence educational materials.

(a) The department, in collaboration with organizations that have expertise in dating violence, domestic violence, and sexual abuse, shall identify or develop:

- (1) model dating violence educational materials; and
- (2) a model for dating violence response policies and reporting.

Not later than July 1, 2011, the department shall make the models developed or identified under this section available to assist schools with the implementation of dating violence education programs in grades 6 through 12 and dating violence response policies.

(b) The model dating violence policy identified or developed under subsection (a) may include the following topics:

- (1) Warning signs of dating violence.
- (2) The basic principles of dating violence prevention.
- (3) Methods of parental education and outreach.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

IC 5-2-10.1-12. Safe school committees; school plans; copies of floor plans to law enforcement agency and fire department .

- (a) Each school corporation shall establish a safe school committee. The committee may be a subcommittee of the committee that develops the strategic and continuous school improvement and achievement plan under IC 20-31-5. Each committee may include at least one (1) member who is a member of the support staff of the school or school corporation career and technical education school.
- (b) The department of education, the school corporation's school safety specialist, and, upon request, a school resource officer (as described in IC 20-26-18.2-1) shall provide materials and guidelines to assist a safe school committee in developing a plan and policy for the school that addresses the following issues:
- (1) Unsafe conditions, crime prevention, school violence, bullying, criminal organization activity, child abuse and child sexual abuse, and other issues that prevent the maintenance of a safe school.
 - (2) Professional development needs for faculty and staff to implement methods that decrease problems identified under subdivision (1).
 - (3) Methods to encourage:
 - (A) involvement by the community and students;
 - (B) development of relationships between students and school faculty and staff; and
 - (C) use of problem solving teams.
- (c) As a part of the plan developed under subsection (b), each safe school committee shall provide a copy of the floor plans for each building located on the school's property that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the law enforcement agency and the fire department that have jurisdiction over the school.
- (d) The guidelines developed under subsection (b) must include age appropriate, research based information that assists school corporations and safe school committees in:
- (1) developing and implementing bullying prevention programs;
 - (2) establishing investigation and reporting procedures related to bullying; and
 - (3) adopting discipline rules that comply with IC 20-33-8-13.5.
- (e) In addition to developing guidelines under subsection (b), the department of education shall establish categories of types of bullying incidents to allow school corporations to use the categories in making reports under IC 20-20-8-8 and IC 20-34-6-1.
- (f) The materials and guidelines provided under subsection (b) must include the model educational materials and model response policies and reporting procedures on child abuse and child sexual abuse developed or identified under IC 20-19-3-11.

IC 20-19-3-10. Dating violence educational materials.

- (a) The department, in collaboration with organizations that have expertise in dating violence, domestic violence, and sexual abuse, shall identify or develop:
- (1) model dating violence educational materials; and
 - (2) a model for dating violence response policies and reporting.

Not later than July 1, 2011, the department shall make the models developed or identified under this section available to assist schools with the implementation of dating violence education programs in grades 6 through 12 and dating violence response policies.

(b) The model dating violence policy identified or developed under subsection (a) may include the following topics:

- (1) Warning signs of dating violence.
- (2) The basic principles of dating violence prevention.
- (3) Methods of parental education and outreach.

IC 20-19-3-12. Identification, development, and availability of model education materials on criminal organization activity .

(a) The department, in collaboration with the Indiana criminal justice institute, the department of child services, the center for evaluation and education policy at Indiana University, the state police department, and any organization that has expertise in providing criminal organization education, prevention, or intervention that the department determines to be appropriate, shall:

- (1) identify or develop evidence based model educational materials on criminal organization activity; and
- (2) develop and maintain a model policy to address criminal organizations and criminal organization activity in schools.

(b) Not later than July 1, 2015, the department shall make the model policy developed under subsection (a)(2) available to assist schools in the development and implementation of a criminal organization policy.

(c) The model educational materials on criminal organization activity identified or developed under subsection (a)(1) must include information:

- (1) to educate students and parents on the extent to which criminal organization activity exists;
- (2) regarding the negative societal impact that criminal organizations have on the community;
- (3) on methods to discourage participation in criminal organizations; and
- (4) on methods of providing intervention to a child suspected of participating in criminal organization activity.

(d) The model criminal organization policy developed under subsection (a)(2) must include:

- (1) a statement prohibiting criminal organization activity in schools;
- (2) a statement prohibiting reprisal or retaliation against an individual who reports suspected criminal organization activity;
- (3) definitions of "criminal organization" as set forth in IC 35-45-9-1 and "criminal organization activity";
- (4) model procedures for:
 - (A) reporting suspected criminal organization activity; and
 - (B) the prompt investigation of suspected criminal organization activity;
- (5) information about the types of support services, including family support services, available for a student suspected of participating in criminal organization activity; and
- (6) recommendations concerning criminal organization prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

IC 20-19-3-12.2. Reduction in absenteeism; policy priority; resources and guidance.

(a) The department shall make reduction of absenteeism in schools a policy priority and provide assistance and guidance to school corporations and schools in:

- (1) identifying contributing factors of absenteeism; and

(2) developing chronic absence reduction plans that school corporations may elect to include as a component of the school improvement plans required under IC 20-31-5.

(b) The department shall provide resources and guidance to school corporations concerning evidence based practices and effective strategies that reduce absenteeism in schools. However, the department may not mandate a particular policy within a chronic absence reduction plan adopted by a school corporation or school.

IC 20-26-5-32. Involvement of parents with discipline plan; department's model discipline plan.

(a) The governing body of each school corporation shall work with parents to:

- (1) develop; and
- (2) review periodically;

an evidence based plan for improving student behavior and discipline in the school corporation after receiving a model plan developed by the department.

(b) The model plan developed by the department under subsection (a) must:

- (1) reduce out-of-school suspension and disproportionality in discipline and expulsion;
- (2) limit referrals to law enforcement and arrests on school property to cases in which referral to law enforcement or arrest is necessary to protect the health and safety of students or school employees; and
- (3) include policies to address instances of bullying and cyberbullying on school property of a school corporation.

(c) Beginning in the 2019-2020 school year, the department, in collaboration with parent organizations, teacher organizations, educational support professional organizations, and state educational institutions, shall, upon a school corporation's request, provide information and assistance to the school corporation regarding the implementation of the school corporation's evidence based plan developed under subsection (a) to ensure that teachers and administrators receive appropriate professional development and other resources in preparation for carrying out the plan.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

(a) The Indiana safe schools fund is established to do the following:

- (7) Provide grants for school wide programs to improve school climate and professional development and training for school personnel concerning:
 - (A) alternatives to suspension and expulsion; and
 - (B) evidence based practices that contribute to a positive school environment, including classroom management skills, positive behavioral intervention and support, restorative practices, and social emotional learning.

IC 20-20-40-6. "Positive behavior intervention and support".

As used in this chapter, "positive behavior intervention and support" means a systematic approach that:

- (1) uses evidence based practices and data driven decision making to improve school climate and culture; and
- (2) includes a range of systematic and individualized strategies to reinforce desired behavior and diminish reoccurrence of problem behavior; to achieve improved academic and social outcomes and increase learning for all students.

IC 20-20-40-13. Duties; rules; notice requirement; training; elements of the restraint and seclusion plan.

(a) The commission has the following duties:

(2) To develop, maintain, and revise a model restraint and seclusion plan for schools that includes the following elements:

(B) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:

- (i) Seclusion.
- (ii) Chemical restraint.
- (iii) Mechanical restraint.
- (iv) Physical restraint.

REGULATIONS

513 IAC 1-1-13. "Positive behavior intervention and support" defined.

Sec. 13. "Positive behavior intervention and support" means a systematic approach that:

- (1) uses evidence based practices and data driven decision making to improve school climate and culture; and
- (2) includes a range of systematic and individualized strategies to reinforce desired behavior and diminish reoccurrence of problem behavior; to achieve improved academic and social outcomes and increase learning for all students.

513 IAC 1-2-3. Use of behavior intervention and support.

Sec. 3. A school shall use prevention, positive behavior intervention and support, and conflict deescalation strategies to eliminate or minimize the need for the use of any of the following:

- (1) Seclusion.
- (2) Chemical restraint.
- (3) Mechanical restraint.
- (4) Physical restraint.(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-3; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA).

Prevention

LAWS

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

(a) The Indiana safe schools fund is established to do the following:

- (1) Promote school safety through the:
 - (A) use of dogs trained to detect drugs and illegal substances; and
 - (B) purchase of other equipment and materials used to enhance the safety of schools.

(2) Combat truancy.

(3) Provide matching grants to schools for school safe haven programs.

(4) Provide grants for school safety and safety plans. However, a grant from the fund may not be used to employ a school resource officer (as defined in IC 20-26-18.2-1) or a law enforcement officer (as defined in IC 35-31.5-2-185).

(5) Provide educational outreach and training to school personnel concerning:

- (A) the identification of;
 - (B) the prevention of; and
 - (C) intervention in;
- bullying.

(6) Provide educational outreach to school personnel and training to school safety specialists and school resource officers concerning:

- (A) the identification of;
 - (B) the prevention of; and
 - (C) intervention in;
- criminal organization activities.

(7) Provide grants for school wide programs to improve school climate and professional development and training for school personnel concerning:

- (A) alternatives to suspension and expulsion; and
- (B) evidence based practices that contribute to a positive school environment, including classroom management skills, positive behavioral intervention and support, restorative practices, and social emotional learning.

(b) The fund consists of amounts deposited:

- (1) under IC 33-37-9-4; and
- (2) from any other public or private source.

(c) The institute shall determine grant recipients from the fund with a priority on awarding grants in the following order:

- (1) A grant for a safety plan.
- (2) A safe haven grant requested under section 10 [IC 5-2-10.1-10] of this chapter.
- (3) A safe haven grant requested under section 7 [IC 5-2-10.1-7] of this chapter.

(d) Except as provided in subsection (e), upon recommendation of the council, the institute shall establish a method for determining the maximum amount a grant recipient may receive under this section.

(e) A school corporation selected to participate in the school intergenerational safety pilot project by the department under IC 20-20-46-5 is eligible to receive a grant from the fund in an amount described in IC 20-20-46-4 in addition to a grant requested by the school corporation under section 6 [IC 5-2-10.1-6] of this chapter.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

IC 5-2-10.1-2. Purpose and composition of fund; grant priorities and amounts.

(a) The Indiana safe schools fund is established to do the following:

(7) Provide grants for school wide programs to improve school climate and professional development and training for school personnel concerning:

(B) evidence based practices that contribute to a positive school environment, including classroom management skills, positive behavioral intervention and support, restorative practices, and social emotional learning.

IC 20-19-5-1. Department duties.

The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall:

(1) develop and coordinate the children's social, emotional, and behavioral health plan that is to provide recommendations concerning:

(A) comprehensive mental health services;

(B) early intervention; and

(C) treatment services;

for individuals from birth through twenty-two (22) years of age;

(2) make recommendations to the state board, which shall adopt rules under IC 4-22-2 concerning the children's social, emotional, and behavioral health plan; and

(3) conduct hearings on the implementation of the plan before adopting rules under this chapter.

IC 20-19-5-2. Plan recommendations.

The children's social, emotional, and behavioral health plan shall recommend:

(1) procedures for the identification and assessment of social, emotional, and mental health issues;

(2) procedures to assist a child and the child's family in obtaining necessary services to treat social, emotional, and mental health issues;

(3) procedures to coordinate provider services and interagency referral networks for an individual from birth through twenty-two (22) years of age;

(4) guidelines for incorporating social, emotional, and behavioral development into school learning standards and education programs;

(5) that social, emotional, and mental health screening be included as a part of routine examinations in schools and by health care providers;

(6) procedures concerning the positive development of children, including:

(A) social, emotional, and behavioral development;

(B) learning; and

(C) behavioral health;

(7) plans for creating a children's social, emotional, and behavioral health system with shared accountability among state agencies that will:

(A) conduct ongoing needs assessments;

(B) use outcome indicators and benchmarks to measure progress; and

(C) implement quality data tracking and reporting systems;

(8) a state budget for children's social, emotional, and mental health prevention and treatment;

(9) how state agencies and local entities can obtain federal funding and other sources of funding to implement a children's social, emotional, and behavioral health plan;

(10) how to maintain and expand the workforce to provide mental health services for individuals from birth through twenty-two (22) years of age and families;

(11) how employers of mental health professionals may:

- (A) improve employee job satisfaction; and
 - (B) retain employees;
- (12) how to facilitate research on best practices and model programs for children's social, emotional, and behavioral health;
- (13) how to disseminate research and provide training and educational materials concerning the children's social, emotional, and behavioral health program to:
- (A) policymakers;
 - (B) practitioners; and
 - (C) the general public; and
- (14) how to implement a public awareness campaign to:
- (A) reduce the stigma of mental illness; and
 - (B) educate individuals:
 - (i) about the benefits of children's social, emotional, and behavioral development; and
 - (ii) how to access children's social, emotional, and behavioral development services.

IC 20-30-5-6. Good citizenship instruction.

- (a) This section applies only to public schools.
- (b) As used in this section, "good citizenship instruction" means integrating instruction into the current curriculum that stresses the nature and importance of the following:
- (1) Being honest and truthful.
 - (2) Respecting authority.
 - (3) Respecting the property of others.
 - (4) Always doing the student's personal best.
 - (5) Not stealing.
 - (6) Possessing the skills (including methods of conflict resolution) necessary to live peaceably in society and not resorting to violence to settle disputes.
 - (7) Taking personal responsibility for obligations to family and community.
 - (8) Taking personal responsibility for earning a livelihood.
 - (9) Treating others the way the student would want to be treated.
 - (10) Respecting the national flag, the Constitution of the United States, and the Constitution of the State of Indiana.
 - (11) Respecting the student's parents and home.
 - (12) Respecting the student's self.
 - (13) Respecting the rights of others to have their own views and religious beliefs.
- (c) The department shall:
- (1) identify; and
 - (2) make available;
- models of conflict resolution instruction to school corporations. The instruction may consist of a teacher education program that applies the techniques to the students in the classroom to assist school corporations in complying with this section.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

IC 12-21-5-2. Education and treatment of children with an emotional disturbance; provision of training on suicide prevention.

The division is responsible for the following:

- (1) The planning, research, and development of programs and methods for the education and treatment of children with an emotional disturbance.
- (2) The coordination of governmental services, activities, and programs in Indiana relating to such children.
- (3) The administration of the state supported services concerned with such children.
- (4) The preparation of the annual report required by IC 7.1-6-2-5.
- (5) The provision of a mental health first aid training program developed under section 4 [IC 12-21-5-4] of this chapter, including providing information and guidance to local school corporations on the development of evidence based programs for basic or inservice courses for teachers and training for teachers on the following:
 - (A) Prevention of child suicide.
 - (B) Recognition of signs that a student may be considering suicide.
- (6) The development, in consultation with stakeholders, and provision of a research based training program for health care providers, including mental health and behavioral health providers, concerning suicide assessment, training, and management that is:
 - (A) demonstrated to be an effective or promising program; and
 - (B) recommended by the Indiana Suicide Prevention Network Advisory Council.

IC 12-21-5-4. Development and administration of mental health first aid training program; requirements; training; implementation date; report.

- (a) To the extent that funds are made available, the division, in consultation with:
 - (1) the department of education;
 - (2) the law enforcement training board;
 - (3) the Indiana Council of Community Mental Health Centers;
 - (4) Mental Health America-Indiana;
 - (5) the Indiana emergency medical services commission; and
 - (6) a private foundation dedicated to the prevention of youth suicide through education and awareness; shall develop and administer a mental health first aid training program.
- (b) The mental health first aid training program developed under subsection (a) must do the following:
 - (1) Train individuals attending the training program to recognize the risk factors and signs of mental health problems or crises in children and young adults, including signs that a child or young adult may be considering suicide.

(2) Train individuals attending the training program to guide children and young adults who exhibit signs of a mental health problem or crisis to appropriate behavioral health services.

(3) Train individuals attending the training program to not label children who are at risk or show signs of mental health problems in a manner that would stigmatize the child.

(c) The division shall provide training for individuals who will be instructors in the mental health first aid training program.

(d) The division shall make the mental health first aid training program available to licensed teachers, school counselors, emergency medical service providers, law enforcement officers, leaders of community faith organizations, and other persons interested in receiving training under the program.

(e) The division, the department of education, and the Indiana emergency medical services commission may seek federal and state funding and may accept private contributions to administer and provide mental health first aid training programs.

(f) Notwithstanding any other law, the division is not required to implement the mental health first aid training program until after June 30, 2016.

(g) Before October 1, 2015, the division shall report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4(14) concerning the status of the development of the mental health first aid training program.

IC 20-28-3-4. Continuing education.

A governing body may adjourn the governing body's schools for not more than three (3) days in a school year to allow teachers, school administrators, and paraprofessionals to participate in:

(5) a basic or inservice course of education and training on:

(A) beginning in the 2016-2017 school year, mental health first aid (IC 12-21-5-4).

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

IC 10-21-1-5. Matching grant application procedure.

(d) Before July 1, 2021, each school corporation, charter school, or accredited nonpublic school shall certify to the department of homeland security that the school corporation, charter school, or accredited nonpublic school has a memorandum of understanding in place with a community mental health center established under IC 12-29-2 or provider certified or licensed by the state to provide mental or behavioral health services to students before applying for a grant under this chapter. A provider described in this subsection may be employed by the school corporation, charter school, or accredited nonpublic school.

IC 20-19-5-1. Department duties.

The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall:

(1) develop and coordinate the children's social, emotional, and behavioral health plan that is to provide recommendations concerning:

(A) comprehensive mental health services;

(B) early intervention; and

(C) treatment services; for individuals from birth through twenty-two (22) years of age;

(2) make recommendations to the state board, which shall adopt rules under IC 4-22-2 concerning the children's social, emotional, and behavioral health plan; and

(3) conduct hearings on the implementation of the plan before adopting rules under this chapter.

IC 20-19-5-2. Plan recommendations.

The children's social, emotional, and behavioral health plan shall recommend:

- (1) procedures for the identification and assessment of social, emotional, and mental health issues;
- (2) procedures to assist a child and the child's family in obtaining necessary services to treat social, emotional, and mental health issues;
- (3) procedures to coordinate provider services and interagency referral networks for an individual from birth through twenty-two (22) years of age;
- (4) guidelines for incorporating social, emotional, and behavioral development into school learning standards and education programs;
- (5) that social, emotional, and mental health screening be included as a part of routine examinations in schools and by health care providers;
- (6) procedures concerning the positive development of children, including:
 - (A) social, emotional, and behavioral development;
 - (B) learning; and
 - (C) behavioral health;
- (7) plans for creating a children's social, emotional, and behavioral health system with shared accountability among state agencies that will:
 - (A) conduct ongoing needs assessments;
 - (B) use outcome indicators and benchmarks to measure progress; and
 - (C) implement quality data tracking and reporting systems;
- (8) a state budget for children's social, emotional, and mental health prevention and treatment;
- (9) how state agencies and local entities can obtain federal funding and other sources of funding to implement a children's social, emotional, and behavioral health plan;
- (10) how to maintain and expand the workforce to provide mental health services for individuals from birth through twenty-two (22) years of age and families;
- (11) how employers of mental health professionals may:
 - (A) improve employee job satisfaction; and
 - (B) retain employees;
- (12) how to facilitate research on best practices and model programs for children's social, emotional, and behavioral health;
- (13) how to disseminate research and provide training and educational materials concerning the children's social, emotional, and behavioral health program to:
 - (A) policymakers;
 - (B) practitioners; and
 - (C) the general public; and
- (14) how to implement a public awareness campaign to:
 - (A) reduce the stigma of mental illness; and
 - (B) educate individuals:
 - (i) about the benefits of children's social, emotional, and behavioral development; and
 - (ii) how to access children's social, emotional, and behavioral development services.

IC 20-34-3-21. Memorandum of understanding between school corporation and community mental health center or provider; referrals; documentation; diagnosis.

(a) Each school corporation and charter school shall enter into a memorandum of understanding with a community mental health center established under IC 12-29-2 or a provider certified or licensed by the state to provide appropriate and necessary mental or behavioral health services to students. The division of mental health and addiction shall develop a memorandum of understanding for referral and assist school corporations and charter schools in obtaining a memorandum of understanding with a community mental health center or an appropriate provider.

(b) A school corporation and a charter school may not refer a student to a mental health care provider or a community mental health center for services unless the school corporation or charter school has received the written consent of the student's parent or guardian.

(c) If a school corporation or charter school refers a student to a mental health care provider, the school corporation or charter school may note the referral in the student's cumulative record but may not include any possible diagnosis or information concerning the student's mental health other than any medication that the student takes for the student's mental health. A student record that contains medical information must be kept confidential.

(d) A school counselor or other employee of a school corporation or a charter school may not diagnose a student as having a mental health condition unless the individual's scope of practice includes diagnosing a mental health condition.

(e) Before providing a referral under a memorandum of understanding, each school corporation and charter school shall comply with the following requirements:

(1) Develop a process for a teacher or school employee to notify a school official to contact a student's parent if the student demonstrates a repeated pattern of aberrant or abnormal behavior. The parental notification process described in this subdivision must also include that the school will hold a conference with the student and the student's parent.

(2) Require that the conference described in subdivision (1) must address the student's potential need for and benefit from:

(A) mental or behavioral health services; or

(B) mental or behavioral health services provided by the community mental health center or appropriate provider that is contracted and paid for by the school corporation or charter school.

(3) Establish a procedure for a parent who chooses to seek services for the student to follow that includes granting written parental consent for the student to receive mental or behavioral health services by a community mental health center or appropriate provider described under subdivision (2).

(4) Ensure that a school maintains the confidentiality of any medical records that result from a student's participation in any treatment described in subdivision (2). The school must adopt a policy that prohibits the school from:

(A) sharing any reports or notes resulting from the provision of mental or behavioral health services described in subdivision (2)(A) with other school officials; and

(B) maintaining any reports, notes, diagnosis, or appointments that result from a student's participation in any treatment described in subdivision (2)(A) through (2)(B) in the student's permanent educational file.

IC 20-34-9-2. "Plan".

As used in this chapter, "plan" refers to a student and parent support services plan described in section 6(2) [IC 20-34-9-6(2)] of this chapter.

IC 20-34-9-3. "Program".

As used in this chapter, "program" refers to the student and parent support services grant program established by section 5 [IC 20-34-9-5] of this chapter.

IC 20-34-9-4. Eligibility for a grant.

Beginning after June 30, 2020, and subject to available funding, a school corporation, a charter school, and a state accredited nonpublic school are eligible for a grant under this chapter if the school corporation, charter school, or state accredited nonpublic school meets the requirements of this chapter.

IC 20-34-9-5. Student and parent support services grant program; administration.

(a) The student and parent support services grant program is established to provide grants to school corporations, charter schools, and state accredited nonpublic schools for the development and implementation of student and parent support services plans to support parents caring for at-risk students.

(b) The department, in coordination with the division of mental health and addiction, shall administer the program.

IC 20-34-9-6. Requirements to participate.

A school corporation, a charter school, or a state accredited nonpublic school must do the following to participate in the program:

(1) Apply to the department to participate in the program.

(2) Submit to the department a student and parent support services plan that the school corporation, charter school, or state accredited nonpublic school intends to implement and that includes the following:

(A) A process for a teacher or school employee to notify a school official to contact a student's parent if the student demonstrates a repeated pattern of aberrant or abnormal behavior. The parental notification process described in this clause must also include that the school will hold a conference with the student and the student's parent.

(B) A requirement that the conference described in clause (A) must address the student's potential need for and benefit from:

(i) school based treatment services; or

(ii) treatment services provided by an outside professional care provider that is contracted and paid for by the school corporation, charter school, or state accredited nonpublic school.

(C) A procedure for a parent who chooses to seek services for the student to follow that includes granting written parental consent for the student to receive services by a service provider described under clause (B).

(D) A requirement to ensure that a school shall maintain the confidentiality of any medical records that result from a student's participation in any treatment described in clause (B). The school must adopt a policy that prohibits the school from:

(i) sharing any reports or notes resulting from the provision of school based treatment services described in clause (B)(i) with other school officials; and

(ii) maintaining any reports, notes, diagnosis, or appointments that result from a student's participation in any treatment described in clause (B)(i) through (B)(ii) in the student's permanent educational file.

IC 20-34-9-7. Annual report.

(a) Before June 30, 2020, and before each June 30 thereafter, the department shall evaluate and prepare a report concerning development and implementation of the following:

(1) The program.

(2) The plans submitted and implemented by school corporations, charter schools, and state accredited nonpublic schools.

(b) The department shall submit the report described in subsection (a) to the legislative council in an electronic format under IC 5-14-6.

REGULATIONS

511 IAC 4-1.5-5. Student assistance services.

(a) School corporations shall provide student assistance services at the elementary and secondary school levels.

(b) Student assistance services shall be coordinated by a:

(1) certified school counselor;

(2) certified school psychologist; or

(3) certified school social worker (master's level).

(c) Student assistance services shall include, but are not limited to, the following:

(1) Prevention, which includes:

(A) assisting teachers and parents in delivering the health and social studies proficiencies of the school curricula;

(B) collaborating with community resources to develop summer and extended school programs to meet the social and recreational needs of students; and

(C) educating school staff and parents on the developmental needs and behavioral management of students.

(2) Assessment, which includes:

(A) educating school staff and parents to identify and refer students who are experiencing problems that interfere with student learning;

(B) obtaining and interpreting data on student needs; and

(C) implementing the school's policies and procedures with regard to identifying and referring students with their families who are in need of special services.

(3) Intervention, which includes:

(A) providing brief individual and group counseling to students and families who need help with personal concerns or developmental problems; and

(B) providing consultation services to school staff and parents regarding strategies for helping students cope with personal and social concerns.

(4) Referral, which includes:

(A) implementing policies and procedures for referring students and families to student assistance services and to community agencies for intensive counseling or other specialized services not available from the school;

(B) disseminating a directory of community services and resources; and

(C) creating a system to monitor referrals to ensure that students and families receive services in a timely and appropriate manner.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

IC 20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

- (1) a violation described in section 1 [IC 20-33-9-1] of this chapter; or
- (2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult; in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

IC 20-33-9-10. Duty to report threat.

In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee:

- (1) has received a threat;
- (2) is the victim of intimidation;
- (3) is the victim of battery; or
- (4) is the victim of harassment;

shall report that information as required by this chapter.

IC 20-33-9-10.5. Criminal organization activity; duty to report; maintaining safe school environment.

- (a) This section does not apply to a charter school or a state accredited nonpublic school.
- (b) A school employee shall report any incidence of suspected criminal organization activity, criminal organization intimidation, or criminal organization recruitment to the principal and the school safety specialist.
- (c) The principal and the school safety specialist may take appropriate action to maintain a safe and secure school environment, including providing appropriate intervention services.

IC 20-33-9-11. Procedure to make report.

- (a) If an individual who is required to make a report under this chapter is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation, battery, or harassment.
- (b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 13 [IC 20-33-9-13] of this chapter.

IC 20-33-9-12. Relief of obligation to report.

This chapter does not relieve an individual of the obligation to report a threat, intimidation, a battery, or harassment on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

IC 20-33-2-24. Principal; duties when truant child received.

- (a) When a child is delivered into the custody of a principal or acting chief administrative officer under section 23 [IC 20-33-2-23] of this chapter, the principal or officer shall immediately place the child in class in the grade or course of study in which the child is enrolled or to which the child may be properly assigned.
- (b) A child who is placed in class under this section shall not be kept at school beyond the regular hour of dismissal on that day for the grade or course of study in which the child is placed. As promptly as reasonably possible after placing a child in class under this section, the principal or acting chief administrative officer shall attempt to advise the child's parent of the facts of the case by telephone. The principal or acting chief administrative officer shall advise the parent of the facts of the case by mail on the same day the principal or officer receives the child.

IC 20-33-8-26. Rules requiring participation in disciplinary action by person caring for dependent student.

- (a) The governing body of a school corporation may adopt rules that require a person having care of a dependent student to participate in an action taken under this chapter in connection with a student's behavior. The rules must include the following:
- (1) Procedures for giving actual notice to the person having care of the dependent student.
 - (2) A description of the steps that the person must take to participate in the school corporation's action.
 - (3) A description of the additional actions in connection with the student's behavior that are justified in part or in full if the person does not participate in the school corporation's action.
- (b) A dependent student is a child in need of services under IC 31-34-1-7 if, before the student child becomes eighteen (18) years of age:
- (1) the student's parent fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by this section, if the behavior of the student has been repeatedly disruptive in the school; and
 - (2) the student needs care, treatment, or rehabilitation that the child:
 - (A) is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

IC 20-33-8.5-8. Presence of parent or guardian at hearing.

A parent or guardian has the right to be present and may be required to be present during the student's appearance.

IC 20-34-3-21. Memorandum of understanding between school corporation and community mental health center or provider; referrals; documentation; diagnosis.

- (a) Each school corporation and charter school shall enter into a memorandum of understanding with a community mental health center established under IC 12-29-2 or a provider certified or licensed by the state to provide appropriate and necessary mental or behavioral health services to students. The division of mental health and addiction shall develop a memorandum of understanding for referral and assist school corporations and charter schools in obtaining a memorandum of understanding with a community mental health center or an appropriate provider.
- (b) A school corporation and a charter school may not refer a student to a mental health care provider or a community mental health center for services unless the school corporation or charter school has received the written consent of the student's parent or guardian.

(c) If a school corporation or charter school refers a student to a mental health care provider, the school corporation or charter school may note the referral in the student's cumulative record but may not include any possible diagnosis or information concerning the student's mental health other than any medication that the student takes for the student's mental health. A student record that contains medical information must be kept confidential.

(d) A school counselor or other employee of a school corporation or a charter school may not diagnose a student as having a mental health condition unless the individual's scope of practice includes diagnosing a mental health condition.

(e) Before providing a referral under a memorandum of understanding, each school corporation and charter school shall comply with the following requirements:

- (1) Develop a process for a teacher or school employee to notify a school official to contact a student's parent if the student demonstrates a repeated pattern of aberrant or abnormal behavior. The parental notification process described in this subdivision must also include that the school will hold a conference with the student and the student's parent.

REGULATIONS

513 IAC 1-2-7. Monitoring and reporting.

(a) Every incident in which seclusion or restraint is used shall be carefully and continuously visually monitored to ensure the safety of the following:

- (1) The student.
- (2) Other students.
- (3) Teachers.
- (4) Staff.

(b) Immediately after the student has restored emotional and behavioral control following the use of restraint or seclusion, or both, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the seclusion or restraint.

(c) The building administrator or designee shall attempt to report every incident, including every incident involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which seclusion or restraint is used on a student to the student's parent or guardian:

- (1) no later than the end of the school day or as soon as practical;
- (2) verbally; and
- (3) in accordance with the seclusion and restraint plan adopted by a school.

(d) In addition to the verbal notice described in subsection (c), written notification, as described in the school's adopted plan, must also be sent to the student's parent or guardian after every incident in which seclusion or restraint is used on a student. Such notice shall be provided as soon as practical.

(e) Public school corporations and charter schools shall report the number of incidents, including the number of incidents involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which either seclusion or restraint is used in its annual performance report.

(f) A school resource officer is involved in an incident of restraint or seclusion of a student when the school resource officer:

- (1) directs the restraint or seclusion of a student;
- (2) assists with the restraint or seclusion of a student; or
- (3) initiates the seclusion or restraint of a student.

(g) Each accredited nonpublic school shall report, in writing, the number of incidents in which either seclusion or restraint is used in its school to its governing authority.

(h) Each school must conduct an annual review of its plan for the purposes of improvement and revision.

513 IAC 1-2-10. Debriefing session.

(a) As soon as practical, and consistent with the school's plan, after every instance in which seclusion or restraint is used on a student, the school administrator or designee shall do the following:

- (1) Meet with at least one (1) school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion.
- (2) Direct a proper staff person, including the administrator himself or herself, to debrief the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior or behaviors, if any, that precipitated the use of restraint or seclusion.
- (3) In accordance with the school's plan, provide a copy of an incident report and offer the parent or parents or guardian or guardians the opportunity to request a meeting regarding the incident of restraint or seclusion.

513 IAC 1-2-11. Seclusion and restraint plan.

(a) No later than July 1, 2014, each Indiana school corporation, charter school, and accredited nonpublic school must adopt a seclusion and restraint plan. At a minimum, each seclusion and restraint plan shall include the following:

- (8) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in subdivision (2).

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

IC 20-19-3-4. Duties of department; suspension and expulsion statistics; provision of data necessary for audit or evaluation of education programs; identification numbers for new schools.

(a) The department shall:

- (1) perform the duties required by statute;
- (2) implement the policies and procedures established by the state board;
- (3) conduct analytical research to assist the state board in determining the state's educational policy;
- (4) compile statistics concerning the ethnicity, gender, and disability status of students in Indiana schools, including statistics for all information that the department receives from school corporations on enrollment, number of suspensions, and number of expulsions; and
- (5) provide technical assistance to school corporations.

(b) In compiling statistics by gender, ethnicity, and disability status under subsection (a)(4), the department shall also categorize suspensions and expulsions by cause as follows:

- (1) Alcohol.
- (2) Drugs.
- (3) Deadly weapons (other than firearms).
- (4) Handguns.
- (5) Rifles or shotguns.
- (6) Other firearms.
- (7) Tobacco.
- (8) Attendance.

- (9) Destruction of property.
- (10) Legal settlement (under IC 20-33-8-17).
- (11) Fighting (incident does not rise to the level of battery).
- (12) A battery offense included in IC 35-42-2.
- (13) Intimidation (IC 35-45-2-1).
- (14) Verbal aggression or profanity.
- (15) Defiance.
- (16) Other.

(c) The department shall provide the state board any data, including fiscal data, as determined by the state board, in a reasonable time frame established by the state board after consultation with the department, necessary to conduct an audit or evaluation of any federal or state supported program principally engaged in the provision of education, including, but not limited to:

- (1) early childhood education;
- (2) elementary and secondary education;
- (3) postsecondary education;
- (4) special education;
- (5) job training;
- (6) career and technical education; and
- (7) adult education;

or for the enforcement of or compliance with federal legal requirements related to those education programs as determined by the state board. The state board and the department are considered state educational authorities within the meaning of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99) for the purpose of allowing the free exchange of information between the department and the state board.

(d) The department may, upon request by a new school, assign an identification number for the new school.

(e) The department shall develop guidelines necessary to implement this section.

IC 20-20-8-8. Report information.

(a) The report must include the following information:

- (1) Student enrollment.
- (2) Graduation rate (as defined in IC 20-26-13-6) and the graduation rate excluding students that receive a graduation waiver under IC 20-32-4-4 or IC 20-32-4-4.1.
- (3) Attendance rate.
- (4) The following test scores, including the number and percentage of students meeting academic standards:
 - (A) All state standardized assessment scores.
 - (B) Scores for assessments under IC 20-32-5-21 (before its expiration on July 1, 2018), if appropriate.
 - (C) For a freeway school, scores on a locally adopted assessment program, if appropriate.
- (5) Average class size.
- (6) The school's performance category or designation of school improvement assigned under IC 20-31- 8.
- (7) The number and percentage of students in the following groups or programs:
 - (A) Alternative education, if offered.
 - (B) Career and technical education.

- (C) Special education.
 - (D) High ability.
 - (E) Limited English language proficiency.
 - (F) Students receiving free or reduced price lunch under the national school lunch program.
 - (G) Students in foster care.
- (8) Advanced placement, including the following:
- (A) For advanced placement tests, the percentage of students:
 - (i) scoring three (3), four (4), and five (5); and
 - (ii) taking the test.
 - (B) For the Scholastic Aptitude Test:
 - (i) the average test scores for all students taking the test;
 - (ii) the average test scores for students completing the Indiana diploma with a Core 40 with academic honors designation program; and
 - (iii) the percentage of students taking the test.
- (9) Course completion, including the number and percentage of students completing the following programs:
- (A) Academic honors curriculum.
 - (B) Core 40 curriculum.
 - (C) Career and technical programs.
- (10) The percentage of graduates considered college and career ready in a manner prescribed by the state board.
- (11) School safety, including:
- (A) the number of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons; and
 - (B) the number of incidents reported under IC 20-33-9.
- (12) Financial information and various school cost factors required to be provided to the office of management and budget under IC 20-42.5-3-5.
- (13) The number and percentage of each of the following within the school corporation:
- (A) Teachers who are certificated employees (as defined in IC 20-29-2-4).
 - (B) Teachers who teach the subject area for which the teacher is certified and holds a license.
 - (C) Teachers with national board certification.
- (14) The percentage of grade 3 students reading at grade 3 level.
- (15) The number of students expelled, including the percentage of students expelled disaggregated by race, grade, gender, free or reduced price lunch status, eligibility for special education, and students in foster care.
- (16) Chronic absenteeism, which includes the number of students who have been absent from school for ten percent (10%) or more of a school year for any reason.
- (17) Habitual truancy, which includes the number of students who have been absent ten (10) days or more from school within a school year without being excused or without being absent under a parental request that has been filed with the school.
- (18) The number of students who have dropped out of school, including the:
- (A) reasons for dropping out; and

(B) percentage of students who have dropped out, disaggregated by race, grade, gender, free or reduced price lunch status, eligibility for special education, and students in foster care.

(19) The number of out of school suspensions assigned, including the percentage of students suspended disaggregated by race, grade, gender, free or reduced price lunch status, eligibility for special education, and students in foster care.

(20) The number of in school suspensions assigned, including the percentage of students suspended disaggregated by race, grade, gender, free or reduced price lunch status, eligibility for special education, and students in foster care.

(21) The number of student work permits revoked.

(22) The number of students receiving an international baccalaureate diploma.

(b) Section 3(a) [IC 20-20-8-3(a)] of this chapter does not apply to the publication of information required under this subsection. This subsection applies to schools, including charter schools, located in a county having a consolidated city, including schools located in excluded cities (as defined in IC 36-3-1-7). A separate report including the information reported under subsection (a) must be:

(1) disaggregated by race, grade, gender, free or reduced price lunch status, eligibility for special education, and students in foster care; and

(2) made available on the Internet as provided in section 3(b) [IC 20-20-8-3(b)] of this chapter.

IC 20-26-18-6. Reporting requirements.

(a) Not later than June 1, 2017, and before June 2 of each year thereafter, each school corporation shall submit to the department a written report, on forms developed by the department, outlining the activities undertaken as part of the school corporation's compliance with this chapter. The report must include school based data to monitor for disproportionality, with each school reporting the number of investigations disposed of internally and the number of cases referred to local law enforcement, disaggregated by race, ethnicity, age, and gender.

(b) Not later than November 1, 2017, and before November 2 of each year thereafter, the department shall submit a comprehensive report concerning criminal organization activity in schools to the governor and the general assembly. A report submitted to the general assembly under this subsection must be in an electronic format under IC 5-14-6. The report must include the following:

(1) A summary of the activities reported to the department under subsection (a).

(2) Any recommendations or conclusions made by the department to assist in the prevention of, education about, and intervention in criminal organization activity in schools.

IC 20-26-18.2-4. Reporting use of restraints and seclusion.

A school corporation, a state accredited nonpublic school, or a charter school shall report all instances of:

(1) seclusion (as defined in IC 20-20-40-9);

(2) chemical restraint (as defined in IC 20-20-40-2);

(3) mechanical restraint (as defined in IC 20-20-40-4); and

(4) physical restraint (as defined in IC 20-20-40-5);

involving a school resource officer in accordance with the restraint and seclusion plan adopted by the school corporation, state accredited nonpublic school, or charter school under IC 20-20-40-14.

IC 20-26-5-32. Involvement of parents with discipline plan; department's model discipline plan.

(a) The governing body of each school corporation shall work with parents to:

(1) develop; and

(2) review periodically;

an evidence based plan for improving student behavior and discipline in the school corporation after receiving a model plan developed by the department.

(b) The model plan developed by the department under subsection (a) must:

- (1) reduce out-of-school suspension and disproportionality in discipline and expulsion;
- (2) limit referrals to law enforcement and arrests on school property to cases in which referral to law enforcement or arrest is necessary to protect the health and safety of students or school employees; and
- (3) include policies to address instances of bullying and cyberbullying on school property of a school corporation.

(c) Beginning in the 2019-2020 school year, the department, in collaboration with parent organizations, teacher organizations, educational support professional organizations, and state educational institutions, shall, upon a school corporation's request, provide information and assistance to the school corporation regarding the implementation of the school corporation's evidence based plan developed under subsection (a) to ensure that teachers and administrators receive appropriate professional development and other resources in preparation for carrying out the plan.

IC 20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 [IC 20-33-8-12] of this chapter must:

- (1) prohibit bullying; and
- (2) include:
 - (A) provisions concerning education, parental involvement, and intervention;
 - (B) a detailed procedure for the expedited investigation of incidents of bullying that includes:
 - (i) appropriate responses to bullying behaviors, wherever the behaviors occur;
 - (ii) provisions for anonymous and personal reporting of bullying to a teacher or other school staff;
 - (iii) timetables for reporting of bullying incidents to the parents of both the targeted student and the bully, in an expedited manner;
 - (iv) timetables for reporting of bullying incidents to school counselors, school administrators, the superintendent, or law enforcement, if it is determined that reporting the bullying incident to law enforcement is necessary;
 - (v) discipline provisions for teachers, school staff, or school administrators who fail to initiate or conduct an investigation of a bullying incident; and
 - (vi) discipline provisions for false reporting of bullying; and
 - (C) a detailed procedure outlining the use of follow-up services that includes:
 - (i) support services for the victim; and
 - (ii) bullying education for the bully.

(b) The discipline rules described in subsection (a) may be applied regardless of the physical location in which the bullying behavior occurred, whenever:

- (1) the individual committing the bullying behavior and any of the intended targets of the bullying behavior are students attending a school within a school corporation; and
- (2) disciplinary action is reasonably necessary to avoid substantial interference with school discipline or prevent an unreasonable threat to the rights of others to a safe and peaceful learning environment.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

- (1) computer;
- (2) computer system;

(3) computer network; or

(4) cellular telephone or other wireless or cellular communications device.

(d) This section may not be construed to give rise to a cause of action against a person or school corporation based on an allegation of noncompliance with this section. Noncompliance with this section may not be used as evidence against a school corporation in a cause of action.

(e) A record made of an investigation, a disciplinary action, or a follow-up action performed under rules adopted under this section is not a public record under IC 5-14-3.

(f) The department shall periodically review each policy adopted under this section to ensure the policy's compliance with this section.

IC 20-34-6-1. School corporation reports; department reports.

(a) By July 1 of each year, each school corporation shall submit a report to the department detailing the following information for the current school year for each school in the school corporation and for the entire school corporation:

(1) The number of arrests of students on school corporation property, including arrests made by law enforcement officers, security guards, school safety specialists, and other school corporation employees, and any citizen arrests.

(2) The offenses for which students were arrested on school corporation property.

(3) The number of contacts with law enforcement personnel from a school corporation employee that have resulted in arrests of students not on school corporation property.

(4) Statistics concerning the age, race, and gender of students arrested on school corporation property and categorizing the statistics by offenses.

(5) Whether the school corporation has established and employs a school corporation police department under IC 20-26-16, and if so, report:

(A) the number of officers in the school corporation police department; and

(B) the training the officers must complete.

(6) If the school corporation employs private security guards to enforce rules or laws on school property, a detailed explanation of the use of private security guards by the school corporation.

(7) If the school corporation has an agreement with a local law enforcement agency regarding procedures to arrest students on school property, a detailed explanation of the use of the local law enforcement agency by the school corporation.

(8) The number of reported bullying incidents involving a student of the school corporation by category. However, nothing in this subdivision may be construed to require all bullying incidents to be reported to a law enforcement agency.

(b) By August 1 of each year, the department shall submit a report to:

(1) the legislative council;

(2) the board for the coordination of programs serving vulnerable individuals established by IC 4-23-30.2-8; and

(3) the criminal justice institute;

providing a summary of the reports submitted to the department under subsection (a). The report to the legislative council must be in an electronic format under IC 5-14-6.

(c) By August 1 of each year, the department must post the reports described in subsections (a) and (b) on the department's Internet web site.

(d) Information reported under subsection (a)(8) may not be used in the calculation of a school corporation's improvement under IC 20-31-8.

IC 20-34-6-2. Notice of reporting requirements; audits.

(a) Not later than June 1, 2018, and each June 1 thereafter, the department shall send notification via electronic mail or a letter to each school corporation explaining:

(1) the school corporation's obligation to report bullying incidents under section 1(a)(8) [IC 20-34-6-1(a)(8)] of this chapter; and

(2) that the department may conduct an audit of a school corporation under subsection (b) to ensure the school corporation's compliance with the requirements of section 1(a)(8) of this chapter.

(b) The department may conduct an audit of a school corporation to ensure that the school corporation is accurately reporting bullying incidents under section 1(a)(8) of this chapter. If the department finds discrepancies in the school corporation's reporting of bullying incidents under section 1(a)(8) of this chapter, the department shall post a copy of the department's findings on the department's Internet web site.

REGULATIONS

513 IAC 1-2-7. Monitoring and reporting.

(a) Every incident in which seclusion or restraint is used shall be carefully and continuously visually monitored to ensure the safety of the following:

(1) The student.

(2) Other students.

(3) Teachers.

(4) Staff.

(b) Immediately after the student has restored emotional and behavioral control following the use of restraint or seclusion, or both, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the seclusion or restraint.

(c) The building administrator or designee shall attempt to report every incident, including every incident involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which seclusion or restraint is used on a student to the student's parent or guardian:

(1) no later than the end of the school day or as soon as practical;

(2) verbally; and

(3) in accordance with the seclusion and restraint plan adopted by a school.

(d) In addition to the verbal notice described in subsection (c), written notification, as described in the school's adopted plan, must also be sent to the student's parent or guardian after every incident in which seclusion or restraint is used on a student. Such notice shall be provided as soon as practical.

(e) Public school corporations and charter schools shall report the number of incidents, including the number of incidents involving a school resource officer (as defined in 513 IAC 1-1-18.5), in which either seclusion or restraint is used in its annual performance report.

(f) A school resource officer is involved in an incident of restraint or seclusion of a student when the school resource officer:

(1) directs the restraint or seclusion of a student;

(2) assists with the restraint or seclusion of a student; or

(3) initiates the seclusion or restraint of a student.

(g) Each accredited nonpublic school shall report, in writing, the number of incidents in which either seclusion or restraint is used in its school to its governing authority.

(h) Each school must conduct an annual review of its plan for the purposes of improvement and revision.

513 IAC 1-2-8. Distribution of school seclusion and restraint policy or plan to parents and the public.

(a) Each school shall make available a copy of the school's seclusion and restraint plan to the student's parents or guardians, or to the student if the student is at least eighteen (18) years of age and the provisions of 511 IAC 7-43-5(b) do not apply.

(b) Including the location of the plan in the student handbook satisfies subsection (a).

513 IAC 1-2-10. Debriefing session.

(a) As soon as practical, and consistent with the school's plan, after every instance in which seclusion or restraint is used on a student, the school administrator or designee shall do the following:

(1) Meet with at least one (1) school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion.

(2) Direct a proper staff person, including the administrator himself or herself, to debrief the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior or behaviors, if any, that precipitated the use of restraint or seclusion.

(3) In accordance with the school's plan, provide a copy of an incident report and offer the parent or parents or guardian or guardians the opportunity to request a meeting regarding the incident of restraint or seclusion.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

IC 20-26-5-32. Involvement of parents with discipline plan; department's model discipline plan.

- (a) The governing body of each school corporation shall work with parents to:
- (1) develop; and
 - (2) review periodically;
- an evidence based plan for improving student behavior and discipline in the school corporation after receiving a model plan developed by the department.
- (b) The model plan developed by the department under subsection (a) must:
- (2) limit referrals to law enforcement and arrests on school property to cases in which referral to law enforcement or arrest is necessary to protect the health and safety of students or school employees.

IC 20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

IC 20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

- (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.
- (b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-31.5-2-86. The term does not include a firearm or destructive device.
- (c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.
- (d) Notwithstanding section 20 [IC 20-33-8-20] of this chapter, a student who is:
- (1) identified as bringing a firearm or destructive device to school or on school property; or
 - (2) in possession of a firearm or destructive device on school property; must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.
- (e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.
- (f) Notwithstanding section 20 of this chapter, a student who is:
- (1) identified as bringing a deadly weapon to school or on school property; or
 - (2) in possession of a deadly weapon on school property; may be expelled for not more than one (1) calendar year.
- (g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

(h) A student with a disability (as defined in IC 20-35-1-8) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

IC 20-33-8.5-1. Applicability.

This chapter does not apply to a nonpublic school.

IC 20-33-8.5-2. Agreement between superintendent and court having juvenile jurisdiction.

A superintendent and a court having juvenile jurisdiction in the county may enter into a voluntary agreement (referred to as the "agreement" in this chapter) for court assisted resolution of school suspension and expulsion cases. The agreement may require the court to supervise or provide for the supervision of an expelled or suspended student who has been referred to the court by the school corporation in accordance with the terms of the agreement.

IC 20-33-8.5-3. Agreement; court's responsibilities.

The agreement may require that a court do one (1) or more of the following:

- (1) Establish a flexible program for the supervision of a student who has been suspended or expelled.
- (2) Supervise a student who has been suspended or expelled.
- (3) Require a student who has been suspended or expelled to participate in a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.

IC 20-33-8.5-4. Agreement; school corporation's responsibilities.

(a) The agreement may require that a school corporation do one (1) or more of the following:

- (1) Define the violation for which a student who has been suspended or expelled shall be referred to the court.
- (2) Refer a student who has been suspended or expelled for a violation described in subdivision (1) to the court.
- (3) Establish a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.

(b) If a school corporation enters into an agreement, the discipline rules adopted by the school corporation under IC 20-33-8-12 must specify the violations for which a student may be referred to the court under the agreement.

IC 20-33-8.5-5. Agreement; payment of expenses.

The agreement must provide how the expenses of supervising a student who has been suspended or expelled are funded. A school corporation may not be required to expend more than the foundation amount (as defined by IC 20-43-3-8) for each student referred under the agreement.

IC 20-33-8.5-6. Informal hearing before court.

A student shall be given an informal hearing before the court, in a setting agreed upon by the court and the school system, as soon as practicable following the student's referral to the court, after notice of the hearing has been provided to the student's parent.

IC 20-33-8.5-7. Hearing not a determination of whether student is child in need of services.

A hearing under this chapter is not a hearing to determine whether a student who has been suspended or expelled is a child in need of services. However, if a court determines that a student who has been suspended or expelled may:

- (1) be a child in need of services (as described in IC 31-34-1); or
- (2) have committed a delinquent act (as described in IC 31-37); the court may notify the office of family and children or the prosecuting attorney.

IC 20-33-8.5-8. Presence of parent or guardian at hearing.

A parent or guardian has the right to be present and may be required to be present during the student's appearance.

IC 20-33-8.5-9. Appearance of student not to be used in subsequent court proceedings.

A student's appearance in court under this chapter shall not be used against the child or the child's parents or guardians in any subsequent court proceeding, including but not limited to any delinquency or child in need of services matter under IC 31.

IC 20-33-8.5-12. Child not deprived of due process rights.

This chapter does not deprive a child of any due process rights to which the child may be entitled.

IC 20-33-9-6. Controlled substance violations; reports by members of administrative staffs.

A member of the administrative staff who, based on personal knowledge or on the report of another employee of the school corporation, believes that a person has committed a violation described in section 1 [IC 20-33-9-1] of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the member, shall immediately report:

- (1) a general description of the violation;
- (2) the name or a general description of each violator known to the member;
- (3) the date, time, and and [sic] place of the violation;
- (4) the name or a general description of each person who the member knows witnessed any part of the violation; and
- (5) a general description and the location of any property that the member knows was involved in the violation;

in writing to a law enforcement officer.

IC 20-33-9-13. Oral report to local law enforcement agency.

An individual who has a duty under sections 10 through 12 [IC 20-33-9-10 through IC 20-33-9-12] of this chapter to report that a school employee may have received a threat or may be the victim of intimidation, battery, or harassment shall immediately make an oral report to the local law enforcement agency.

IC 35-47-9-2. Possession of firearms on school property or a school bus; defense to a prosecution; possession of firearms in a motor vehicle parked in a school parking lot.

(a) A person may not be charged with an offense under this subsection if the person may be charged with an offense described in subsection (c). A person who knowingly or intentionally possesses a firearm:

- (1) in or on school property; or
- (2) on a school bus;

commits a Level 6 felony.

(b) It is a defense to a prosecution under subsection (a) that:

- (1) the person is permitted to legally possess the firearm; and
- (2) the firearm is:
 - (A) locked in the trunk of the person's motor vehicle;
 - (B) kept in the glove compartment of the person's locked motor vehicle; or

(C) stored out of plain sight in the person's locked motor vehicle.

(c) A person who is permitted to legally possess a firearm and who knowingly, intentionally, or recklessly leaves the firearm in plain view in a motor vehicle that is parked in a school parking lot commits a Class A misdemeanor.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

IC 20-26-5-31. School corporation police; autism and Asperger's syndrome training.

(a) If a school corporation, including a school city (as defined in IC 20-25-2-12), establishes a school corporation police department, the governing body of the school corporation shall adopt a policy that requires every individual appointed as a school corporation police officer to complete training and education, approved by the state board, that will enable the school corporation police officer to appropriately deal with individuals with autism and Asperger's syndrome.

(b) This subsection applies to a regular or special police officer who is assigned as a security police officer for a school corporation under IC 36-8-3-7. The governing body of the school corporation to which the police officer is assigned shall ensure that the police officer receives training and education, approved by the state board, that will enable the police officer to appropriately deal with individuals with autism and Asperger's syndrome.

IC 20-26-16-4. Minimum training requirements.

An individual appointed as a school corporation or charter school police officer must successfully complete at least:

- (1) the pre-basic training course established under IC 5-2-1-9(f); and
- (2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

IC 20-26-16-5. Training for certain officers.

(a) Notwithstanding section 4 [IC 20-26-16-4] of this chapter and IC 5-2-1-9, an individual appointed as a school corporation police officer before July 1, 2007, must complete, not later than July 1, 2010, at least:

- (1) the pre-basic training course established under IC 5-2-1-9(f); and
- (2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

(b) As set forth in IC 5-2-1-9, an individual appointed as a school corporation or charter school police officer may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the school corporation or charter school police officer successfully completes a pre-basic training course under IC 5-2-1-9(f).

IC 20-26-18.2-1. "School resource officer".

- (a) As used in this chapter, "school resource officer" means an individual who:
- (1) has completed the training described in subsection (b);
 - (2) is assigned to one (1) or more school corporations or charter schools to:
 - (A) assist the school safety specialist with the development and implementation of the school safety plan as provided in section 2 [IC 20-26-18.2-2] of this chapter; and
 - (B) carry out any additional responsibilities assigned to the school resource officer under the employment engagement, contract, or memorandum of understanding and to:
 - (i) protect against outside threats to the physical safety of students;
 - (ii) prevent unauthorized access to school property; and
 - (iii) secure schools against violence and natural disasters; and
 - (3) is:
 - (A) employed by a law enforcement agency;
 - (B) appointed as a police reserve officer (as described in IC 36-8-3-20) or as a special deputy (as described in IC 36-8-10-10.6) if the police reserve officer or special deputy:
 - (i) is subject to the direction of the sheriff or appointing law enforcement agency;
 - (ii) is required to obey the rules and orders of the sheriff's department or appointing law enforcement agency;
 - (iii) is required to complete all training required of regular full-time law enforcement officers employed by the sheriff's department or appointing law enforcement agency; and
 - (iv) may be removed by the sheriff or appointing law enforcement agency at any time, with or without cause; or
 - (C) a school corporation police officer appointed under IC 20-26-16-3.
- (b) Before being appointed as a school resource officer, an individual must have:
- (1) successfully completed the minimum training requirements established for law enforcement officers under IC 5-2-1-9; and
 - (2) received at least forty (40) hours of school resource officer training through:
 - (A) the Indiana law enforcement training board established by IC 5-2-1-3;
 - (B) the National Association of School Resource Officers; or
 - (C) another school resource officer training program approved by the Indiana law enforcement training board.
- (c) Training described in subsection (b)(2) must include instruction regarding skills, tactics, and strategies necessary to address the special nature of:
- (1) school campuses; and
 - (2) school building security needs and characteristics.

REGULATIONS

513 IAC 1-1-18.5. "School resource officer" defined.

Sec. 18.5. "School resource officer" has the meaning set forth in IC 20-26-18.2-1.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

IC 10-21-1-2. Indiana secured school fund.

(a) The Indiana secured school fund is established to provide matching grants to enable school corporations, charter schools, and accredited nonpublic schools to establish programs under which a school corporation, charter school, or accredited nonpublic school (or a coalition of schools) may:

(1) employ a school resource officer, employ a law enforcement officer, or enter into a contract or a memorandum of understanding with a:

(A) local law enforcement agency;

(B) private entity; or

(C) nonprofit corporation;

to employ a school resource officer or a law enforcement officer;

(2) conduct a threat assessment of the buildings within a school corporation or the buildings that are operated by a charter school or accredited nonpublic school;

(3) purchase equipment and technology to:

(A) restrict access to school property; or

(B) expedite notification of first responders;

(b) The fund shall be administered by the department of homeland security.

(c) The fund consists of:

(1) appropriations from the general assembly;

(2) grants from the Indiana safe schools fund established by IC 5-2-10.1-2;

(3) federal grants; and

(4) amounts deposited from any other public or private source.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

IC 10-21-1-4. Matching grants for school safety.

(a) The board may award a matching grant to enable a school corporation, charter school, or accredited nonpublic school (or a coalition of schools applying jointly) to establish a program to employ a school resource officer, employ a law enforcement officer, provide school resource officer training described in IC 20-26-18.2-1(b)(2), conduct a threat assessment, or purchase equipment to restrict access to the school or expedite the notification of first responders in accordance with section 2(a) [IC 10-21-1-2(a)] of this chapter.

IC 20-26-16-1. Application.

This chapter applies to a school corporation, including a school city (as defined in IC 20-25-2-12) and a charter school.

IC 20-26-16-2. Authority to establish police department.

The governing body of a school corporation or charter school may establish a school corporation or charter school police department under this chapter.

IC 20-26-16-3. Authority to appoint officers; uniforms; vehicles.

The governing body of a school corporation or the equivalent for a charter school may do the following for the school corporation or charter school police department:

- (1) Appoint school corporation or charter school police officers.
- (2) Prescribe the duties and direct the conduct of school corporation or charter school police officers.
- (3) Prescribe distinctive uniforms.
- (4) Provide emergency vehicles.

IC 20-26-16-4. Minimum training requirements.

An individual appointed as a school corporation or charter school police officer must successfully complete at least:

- (1) the pre-basic training course established under IC 5-2-1-9(f); and
- (2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

IC 20-26-16-5. Training for certain officers.

(a) Notwithstanding section 4 [IC 20-26-16-4] of this chapter and IC 5-2-1-9, an individual appointed as a school corporation police officer before July 1, 2007, must complete, not later than July 1, 2010, at least:

- (1) the pre-basic training course established under IC 5-2-1-9(f); and
- (2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

(b) As set forth in IC 5-2-1-9, an individual appointed as a school corporation or charter school police officer may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the school corporation or charter school police officer successfully completes a pre-basic training course under IC 5-2-1-9(f).

IC 20-26-16-6. School corporation police officers; oath; powers and duties; jurisdiction.

(a) A school corporation or charter school police officer appointed under this chapter:

- (1) is a law enforcement officer (as defined in IC 5-2-1-2(1));
- (2) must take an appropriate oath of office in a form and manner prescribed by the governing body or the equivalent for a charter school;
- (3) serves at the governing body's (or the equivalent for a charter school) pleasure; and
- (4) performs the duties that the governing body or the equivalent for a charter school assigns.

(b) School corporation or charter school police officers appointed under this chapter have general police powers, including the power to arrest, without process, all persons who within their view commit any offense. They have the same common law and statutory powers, privileges, and immunities as sheriffs and constables, except that they are empowered to serve civil process only to the extent authorized by the employing governing body or the equivalent for a charter school; however, any powers may be expressly forbidden them by the governing body (or the equivalent for a charter school) employing them. In addition to any other powers or duties, such police officers shall enforce and assist the educators and administrators of their school corporation or charter school in the enforcement of the rules and regulations of the school corporation or charter school and assist and cooperate with other law enforcement agencies and officers.

(c) Such police officers may exercise the powers granted under this section only upon any property owned, leased, or occupied by the school corporation or charter school, including the streets passing through and adjacent to the property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency where the property is located, dependent upon the jurisdiction involved.

IC 20-26-16-7. Existing school corporation police departments.

A school corporation police department established before July 1, 2007, shall be considered, after June 30, 2007, a school corporation police department established under this chapter.

IC 20-26-18.2-1. "School resource officer".

(a) As used in this chapter, "school resource officer" means an individual who:

- (1) has completed the training described in subsection (b);
- (2) is assigned to one (1) or more school corporations or charter schools to:
 - (A) assist the school safety specialist with the development and implementation of the school safety plan as provided in section 2 [IC 20-26-18.2-2] of this chapter; and
 - (B) carry out any additional responsibilities assigned to the school resource officer under the employment engagement, contract, or memorandum of understanding and to:
 - (i) protect against outside threats to the physical safety of students;
 - (ii) prevent unauthorized access to school property; and
 - (iii) secure schools against violence and natural disasters; and

(3) is:

- (A) employed by a law enforcement agency;
- (B) appointed as a police reserve officer (as described in IC 36-8-3-20) or as a special deputy (as described in IC 36-8-10-10.6) if the police reserve officer or special deputy:
 - (i) is subject to the direction of the sheriff or appointing law enforcement agency;
 - (ii) is required to obey the rules and orders of the sheriff's department or appointing law enforcement agency;
 - (iii) is required to complete all training required of regular full-time law enforcement officers employed by the sheriff's department or appointing law enforcement agency; and
 - (iv) may be removed by the sheriff or appointing law enforcement agency at any time, with or without cause; or
- (C) a school corporation police officer appointed under IC 20-26-16-3.

(b) Before being appointed as a school resource officer, an individual must have:

- (1) successfully completed the minimum training requirements established for law enforcement officers under IC 5-2-1-9; and
- (2) received at least forty (40) hours of school resource officer training through:
 - (A) the Indiana law enforcement training board established by IC 5-2-1-3;
 - (B) the National Association of School Resource Officers; or
 - (C) another school resource officer training program approved by the Indiana law enforcement training board.

(c) Training described in subsection (b)(2) must include instruction regarding skills, tactics, and strategies necessary to address the special nature of:

- (1) school campuses; and
- (2) school building security needs and characteristics.

IC 20-26-18.2-2. Employment of school resource officer; duties.

(a) A school resource officer may be employed:

(1) by one (1) or more school corporations or charter schools through a contract between a local law enforcement agency and the school corporation or school corporations or the charter school or charter schools;

(2) by one (1) or more school corporations or charter schools;

(3) by a local law enforcement agency that assigns the school resource officer to one (1) or more school corporations or charter schools through a memorandum of understanding between the local law enforcement agency and the school corporation or school corporations or the charter school or charter schools; or

(4) through a contract between an Indiana business that employs persons who meet the qualifications of a school resource officer and the school corporation or school corporations or the charter school or charter schools.

(b) A contract or memorandum of understanding entered into under subsection (a) must state the nature and scope of a school resource officer's duties and responsibilities. A school resource officer's duties and responsibilities include the duty to assist the school corporation's school safety specialist with the development and implementation of a school safety plan that does the following:

(1) Protects against outside threats to the physical safety of students.

(2) Prevents unauthorized access to school property.

(3) Secures schools against violence and natural disasters.

(4) On or before July 1, 2020, identifies the location of bleeding control kits (as defined in IC 20-34-3-24(a)).

(c) A school resource officer shall consult with local law enforcement officials and first responders when assisting the school corporation's school safety specialist in the development of the school safety plan.

(d) A school resource officer shall participate in the development of programs designed to identify, assess, and provide assistance to troubled youth.

(e) A school resource officer may not be reassigned to other duties by the school corporation.

IC 20-26-18.2-3. School resource officer's police powers.

(a) A school resource officer may:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property using the reasonable suspicion standard;

(3) carry a firearm on or off school property; and

(4) exercise other police powers with respect to the enforcement of Indiana laws.

(b) A school resource officer has jurisdiction in every county where the school corporation or charter school engaging the officer operates a school or where the school corporation or charter school's students reside. This subsection does not restrict the jurisdiction that a school resource officer may possess due to the officer's employment by a law enforcement agency.

IC 20-40-20-6. Uses of money in the fund; distributions to a charter school.

(a) Subject to subsections (c) and (d), money in the fund may be used only for the following purposes:

(1) To employ or compensate a school resource officer or school resource officers.

(2) To establish or fund a school safety office.

(3) To conduct a threat assessment of a school building.

(4) To create or update a school safety plan.

(5) To develop or update school emergency response systems.

- (6) To purchase equipment to improve the safety of a school building, school grounds, or school buses.
 - (7) To pay capital expenses to improve the safety of a school building.
 - (8) To establish and administer programs to address youth specific mental illness, addiction, anger management, bullying, and school violence.
 - (9) To develop and administer professional development programs for teachers, administrators, and other school employees designed to improve school safety and reduce violence.
- (b) A school corporation may distribute, with the approval of the majority of members of the governing body, a portion of the proceeds of a tax levy collected under IC 20-46-9 that is deposited in the fund to a charter school, excluding a virtual charter school, that is located within the attendance area of the school corporation, to be used by the charter school for the purposes described in subsection (a).
- (c) Expenditures paid using money collected from the levy shall be included in a school's safety plan.
- (d) Local law enforcement shall participate in:
- (1) development of a school safety plan;
 - (2) development or updates to school emergency response systems; and
 - (3) determination of capital expenses that would improve the safety of a school building.
- (e) Money in the fund may be transferred to the school corporation's education fund (IC 20-40-2), operations fund (IC 20-40-18), or school safety referendum debt service fund (IC 20-40-21), as applicable, to pay for expenditures listed in subsection (a).

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

IC 10-21-1-2. Indiana secured school fund.

- (a) The Indiana secured school fund is established to provide matching grants to enable school corporations, charter schools, and accredited nonpublic schools to establish programs under which a school corporation, charter school, or accredited nonpublic school (or a coalition of schools) may:
- (2) conduct a threat assessment of the buildings within a school corporation or the buildings that are operated by a charter school or accredited nonpublic school.

IC 10-21-1-4. Matching grants for school safety.

- (a) The board may award a matching grant to enable a school corporation, charter school, or accredited nonpublic school (or a coalition of schools applying jointly) to establish a program to employ a school resource officer, employ a law enforcement officer, provide school resource officer training described in IC 20-26-18.2-1(b)(2), conduct a threat assessment, or purchase equipment to restrict access to the school or expedite the notification of first responders in accordance with section 2(a) [IC 10-21-1-2(a)] of this chapter.

IC 10-21-1-5. Matching grant application procedure.

- (c) Before July 1, 2021, each school corporation, charter school, or accredited nonpublic school shall certify to the department of homeland security that the school corporation, charter school, or accredited nonpublic school has conducted a threat assessment for each school building used by the school corporation, charter school, or accredited nonpublic school before applying for a grant under this chapter.

IC 20-40-20-6. Uses of money in the fund; distributions to a charter school.

- (a) Subject to subsections (c) and (d), money in the fund may be used only for the following purposes:
- (3) To conduct a threat assessment of a school building.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Indiana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Alternative Education, Indiana Department of Education (IDOE)	Provides information and resources on alternative forms of education support designed for at-risk students including shared characteristics of successful alternative programs, best practices, and additional documents.	https://www.in.gov/doe/grants/alternative-education/
Bullying & Cyberbullying Prevention and Response, IDOE	Provides links to reporting, prevention, school policy, staff training, resources, student services, and contact information related to bullying.	https://www.in.gov/doe/students/school-safety-and-wellness/bullying-prevention-resources/
Commission on Seclusion and Restraint in Schools, IDOE	Provides links to resources, trainings, and commission on Seclusion and Restraints in schools as well as the Model Restraint and Seclusion Plan.	https://www.in.gov/doe/legal/commission-on-seclusion-and-restraint/
Title	Description	Website address (if applicable)
<i>Documents</i>		
Comprehensive Positive School Discipline Resource Guide, IDOE	Resource guide to assist schools and districts by providing information and tools to further the development of Positive School Discipline practices, including related topics such as code of conduct, cyber-bullying, and bullying prevention and intervention.	https://www.in.gov/children/files/comprehensive-positive-school-discipline-resource-guide.pdf
Model Restraint and Seclusion Plan, IDOE	State model plan providing guidance to school corporations regarding the limited use of either seclusion or restraint of students.	https://www.in.gov/doe/files/indiana-commission-restraint-seclusion-model-plan.pdf
Model School Corporation Policy on Anti-Bullying, IDOE	State model policy addressing anti-bullying in accordance with state law.	https://www.in.gov/doe/files/model-school-corporation-policy.docx

Title	Description	Website address (if applicable)
Social Emotional Learning Toolkit, 2018, IDOE	Toolkit for school districts and educators to train and prepare school staff for helping students develop and achieve social-emotional learning.	https://digitalcommons.butler.edu/cgi/viewcontent.cgi?article=1160&context=coe_papers
<i>Other Resources</i>		
Supporting Student Success through Culturally Responsive Practice (Video), IDOE	Instructional video related to reviewing school policies and practices to promote equity and culturally responsive learning environments.	https://www.youtube.com/watch?v=U2HzvGU7Zlw&feature=youtu.be



Iowa
Compilation of School
Discipline Laws and
Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

279.58. School dress code policies.

1. The general assembly finds and declares that the students and the administrative and instructional staffs of Iowa's public schools have the right to be safe and secure at school. Gang-related apparel worn at school draws attention away from the school's learning environment and directs it toward thoughts or expressions of violence, bigotry, hate, and abuse.
2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

279.66. Discipline and personal conduct standards.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

280.28. Harassment and bullying prohibited - policy - immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy.

299.9. Truants - rules for punishment.

The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

Scope

LAWS

279.66. Discipline and personal conduct standards.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

280.28. Harassment and bullying prohibited - policy - immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

282.4. Suspension - expulsion.

2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

Communication of Policy

LAWS

280.28. Harassment and bullying prohibited - policy - immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

g. A statement of the manner in which the policy will be publicized.

808A.2. Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

1. The school board of each public school and the authorities in charge of each nonpublic school shall establish and may search a student or protected student area pursuant to a student search rule. The student search rule shall be published in each public school's and each nonpublic school's student handbook.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons,

and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies shall ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board shall also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, disability, religion, creed, or socioeconomic status.

The board shall publicize its support of these policies, its support of the staff in enforcing them, and the staff's accountability for implementing them. [...]

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

- g. A statement of the manner in which the policy will be publicized.

281-103.7(256B,280). Reasonable and necessary force - use of physical restraint or seclusion.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

In-School Discipline

Discipline Frameworks

LAWS

279.66. Discipline and personal conduct standards.

1. The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.
2. The board of directors of a school district shall include or reference in the student handbook guidance published pursuant to section 256.9, subsection 63, by the department of education for parents, guardians, and community members who have concerns about school districts or their governing boards.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

279.51A. Classroom environment - behavioral challenges - reports of violence or assault.

1. A classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom.

280.21. Corporal punishment - burden of proof.

2. A school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves any of the following:
 - f. Removing a disruptive student from class or any area of the school premises, or from school-sponsored activities off school premises.

REGULATIONS

281-103.5(256B,280). Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281-103.3(256B,280), no employee subject to these rules is prohibited from:

- a. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following:

- (4) To remove a disruptive student from class or any area of the school's premises or from school-sponsored activities off school premises.

Alternatives to Suspension

LAWS

280.25. Information sharing - interagency agreements.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

280.21. Corporal punishment - burden of proof.

1. An employee of a public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, "corporal punishment" means the intentional physical punishment of a student. An employee's physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student's control; or for the protection of property. The department of education shall adopt rules to implement this section.

2. A school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves any of the following:

- a. Encouraging, supporting, or disciplining the student.
- b. Protecting the employee, the student, or other students.
- c. Obtaining possession of a weapon or other dangerous object within a student's control.
- d. Protecting employee, student, or school property.
- e. Quelling a disturbance or preventing an act threatening physical harm to any person.
- f. Removing a disruptive student from class or any area of the school premises, or from school- sponsored activities off school premises.
- g. Preventing a student from the self-infliction of harm.
- h. Self-defense.
- i. Any other legitimate educational activity.

3. To prevail in a civil action alleging a violation of this section the party bringing the action shall prove the violation by clear and convincing evidence. Any school employee determined in a civil action to have been wrongfully accused under this section shall be awarded reasonable monetary damages, in light of the circumstances involved, against the party bringing the action.

4. A school employee's employer and the board of educational examiners shall not engage in reprisal or retaliation against a school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student in accordance with this section.

REGULATIONS

281-103.1(256B,280). Purpose and objectives.

The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to

promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.

281-103.2(256B,280). Definitions.

For the purposes of this chapter:

"Corporal punishment" means the intentional physical punishment of a student. "Corporal punishment" includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

281-103.3(256B,280). Ban on corporal punishment and prone and mechanical restraints.

An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

281-103.4(256B,280). Activities that are not considered corporal punishment.

Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized education program (IEP) developed under the Individuals with Disabilities Education Act, as reauthorized, Iowa Code chapter 256B, and 281- Chapter 41; a behavior intervention plan (BIP); an individual health plan (IHP); or a safety plan. However, under no circumstance shall an IEP, BIP, IHP, or safety plan violate the provisions of this chapter;
4. Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility;
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of a school employing or utilizing the services of the employee.

281-103.5(256B,280). Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281-103.3(256B,280), no employee subject to these rules is prohibited from:

- a. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following:
 - (1) To quell a disturbance or prevent an act that threatens physical harm to any person.
 - (2) To obtain possession of a weapon or other dangerous object within a student's control.
 - (3) For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.
 - (4) To remove a disruptive student from class or any area of the school's premises or from school- sponsored activities off school premises.
 - (5) To prevent a student from the self-infliction of harm.
 - (6) To protect the safety of others.
 - (7) To protect property as provided for in Iowa Code section 704.4 or 704.5.
- b. Using incidental, minor, or reasonable physical contact to maintain order and control.

103.5(2) An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

281-103.6(256B,280). Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors shall be applied:

- a. The size and physical, mental, and psychological condition of the student;
- b. The nature of the student's behavior or misconduct resulting in the use of physical force;
- c. The instrumentality used in applying the physical force;
- d. The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
- e. The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

Search and Seizure

LAWS

808A.1. Definitions.

As used in this chapter, unless the context otherwise requires:

5. "Student search rule" means a rule established by the school board of a public school, pursuant to section 279.8 or 279.9, or the authorities in charge of a nonpublic school controlling the manner of the searching of students or protected student areas and school lockers, desks, and other facilities or spaces owned by the school. A student search rule, to be valid for purposes of this chapter, shall require that all searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search and based upon consideration of relevant factors which include, but are not limited to, the following:
 - a. The nature of the violation for which the search is being instituted.
 - b. The age or ages and gender of the students who may be searched pursuant to the rule.
 - c. The objectives to be accomplished by the search.

808A.2. Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

1. The school board of each public school and the authorities in charge of each nonpublic school shall establish and may search a student or protected student area pursuant to a student search rule. The student search rule shall be published in each public school's and each nonpublic school's student handbook. A school official may search individual students and individual protected student areas if both of the following apply:

- a. The official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.
- b. The search is conducted in a manner which is reasonably related to the objectives of the search and which is not excessively intrusive in light of the age and gender of the student and the nature of the infraction.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker, desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. Allowing students to use a separate lock on a locker, desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with

respect to that locker, desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

3. Under no circumstances may a search be made which is unreasonable in light of the following:

- a. The age of the student.
- b. The nonseriousness of the violation.
- c. The sex of the student.
- d. The nature of the suspected violation.

4. A school official shall not conduct a search which involves:

- a. A strip search.
- b. A body cavity search.
- c. The use of a drug sniffing animal to search a student's body.
- d. The search of a student by a school official not of the same sex as the student.

5. If a student is not or will not be present at the time a search of a protected student area is conducted pursuant to subsection 1, the student shall be informed of the search either prior to or as soon as is reasonably practicable after the search is conducted.

808A.3. Student search by peace officer.

The search of a student or of a protected student area by a peace officer who is not a school official, or by a school official at the invitation or direction of a peace officer who is not a school official, shall be governed by the statutory and common law requirements for police searches.

808A.4. Exclusion of evidence.

Material or evidence obtained directly or indirectly as a result of a search conducted in violation of this chapter is inadmissible in a criminal proceeding against a student.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

281-103.1(256B,280). Purpose and objectives.

The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all

students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.

281-103.2(256B,280). Definitions.

For the purposes of this chapter:

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Corporal punishment" means the intentional physical punishment of a student. "Corporal punishment" includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

"Debriefings" are meetings to collaboratively examine and determine what caused an incident or incidents resulting in the use of physical restraints or seclusion, how the incident or the use of physical restraints or seclusion or both could have been avoided and how future incidents could be avoided, and to plan for and implement positive and preventative supports. The debriefing process is intended to improve future outcomes by reducing the likelihood of future problem behavior and the subsequent use of physical restraint or seclusion.

"Mechanical restraint" means the use of a device as a means of restricting a student's freedom of movement. "Mechanical restraint" does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a device was designed and, if applicable, prescribed, including restraints for medical immobilization, adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, and vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

"Parent" means an individual included in the definition of "parent" in rule 281-41.30(256B,34CFR300), and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

"Physical restraint" means a personal restriction that immobilizes or reduces the ability of a child to move the child's arms, legs, body, or head freely. "Physical restraint" does not mean a technique used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a technique was designed and, if applicable, prescribed. "Physical restraint" does not include instructional strategies, such as physically guiding a student during an educational task, hand-shaking, hugging, or other nondisciplinary physical contact.

"Prone restraint" means any restraint in which the child is held face down on the floor.

"Reasonable and necessary force" is that force, and no more, which a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain, and that does not exceed the degree or duration required to accomplish the purposes set forth in rule 281-103.5(256B,280).

"School" includes public school districts, accredited nonpublic schools, and area education agencies.

"Seclusion" means the involuntary confinement of a child in a seclusion room or area from which the child is prevented or prohibited from leaving; however, preventing a child from leaving a classroom or school building shall not be considered seclusion. "Seclusion" does not include instances when a school employee is present within the room and providing services to the child, such as crisis intervention or instruction.

"Seclusion room" means a room, area, or enclosure, whether within or outside the classroom, used for seclusion.

281-103.3(256B,280). Ban on corporal punishment and prone and mechanical restraints.

An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

281-103.6(256B,280). Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors shall be applied:

- a. The size and physical, mental, and psychological condition of the student;
- b. The nature of the student's behavior or misconduct resulting in the use of physical force;
- c. The instrumentality used in applying the physical force;
- d. The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
- e. The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

281-103.7(256B,280). Reasonable and necessary force - use of physical restraint or seclusion.

103.7(1) Physical restraint or seclusion is reasonable and necessary only:

- a. To prevent or terminate an imminent threat of bodily injury to the student or others; or
- b. To prevent serious damage to property of significant monetary value or significant nonmonetary value or importance; or
- c. When the student's actions seriously disrupt the learning environment or when physical restraint or seclusion is necessary to ensure the safety of the student and others; and
- d. When less restrictive alternatives to seclusion or physical restraint would not be effective, would not be feasible under the circumstances, or have failed in preventing or terminating the imminent threat or behavior; and
- e. When the physical restraint or seclusion complies with all the rules of this chapter.

103.7(2) If seclusion or physical restraint is utilized, the following provisions shall apply:

- a. The seclusion or physical restraint must be imposed by an employee who:
 - (1) Is trained in accordance with rule 281-103.8(256B,280); or
 - (2) Is otherwise available and a trained employee is not immediately available due to the unforeseeable nature of the occurrence.
- b. A school must attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.
- c. The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the threat or behavior necessitating the use of the seclusion or physical restraint has ended, or when a medical condition occurs that puts the student at risk of harm.

Unless otherwise provided for in the student's written, approved IEP, BIP, IHP, or safety plan, if the seclusion or physical restraint continues for more than 15 minutes:

- (1) The student shall be provided with any necessary breaks to attend to personal and bodily needs, unless doing so would endanger the child or others.
- (2) An employee shall obtain approval from an administrator or administrator's designee to continue the seclusion or physical restraint beyond 15 minutes. After the initial approval, an employee must obtain additional approval every 30 minutes thereafter for the continuation of the seclusion or physical restraint. Approval must be documented in accordance with rule 281-103.8(256B,280).
- (3) The student's parent and the school may agree to more frequent notifications than is required by this subrule.

(4) Schools and employees must document and explain in writing, as required by subrule 103.8(2), the reasons why it was not possible for them to obtain approval, notify parents, or take action under paragraphs 103.7(2)"b" and "c" within the prescribed time limits.

(5) Schools and employees who initiate and then end the use of nonapproved restraints must document and explain in writing the reasons why they had no other option but to use this type of behavioral intervention. This subparagraph is not intended to excuse or condone the use of nonapproved restraints.

d. The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 281-103.9(256B,280), unless the nature of the occurrence makes the use of the designated seclusion room impossible, clearly impractical, or clearly contrary to the safety of the student, others, or both; in that event, the school must document and explain in writing the reasons why a designated seclusion room was not used.

e. An employee must continually visually monitor the student for the duration of the seclusion or physical restraint.

f. An employee shall not use any physical restraint that obstructs the airway of the student.

g. If an employee restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of physical restraint, unless doing so is not feasible in view of the threat posed.

h. Seclusion or physical restraint shall not be used:

- As punishment or discipline;

- To force compliance or to retaliate;

- As a substitute for appropriate educational or behavioral support;

- To prevent property damage except as described in paragraph 103.7(1)"b";

- As a routine school safety measure; or

- As a convenience to staff.

103.7(3) An employee must document the use of the seclusion or physical restraint in accordance with rule 281-103.8(256B,280).

103.7(4) Nothing in this rule shall be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21, rule 281-103.11(256B,280), or any other provision of law.

103.7(5) An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action.

103.7(6) If a child's IEP, BIP, IHP, or safety plan includes either or both physical restraint or seclusion measures, those measures must be individualized to the child; described with specificity in the child's IEP, BIP, IHP, or safety plan; and be reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances.

103.7(7) These rules must be complied with whether or not a parent consents to the use of physical restraint or seclusion for the child.

103.7(8) If any alleged violation of this chapter is also an allegation of "abuse" as defined in rule 281-102.2(280), the procedures in 281-Chapter 102 shall be applicable.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties

could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

281-103.8(256B,280). Training, documentation, debriefing, and reporting requirements.

103.8(1) Training. An employee must receive training prior to using any form of physical restraint or seclusion. Training shall cover the following topics:

- a. The rules of this chapter;
- b. The school's specific policies and procedures regarding the rules of this chapter;
- c. Student and staff debriefing requirements;
- d. Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management;
- e. Research-based alternatives to physical restraint and seclusion;
- f. Crisis prevention, crisis intervention, and crisis de-escalation techniques;
- g. Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders; and
- h. Safe and effective use of physical restraint and seclusion.

103.8(2) Documentation and reporting. Schools must maintain documentation for each occurrence of physical restraint and seclusion. Documentation must contain at least the following information:

- a. The name of the student;
- b. The names and job titles of employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints, including the administrator or individual who approved continuation of the seclusion or physical restraint pursuant to subparagraph 103.7(2)"c"(2);
- c. The date of the occurrence;
- d. The beginning and ending times of the occurrence;
- e. The date the employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints last completed training required by subrule 103.8(1);
- f. A description of the actions of the student before, during, and after the seclusion or physical restraint;
- g. A description of the actions of the employee(s) involved before, during, and after the seclusion or physical restraint, including the use of a nonapproved restraint (subparagraph 103.7(2)"c"(5)) or the use of other than a designated seclusion room (paragraph 103.7(2)"d");
- h. Documentation of approvals for continuation of the seclusion or physical restraint period generated in accordance with subrule 103.7(2), including why it was not possible to obtain approval;
- i. A description of the less restrictive means attempted as alternatives to seclusion or physical restraint;
- j. A description of any injuries, whether to the student or others, and any property damage;
- k. A description of future approaches to address the student's behavior, including any consequences or disciplinary actions that may be imposed on the student; and
- l. The time and manner by which the school notified the student's parent of the use of physical restraint or seclusion, including why it was not possible to attempt to give notice within the time specified by paragraph 103.7(2)"b."

Schools must provide the student's parent with a written copy of the report by the end of the third school day following the occurrence. The report shall be accompanied by a letter inviting the parent to participate in a debriefing meeting, if necessary under subrule 103.8(3), to be held within five school days of the day the report and letter are mailed to or provided to the parent. The letter must include the date, time and

place of the meeting and the names and titles of employees and other individuals who will attend the meeting. The parent may elect to receive the report and the letter via electronic mail or facsimile or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the letter and report to the parent by first-class mail, postage prepaid, postmarked by end of the third school day after the occurrence.

103.8(3) Debriefing.

a. Schools must hold a debriefing meeting as soon as practicable whenever required by paragraph 103.8(3)"f," but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent's consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student's behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, must include the following information and subjects:

- (1) The date and location of the meeting, and the names and titles of the participants;
- (2) The documentation and report completed in compliance with subrule 103.8(2);
- (3) A review of the student's BIP, IHP, safety plan, and IEP as applicable;
- (4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;
- (5) Determination of possible alternative responses to the incident/less restrictive means, if any;
- (6) Identification of additional resources that could facilitate those alternative responses in the future;
- (7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.

b. Schools must complete the debriefing report and provide a copy of the report to the parent of the student within three school days of the debriefing meeting. The parent may elect to receive the report via electronic mail, or facsimile, or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the debriefing report to the parent by first-class mail, postage prepaid, postmarked no later than three school days after the debriefing meeting.

c. If the debriefing session results in a recommendation that a child might be eligible for a BIP, IHP, safety plan, or IEP, the public agencies shall promptly determine the child's eligibility in accordance with the procedures required for determining eligibility, including rules contained in 281-Chapter 14 and 281- Chapter 41, as applicable.

d. Any recommended change to a student's BIP, IHP, safety plan, or IEP, or a student's educational placement, shall be made in accordance with the procedures required for amending said plan or changing said placement, including rules contained in 281-Chapter 14 and 281- Chapter 41, as applicable.

e. Nothing in this subrule shall be construed to require employers to include information about employees that would be legally protected personnel information, including employee disciplinary information under Iowa Code chapters 279 and 284, or to allow discussion of that personnel information, in debriefing meetings.

f. For purposes of this subrule, a debriefing session is required:

- (1) Upon the first instance of seclusion or physical restraint during a school year;
- (2) Whenever any personal injury occurs as a part of the use of seclusion or physical restraint;
- (3) Whenever a reasonable educator would determine a debriefing session is necessary;
- (4) Whenever suggested by a student's IEP team (if any);
- (5) Whenever agreed by the parent and the school officials.

However, in any case a debriefing session shall occur after seven instances of seclusion or physical restraint. Nothing in this paragraph shall be construed to prevent a school from offering more debriefing meetings.

103.8(4) Confidentiality. Schools must comply with the requirements of the Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. § 1232.g; 34 CFR Part 99), Iowa Code chapter 22, "Examination of Public Records (Open Records)," and other applicable federal and state laws, when taking action pursuant to this rule.

103.8(5) Reporting to department. Schools shall report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95.

281-103.9(256B,280). Seclusion room requirements.

Schools must meet the following standards for the structural and physical requirements for rooms used for seclusion:

103.9(1) The room must meet and comply with all applicable building, fire, safety, and health codes and standards and with the other requirements of this rule.

103.9(2) The dimensions of the room shall be of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental condition of the student being secluded. The interior of the room must be no less than 56 square feet, and the distance between opposing walls must be no less than 7 feet across.

103.9(3) The room must not be isolated from school employees or the facility.

103.9(4) Any wall that is part of the room must be part of the structural integrity of the room (not free-standing cells or portable units attached to the existing wall or floor).

103.9(5) The room must provide a means of continuous visual and auditory monitoring of the student.

103.9(6) The room must be adequately lighted with switches to control lighting located outside the room.

103.9(7) The room must be adequately ventilated with switches to control fans or other ventilation devices located outside the room.

103.9(8) The room must maintain a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

103.9(9) The room must be clean and free of objects and fixtures that could be potentially dangerous to a student, including protruding, exposed, or sharp objects, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or to climb up a wall.

103.9(10) The room must contain no free-standing furniture.

103.9(11) The room must be constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student. Interior finish of the seclusion room shall comply with the state and local building and fire codes and standards.

103.9(12) Doors must open outward. The door shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by personnel on the outside of the door and permits the door to be opened from the inside. Doors, when fully open, shall not reduce the required corridor width by more than seven inches. Doors in any position shall not reduce the required width by more than one-half.

103.9(13) The room must be able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

103.9(14) Windows, if any, must be transparent and made of unbreakable or shatterproof glass or plastic.

103.9(15) By July 1, 2021, schools must consult with appropriate state and local building, fire, safety, and health officials to ensure the room complies with all applicable codes and standards (for example, heating, ventilation, lighting, accessibility, dimensions, access, entry and exit, fire suppression, etc.), and maintain documentation of such consultation and compliance and approval.

103.9(16) Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from January 20, 2021, or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.

281-103.10(256B,280). Department responsibilities.

The department shall develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department shall consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this subsection.

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

282-26.3(272). Responsibilities.

Educators licensed under Iowa Code chapter 272 have the following responsibilities:

5. The educator shall not, without just cause, restrain a student from independent action in the pursuit of learning and shall not, without just cause, deny a student access to varying points of view.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

279.9. Use of tobacco, alcoholic beverages, or controlled substances.

The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

280.21B. Expulsion - weapons in school.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

282.4. Suspension - expulsion.

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.
2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.
3. A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.
4. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school

district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

282.4. Suspension - expulsion.

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.

2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

3. A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

4. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

282.4. Suspension - expulsion.

2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies shall ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

Return to School Following Removal

LAWS

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

Suspension - expulsion.

4. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

Readmission of student.

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

257.38. Funding for at-risk, alternative school, and returning dropouts and dropout prevention programs - plan.

1. Boards of school districts, individually or jointly with boards of other school districts, requesting to use a modified supplemental amount for costs in excess of the amount received under section 257.11, subsection 4, for programs for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention, shall approve, by resolution, comprehensive program plans for the programs and budget costs, including annual requests for a modified supplemental amount for funding the programs. The program plans shall include:

- a. Program goals, objectives, and activities to meet the needs of students identified as at risk, secondary students who attend alternative programs and alternative schools, or potential dropouts or returning dropouts.

280.19A. Alternative options education programs - disclosure of records.

1. By January 15, 1995, each school district shall adopt a plan to provide alternative options education programs to students who are either at risk of dropping out or have dropped out. An alternative options education program may be provided in a district, through a sharing agreement with a school in a contiguous district, or through an areawide program available at the community college serving the merged area in which the school district is located. Each area education agency shall provide assistance in establishing a plan to provide alternative education options to students attending a public school in a district served by the agency.
2. If a district has not adopted a plan as required in this section and implemented the plan by January 15, 1996, the area education agency serving the district shall assist the district with developing a plan and an alternative options education program for the pupil. When a plan is developed, the district shall be responsible for the operation of the program and shall reimburse the area education agency for the actual costs incurred by the area education agency under this section.
3. Notwithstanding section 22.7, subsection 1, records kept regarding a student who has participated in a program under this section shall be requested by school officials of a public or nonpublic receiving school in which the student seeks to enroll, and shall be provided by the sending school. A school official who receives information under this section shall disclose this information only to those school officials and employees whose duties require them to be involved with the student. A school official or employee who discloses information received under this section in violation of this subsection shall be subject to disciplinary action, including but not limited to reprimand, suspension, or termination. "School officials and employees" means those officials and persons employed by a nonpublic school or public school district, and area education agency staff members who provide services to schools or school districts.

280.21B. Expulsion - weapons in school.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

REGULATIONS

281-12.2(256). Definitions.

For purposes of these rules, the following definitions shall apply:

"Alternative options education programs" means alternative programs or schools as identified in Iowa Code section 280.19A.

"Alternative program" means a class or environment established within the regular educational program and designed to accommodate specific student educational needs such as, but not limited to, work-related training; reading, mathematics or science skills; communication skills; social skills; physical skills; employability skills; study skills; or life skills.

"Alternative school" means an environment established apart from the regular educational program and that includes policies and rules, staff, and resources designed to accommodate student needs and to provide a comprehensive education consistent with the student learning goals and content standards established by the school district or by the school districts participating in a consortium. Students attend by choice.

"Annual improvement goals" means the desired one-year.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

280.21B. Expulsion - weapons in school.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

299.5A. Mediation.

1. If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. For a child who has completed educational requirements through the sixth grade, the means may include but are not limited to the use of an attendance cooperation process which substantially conforms with the provisions of section 299.12. If the parent, guardian, or legal or actual custodian, or child refuses to

accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

2. If the matter is referred for mediation, the county attorney shall cause a notice of the referral to be sent to the parent, guardian, or legal or actual custodian and designate a person to serve as mediator in the matter. If mediation services are available in the community, those services may be used as the designated mediation service. If mediation services are not available in the community, mediation shall be provided by the county attorney or the county attorney's designee. The mediator shall contact the school, the parent, guardian, or legal or actual custodian, and any other person the mediator deems appropriate in the matter and arrange meeting dates and times for discussion of the child's nonattendance. The mediator shall attempt to ascertain the cause of the child's nonattendance, attempt to cause the parties to arrive at an agreement relative to the child's attendance, and initiate referrals to any agencies or counseling that the mediator believes to be appropriate under the circumstances.

3. If the parties reach an agreement, the agreement shall be reduced to writing and signed by a school officer, parent, guardian, or legal or actual custodian, and the child. The mediator, the school, and the parent, guardian, or legal or actual custodian shall each receive a copy of the agreement, which shall set forth the settlement of the issues and future responsibilities of each party.

4. The school district shall be responsible for monitoring any agreements arrived at through mediation. If a parent, guardian, or legal or actual custodian refuses to engage in mediation or violates a term of the agreement, the matter shall be rereferred to the county attorney for prosecution under section 299.6. The county attorney's office or the mediation service shall require the parent, guardian, or legal or actual custodian and the school to pay a fee to help defray the administrative cost of mediation services. The county attorney's office or the mediation service shall establish a sliding scale of fees to be charged parents, guardians, and legal or actual custodians based upon ability to pay. A parent, guardian, or legal or actual custodian shall not be denied the services of a mediator solely because of inability to pay the fee.

5. The mediator may refer a truant to the juvenile court if mediation breaks down without an agreement being reached.

"Truant" defined.

Any child of compulsory attendance age who fails to attend school as provided in this chapter, or as required by the school board's or school governing body's attendance policy, or who fails to attend competent private instruction or independent private instruction under chapter 299A, without reasonable excuse for the absence, shall be deemed to be a truant. A finding that a child is truant, however, shall not by itself mean that the child is a child in need of assistance within the meaning of chapter 232 and shall not be the sole basis for a child in need of assistance petition.

Truants - rules for punishment.

The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

232.191. Early intervention and follow-up programs.

Contingent on a specific appropriation for these purposes, the department shall do the following:

2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.

280.25. Information sharing - interagency agreements.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions

which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

Truancy officers - appointment.

The board of each school district may appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

The board may appoint a member of the police force, marshal, teacher, school official, or other suitable person to serve as the district truancy officer.

Duties of truancy officer.

1. The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or in the charge of any nonpublic school or any authority providing competent private instruction or independent private instruction as defined in section 299A.1, designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.
2. The truancy officer shall promptly institute proceedings against any person violating any of the provisions of sections 299.1 through 299.5A.

Violation of attendance policy - attendance cooperation meeting - agreement.

1. For the purposes of this section, "school truancy officer" means a truancy officer appointed under section 299.10 or any other person designated by a public school board or a governing body of an accredited nonpublic school to administer provisions of this section.
2. This section is not applicable to a child who is receiving competent private instruction or independent private instruction in accordance with the requirements of chapter 299A. If a child is not in compliance with the attendance requirements established under section 299.1, and has not completed educational requirements through the sixth grade, and the school has used every means available to assure the child does attend, the school truancy officer shall contact the child's parent, guardian, or legal or actual custodian to participate in an attendance cooperation meeting. The parties to the attendance cooperation meeting may include the child and shall include the child's parent, guardian, or legal or actual custodian and the school truancy officer. The school truancy officer contacting the participants in the attendance cooperation meeting may invite other school officials, a designee of the juvenile court, the county attorney or the county attorney's designee, or other persons deemed appropriate to participate in the attendance cooperation meeting.
3. The purpose of the attendance cooperation meeting is for the parties participating in the meeting to attempt to ascertain the cause of the child's nonattendance, to cause the parties to arrive at an agreement relative to addressing the child's attendance, and to initiate referrals to any services or counseling that the parties believe to be appropriate under the circumstances. The terms agreed to shall be reduced to writing in an attendance cooperation agreement and signed by the parties to the agreement. Each party signing the agreement shall receive a copy of the agreement, which shall set forth the cause identified for the child's nonattendance and future responsibilities of each party.
4. If the parties to an attendance cooperation meeting determine that a monitor would improve compliance with the attendance cooperation agreement, the parties may designate a person to monitor the agreement. The monitor shall be a designee of the public school board or governing body of the accredited nonpublic school. The monitor may be a volunteer if the volunteer is approved by all parties to the agreement and receives a written authorization for access to confidential information and for

performing monitor activities from the child's parent, guardian, or custodian. A monitor shall contact parties to the attendance cooperation agreement on a periodic basis as appropriate to monitor performance of the agreement.

5. If the parties fail to enter into an attendance cooperation agreement, or the child's parent, guardian, or custodian acting as a party violates a term of the attendance cooperation agreement or fails to participate in an attendance cooperation meeting, the child shall be deemed to be truant.

6. A public school board or governing body of an accredited nonpublic school shall exercise the authority granted under this section as a means of increasing and ensuring school attendance of young children, as education is a critical element in the success of individuals and good attendance habits should be developed and reinforced at an early age.

299.15. Reports by school officers and employees.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the § 299.15, secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

262.9A. Prohibition of controlled substances.

The state board of regents shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by an institution or in conjunction with activities sponsored by an institution governed by the board. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the institutions shall provide substance abuse prevention programs for students and employees.

279.9. Use of tobacco, alcoholic beverages, or controlled substances.

The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall

relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

Gang-related Activity

LAWS

279.58. School dress code policies.

1. The general assembly finds and declares that the students and the administrative and instructional staffs of Iowa's public schools have the right to be safe and secure at school. Gang-related apparel worn at school draws attention away from the school's learning environment and directs it toward thoughts or expressions of violence, bigotry, hate, and abuse.
2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

280.12. School improvement advisory committee.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

1. Appoint a school improvement advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers, administrators, and representatives from the local community, which may include representatives of business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation with regard to race, gender, national origin, and disability.
2. Utilize the recommendations from the school improvement advisory committee to determine the following:
 - f. Harassment or bullying prevention goals, programs, training, and other initiatives.

280.28. Harassment and bullying prohibited - policy - immunity.

1. Purpose - findings - policy. The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.

2. Definitions. For purposes of this section, unless the context otherwise requires:

a. "Electronic" means any communication involving the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic" includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.

b. "Harassment" and "bullying" shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student's person or property.

(2) Has a substantially detrimental effect on the student's physical or mental health.

(3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

c. "Trait or characteristic of the student" includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

d. "Volunteer" means an individual who has regular, significant contact with students.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying as set forth in this section.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention measures, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a

statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.

g. A statement of the manner in which the policy will be publicized.

4. Programs encouraged. The board of directors of a school district and the authorities in charge of each accredited nonpublic school are encouraged to establish programs designed to eliminate harassment and bullying in schools. To the extent that funds are available for these purposes, school districts and accredited nonpublic schools shall do the following:

a. Provide training on antiharassment and antibullying policies to school employees and volunteers who have significant contact with students.

b. Develop a process to provide school employees, volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.

5. Immunity. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

6. Collection requirement. The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. Integration of policy and reporting. The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.

8. Existing remedies not affected. This section shall not be construed to preclude a victim from seeking administrative or legal remedies under any applicable provision of law.

282.18. Open enrollment.

11.a. A pupil who participates in open enrollment for purposes of attending a grade in grades nine through twelve in a school district other than the district of residence is ineligible to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the district. However, a pupil may participate immediately in a varsity interscholastic sport under any of the following circumstances:

(7) If the district of residence determines that the pupil was previously subject to a founded incident of harassment or bullying as defined in section 280.28 while attending school in the district of residence.

708.10. Hazing.

1.a. A person commits an act of hazing when the person intentionally or recklessly engages in any act or acts involving forced activity which endanger the physical health or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating in connection with a school, college, or university. Prohibited acts include, but are not limited to, any brutality of a physical nature such as whipping, forced confinement, or any other forced activity which endangers the physical health or safety of the student.

b. For purposes of this section, "forced activity" means any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student's willingness to participate in the activity.

2. A person who commits an act of hazing is guilty of a simple misdemeanor.

3. A person who commits an act of hazing which causes serious bodily injury to another is guilty of a serious misdemeanor.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship. [...]

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, a witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying consistent with the following: Harassment and bullying shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on the student's actual or perceived age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status, and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student's person or property.

(2) Has a substantially detrimental effect on the student's physical or mental health.

(3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school. The local board policy must set forth all 17 of the above-enumerated traits or characteristics, but does not need to be limited to the 17 enumerated traits or characteristics.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention, reporting, and investigation of harassment or bullying.

- d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.
- e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.
- f. A procedure for the prompt investigation of complaints, identifying either the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this subrule.
- g. A statement of the manner in which the policy will be publicized.

The board shall integrate its policy into its comprehensive school improvement plan. The board shall develop and maintain a system to collect harassment and bullying incidence data, and report such data, on forms specified by the department, to the local community and to the department.

281-12.8(256). Accountability for student achievement.

12.8(2) School improvement advisory committee. To meet requirements of Iowa Code section 280.12(2) as amended by 2007 Iowa Acts, Senate File 61, section 1, the board shall appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members' analysis of the needs assessment data, the committee shall make recommendations to the board about the following components:

1. Major educational needs;
2. Student learning goals;
3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; and
4. Harassment or bullying prevention goals, programs, training, and other initiatives.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

256.18. Character education policy.

1.a. It is the policy of the general assembly that Iowa's schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents, and with input from the community and educators.

b. Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities may include caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, honesty, self-discipline, respect for and obedience to the law, citizenship, courage, initiative, commitment, perseverance, kindness, compassion, service, loyalty, patience, the dignity and necessity of hard work, and any other qualities deemed appropriate by a school.

2. The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities. Whenever possible, the department shall develop partnerships with schools, nonprofit organizations, or an institution of higher education, or with a consortium of two or more of those entities, to design and implement character education programs that may be integrated into classroom instruction and may be carried out with other educational reforms.

280.12. School improvement advisory committee.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

1. Appoint a school improvement advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers, administrators, and representatives from the local community, which may include representatives of business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation with regard to race, gender, national origin, and disability.

2. Utilize the recommendations from the school improvement advisory committee to determine the following:

a. Major educational needs.

b. Student learning goals.

c. Long-range and annual improvement goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement.

d. Desired levels of student performance.

e. Progress toward meeting the goals set out in paragraphs "b" through "d".

f. Harassment or bullying prevention goals, programs, training, and other initiatives.

3. Consider recommendations from the school improvement advisory committee to infuse character education into the educational program.

REGULATIONS

281-103.10(256B,280). Department responsibilities.

The department shall develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department shall consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this subsection.

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(2) Policy manual. The board shall develop and maintain a policy manual which provides a codification of its policies, including the adoption date, the review date, and any revision date for each policy. Policies shall be reviewed at least every five years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

281-14.4(279). Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response.

14.4(4) Resources for implementation. The Iowa department of education will publicly provide resources and technical assistance to assist districts in compliance with this rule.

281-66.6(279). Responsibilities of area education agencies.

Area education agencies shall assist school districts in developing program plans and budgets for school-based youth services programs. Assistance may include, but is not limited to, the following:

- 66.6(1) Providing person power to coordinate planning between districts and other service providers and in writing grants.
- 66.6(2) Gathering and providing information for completion of program plans.
- 66.6(3) Identifying staff development resources and organizing staff training.
- 66.6(4) Identifying resources for establishing at least a 20 percent local contribution.
- 66.6(5) Participating in the advisory council.
- 66.6(6) Helping develop and implement recording procedures for evaluation of data and analysis of results.
- 66.6(7) Providing in-school support services.
- 66.6(8) Assisting with implementation of nondiscrimination measures.

281-66.7(279). Responsibilities of the department of education.

The department of education shall:

- 66.7(1) Provide guidelines and forms to school districts for submitting program plans.
- 66.7(2) Provide technical assistance to school districts, other education agencies and service providers in the development of plans.
- 66.7(3) Organize reviews and approval of written plans in at least three size categories of school districts including those below an enrollment of 1,200; between 1,200 and 4,999; and 5,000 and above. The process will give priority to need and plans that indicate high degrees of active participation by community-based youth organizations and agencies. Review criteria and a point system are contained in guidelines for school-based youth services programs.
- 66.7(4) Develop and administer a format for evaluation. An annual evaluation report shall be filed with the department of education by school districts following the close of each school year.

66.7(5) Provide technical assistance to school districts and other service providers in designing preservice and in-service training.

66.7(6) Consult with the departments of human services, human rights (division of criminal and juvenile justice planning), public health, economic development (division of job training and entrepreneurship assistance) and employment services (division of job services) to develop rules, administer programs, and monitor and evaluate programs.

66.7(7) Establish assistance through the F.I.N.E. Foundation and other foundations and public and private agencies in evaluating programs under this chapter and to provide support to school districts in implementing the funded programs.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

281-11.3(PL107-110). Whole school option.

For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting the criteria in 11.3(1) "a" through "c" for two consecutive years shall develop and implement a remedial plan. The plan shall include schoolwide efforts to support positive student behavior and improve student discipline. The department shall conduct a site visit to the school.

281-103.8(256B,280). Training, documentation, debriefing, and reporting requirements.

103.8(1) Training. An employee must receive training prior to using any form of physical restraint or seclusion. Training shall cover the following topics:

- d. Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management.

Prevention

LAWS

280.9B. Violence prevention curriculum.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades kindergarten through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

256.11. Educational standards.

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, gender fair approach is used by schools and school districts. The educational program shall be taught from a multicultural, gender fair approach. Global perspectives shall be incorporated into all levels of the educational program. The rules

adopted by the state board pursuant to section 256.17, Code Supplement 1987, to establish new standards shall satisfy the requirements of this section to adopt rules to implement the educational program contained in this section. The educational program shall be as follows:

2. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be licensed to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program. [...]

5. In grades nine through twelve, a unit of credit consists of a course or equivalent related components or partial units taught throughout the academic year. The minimum program to be offered and taught for grades nine through twelve is:

j. (1) One unit of health education which shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; age-appropriate and research-based human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including age-appropriate and research-based information regarding sexually transmitted diseases, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome.

256.18. Character education policy.

1.a. It is the policy of the general assembly that Iowa's schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents, and with input from the community and educators.

b. Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities may include caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, honesty, self-discipline, respect for and obedience to the law, citizenship, courage, initiative, commitment, perseverance, kindness, compassion, service, loyalty, patience, the dignity and necessity of hard work, and any other qualities deemed appropriate by a school.

2. The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities. Whenever possible, the department shall develop partnerships with schools, nonprofit organizations, or an institution of higher education, or with a consortium of two or more of those entities, to design and implement character education programs that may be integrated into classroom instruction and may be carried out with other educational reforms.

280.12. School improvement advisory committee.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

3. Consider recommendations from the school improvement advisory committee to infuse character education into the educational program.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

279.70. Training on suicide prevention, adverse childhood experiences identification, and toxic stress response mitigation strategies.

3. By July 1, 2019, the board of directors of a school district shall require annual, evidence-based, evidence-supported training on the identification of adverse childhood experiences and strategies to mitigate toxic stress response for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with students in kindergarten through grade twelve. The content of the training shall be based on nationally recognized best practices.

REGULATIONS

281-14.4(279). Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response.

14.4(1) Definitions.

"Adverse childhood experience" means a potentially traumatic event occurring in childhood that can have negative, lasting effects on an individual's health and well-being.

14.4(2) Required protocols. School districts shall adopt protocols for suicide prevention and postvention and the identification of adverse childhood experiences and strategies to mitigate toxic stress response. The protocols shall be based on nationally recognized best practices.

14.4(3) Required training.

b. By July 1, 2019, the board of directors of a school district shall require annual, evidence-based, evidence-supported training on the identification of adverse childhood experiences and strategies to mitigate toxic stress response for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with students in kindergarten through grade 12. The content of the training shall be based on nationally recognized best practices.

Mental Health Literacy Training

LAWS

273.2. Area education agencies established - powers - services and programs.

1. There are established throughout the state fifteen area education agencies, each of which is governed by an area education agency board of directors. The boundaries of an area education agency shall not divide a school district. The director of the department of education shall change boundaries of area education agencies to take into account mergers of local school districts and changes in boundaries of local school districts, when necessary to maintain the policy of this chapter that a local school district shall not be a part of more than one area education agency. [...]

5. The area education agency board may provide for the following programs and services to local school districts, and at the request of local school districts to providers of child development services who have received grants under chapter 256A from the child development coordinating council, within the limits of funds available:

a. In-service training programs for employees of school districts and area education agencies, provided at the time programs and services are established they do not duplicate programs and services available in that area from the universities under the state board of regents and from other universities and four-year institutions of higher education in Iowa. The in-service training programs shall include but are not limited to regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

280A.1. Definitions.

As used in this section, unless the context otherwise requires:

3. "Behavioral health screening" or "screening" means a screening and assessment performed using a universal behavioral health screening and assessment tool, approved for use by the department of education in consultation with the department of public health and the department of human services, to identify factors that place children at higher risk for behavioral health conditions, to determine appropriate treatment or intervention, and to identify the need for referral for appropriate services.
4. "Behavioral health services" means services provided by a health care professional operating within the scope of the health care professional's practice which address mental, emotional, medical, or behavioral conditions, illnesses, diseases, or problems.

280A.2. Behavioral health screenings and assessments in school settings.

- 1.a. A school district, an accredited nonpublic school, or an area education agency may contract with a mental health professional or a nationally accredited behavioral health care organization to provide behavioral health screenings to students in person.
 - b. (1) A behavioral health screening may be conducted following provision of written consent by the student's parent or guardian for the student to participate in such screening.
 - (2) The consent shall also allow for the disclosure of the results of such screenings to the school district, accredited nonpublic school, or area education agency, if the mental health professional believes there is a credible threat to the health and safety of the student or others.
2. If a mental health professional conducts an initial behavioral health screening on the premises of a public school, an accredited nonpublic school, or an area education agency and determines that a student should be referred for additional behavioral health services, all of the following shall apply:
 - a. The mental health professional shall notify the parent or guardian of the student of the results of the screening.
 - b. The mental health professional may notify the student's primary care provider following provision of written consent by the student's parent or guardian. If a student does not have a primary care provider, the mental health professional may provide a listing of local primary care providers to the student's parent or guardian.

280A.3. Establishment of provider-patient relationship for services provided via telehealth in a school setting.

1. A mental health professional who provides services via telehealth in a public school, an accredited nonpublic school, or an area education agency shall establish a valid provider-patient relationship with the student who receives telehealth services.
2. The provider-patient relationship commences when all of the following conditions are met:
 - a. The student with the health-related matter with the consent of the student's parent or guardian seeks assistance from a mental health professional.
 - b. The mental health professional agrees to undertake diagnosis and treatment of the student.
 - c. The student's parent or guardian agrees to have the student treated by the mental health professional.
3. A valid provider-patient relationship may be established through any of the following means:

- a. Through an in-person encounter which includes an in-person medical interview and physical examination conducted under the standard of care required for an in-person encounter.
 - b. Through consultation with a primary care provider who has an established relationship with the patient and who agrees to participate in or supervise the patient's care.
 - c. Through telehealth, if the standard of care does not require an in-person encounter, in accordance with evidence-based standards of practice and telehealth practice guidelines that address the clinical and technological aspects of telehealth, and the student's parent or guardian is present.
4. The parent or guardian of a student shall consent prior to the student receiving behavioral health services via telehealth under this chapter after a provider-patient relationship is established pursuant to this section. The school district shall maintain any such consent form completed by a parent or guardian.

280A.4. Behavioral health services provided via telehealth in a school setting.

1. A public school, accredited nonpublic school, or an area education agency may provide access to behavioral health services via telehealth on the premises of the public school, accredited nonpublic school, or area education agency. If a public school, an accredited nonpublic school, or an area education agency provides such access, the school or area education agency shall do all of the following:
 - a. Provide a secure, confidential, and private room for such services and the technology necessary to conduct telehealth services.
 - b. Maintain parent or guardian consent forms for the provision of such services. Consent forms shall be required for each academic year in which the student receives such services.
 - c. Maintain scheduling requests for student appointments for such services and provide the student access to the room by a school nurse or other appropriately trained school or area education agency employee.
 - d. Ensure that no school or area education agency employee is present in the same room as the student during the provision of such services.
 - e. Provide information to the student participating in telehealth services about how and to whom to report inappropriate behavior by a mental health professional.
 - f. Provide access to the student's parent or guardian to participate in any of the student's telehealth sessions.
2. The public school, accredited nonpublic school, or area education agency shall not have access to or handle any of the student's medical records or be responsible for billing for the telehealth services provided.
3. A mental health professional with prescribing authority who provides telehealth services in accordance with this section shall not prescribe any new medication to a student during a telehealth session. However, a mental health professional with prescribing authority may initiate new prescriptions, alter the dosage of an existing medication, or discontinue an existing medication for the treatment of the student's behavioral health condition after consultation with the student's parent or guardian.
4. The mental health professional shall notify the student's parent or guardian of the time and place for each scheduled telehealth session and specify the means available for the parent or guardian to participate in the session.
5. Protected health information, including but not limited to medical records and medical billing information, created by the mental health professional or primary care provider shall not be shared with or disclosed to a public school, accredited nonpublic school, or area education agency, unless disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the student or to

a clearly identifiable person or persons and the mental health professional determines the student has the apparent intent and ability to carry out the threat.

6. A school district, an accredited nonpublic school, an area education agency, the board of directors of a school district or an area education agency, authorities in charge of the accredited nonpublic school, and employees of the school district, accredited nonpublic school or area education agency, shall not be liable for any injury arising from the provision of voluntary behavioral health screenings or behavioral health services in accordance with this chapter, provided such person has acted reasonably and in good faith and in accordance with the provisions of this chapter.

REGULATIONS

281-66.1(279). Scope, purpose and general principles.

66.1(1) Scope. These rules apply to the provision of school-based youth services authorized in Iowa Code section 279.51(3) as amended by 1994 Iowa Acts, Senate File 2330, sections 47 to 49 and 60.

66.1(2) Purpose. The purpose of the school-based youth services education program is to enable children and youth, especially those with problems, to complete their education and to obtain skills that lead to employment, additional education, and to a mentally and physically healthy life.

66.1(3) General principles. School-based youth services programs (SBYSP), at a minimum, may be made available at the elementary school, middle school or high school level, to offer career development services, mental health and family counseling services and preventive and primary health care services in the context of the educational needs of the students. Only school districts or consortiums of districts in cooperation with other service providers may apply for funds to support such programs. The management of the programs may be by a school district or school district consortium or by a nonprofit service organization. All programs must be provided in or near schools to make services accessible to children and youth. Moreover, all programs must be designed for implementation over no less than a four-year period. The inclusion of abortion counseling or the dispensing of contraceptives with these programs is prohibited by Iowa Code section 279.51(3). Budgets for proposed programs will be funded by the state to a maximum of \$ 200,000 per year. Local contributions of at least 20 percent of the total costs of the program are required.

281-66.2(279). Definitions.

For the purpose of this chapter the following definitions apply.

"School-based youth services" means career development assistance; job training and employment services; human services, including mental health and family counseling; primary health care services; day care; transportation; recreation services; parenting education; rehabilitation services; mentoring; family involvement assistance; and other services designed to assist school-age children to be able to succeed in school and be productive citizens upon leaving school.

281-66.3(279). Development of a program plan.

For the purpose of seeking approval for funding youth service programs, school districts shall submit plans approved by their board of directors to the department of education on a request for proposal (RFP) basis. RFPs will be issued within the limits of available funds during the school year preceding the year for which implementation is planned.

281-66.4(279). Program plan.

66.4(2) Identifying objectives. The following objectives shall be included in the program plan.

- a. The establishment of a youth services education program located in or near an elementary school, middle school or high school that integrates multiple service providers with children or youth in need of services to assist them to succeed in education programs, to complete high school and be productive workers and contributors to the community.

- b. Provisions for no less than the minimum education program as defined in Iowa Code section 256.11 and rule 281 - 12.5(256).
- c. Flexibility of the education program to accommodate other community-based services such as mental health counseling, substance abuse treatment, and health care.
- d. Career development activities including job training and employment services at the high school level.
- e. Mental health and family counseling.
- f. Family involvement activities.
- g. Preventive and primary health care services.
- h. Recreation services.
- i. Mentoring.
- j. Access to program including before and after school, weekend, and summer activity.
- k. Personal skills development.
- l. Other educational and noneducational services considered necessary to achieve the program plan.

66.4(3) Identification of the components and development of a schedule for the youth services program. At minimum, the following shall be included:

- a. Description of the career development activities including job training and employment services; mental health and family counseling; family education and involvement services; preventive and primary health care services; recreation; mentoring; and personal skills development in the context of how these services and others will be provided in conjunction with the education program.
- b. A schedule or timeline for the operation of the program taking into consideration day and evening accessibility, the number of days per week and the number of months per year the program will operate including 24-hour counseling services.
- c. If applicable, descriptions of partnerships between public and private sectors to provide employment and training opportunities.

281-66.6(279). Responsibilities of area education agencies.

Area education agencies shall assist school districts in developing program plans and budgets for school-based youth services programs. Assistance may include, but is not limited to, the following:

- 66.6(1) Providing person power to coordinate planning between districts and other service providers and in writing grants.
- 66.6(2) Gathering and providing information for completion of program plans.
- 66.6(3) Identifying staff development resources and organizing staff training.
- 66.6(4) Identifying resources for establishing at least a 20 percent local contribution.
- 66.6(5) Participating in the advisory council.
- 66.6(6) Helping develop and implement recording procedures for evaluation of data and analysis of results.
- 66.6(7) Providing in-school support services.
- 66.6(8) Assisting with implementation of nondiscrimination measures.

281-66.7(279). Responsibilities of the department of education.

The department of education shall:

- 66.7(1) Provide guidelines and forms to school districts for submitting program plans.
- 66.7(2) Provide technical assistance to school districts, other education agencies and service providers in the development of plans.

66.7(3) Organize reviews and approval of written plans in at least three size categories of school districts including those below an enrollment of 1,200; between 1,200 and 4,999; and 5,000 and above. The process will give priority to need and plans that indicate high degrees of active participation by community-based youth organizations and agencies. Review criteria and a point system are contained in guidelines for school-based youth services programs.

66.7(4) Develop and administer a format for evaluation. An annual evaluation report shall be filed with the department of education by school districts following the close of each school year.

66.7(5) Provide technical assistance to school districts and other service providers in designing preservice and in-service training.

66.7(6) Consult with the departments of human services, human rights (division of criminal and juvenile justice planning), public health, economic development (division of job training and entrepreneurship assistance) and employment services (division of job services) to develop rules, administer programs, and monitor and evaluate programs.

66.7(7) Establish assistance through the F.I.N.E. Foundation and other foundations and public and private agencies in evaluating programs under this chapter and to provide support to school districts in implementing the funded programs.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

279.51A. Classroom environment - behavioral challenges - reports of violence or assault.

4. A classroom teacher employed by a school district shall report any incident of violence that results in injury or property damage or assault by a student enrolled in the school to the principal of the school.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

Intervention in altercations.

2. A person who is not an employee of a public school district, accredited nonpublic school, or area education agency may intervene in a fight or physical struggle occurring among students, or between students and nonstudents, that takes place in the presence of the nonemployee in a school building, on school premises, or at any school function or school-sponsored activity regardless of its location. The intervention may occur in the absence of an employee of a public school district, accredited nonpublic school, or area education agency, or at the request of such an employee, utilizing the degree and force of intervention reasonably necessary to restore order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation. However, a person who intervenes in the absence of an employee of a public school district, accredited nonpublic school, or area education agency shall report the intervention and all relevant information regarding the situation as soon as reasonably possible to such an employee.

Reporting violence - immunity.

An employee of a school district, an accredited nonpublic school, or an area education agency who participates in good faith and acts reasonably in the making of a report to, or investigation by, an appropriate person or agency regarding violence, threats of violence, physical or sexual abuse of a student, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report or investigation.

Harassment and bullying prohibited - policy - immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers,

students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

- e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

299.15. Reports by school officers and employees.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the § 299.15, secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

- e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

Parental Notification

LAWS

279.51A. Classroom environment - behavioral challenges - reports of violence or assault.

2. If a classroom teacher clears all other students from the classroom in accordance with subsection 1, the school principal shall, by the end of the school day if possible but at least within twenty-four hours after the incident giving rise to the classroom clearance, notify the parents or guardians of all students assigned to the classroom that was cleared. The notification shall not identify, directly or indirectly, any students involved in the incident giving rise to the classroom clearance. The principal of the school shall request that the parent or guardian of the student whose behavior caused the classroom clearance meet with the principal, the classroom teacher, and other staff as appropriate.

Duties of truancy officer.

1. The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or in the charge of any nonpublic school or any authority providing competent private instruction or independent private instruction as defined in section 299A.1, designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

2. The truancy officer shall promptly institute proceedings against any person violating any of the provisions of sections 299.1 through 299.5A.

Violation of attendance policy - attendance cooperation meeting - agreement.

2. This section is not applicable to a child who is receiving competent private instruction or independent private instruction in accordance with the requirements of chapter 299A. If a child is not in compliance with the attendance requirements established under section 299.1, and has not completed educational requirements through the sixth grade, and the school has used every means available to assure the child does attend, the school truancy officer shall contact the child's parent, guardian, or legal or actual custodian to participate in an attendance cooperation meeting. The parties to the attendance cooperation meeting may include the child and shall include the child's parent, guardian, or legal or actual custodian and the school truancy officer. The school truancy officer contacting the participants in the attendance cooperation meeting may invite other school officials, a designee of the juvenile court, the county attorney or the county attorney's designee, or other persons deemed appropriate to participate in the attendance cooperation meeting.

808A.2. Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker, desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. Allowing students to use a separate lock on a locker, desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

REGULATIONS

281-103.7(256B,280). Reasonable and necessary force - use of physical restraint or seclusion.

103.7(2) If seclusion or physical restraint is utilized, the following provisions shall apply:

- b. A school must attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.

281-103.8(256B,280). Training, documentation, debriefing, and reporting requirements.

103.8(3) Debriefing.

- a. Schools must hold a debriefing meeting as soon as practicable whenever required by paragraph 103.8(3)"f," but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent's consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student's behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, must include the following information and subjects:

- (1) The date and location of the meeting, and the names and titles of the participants;
- (2) The documentation and report completed in compliance with subrule 103.8(2);
- (3) A review of the student's BIP, IHP, safety plan, and IEP as applicable;
- (4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;
- (5) Determination of possible alternative responses to the incident/less restrictive means, if any;
- (6) Identification of additional resources that could facilitate those alternative responses in the future;
- (7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

279.51A. Classroom environment - behavioral challenges - reports of violence or assault.

5. Each school district shall report to the department of education, in a manner prescribed by the department, an annual count of all incidents of violence that result in injury or property damage or assault by a student in a school building, on school grounds, or at a school-sponsored function, and any time a student is referred for the use of or transfer to a therapeutic classroom. The report shall include but not be limited to demographic information on students reported as victims and reported as perpetrators of incidents of violence that result in injury or property damage or assault, including but not limited to disaggregated information on race, gender, national origin, age, grade level, and disability, along with any other data required for the department to implement the federal Elementary and Secondary Education Act, as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95, with appropriate safeguards to ensure student privacy. The department shall compile and summarize the reports, categorized by behavior, and shall submit the summary to the general assembly by November 1 annually. A teacher or administrator who submits a report in accordance with this section and who meets the requirements of section 280.27 or section 613.21 shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report pursuant to the provisions of sections 280.27 and 613.21. The provisions of section 70A.29 shall apply to a teacher or administrator who submits a report in accordance with this section or who reports an incident of violence or assault to a local law enforcement agency in good faith and without fraudulent intent or the intent to deceive. Personal information regarding a student in a report submitted pursuant to this section shall be kept confidential as required under the federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

280.28. Harassment and bullying prohibited - policy - immunity.

6. Collection requirement. The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. Integration of policy and reporting. The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.

REGULATIONS

281-12.3(13). Policy declaring harassment and bullying against state and school policy.

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

The board shall integrate its policy into its comprehensive school improvement plan. The board shall develop and maintain a system to collect harassment and bullying incidence data, and report such data, on forms specified by the department, to the local community and to the department.

281-103.8(256B,280). Training, documentation, debriefing, and reporting requirements.

103.8(5) Reporting to department. Schools shall report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

279.9B. Reports to juvenile authorities.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

279.51A. Classroom environment - behavioral challenges - reports of violence or assault.

5. Each school district shall report to the department of education, in a manner prescribed by the department, an annual count of all incidents of violence that result in injury or property damage or assault by a student in a school building, on school grounds, or at a school-sponsored function, and any time a student is referred for the use of or transfer to a therapeutic classroom. The report shall include but not be limited to demographic information on students reported as victims and reported as perpetrators of incidents of violence that result in injury or property damage or assault, including but not limited to disaggregated information on race, gender, national origin, age, grade level, and disability, along with any other data required for the department to implement the federal Elementary and Secondary Education Act, as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95, with appropriate safeguards to ensure student privacy. The department shall compile and summarize the reports, categorized by behavior, and shall submit the summary to the general assembly by November 1 annually. A teacher or administrator who submits a report in accordance with this section and who meets the requirements of section 280.27 or section 613.21 shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report pursuant to the provisions of sections 280.27 and 613.21. The provisions of section 70A.29 shall apply to a teacher or administrator who submits a report in accordance with this section or who reports an incident of violence or assault to a local law enforcement agency in good faith and without fraudulent intent or the intent to deceive. Personal information regarding a student in a report submitted pursuant to this section shall be kept confidential as required under the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

299.11. Duties of truancy officer.

1. The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or in the charge of any nonpublic school or any authority providing competent private instruction or independent private instruction as defined in section 299A.1, designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

2. The truancy officer shall promptly institute proceedings against any person violating any of the provisions of sections 299.1 through 299.5A.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

281-103.8(256B,280). Training, documentation, debriefing, and reporting requirements.

103.8(1) Training. An employee must receive training prior to using any form of physical restraint or seclusion. Training shall cover the following topics:

- g. Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Iowa provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Anti-Bullying/Anti-Harassment, Iowa Department of Education	Provides an overview of bullying including definitions, legal requirements, resources for schools to use for professional development, data reporting and other resources related to bullying.	https://educateiowa.gov/pk-12/learner-supports/anti-bullyinganti-harassment
Chronic Absence Resources, Iowa Department of Education	Provides information and links to current data, resources, and reports on chronic absenteeism.	Chronic Absence (educateiowa.gov)
Expulsion and suspension policies in early childhood, Iowa Department of Education	Provides information and links to resources to support educators in reducing the use of exclusionary discipline practices in early childhood settings.	Suspension and Expulsion Policies in Early Childhood Classrooms (educateiowa.gov)
Iowa's Multi-Tiered System of Supports (MTSS), Iowa Department of Education	Provides information on the five components of the Iowa MTSS framework with links to additional resources.	https://educateiowa.gov/pk-12/learner-supports/multi-tiered-system-supports-mtss
Legal Lessons, Iowa Department of Education	Provides links to legal guidelines and policy updates on a range of topics such as attendance, bullying and harassment, firearms on school grounds, school discipline, school safety, and search and seizure.	https://educateiowa.gov/resource/legal-resources/legal-lessons
Positive Behavioral Interventions and Supports (PBIS), Iowa Department of Education	Provides an overview of the vision, mission, and frequently asked questions of Iowa's Positive Behavioral Interventions and Supports (PBIS) efforts.	Positive Behavioral Interventions and Supports (PBIS) Iowa Department of Education (educateiowa.gov)
School Counseling, Iowa Department of Education	Addresses school counseling in Kindergarten-through-grade 12 programs with resources and tools for implementing multi-tiered system of supports (MTSS), positive behavioral interventions and supports (PBIS), social emotional learning, bullying/harassment, and attendance works.	https://educateiowa.gov/pk-12/instruction/school-counseling
Seclusion & Restraint, Iowa Department of Education	Provides links to documents explaining amended rules on corporal punishment, seclusion, and restraint; training resources; and a hands-on guide for educators to improve student behavior.	Seclusion and Restraint Iowa Department of Education (educateiowa.gov)

Title	Description	Website address (if applicable)
Social-Emotional Learning (SEL), Iowa Department of Education	Provides information and resources on social-emotional learning (SEL) including definitions, learning targets and indicators, and SEL competencies.	Iowa's Social-Emotional Learning Competencies - Version 3 - Summer 2022 (educateiowa.gov)
Documents		
Anti- Bullying/ Harassment Sample Policy (December 2021), Iowa Department of Education	Sample policy addressing bullying and harassment in the state of Iowa.	Bullying and Harassment Iowa Department of Education (educateiowa.gov)
Decisions in Motion, IS3 Toolkit 2 Addressing Discipline (2014), Iowa Department of Education	Toolkit providing guidance to schools on developing a plan to address discipline. Includes a sample plan and step-by-step process to improve school climate.	https://safesupportivelearning.ed.gov/sites/default/files/IS3+Toolkit+2.pdf
Guidance for School Behavioral Health Screening and Telehealth Services (September 2020), Iowa Department of Education	Guidance document informing Iowa area education agencies (AEAs), public school districts, and accredited nonpublic school districts of their responsibilities and the responsibilities of behavioral health service providers as required by Iowa Code sections 280A.1 through 280A.4.	Guidance for School Behavioral Health Screening and Telehealth Services (educateiowa.gov)
Iowa's Social Emotional Learning Competencies (July 2022), Iowa Department of Education	Guidance document detailing the Iowa Competencies, Learning Targets, Developmental Indicators, with Adult Examples for Instruction and Learner Examples (IASSEL Competencies) that provides information and resources to help districts and schools implement social-emotional learning.	Iowa's Social-Emotional Learning Competencies - Version 3 - Summer 2022 (educateiowa.gov)
Protocols and Training for Suicide Prevention and Postvention, Adverse Childhood Experiences Identification and Strategies to Mitigate Toxic Stress Response (September 2019), Iowa Department of Education	Guidance document providing information to schools on how to implement protocols and training on suicide prevention and postvention, adverse childhood experiences identification, and strategies to mitigate toxic stress response in compliance with Iowa Code Section 279.70.	SF2113 Guidance (educateiowa.gov)
Senate File 2360: Guidance for Safe Classroom Learning Environments (September 2020), Iowa Department of Education	Guidance document informing Iowa public school districts of the requirements of Senate File 2360 and aiding Iowa's school districts in interpreting and implementing this comprehensive legislation.	2020-01-23ConditionOfEducation2019.pdf (educateiowa.gov)
Other Resources		
The Annual Condition of Education Report (2022), Iowa Department of Education	Annual report on student populations and demographics, trends involving teacher salaries, student performance, discipline incidents, and school financial information.	2022 Condition of Education (educateiowa.gov)



Kansas Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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- [75-763.](#) Rules and regulations for skill development training for school misconduct

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Kansas State Department of Education Regulations

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

72-6134. Use of air guns; certain policies prohibited.

(a) No school district shall adopt a policy that prohibits an organization from conducting activities on school property solely because such activities include the possession and use of air guns by the participants. Any policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, shall not prohibit the possession of an air gun by a pupil on school property if such pupil is a participant in the activities of an organization.

(b) A policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, may prohibit the possession of air guns by pupils at school, on school property or at a school supervised activity, except when a pupil is participating in activities conducted by an organization, or is in transit to or from such activities.

(c) Any individual desiring to participate in activities conducted by an organization may be required to sign, or have a parent or legal guardian sign, a liability waiver. The liability waiver shall be in such form as prescribed by the chief administrative officer of the school and shall contain the appropriate language so as to relieve the school district, the school and all school personnel from liability for any claims arising out of the acts or omissions of any individual or any school personnel relating to activities conducted by an organization.

(d) The provisions of this section shall be a part of and supplemental to K.S.A. 72-89a01 et seq., and amendments thereto.

72-6147. Bullying, school district policies.

(b) The board of education of each school district shall adopt a policy to prohibit bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(c) The board of education of each school district shall adopt and implement a plan to address bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto.

72-6153. Use of emergency safety interventions; seclusion room requirements; school district policies; dispute resolution procedures.

(g) Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.

REGULATIONS

91-15-1. Policies or rules governing employees' and students' conduct.

(a) The board of education of each unified school district shall adopt policies or rules that govern the conduct of the employees and students of the school district and that include procedures for enforcement of the policies or rules.

(b) Before adopting the policies or rules, each board of education shall submit the policies or rules to legal counsel for review.

(c) After the adoption of the policies or rules, the clerk of the board of education shall maintain the policies or rules in the permanent files of the school district.

91-42-3. District policy; training; local board dispute resolution.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the standards, definitions, and requirements of this article.

Scope

LAWS

72-6114. Grounds for suspension or expulsion; who may suspend or expel.

The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil guilty of any of the following:

(a) Willful violation of any published regulation for student conduct adopted or approved by the board of education;

(b) conduct which substantially disrupts, impedes or interferes with the operation of any public school;

(c) conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;

(d) conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;

(e) conduct at school, on school property, or at a school supervised activity which, if the pupil is an adult, constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or

(f) disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to

be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

72-6147. Bullying, school district policies.

(b) The board of education of each school district shall adopt a policy to prohibit bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(c) The board of education of each school district shall adopt and implement a plan to address bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

72-6153. Use of emergency safety interventions; seclusion room requirements; school district policies; dispute resolution procedures.

(h) Written policies developed pursuant to this act shall be accessible on each school's website and shall be included in each school's code of conduct, school safety plan or student handbook.

REGULATIONS

91-42-3. District policy; training; local board dispute resolution.

(b) Written policies developed pursuant to this article shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

72-6151. Freedom from unsafe restraint and seclusion act; citation.

Sections 1 through 8, and amendments thereto, shall be known and may be cited as the freedom from unsafe restraint and seclusion act.

72-6152. Definitions.

As used in K.S.A. 2015 Supp. 72-89d01 through 72-89d07, and amendments thereto:

- (a) "Appointing authority" means a group of persons empowered by statute to make human resource decisions that affect the employment of officers.
- (b) "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.
- (c) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.
- (d) "Commissioner" means the commissioner of education.
- (e) "Complaint" means a written document that a parent files with a local board as provided for in this act.
- (f) "Department" means the state department of education.
- (g) "Emergency safety intervention" means the use of seclusion or physical restraint, but does not include the use of time-out.
- (h) "Hearing officer" means the state department employee designated to conduct an administrative review.
- (i) "Incident" means each occurrence of the use of an emergency safety intervention.
- (j) "Law enforcement officer" and "police officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic law of this state or any Kansas municipality. This term includes a campus police officer.

(k) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

(l) "Local board" means the board of education of a district or the governing body of any accredited nonpublic school.

(m) "Mechanical restraint" means any device or object used to limit a student's movement.

(n) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as a parent as defined in K.S.A. 72-1046(d)(2), and amendments thereto; (4) a legal guardian; (5) an education advocate for a student with an exceptionality; (6) a foster parent, unless the student is a child with an exceptionality; or (7) a student who has reached the age of majority or is an emancipated minor.

(o) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder or back of a student who is acting out for the purpose of inducing the student to walk to a safe location. Physical escort shall not be considered an emergency safety intervention.

(p) "Physical restraint" means bodily force used to substantially limit a student's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.

(q) "School" means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board of education.

(r) "School resource officer" means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

(s) "School security officer" means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.

(t) "Seclusion" means placement of a student in a location where all the following conditions are met:

- (1) The student is placed in an enclosed area by school personnel;
- (2) the student is purposefully isolated from adults and peers; and
- (3) the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

(u) "State board" means the Kansas state board of education.

(v) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

72-6153. Use of emergency safety interventions; seclusion room requirements; school district policies; dispute resolution procedures.

(a) Emergency safety interventions shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of an emergency safety intervention shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(b) A student shall not be subjected to an emergency safety intervention if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention. The existence of such medical condition must be indicated in a written statement

from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. Such written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions. Notwithstanding the provisions of this subsection, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

(c) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

(d) All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

(e) A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such room shall be free of any condition that could be a danger to the student, and shall be well-ventilated and sufficiently lighted.

(f) The following types of restraint shall be prohibited:

(1) Prone, or face-down, physical restraint; supine, or face-up physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(2) chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue such treatments; and

(3) mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a certified law enforcement officer in carrying out law enforcement duties, seatbelts and any other safety equipment when used to secure students during transportation.

(g) Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.

Such written policies shall include that:

(1)(A) School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions;

(B) training shall address prevention techniques, de-escalation techniques and positive behavioral intervention strategies;

(C) training shall be consistent with nationally recognized training programs; and

(D) schools shall maintain written or electronic documentation on training provided and lists of participants in each training for inspection by the Kansas state board of education;

(2) a local dispute resolution process shall be developed, which shall include the following:

(A) A procedure for a parent to file a complaint with the local board. If a parent believes that an emergency safety intervention has been used on the parent's child in violation of the act, rules and regulations or the local board's emergency safety intervention policy, the parent may file a complaint within 30 days of the date on which the parent was informed of the use of the emergency safety intervention;

(B) a procedure for complaint investigation;

(C) a procedure to implement a dispute-resolution final decision. The local board's decision shall be in writing and shall include findings of fact and any corrective action required by the school if the local

board deems such action necessary. The local board's final decision shall be mailed to the parent and the department within 30 days of the local board's receipt of the complaint; and

(D) a procedure setting out the parent's right to request an administrative review by the state board, including information as to the deadline by which the parent must submit the request to the state board;

(3) a system for the collection and maintenance of documentation for each use of an emergency safety intervention as set forth in K.S.A. 2015 Supp. 72-89d04, and amendments thereto;

(4) a procedure for the periodic review of the use of emergency safety interventions at each school, which shall be compiled and submitted at least biannually to the superintendent or the superintendent's designee; and

(5) a schedule for when and how parents are provided with notice of the local board's written policies on the use of emergency safety interventions.

(h) Written policies developed pursuant to this act shall be accessible on each school's website and shall be included in each school's code of conduct, school safety plan or student handbook.

(i)(1) Campus police officers and school resource officers shall be exempt from the requirements of this act when engaged in an activity that has a legitimate law enforcement purpose.

(2) School security officers shall not be exempt from the requirements of this act.

72-6154. Parental notification; documentation of an incident; annual report.

(a)(1) When a student is subjected to an emergency safety intervention, the school shall notify the parent on the same day the emergency safety intervention was used. If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. Written documentation of the use of an emergency safety intervention shall be completed and provided to the parent no later than the school day following the day on which the emergency safety intervention was used. Such written documentation shall include: (A) The events leading up to the incident; (B) student behaviors that necessitated the emergency safety intervention; (C) steps taken to transition the student back into the educational setting; (D) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the emergency safety intervention; (E) space or an additional form for parents to provide feedback or comments to the school regarding the incident; (F) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and (G) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting. Schools may group incidents together when documenting the items in subparagraphs (A), (B) and (C) if the triggering issue necessitating the emergency safety interventions is the same.

(2) The parent shall be provided the following information after the first incident in which an emergency safety intervention is used during the school year, and may be provided such information after each subsequent incident that occurs during the school year: (A) A copy of the standards of when emergency safety interventions can be used; (B) a flyer on the parent's rights; (C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and (D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system. Upon the first occurrence of an incident involving the use of emergency safety interventions, the parent shall be provided the foregoing information in printed form or, upon the parent's written request, by

email. Upon the occurrence of a second or subsequent incident, the parent shall be provided with a full and direct website address containing such information.

(b) If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the school shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a parent, as set forth in subsection (a)(1) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

(c) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department website, and to the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The data governance board of the department shall use the actual data value when providing statewide aggregate data for such reports. The department's reported results shall include, but shall not be limited to, the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;
- (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
- (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
- (4) the total number of incidents in which emergency safety interventions were used on students;
- (5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;
- (6) the number of students physically restrained;
- (7) the number of students placed in seclusion;
- (8) the maximum and median number of minutes a student was placed in seclusion;
- (9) the maximum number of incidents in which emergency safety interventions were used on a student;
- (10) the information reported under subsection (c)(1) through (c)(3) by the school to the extent possible;
- (11) the information reported under subsections (c)(1) through (c)(9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and
- (12) such other information as the department deems necessary to report.

72-6155. Parent's right to request meeting; required meetings.

(a) After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the parent's request. The focus of any meeting convened under this subsection shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

- (1) For a student who has an individualized education program or a section 504 plan, such student's individualized education program team or section 504 plan team shall discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan or amend either if already in existence. For a student with a section 504 plan, such student's section 504 plan team shall discuss and consider the need for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto. For students who have an individualized education program and are placed in a private school by a parent, a meeting called under this subsection shall include the parent and the private school, who shall consider whether the

parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate such meeting.

(2) For a student who does not have an individualized education program or section 504 plan, the parent and school shall discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto, the need for a functional behavioral analysis or the need for a behavior intervention plan. Any meeting called pursuant to this subsection shall include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident and such other school employees designated by the school administrator as appropriate for such meeting.

(b) The parent shall determine whether the student shall be invited to any meeting called pursuant to this section.

(c) The time for calling a meeting pursuant to this section shall be extended beyond the 10-school-day limit if the parent of the student is unable to attend within that time period.

(d) Nothing in this section shall be construed to prohibit the development and implementation of a functional behavioral analysis or a behavior intervention plan for any student if such student may benefit from such measures.

72-6156. Rules and regulations.

The state board of education shall adopt rules and regulations as necessary to implement the provisions of this act on or before March 1, 2016. Such rules and regulations shall include, but not be limited to, the standards for the use and reporting of emergency safety interventions as provided in sections 2 through 5, and amendments thereto.

72-6157. Emergency safety intervention task force; membership; organization; duties.

(a) There is hereby established the emergency safety intervention task force. The task force shall consist of the 17 members appointed as follows:

(1) Two members shall be appointed by the state board of education, one of which shall be a member of the state board of education and one of which shall be an attorney for the department;

(2) two members shall be appointed by the disability rights center of Kansas;

(3) two members shall be appointed by families together inc., one of which shall be a parent of a child with a disability;

(4) two members shall be appointed by keys for networking, inc., one of which shall be a parent of a child with a disability;

(5) two members shall be appointed by the special education advisory council;

(6) two members shall be appointed by the Kansas association of special education administrators;

(7) two members shall be appointed by the executive director of the Kansas council on developmental disabilities, one of which shall be a parent of a child with a disability;

(8) two members shall be appointed by the Kansas association of school boards, one of which shall be an attorney for the association; and

(9) one member shall be appointed by the center for child health and development of the university of Kansas medical center, who shall be a person licensed to practice medicine and surgery in Kansas who is a practicing physician with experience treating and diagnosing individuals with disabilities, but who is not a staff member of the center for child health and development of the university of Kansas medical center.

(b) The emergency safety intervention task force shall study and review the use of emergency safety interventions and prepare a report on its findings and recommendations concerning the use of such

interventions. The task force's report shall be submitted to the governor and the legislature on or before January 20, 2016.

(c) The member of the task force who is also a member of the state board of education shall call an organizational meeting of the task force on or before August 1, 2015. At such organizational meeting the members shall elect a chairperson and vice-chairperson from the membership of the task force. The task force also shall consider dates for future meetings, the agenda for such meetings and the need for electing a facilitator to assist in discussions among the members of the task force.

(d) The task force may meet at any time and at any place within the state on the call of the chairperson. A quorum of the task force shall be eight members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.

(e) If approved by the legislative coordinating council, members of the task force attending meetings authorized by the task force shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

REGULATIONS

91-42-1. Definitions.

As used in this article of the department's regulations, each of the following terms shall have the meaning specified in this regulation:

- (a) "Administrative review" means review by the state board upon request of a parent.
- (b) "Area of purposeful isolation" means any separate space, regardless of any other use of that space, other than an open hallway or similarly open environment.
- (c) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.
- (d) "Commissioner" means commissioner of education.
- (e) "Complaint" means a written document that a parent files with a local board as provided for in this article of the department's regulations.
- (f) "Department" means the state department of education.
- (g) "District" means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-3115, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.
- (h) "Emergency safety intervention" means the use of seclusion or physical restraint.
- (i) "Hearing officer" means the state board's designee to conduct an administrative review as specified in K.A.R. 91-42-5. The hearing officer shall be an officer or employee of the department.
- (j) "Incident" means each occurrence of the use of an emergency safety intervention.
- (k) "Local board" means the board of education of a district or the governing body of any accredited nonpublic school.
- (l) "Mechanical restraint" means any device or object used to limit a student's movement.
- (m) "Parent" means any of the following:
 - (1) A natural parent;
 - (2) an adoptive parent;
 - (3) a person acting as a parent, as defined in K.S.A. 72-3122 and amendments thereto;
 - (4) a legal guardian;
 - (5) an education advocate for a student with an exceptionality;
 - (6) a foster parent, unless the foster parent's child is a student with an exceptionality; or

- (7) a student who has reached the age of majority or is an emancipated minor.
- (n) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out for the purpose of inducing the student to walk to a safe location.
- (o) "Physical restraint" means bodily force used to substantially limit a student's movement, except that consensual, solicited, or unintentional contact and contact to provide comfort, assistance, or instruction shall not be deemed to be physical restraint.
- (p) "Purposefully isolate," when used regarding a student means that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:
 - (1) Removal of the student from the learning environment by school personnel;
 - (2) separation of the student from all or most peers and adults in the learning environment by school personnel; or
 - (3) placement of the student within an area of purposeful isolation by school personnel.
- (q) "School" means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or is subject to the regulatory authority of the state board.
- (r) "Seclusion" means placement of a student for any reason other than for in-school suspension or detention or any other appropriate disciplinary measure in a location where both of the following conditions are met:
 - (1) School personnel purposefully isolate the student.
 - (2) The student is prevented from leaving, or the student has reason to believe that the student will be prevented from leaving, the area of purposeful isolation.
- (s) "State board" means Kansas state board of education.
- (t) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

91-42-2. Standards for the use of emergency safety interventions.

- (a) An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to the student or others with the present ability to effect physical harm. Less restrictive alternatives to emergency safety interventions, including positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior before the use of any emergency safety interventions. The use of an emergency safety intervention shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.
- (b) Use of an emergency safety intervention for purposes of discipline or punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.
- (c)(1) A student shall not be subjected to an emergency safety intervention if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention.
 - (2) The existence of the medical condition shall be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. The written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger, and any suggested alternatives to the use of emergency safety interventions.

(3) In spite of the provisions of this subsection, a student may be subjected to an emergency safety intervention if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

(d) (1) When a student is placed in seclusion, a school employee shall see and hear the student at all times.

(2) The presence of another person in the area of purposeful isolation or observing the student from outside the area of purposeful isolation shall not create an exemption from otherwise reporting the incident as seclusion.

(3) When a student is placed in or otherwise directed to an area of purposeful isolation, the student shall have a reason to believe that the student is prevented from leaving.

(4) If the area of purposeful isolation is equipped with a locking door designed to prevent a student from leaving the area of purposeful isolation, the door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the area of purposeful isolation, or in cases of emergency, including fire or severe weather.

(5) Each area of purposeful isolation shall be a safe place with proportional and similar characteristics as those of rooms where students frequent. Each area of purposeful isolation shall be free of any condition that could be a danger to the student and shall be well-ventilated and sufficiently lighted.

(e) The following types of restraint shall be prohibited:

(1) Prone, or face-down, physical restraint;

(2) supine, or face-up, physical restraint;

(3) any restraint that obstructs the airway of a student;

(4) any restraint that impacts a student's primary mode of communication;

(5) chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(6) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation.

(f) The following shall not be deemed an emergency safety intervention, if its use does not otherwise meet the definition of an emergency safety intervention:

(1) Physical escort; and

(2) time-out.

91-42-3. District policy; training; local board dispute resolution.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the standards, definitions, and requirements of this article. The written policies shall also include the following:

(1)(A) School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions;

(B) training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(C) any training on the use of emergency safety interventions by the district shall be consistent with nationally recognized training programs; and

(D) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training; and

- (2) a local dispute resolution process, which shall include the following:
- (A) A procedure for a parent to file a complaint with the local board. If a parent believes that an emergency safety intervention has been used with the parent's child in violation of this article or the district's emergency safety intervention policy, the parent may file a complaint with the local board. The complaint shall be filed within 30 days of the date on which the parent was informed of the use of that emergency safety intervention;
 - (B) a complaint investigation procedure;
 - (C) a dispute resolution final decision. The local board's final decision shall be in writing and shall include findings of fact and any corrective action required by the district if the local board deems these actions necessary. The local board's final decision shall be mailed to the parent and the department within 30 days of the local board's receipt of the complaint; and
 - (D) a statement of the parent's right to request an administrative review by the state board as specified in K.A.R. 91-42-5, including information as to the deadline by which the parent must submit the request to the state board;

(3) a system for the collection and maintenance of documentation for each use of an emergency safety intervention, which shall include the following:

- (A) The date and time of the emergency safety intervention;
- (B) the type of emergency safety intervention;
- (C) the length of time the emergency safety intervention was used;
- (D) the school personnel who participated in or supervised the emergency safety intervention;
- (E) whether the student had an individualized education program at the time of the incident;
- (F) whether the student had a section 504 plan at the time of the incident; and
- (G) whether the student had a behavior intervention plan at the time of the incident;

(4) procedures for the periodic review of the use of emergency safety intervention at each school, which shall be compiled and submitted at least biannually to the district superintendent or district designee; and

(5) a schedule for when and how parents are provided with notice of the written policies on the use of emergency safety interventions.

(b) Written policies developed pursuant to this article shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook.

91-42-4. Parent notification; required meeting; filing a complaint.

(a) When an emergency safety intervention is used with a student, the school shall notify the parent the same day the emergency safety intervention was used. The school shall attempt to contact the parent using at least two methods of contact, one of which shall be the preferred method of contact if so designated by the parent as specified in this subsection. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.

(b) The school shall provide written documentation of the emergency safety intervention used to the parent no later than the school day following the day on which the emergency safety intervention was used. This documentation shall include the following:

- (1) The date and time of the intervention;
- (2) the type of intervention;
- (3) the length of time the intervention was used;

- (4) the school personnel who participated in or supervised the intervention;
- (5) the events leading up to the incident;
- (6) the student behaviors that necessitated the emergency safety intervention;
- (7) the steps taken to transition the student back into the educational setting;
- (8) space or an additional form for parents to provide feedback or comments to the school regarding the incident;
- (9) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and
- (10) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting. Schools may group incidents together when documenting the items in paragraphs (b)(5) through (7) if the triggering issue necessitating the emergency safety interventions is the same.

(c) In addition to the documentation required by subsection (b), the school shall provide the parent the following information:

(1) After the first incident in which an emergency safety intervention is used with a student during the school year, the school shall provide the following information in printed form to the parent or, upon the parent's written request, by email:

- (A) A copy of the standards of when emergency safety interventions can be used;
- (B) a flyer on the parent's rights;
- (C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and
- (D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system.

(2) After subsequent incidents in which an emergency safety intervention is used with a student during the school year, the school shall provide a full and direct web site address containing the information in paragraph (c)(1).

(d) After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request the meeting verbally, in writing or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the date on which the parent sent the request. The focus of any meeting convened under this subsection shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

(1) For a student who has an individualized education program or a section 504 plan, the student's individualized education program team or section 504 plan team shall discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan, or amend either if already in existence.

(2) For a student with a section 504 plan, the student's section 504 plan team shall discuss and consider the need for an evaluation under the special education for exceptional children act, K.S.A. 72- 961 et seq., and amendments thereto.

(3) For a student who has an individualized education program and is placed in a private school by a parent, a meeting called under this subsection shall include the parent and the designee of the private school, who shall consider whether the parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate the meeting.

(4) For a student who does not have an individualized education program or section 504 plan, the parent and school shall discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq. and

amendments thereto, the need for a functional behavioral analysis, or the need for a behavior intervention plan. Each meeting called pursuant to this subsection shall include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident, and any other school employees designated by the school administrator as appropriate for the meeting.

(5) The parent shall determine whether the student shall be invited to any meeting called pursuant to this subsection.

(6) The time for calling a meeting pursuant to this subsection shall be extended beyond the 10-school-day limit if the parent of the student is unable to attend within that time period.

(7) Nothing in this subsection shall be construed to prohibit the development and implementation of a functional behavioral analysis or a behavior intervention plan for any student if the student could benefit from such measures.

(e) If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student on school grounds or during a school-sponsored activity, the school shall notify the parent on the same day the school becomes aware of the use, using the parent's preferred method of contact as described in K.A.R. 91-42-4(a). A school shall not be required to provide written documentation to a parent, as set forth in subsection (b) or (c) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

(f) If a parent believes that emergency safety interventions have been used in violation of this article or policies of the school district, then within 30 days from being informed of the use of emergency safety intervention, the parent may file a complaint through the local dispute resolution process. Any parent may request an administrative review by the state board within 30 days from the date the final decision was issued pursuant to the local dispute resolution process.

91-42-5. Administrative review.

(a) Any parent who filed a written complaint with a local board regarding the use of emergency safety intervention may request an administrative review by the state board of the local board's final decision.

(b) Each parent seeking administrative review shall provide the following information in the request:

(1) The name of the student and the student's contact information;

(2) the name and contact information, to the extent known, for all involved parties, including teachers, aides, administrators, and district staff;

(3) a detailed statement of the basis for seeking administrative review, with all supporting facts and documentation. The documentation shall include a copy of the complaint filed with the local board and shall include the local board's final decision, if issued. The request shall be legibly written or typed and shall be signed by the parent. Relevant written instruments or documents in the possession of the parent shall be attached as exhibits or, if unavailable, referenced in the request for administrative review; and

(4) written consent to disclose any personally identifiable information from the student's education records necessary to conduct an investigation pursuant to this regulation.

(c)(1) Each request for administrative review shall be filed with the commissioner within 30 days from the date a final decision is issued pursuant to the local dispute resolution process or, if a final decision is not issued, within 60 days from the date a written complaint was filed with the local board.

(2) The hearing officer shall forward a copy of the request for administrative review to the clerk of the local board from whom the administrative review is sought.

(d) Upon receipt of each request for administrative review, the hearing officer shall consider the local board's final decision and may initiate its own investigation of the complaint. Any investigation may include the following:

- (1) A discussion with the parent, during which additional information may be gathered and specific allegations identified, verified, and recorded;
- (2) contact with the local board or other district staff against which the request for administrative review is filed to allow the local board to respond to the request with facts and information supporting the local board's final decision; and
- (3) an on-site investigation by department officers or employees.

(e) If the hearing officer receives information that the hearing officer determines was not previously made available to both parties during the local board dispute resolution process, the hearing officer may remand the issue back to the local board. The local board then has 30 days to issue a written amended final decision.

Upon remand, the hearing officer's case will be closed. All rights to and responsibilities of an administrative review shall begin again when the local board's amended final decision is issued or upon 30 days from when the hearing officer's remand is issued, whichever occurs first.

(f) Within 60 days of the commissioner's receipt of the request for administrative review, the hearing officer shall inform the parent, the school's head administrator, the district superintendent, the local board clerk, and the state board in writing of the results of the administrative review. This time frame may be extended for good cause upon approval of the commissioner.

(g) The results of the administrative review shall contain findings of fact, conclusions of law, and, if needed, suggested corrective action. The hearing officer shall determine whether the district is in violation of this article based solely on the information obtained by the hearing officer during the course of the investigation and the administrative review process. This determination shall include one of the following:

- (1) The local board appropriately resolved the complaint pursuant to its dispute resolution process.
- (2) The local board should reevaluate the complaint pursuant to its dispute resolution process with suggested findings of fact.
- (3) The hearing officer's suggested corrective action is necessary to ensure that local board policies meet the requirements of law.

(h) Nothing in this regulation shall require exhaustion of remedies under this regulation before using procedures or seeking remedies that are otherwise available.

91-42-6. Exemptions.

(b) Campus police officers and school resource officers shall be exempt from the requirements of this article when engaged in an activity that has a legitimate law enforcement purpose.

(c) School security officers shall not be exempt from the requirements of this article.

91-42-7. Reporting.

(a) Each district shall report information from all incidents of emergency safety interventions that the department deems necessary to the department by the date and in the form specified by the department.

(b) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department web site and to the state board, the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The department's reported results shall include but shall not be limited to the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;

- (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
 - (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
 - (4) the total number of incidents in which emergency safety interventions were used on students;
 - (5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;
 - (6) the number of students physically restrained;
 - (7) the number of students placed in seclusion;
 - (8) the maximum and median number of minutes a student was placed in seclusion;
 - (9) the maximum number of incidents in which emergency safety interventions were used on a student;
 - (10) the information reported under paragraphs (c)(1) through (c)(3) reported by school to the extent possible;
 - (11) the information reported under paragraphs (c)(1) through (c)(9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and
 - (12) any other information that the department deems necessary to report.
- (c) Actual data values shall be used when providing statewide aggregate data for the reports.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

72-6114. Grounds for suspension or expulsion; who may suspend or expel.

The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil guilty of any of the following:

- (a) Willful violation of any published regulation for student conduct adopted or approved by the board of education;
- (b) conduct which substantially disrupts, impedes or interferes with the operation of any public school;
- (c) conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;
- (d) conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;
- (e) conduct at school, on school property, or at a school supervised activity which, if the pupil is an adult, constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or
- (f) disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

72-6115. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(a) A suspension may be for a short term not exceeding 10 school days, or for an extended term not exceeding 90 school days. An expulsion may be for a term not exceeding 186 school days. If a suspension or expulsion is for a term exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(e) The chief administrative officer of the school in which a pupil required to be expelled pursuant to a policy adopted under subsection (a) is enrolled may modify the expulsion requirement in a manner which is consistent with the requirements of federal law. Nothing in this subsection shall be applied or construed in any manner so as to require the chief administrative officer of a school to modify the expulsion requirement of a policy adopted by a board of education pursuant to the provisions of subsection (a).

REGULATIONS

No relevant regulations found.

Due Process

LAWS

72-6115. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(b)(1) Except as authorized in provision (2), no suspension for a short term shall be imposed upon a pupil without giving the pupil notice of the charges and affording the pupil an opportunity for a hearing thereon. The notice may be oral or written and the hearing may be held immediately after the notice is given. The hearing may be conducted informally but shall include the following procedural due process requirements:

(A) The right of the pupil to be present at the hearing; (B) the right of the pupil to be informed of the charges; (C) the right of the pupil to be informed of the basis for the accusation; and (D) the right of the pupil to make statements in defense or mitigation of the charges or accusations. Refusal of a pupil to be present at the hearing will constitute a waiver of the pupil's opportunity for a hearing.

(2) A short-term suspension may be imposed upon a pupil forthwith, and without affording the pupil a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes or interferes with the operation of the school.

(c) A written notice of any short-term suspension and the reason therefor shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an opportunity for an informal hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an informal hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.

(d) No suspension for an extended term and no expulsion shall be imposed upon a pupil until an opportunity for a formal hearing thereon is afforded the pupil. A written notice of any proposal to suspend for an extended term or to expel from school, and the charges upon which the proposal is based shall be given to the pupil proposed to be suspended or expelled from school, and to the pupil's parent or guardian. Any notice of a proposal to suspend for an extended term or to expel from school shall state the time, date and place that the pupil will be afforded an opportunity for a formal hearing, and that failure of the pupil and the pupil's parent or guardian to attend the hearing will result in a waiver of the pupil's opportunity for the hearing. The hearing shall be held not later than 10 days after the date of the notice. The notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, and amendments thereto.

(e) Whenever any written notice is required under this act to be given to a pupil or to a pupil's parent or guardian, it shall be sufficient if the notice is mailed to the address on file in the school records of the pupil. In lieu of mailing the written notice, the notice may be personally delivered.

(f) A formal hearing on a suspension or expulsion may be conducted by any person or committee of persons authorized by the board of education to conduct the hearing.

72-6116. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs.

(a) The formal hearing provided for in K.S.A. 72-8902, and amendments thereto, shall be conducted in accordance with regulations relating thereto adopted by the board of education.

Such regulations shall afford procedural due process including, but not limited to, the following:

- (1) The right of the pupil to have counsel of the pupil's own choice present and to receive the advice of such counsel or other person whom the pupil may select;
- (2) the right of the parents or guardians of the pupil to be present at the hearing;
- (3) the right of the pupil and the pupil's counsel or advisor to hear or read a full report of testimony of witnesses against the pupil;
- (4) the right of the pupil and the pupil's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;
- (5) the right of the pupil to present the pupil's own witnesses in person or their testimony by affidavit;
- (6) the right of the pupil to testify in the pupil's own behalf and give reasons for the pupil's conduct;
- (7) the right of the pupil to have an orderly hearing; and
- (8) the right of the pupil to a fair and impartial decision based on substantial evidence.

(b) In all extended-term suspension and expulsion from school cases, there shall be made a record of the hearing of an appeal of the suspension or expulsion, whichever is applicable, by mechanical or electronic recording or by an official court reporter, and the costs thereof shall be paid by the school district.

(c) At the conclusion of a formal hearing which results in a suspension for an extended term or an expulsion, the person or committee conducting the hearing shall make a written report of the findings and results of the hearing.

The report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil who is suspended or expelled and, if the pupil is a juvenile, to the parents or guardians and counsel or other advisor of the pupil.

If the pupil is an adult, the report shall be open to the inspection of the parents or guardians and counsel or other advisor of the pupil only upon written consent of the pupil.

Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed.

Whenever the person or committee conducting a hearing fails to make the findings specified above, the report of the hearing shall provide that the suspension or expulsion of the pupil shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever occurs sooner.

Any such pupil shall be provided with information concerning services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the conduct upon which the suspension or expulsion was based.

If the pupil is a juvenile, the information shall also be provided to the parents or guardians of the pupil.

72-6117. Notice of hearing results; appeal to board of education; hearing officers; procedure.

(b) Any pupil, age 18 or older, who has been suspended for an extended term or expelled, or one of the pupil's parents or guardians of a pupil under age 18, may appeal such suspension or expulsion to the board of education of the school district by filing a written notice of appeal with the clerk of the board of education not later than 10 calendar days after receiving the written notice. Any such appeal shall be heard by the board of education, or by a hearing officer appointed by such board, not later than 20 calendar days after such notice of appeal is filed. The pupil and the pupil's parents or guardians shall be notified in writing of the time and place of the appeal hearing at least five days prior thereto. Such appeal shall be conducted under rules which are consonant with K.S.A. 72-8903, and amendments thereto. Except as provided by subsection (c), the decision on any such appeal shall be rendered not later than five days after the conclusion of the appeal hearing.

(c) For the purpose of hearing an appeal of an extended-term suspension or an expulsion, the board of education may appoint one or more hearing officers. Any such hearing officer shall be a member of the board of education, a certificated employee of the school district, or an attorney admitted to the practice of law in this state. Any such appointment shall apply to a particular hearing or to a set or class of hearings as specified by the board of education in making the appointment. Whenever a hearing officer appointed under authority of this section hears any appeal, the hearing officer shall prepare a written report thereon to the board of education. After receiving any such report, the board of education shall determine the matter with or without additional hearing. If a hearing officer is appointed to hear an appeal, the board shall render its decision not later than the next regularly-scheduled meeting of the board following the date of the conclusion of the hearing of the appeal by the hearing officer. Any matter determined by the board of education in accordance with this subsection shall be valid to the same extent as if the matter were fully heard by the board of education without a hearing officer.

72-6119. Powers and duties of persons conducting hearings.

(a) Any person, hearing officer or any member of a committee or the board of education conducting a hearing under this act may:

- (1) Administer oaths for the purpose of taking testimony;
- (2) call and examine witnesses and receive documentary and other evidence; and
- (3) take any other action necessary to make the hearing accord with procedural due process.

(b) Any hearing officer, any member of a committee or the board of education holding a formal hearing or an appeal hearing under this act may and, upon the request of any pupil for whom any such hearing is held or upon the request of the pupil's parents or guardians or counsel, shall petition the chief judge of the judicial district in which the school district is located requesting that the clerk of the district court be authorized to issue subpoenas for the attendance and testimony of the principal witness or witnesses and the production of books, records, reports, papers and documents relating to the proposed suspension or expulsion from school in the same manner as provided for the issuance of subpoenas in civil actions pursuant to K.S.A. 60-245, and amendments thereto.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

72-6116. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs.

Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed.

72-6120. Refusal to admit suspended or expelled pupil authorized.

A pupil who has been suspended or expelled from school by any school district may be refused admission to school in any other school district, regardless of residency, until such time as the period of suspension or expulsion has expired.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

72-3133. Inventory of community services; recommendations for further services.

Any school attendance review board established pursuant to K.S.A. 72-8239 shall maintain a continuing inventory of community resources, including alternative educational programs, and make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

72-4241. Alternative schools; authorization to establish; waiver from certain requirements, how acquired; terms and conditions.

The board of education of any school district may establish an alternative school or schools at any of the levels of grade seven or above to provide an educational alternative for students determined by such board of education to be unable to benefit from other schools of the school district. Courses of instruction and other requirements of statutes and rules and regulations shall apply to any such schools to the extent that the same are not obstructive to programs of learning and instruction in such schools. In the event the board of education determines that it is desirable to vary in some manner from the terms and conditions of a statute or the rules and regulations of the state board of education, such board of education shall make application to the state board of education for a complete or partial waiver of such statutory or rule and regulation requirements, and upon approval of such application, or amendment and approval thereof, the board of education shall be authorized to operate such alternative school under the terms and conditions of such waiver until such time as the waiver may be rescinded or modified by the state board, or by act of the legislature.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

72-6131. Definitions.

As used in this act:

(h)(1) "Weapon" means: (A) Any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any weapon described in the preceding example; (C) any firearm muffler or firearm silencer; (D) any explosive, incendiary, or poison gas: (i) Bomb; (ii) grenade; (iii) rocket having a propellant charge of more than four ounces; (iv) missile having an explosive or incendiary charge of more than ¼ ounce; (v) mine; or (vi) similar device; (E) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than ½ inch in diameter; (F) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (G) any bludgeon, sandclub, metal knuckles or throwing star; (H) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; or (I) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun.

(2) The term "weapon" does not include within its meaning: (A) An antique firearm; (B) an air gun; (C) any device which is neither designed nor redesigned for use as a weapon; (D) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (E) surplus ordinance sold, loaned or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or (F) class C common fireworks.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the secretary for children and families or the commissioner of juvenile justice.

72-6134. Use of air guns; certain policies prohibited.

(a) No school district shall adopt a policy that prohibits an organization from conducting activities on school property solely because such activities include the possession and use of air guns by the participants. Any policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, shall not prohibit the possession of an air gun by a pupil on school property if such pupil is a participant in the activities of an organization.

(b) A policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, may prohibit the possession of air guns by pupils at school, on school property or at a school supervised activity, except when a pupil is participating in activities conducted by an organization, or is in transit to or from such activities.

(c) Any individual desiring to participate in activities conducted by an organization may be required to sign, or have a parent or legal guardian sign, a liability waiver. The liability waiver shall be in such form as prescribed by the chief administrative officer of the school and shall contain the appropriate language

so as to relieve the school district, the school and all school personnel from liability for any claims arising out of the acts or omissions of any individual or any school personnel relating to activities conducted by an organization.

(d) The provisions of this section shall be a part of and supplemental to K.S.A. 72-89a01 et seq., and amendments thereto.

72-6135. Definitions.

As used in K.S.A. 72-89c01 and 72-89c02, and amendments thereto:

(f) "Weapon" means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than 1/4 ounce, (E) mine, or (F) similar device; (5) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 inch in diameter;

(6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (7) any bludgeon, sandclub, metal knuckles or throwing star; (8) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; (9) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun. The term "weapon" does not include within its meaning (1) an antique firearm; (2) any device which is neither designed nor redesigned for use as a weapon; (3) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (4) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (5) class C common fireworks. [...]

(i) "Possession of a weapon or illegal drug" means knowingly having direct physical control over a weapon or illegal drug or knowingly having the power and the intention at a given time to exercise dominion or control over a weapon or illegal drug.

72-6136. Suspension or revocation of driver's license or privilege upon certain school safety violations; procedure.

(a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency, provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(b) Each board of education shall adopt a policy that includes:

- (1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons, provided that the report would not violate the terms of the memorandum of understanding approved by the school employee's school district pursuant to subsection (i); and
- (2) the procedures for making such a report.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

72-3121. Same; noncompliance; duties of boards of education, secretary for children and families, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(a) Each board of education shall designate one or more employees who shall report to the secretary for children and families, or a designee thereof, or to the appropriate county or district attorney pursuant to an agreement as provided in this section, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law. The designation shall be made no later than September 1 of each school year and shall be certified no later than 10 days thereafter by the board of education to the secretary for children and families, or the designee thereof, to the county or district attorney, or the designee thereof, and to the commissioner of education. The commissioner of education shall compile and maintain a list of the designated employees of each board of education. The local area office of the Kansas department for children and families may enter into an agreement with the appropriate county or district attorney to provide that the designated employees of such board of education shall make the report as provided in this section for all cases of children who are less than 13 years of age and are not attending school as provided by law to the county or district attorney in lieu of the secretary, or the secretary's designee. If such agreement is made, the county or district attorney shall carry out all duties as otherwise provided by this subsection conferred on the secretary or the secretary's designee. A copy of such agreement shall be provided to the director of such area office of the Kansas department for children and families and to the school districts affected by the agreement.

(b) Whenever a child is required by law to attend school, and the child is not enrolled in a public or nonpublic school, the child shall be considered to be not attending school as required by law and a report thereof shall be made in accordance with the provisions of subsection (a) by a designated

employee of the board of education of the school district in which the child resides. The provisions of this subsection are subject to the provisions of subsection (d).

(c)(1) Whenever a child is required by law to attend school and is enrolled in school, and the child is inexcusably absent therefrom on either three consecutive school days or five school days in any semester or seven school days in any school year, whichever of the foregoing occurs first, the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a), provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto.

(5) The provisions of this subsection are subject to the provisions of subsection (d).

(d)(1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary for children and families or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

(e) Whenever the secretary for children and families receives a report required under this section, the secretary shall investigate the matter. If, during the investigation, the secretary determines that the reported child is not attending school as required by law, the secretary shall institute proceedings under the revised Kansas code for care of children. If, during the investigation, the secretary determines that a criminal prosecution should be considered, the secretary shall make a report of the case to the appropriate law enforcement agency.

(f) Whenever a county or district attorney receives a report required under this section, the county or district attorney shall investigate the matter. If, during the investigation, the county or district attorney determines that the reported child is not attending school as required by law, the county or district attorney shall prepare and file a petition alleging that the child is a child in need of care. If, during the investigation, the county or district attorney determines that a criminal prosecution is necessary, the county or district attorney shall commence such action.

(g) As used in this section, "board of education" means the board of education of a school district or the governing authority of a nonpublic school. The provisions of this act shall apply to both public and nonpublic schools.

72-3131. School attendance review board; members, meetings; rules and regulations.

(b) The superintendent of schools of the school district that has established a school attendance review board as provided in subsection (a), at the beginning of each school year, shall convene a meeting of the school attendance review board for the purpose of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance problems. If more than one board of education is participating in a school attendance review board, the superintendent of schools of the school district having the most pupils shall convene the meeting provided for by this subsection.

72-3133. Inventory of community services; recommendations for further services.

Any school attendance review board established pursuant to K.S.A. 72-8239 shall maintain a continuing inventory of community resources, including alternative educational programs, and make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

72-3135. Referral of students; notice; resolving the problem.

(a) If a pupil is required by law to attend school and is irregular in attendance at school, the pupil may be referred to the school attendance review board. Each board of education shall designate one or more employees to make such referrals. Upon making a referral, the employee shall notify the pupil and the pupil's parents or guardians, in writing, of the name and address of the school attendance review board and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

(b) If the school attendance review board determines that available community services can resolve the problem of the referred pupil, the board shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board may require, at such time as it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(c) If the school attendance review board determines that available community services cannot resolve the problem of the referred pupil or if the pupil or the pupil's parents or guardians, or both, have failed to respond to directives of the school attendance review board or to services provided, the school attendance review board may notify the secretary for children and families or the appropriate county or district attorney. If the case is referred to the district court, the school attendance review board shall submit to the district court documentation of efforts to secure attendance as well as the board's recommendations on what action the district court shall take in order to bring about proper disposition of the case.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

72-6135. Definitions.

As used in K.S.A. 72-89c01 and 72-89c02, and amendments thereto:

- (g) "Controlled substance" has the meaning ascribed thereto in K.S.A. 2013 Supp. 21-5701, and amendments thereto.
- (h) "Illegal drug" means a controlled substance but does not include a controlled substance that is legally possessed, used under the supervision of a licensed health-care professional or used under authority of any federal or state law.
- (i) "Possession of a weapon or illegal drug" means knowingly having direct physical control over a weapon or illegal drug or knowingly having the power and the intention at a given time to exercise dominion or control over a weapon or illegal drug.

72-6136. Suspension or revocation of driver's license or privilege upon certain school safety violations; procedure.

(a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency, provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

72-6271. Drug abuse, referral of pupils for assistance; immunity from civil liability.

No school district, educational cooperative, interlocal educational agency or state accredited nonpublic school, no governing authority thereof, no member of any such governing authority, and no officer or employee of any school district, educational cooperative, interlocal educational agency or accredited nonpublic school shall be subject to any civil liability for any statement, report or action taken in assisting, or referring for assistance to any medical, treatment or social service agency or facility, any pupil reasonably believed to be abusing or incapacitated by the use of alcohol or other drugs unless such assistance or referral was made in bad faith or with malicious purpose.

The same immunity from liability shall attach with respect to participation in any administrative or judicial proceeding resulting from any such assistance or referral.

72-6272. Alcohol and drug abuse programs; provision authorized.

The board of education of every school district may provide for programs which are designed to assist pupils at all grade levels in the identification, examination, prevention and resolution of alcohol and drug abuse problems which may affect the ability of such pupils to satisfactorily benefit from attendance at school.

Any board of education may enter into contracts for the provision of such programs for its pupils and may pay the fees therefor from the general fund of the school district.

72-6285. Tobacco products, use in school buildings prohibited; school building defined.

(a) The use of tobacco products in any school building is hereby prohibited. No board of education of any school district shall allow any person to use tobacco products in any school building.

(b) As used in this section, the term "school building" means any enclosed building used for pupil attendance purposes by the board of education of a unified school district. The term school building does not include a building, or part thereof, used for residential purposes or leased from the school district for nonschool sponsored activities.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

21-5418. Hazing.

(a) Hazing is recklessly coercing, demanding or encouraging another person to perform, as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted.

(b) Hazing is a class B nonperson misdemeanor.

72-3237. Disability history and awareness; objectives, guidelines and goals.

(a) The state board of education shall designate a period of time each school year as a time for disability history and awareness.

(b) The state board of education shall develop objectives and guidelines for disability history and awareness, for all grade levels, within the existing curriculum for history, social studies or other appropriate subject-matter curriculum. The components of disability history and awareness may include, but not be limited to, the events and time lines relating to the development and evolution of services provided to individuals with disabilities and information relating to the contributions of specific individuals with disabilities, including the contributions of acknowledged national leaders.

(c) The goals of disability history and awareness instruction include:

- (1) Encouraging the better treatment of individuals with disabilities, especially for school-age children.
- (2) Increasing attention to the prevention of bullying or harassment of students with disabilities.
- (3) Encouraging the development of self-esteem in individuals with disabilities.
- (4) Encouraging individuals with disabilities to obtain a postsecondary education which will empower such individuals to enter the workforce and contribute to their communities.
- (5) Reaffirming the local, state and federal commitment to providing an equal opportunity for, and the full inclusion in society of, all individuals with disabilities.

(d) Each school district shall include disability history and awareness within the district's curriculum as deemed appropriate by the district.

72-6147. Bullying, school district policies.

(a) As used in this section:

(1) "Bullying" means: (A) Any intentional gesture or any intentional written, verbal, electronic or physical act or threat either by any student, staff member or parent towards a student or by any student, staff member or parent towards a staff member that is sufficiently severe, persistent or pervasive that such gesture, act or threat creates an intimidating, threatening or abusive educational environment that a reasonable person, under the circumstances, knows or should know will have the effect of:

(i) Harming a student or staff member, whether physically or mentally;

(ii) damaging a student's or staff member's property;

(iii) placing a student or staff member in reasonable fear of harm to the student or staff member; or

(iv) placing a student or staff member in reasonable fear of damage to the student's or staff member's property;

(B) cyberbullying; or

(C) any other form of intimidation or harassment prohibited by the board of education of the school district in policies concerning bullying adopted pursuant to this section or subsection (e) of K.S.A. 72-8205, and amendments thereto.

(2) "Cyberbullying" means bullying by use of any electronic communication device through means including, but not limited to, e-mail, instant messaging, text messages, blogs, mobile phones, pagers, online games and websites.

(3) "Parent" includes a guardian, custodian or other person with authority to act on behalf of the child.

(4) "School district" or "district" means any unified school district organized and operating under the laws of this state.

(5) "School vehicle" means any school bus, school van, other school vehicle and private vehicle used to transport students or staff members to and from school or any school-sponsored activity or event.

(6) "Staff member" means any person employed by a school district.

(b) The board of education of each school district shall adopt a policy to prohibit bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(c) The board of education of each school district shall adopt and implement a plan to address bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto.

(e) Nothing in this section shall be construed to limit or supersede or in any manner affect or diminish the requirements of compliance by a staff member with the provisions of K.S.A. 2013 Supp. 38-2223 or 38- 2226, and amendments thereto.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

72-6133. Duties of state board of education; failure of boards to adopt and file policies, penalties.

(b) The state board of education shall provide boards of education with assistance in the preparation of policies required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto.

72-9943. Implementation of mental health intervention team pilot program for fiscal year ending June 30, 2019.

The commissioner of education, when implementing the mental health intervention team pilot program pursuant to section 1(a) of 2018 Substitute for Senate Bill No. 423, shall allow nine schools served by the fiscal agent, Abilene school district (U.S.D. no. 435), to participate in the pilot program. The provisions of section 1(a) of 2018 Substitute for Senate Bill No. 423, which allow nine schools served by the central Kansas cooperative in education to participate in the mental health intervention team pilot program, are hereby declared to be null and void and shall have no force and effect.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

72-3231. Character development programs.

(a) Upon request of a school district, the state board shall assist in the development of a grade appropriate curriculum for character development programs which may be offered to students in the school district. Nothing in this subsection shall be construed as requiring the state board to develop a new curriculum or a new character development program.

(b) As used in this section:

- (1) "Character development program" means a program which is secular in nature and which stresses character qualities.

(2) "Character qualities" means positive character qualities which include, but is not limited to, honesty, responsibility, attentiveness, patience, kindness, respect, self-control, tolerance, cooperation, initiative, patriotism and citizenship.

(3) "State board" means the state board of education.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

75-763. Rules and regulations for skill development training for school misconduct.

(a) The attorney general shall, in collaboration with them Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.

(b) The skill development training shall include, but not be limited to, the following:

(7) trauma-informed responses; [...]

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

REGULATIONS

16-16-2. Curriculum.

There is hereby created a skill development training course, which shall include the following curriculum:

(g) trauma-informed responses.

16-16-3. Training requirement.

(a) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall be required to successfully complete a skill development training course, pursuant to K.A.R. 16-16-2, that has been developed and either provided or authorized by the Kansas law enforcement training center according to the following, whichever is later:

(1) On or before June 30, 2018; or

(2) within one year of being designated as a law enforcement officer primarily assigned to a school or employed by a school district as a superintendent or superintendent's designee.

(b) Nothing in this regulation shall require a law enforcement officer primarily assigned to a school or a superintendent or superintendent's designee to complete more than one skill development training course.

(c) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall submit proof of successful completion of a skill development training course, pursuant to K.A.R. 16-16-2, that was developed and either provided or authorized by the Kansas law enforcement training center to that individual's respective certification or licensing agency.

Mental Health Literacy Training

LAWS

75-763. Rules and regulations for skill development training for school misconduct.

(a) The attorney general shall, in collaboration with them Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.

(b) The skill development training shall include, but not be limited to, the following:

(3) mental health; [...]

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

REGULATIONS

16-16-2. Curriculum.

There is hereby created a skill development training course, which shall include the following curriculum:

(a) Information on adolescent development;

(b) risk and needs assessments;

(c) mental health;

(d) diversity;

(e) youth crisis intervention;

(f) substance abuse prevention;

(g) trauma-informed responses; and

(h) other evidence-based practices in school policing to mitigate student juvenile justice exposure.

16-16-3. Training requirement.

(a) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall be required to successfully complete a skill development training course, pursuant to K.A.R. 16-16-2, that has been developed and either provided or authorized by the Kansas law enforcement training center according to the following, whichever is later:

(1) On or before June 30, 2018; or

(2) within one year of being designated as a law enforcement officer primarily assigned to a school or employed by a school district as a superintendent or superintendent's designee.

(b) Nothing in this regulation shall require a law enforcement officer primarily assigned to a school or a superintendent or superintendent's designee to complete more than one skill development training course.

(c) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall submit proof of successful completion of a skill development training course, pursuant to K.A.R. 16-16-2, that was developed and either provided or authorized by the Kansas law enforcement training center to that individual's respective certification or licensing agency.

School-based Behavioral Health Programs

LAWS

72-9943. Implementation of mental health intervention team pilot program for fiscal year ending June 30, 2019.

The commissioner of education, when implementing the mental health intervention team pilot program pursuant to section 1(a) of 2018 Substitute for Senate Bill No. 423, shall allow nine schools served by the fiscal agent, Abilene school district (U.S.D. no. 435), to participate in the pilot program. The provisions of section 1(a) of 2018 Substitute for Senate Bill No. 423, which allow nine schools served by the central Kansas cooperative in education to participate in the mental health intervention team pilot program, are hereby declared to be null and void and shall have no force and effect.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

72-3121. Same; noncompliance; duties of boards of education, secretary for children and families, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(a) Each board of education shall designate one or more employees who shall report to the secretary for children and families, or a designee thereof, or to the appropriate county or district attorney pursuant to an agreement as provided in this section, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law. The designation shall be made no later than September 1 of each school year and shall be certified no later than 10 days thereafter by the board of education to the secretary for children and families, or the designee thereof, to the county or district attorney, or the designee thereof, and to the commissioner of education. The commissioner of education shall compile and maintain a list of the designated employees of each board of education. The local area office of the Kansas department for children and families may enter into an agreement with the appropriate county or district attorney to provide that the designated employees of such board of education shall make the report as provided in this section for all cases of children who are less than 13 years of age and are not attending school as provided by law to the county or district attorney in lieu of the secretary, or the secretary's designee. If such agreement is made, the county or district attorney shall carry out all duties as otherwise provided by this subsection conferred on the secretary or the secretary's designee. A copy of such agreement shall be provided to the director of such area office of the Kansas department for children and families and to the school districts affected by the agreement.

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(a) If a school employee has information that a pupil is a pupil to whom the provisions of this subsection apply, the school employee shall report such information and identify the pupil to the superintendent of schools. The superintendent of schools shall investigate the matter and, upon determining that the identified pupil is a pupil to whom the provisions of this subsection apply, shall provide the reported information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil. The provisions of this subsection apply to:

- (1) Any pupil who has been expelled for the reason provided by K.S.A. 72-8901(c), and amendments thereto, for conduct which endangers the safety of others;
- (2) any pupil who has been expelled for the reason provided by K.S.A. 72-8901(d), and amendments thereto;
- (3) any pupil who has been expelled under a policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto;
- (4) any pupil who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony under the laws of Kansas or the state where the offense was committed, except any pupil adjudicated as a juvenile offender for a felony theft offense involving no direct threat to human life; and
- (5) any pupil who has been tried and convicted as an adult of any felony, except any pupil convicted of a felony theft crime involving no direct threat to human life.

A school employee and the superintendent of schools shall not be required to report information concerning a pupil specified in this subsection if the expulsion, adjudication as a juvenile offender or conviction of a felony occurred more than 365 days prior to the school employee's report to the superintendent of schools.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons, provided that the report would not violate the terms of the memorandum of understanding approved by the school employee's school district pursuant to subsection (i); and

(2) the procedures for making such a report.

REGULATIONS

91-42-7. Reporting.

(a) Each district shall report information from all incidents of emergency safety interventions that the department deems necessary to the department by the date and in the form specified by the department.

(b) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department web site and to the state board, the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The department's reported results shall include but shall not be limited to the following information:

(1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;

(2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;

(3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;

(4) the total number of incidents in which emergency safety interventions were used on students;

(5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;

(6) the number of students physically restrained;

(7) the number of students placed in seclusion;

(8) the maximum and median number of minutes a student was placed in seclusion;

(9) the maximum number of incidents in which emergency safety interventions were used on a student;

(10) the information reported under paragraphs (c)(1) through (c)(3) reported by school to the extent possible;

(11) the information reported under paragraphs (c)(1) through (c)(9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and

(12) any other information that the department deems necessary to report.

(c) Actual data values shall be used when providing statewide aggregate data for the reports.

Parental Notification

LAWS

72-3121. Same; noncompliance; duties of boards of education, secretary for children and families, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(d)(1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary for children and families or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

72-3135. Referral of students; notice; resolving the problem.

(a) If a pupil is required by law to attend school and is irregular in attendance at school, the pupil may be referred to the school attendance review board. Each board of education shall designate one or more employees to make such referrals. Upon making a referral, the employee shall notify the pupil and the pupil's parents or guardians, in writing, of the name and address of the school attendance review board and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

72-6115. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(b)(1) Except as authorized in provision (2), no suspension for a short term shall be imposed upon a pupil without giving the pupil notice of the charges and affording the pupil an opportunity for a hearing thereon. The notice may be oral or written and the hearing may be held immediately after the notice is given. The hearing may be conducted informally but shall include the following procedural due process requirements:

(A) The right of the pupil to be present at the hearing; (B) the right of the pupil to be informed of the charges; (C) the right of the pupil to be informed of the basis for the accusation; and (D) the right of the pupil to make statements in defense or mitigation of the charges or accusations. Refusal of a pupil to be present at the hearing will constitute a waiver of the pupil's opportunity for a hearing.

(2) A short-term suspension may be imposed upon a pupil forthwith, and without affording the pupil a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes or interferes with the operation of the school.

(c) A written notice of any short-term suspension and the reason therefor shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an opportunity for an informal hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an informal hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.

(d) No suspension for an extended term and no expulsion shall be imposed upon a pupil until an opportunity for a formal hearing thereon is afforded the pupil. A written notice of any proposal to suspend for an extended term or to expel from school, and the charges upon which the proposal is based shall be given to the pupil proposed to be suspended or expelled from school, and to the pupil's parent or guardian. Any notice of a proposal to suspend for an extended term or to expel from school shall state the time, date and place that the pupil will be afforded an opportunity for a formal hearing, and that failure of the pupil and the pupil's parent or guardian to attend the hearing will result in a waiver of the pupil's opportunity for the hearing. The hearing shall be held not later than 10 days after the date of the notice. The notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, and amendments thereto.

(e) Whenever any written notice is required under this act to be given to a pupil or to a pupil's parent or guardian, it shall be sufficient if the notice is mailed to the address on file in the school records of the pupil. In lieu of mailing the written notice, the notice may be personally delivered.

(f) A formal hearing on a suspension or expulsion may be conducted by any person or committee of persons authorized by the board of education to conduct the hearing.

72-6117. Notice of hearing results; appeal to board of education; hearing officers; procedure.

(a) Written notice of the result of any hearing imposing an extended-term suspension or an expulsion from school shall be given to the pupil suspended or expelled from school, and to the parents or guardians of the pupil within 24 hours after determination of such result.

72-6146. School security officers and campus police officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

72-6153. Use of emergency safety interventions; seclusion room requirements; school district policies; dispute resolution procedures.

(g) Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.

Such written policies shall include that:

(5) a schedule for when and how parents are provided with notice of the local board's written policies on the use of emergency safety interventions.

72-6154. Parental notification; documentation of an incident; annual report.

(a)(1) When a student is subjected to an emergency safety intervention, the school shall notify the parent on the same day the emergency safety intervention was used. If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. Written documentation of

the use of an emergency safety intervention shall be completed and provided to the parent no later than the school day following the day on which the emergency safety intervention was used. Such written documentation shall include: (A) The events leading up to the incident; (B) student behaviors that necessitated the emergency safety intervention; (C) steps taken to transition the student back into the educational setting; (D) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the emergency safety intervention; (E) space or an additional form for parents to provide feedback or comments to the school regarding the incident; (F) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and (G) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting. Schools may group incidents together when documenting the items in subparagraphs (A), (B) and (C) if the triggering issue necessitating the emergency safety interventions is the same.

(2) The parent shall be provided the following information after the first incident in which an emergency safety intervention is used during the school year, and may be provided such information after each subsequent incident that occurs during the school year: (A) A copy of the standards of when emergency safety interventions can be used; (B) a flyer on the parent's rights; (C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and (D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system. Upon the first occurrence of an incident involving the use of emergency safety interventions, the parent shall be provided the foregoing information in printed form or, upon the parent's written request, by email. Upon the occurrence of a second or subsequent incident, the parent shall be provided with a full and direct website address containing such information.

(b) If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the school shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a parent, as set forth in subsection (a)(1) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

REGULATIONS

91-42-3. District policy; training; local board dispute resolution.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the standards, definitions, and requirements of this article. The written policies shall also include the following:

(5) a schedule for when and how parents are provided with notice of the written policies on the use of emergency safety interventions.

91-42-4. Parent notification; required meeting; filing a complaint.

(a) When an emergency safety intervention is used with a student, the school shall notify the parent the same day the emergency safety intervention was used. The school shall attempt to contact the parent using at least two methods of contact, one of which shall be the preferred method of contact if so designated by the parent as specified in this subsection. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. [...]

(e) If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student on school grounds or during a school-sponsored activity, the school shall notify the parent on the same day the school becomes aware of the use, using the parent's preferred method of contact as described in K.A.R. 91-42-4(a). A school shall not be required to provide written documentation to a parent, as set forth in subsection (b) or (c) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

72-6133. Duties of state board of education; failure of boards to adopt and file policies, penalties.

(a) The state board of education shall compile the reports required of boards of education under subsection (f) of K.S.A. 72-89a02, and amendments thereto, and shall submit the compilation to the secretary of education on an annual basis as specified by the secretary.

(b) The state board of education shall provide boards of education with assistance in the preparation of policies required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto.

If any board of education fails to adopt and file a policy required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto, the state board of education shall withhold funds made available under the elementary and secondary education act of 1965, as amended, and shall exclude pupils enrolled in any accredited nonpublic school under the jurisdiction of any such board of education from participation in any federal program provided for under such act.

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(d) Each board of education shall annually compile and report to the state board of education at least the following information relating to school safety and security: The types and frequency of criminal acts that are required to be reported pursuant to the provisions of subsection (b), arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to the criminal act, disaggregated by occurrences at school, on school property and at school supervised activities. The data must include an analysis according to race, gender and any other relevant demographic information. The report shall be incorporated into and become part of the current report required under the quality performance accreditation system.

72-6154. Parental notification; documentation of an incident; annual report.

(c) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department website, and to the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and

annually thereafter. The data governance board of the department shall use the actual data value when providing statewide aggregate data for such reports. The department's reported results shall include, but shall not be limited to, the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;
- (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
- (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
- (4) the total number of incidents in which emergency safety interventions were used on students;
- (5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;
- (6) the number of students physically restrained;
- (7) the number of students placed in seclusion;
- (8) the maximum and median number of minutes a student was placed in seclusion;
- (9) the maximum number of incidents in which emergency safety interventions were used on a student;
- (10) the information reported under subsection (c)(1) through (c)(3) by the school to the extent possible;
- (11) the information reported under subsections (c)(1) through (c)(9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and
- (12) such other information as the department deems necessary to report.

72-6156. Rules and regulations.

The state board of education shall adopt rules and regulations as necessary to implement the provisions of this act on or before March 1, 2016. Such rules and regulations shall include, but not be limited to, the standards for the use and reporting of emergency safety interventions as provided in sections 2 through 5, and amendments thereto.

REGULATIONS

91-15-1. Policies or rules governing employees' and students' conduct.

- (a) The board of education of each unified school district shall adopt policies or rules that govern the conduct of the employees and students of the school district and that include procedures for enforcement of the policies or rules.
- (b) Before adopting the policies or rules, each board of education shall submit the policies or rules to legal counsel for review.
- (c) After the adoption of the policies or rules, the clerk of the board of education shall maintain the policies or rules in the permanent files of the school district.

91-42-7. Reporting.

- (a) Each district shall report information from all incidents of emergency safety interventions that the department deems necessary to the department by the date and in the form specified by the department.
- (b) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department web site and to the state board, the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The department's reported results shall include but shall not be limited to the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;
 - (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
 - (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
 - (4) the total number of incidents in which emergency safety interventions were used on students;
 - (5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;
 - (6) the number of students physically restrained;
 - (7) the number of students placed in seclusion;
 - (8) the maximum and median number of minutes a student was placed in seclusion;
 - (9) the maximum number of incidents in which emergency safety interventions were used on a student;
 - (10) the information reported under paragraphs (c)(1) through (c)(3) reported by school to the extent possible;
 - (11) the information reported under paragraphs (c)(1) through (c)(9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and
 - (12) any other information that the department deems necessary to report.
- (c) Actual data values shall be used when providing statewide aggregate data for the reports.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

72-3121. Same; noncompliance; duties of boards of education, secretary for children and families, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(d)(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

(e) Whenever the secretary for children and families receives a report required under this section, the secretary shall investigate the matter. If, during the investigation, the secretary determines that the reported child is not attending school as required by law, the secretary shall institute proceedings under the revised Kansas code for care of children. If, during the investigation, the secretary determines that a criminal prosecution should be considered, the secretary shall make a report of the case to the appropriate law enforcement agency.

72-6132. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the secretary for children and families or the commissioner of juvenile justice.

72-6136. Suspension or revocation of driver's license or privilege upon certain school safety violations; procedure.

(a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency, provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(i) The state board of education shall require that the superintendent of schools in each school district or the superintendent's designee develop, approve and submit to the state board of education a memorandum of understanding developed in collaboration with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys, establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The state board of education shall provide a report annually to the department of corrections and to the office of judicial administration compiling school district compliance and summarizing the content of each memorandum of understanding.

72-6144. Penalties for failure to make reports, preventing or interfering with reports; sanctions for making reports prohibited; immunity from liability.

(d) Any board of education, and any member or employee thereof, participating without malice in the making of an oral or written report to a law enforcement agency relating to any criminal act that is known to have been committed or reasonably is believed will be committed at school, on school property, or at a school supervised activity shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from the report.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

75-763. Rules and regulations for skill development training for school misconduct.

(a) The attorney general shall, in collaboration with the Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.

(b) The skill development training shall include, but not be limited to, the following:

- (1) Information on adolescent development;
- (2) risk and needs assessments;
- (3) mental health;
- (4) diversity;
- (5) youth crisis intervention;
- (6) substance abuse prevention;
- (7) trauma-informed responses; and
- (8) other evidence-based practices in school policing to mitigate student juvenile justice exposure.

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

REGULATIONS

16-16-2. Curriculum.

There is hereby created a skill development training course, which shall include the following curriculum:

- (a) Information on adolescent development;
- (b) risk and needs assessments;
- (c) mental health;
- (d) diversity;
- (e) youth crisis intervention;
- (f) substance abuse prevention;
- (g) trauma-informed responses; and
- (h) other evidence-based practices in school policing to mitigate student juvenile justice exposure.

16-16-3. Training requirement.

(a) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall be required to successfully complete a skill development training course, pursuant to K.A.R. 16-16-2, that has been developed and either provided or authorized by the Kansas law enforcement training center according to the following, whichever is later:

- (1) On or before June 30, 2018; or
- (2) within one year of being designated as a law enforcement officer primarily assigned to a school or employed by a school district as a superintendent or superintendent's designee.

(b) Nothing in this regulation shall require a law enforcement officer primarily assigned to a school or a superintendent or superintendent's designee to complete more than one skill development training course.

(c) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall submit proof of successful completion of a skill development training course, pursuant to K.A.R. 16-16-2, that was developed and either provided or authorized by the Kansas law enforcement training center to that individual's respective certification or licensing agency.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

72-6143. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, memorandum of understanding, availability; civil liability, immunity.

(i) The state board of education shall require that the superintendent of schools in each school district or the superintendent's designee develop, approve and submit to the state board of education a memorandum of understanding developed in collaboration with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys, establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The state board of education shall provide a report annually to the department of corrections and to the office of judicial administration compiling school district compliance and summarizing the content of each memorandum of understanding.

72-6146. School security officers and campus police officers.

(a) The board of education of any school district or the board of trustees of any community college may employ school security officers, and may designate any one or more of such school security officers as

a campus police officer, to aid and supplement law enforcement agencies of the state and of the city and county in which the school district or community college is located.

(b) The protective function of school security officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each school security officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(c) The protective function of campus police officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each campus police officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college, provided that such officer does not violate the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto.

(d) Campus police officers shall have the power and authority of law enforcement officers:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);

(3) within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(5) when in fresh pursuit of a person; and

(6) when transporting persons in custody to an appropriate facility, wherever it may be located.

(e) In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense. While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

72-6152. Definitions.

As used in K.S.A. 2015 Supp. 72-89d01 through 72-89d07, and amendments thereto:

(b) "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto. [...]

(j) "Law enforcement officer" and "police officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic law of this state or any Kansas municipality. This term includes a campus police officer.

(k) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority. [...]

(r) "School resource officer" means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

(s) "School security officer" means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.

REGULATIONS

16-16-1. Definitions.

(e) "School resource officer" shall mean a law enforcement officer or police officer who is employed by a local law enforcement agency and is assigned to a school district through an agreement between the local law enforcement agency and the school district.

16-16-3. Training requirement.

(a) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall be required to successfully complete a skill development training course, pursuant to K.A.R. 16-16-2, that has been developed and either provided or authorized by the Kansas law enforcement training center according to the following, whichever is later:

(1) On or before June 30, 2018; or

(2) within one year of being designated as a law enforcement officer primarily assigned to a school or employed by a school district as a superintendent or superintendent's designee.

(b) Nothing in this regulation shall require a law enforcement officer primarily assigned to a school or a superintendent or superintendent's designee to complete more than one skill development training course.

(c) Each law enforcement officer primarily assigned to a school and each superintendent or superintendent's designee shall submit proof of successful completion of a skill development training course, pursuant to K.A.R. 16-16-2, that was developed and either provided or authorized by the Kansas law enforcement training center to that individual's respective certification or licensing agency.

91-42-6. Exemptions.

(a) As used in this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Appointing authority" means a person or group of persons empowered by statute to make human resource decisions that affect the employment of officers.

(2) "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.

(3) "Law enforcement officer" and "police officer" mean a full-time or part-time salaried officer or employee of the state, a county, or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic laws of this state or of any Kansas municipality. This term shall include "campus police officer."

(4) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

(5) "School resource officer" means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

(6) "School security officer" means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.

(b) Campus police officers and school resource officers shall be exempt from the requirements of this article when engaged in an activity that has a legitimate law enforcement purpose.

(c) School security officers shall not be exempt from the requirements of this article.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Kansas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Attendance and Chronic Absenteeism	Provides resources on chronic absenteeism, attendance and truancy.	https://www.ksde.org/Agency/Division-of-Learning-Services/Career-Standards-and-Assessment-Services/CSAS-Home/Attendance
Kansas Multi-Tier System of Supports and Alignment, Kansas Technical Assistance System Network (KASN)	Provides an overview of the Kansas Multi-Tier System of Supports and Alignment with links to implementation guides, crosswalks to the Kansas Education Systems Accreditation process, and other related resources.	https://www.ksdetasn.org/mtss/
School Violence, Gangs, and Bullying Resources, School Counseling Resources, Kansas Department of Education (KSDE)	Provides links, fact sheets, toolkits, and downloadable documents to resources addressing school violence, gangs, and bullying.	http://www.ksde.org/Agency/DivisionofLearningServices/CareerStandardsandAssessmentServices/ContentAreaM-Z/SchoolCounseling/SchoolCounselingResources.aspx#violence
Social, Emotional, and Character Development: Standards, Assessment, and Instruction (SECD), KSDE	Provides information and resources to school districts and educators on SECD in Kansas schools in order to build a framework for integrating social- emotional learning into classroom to improve overall student well-being. Website includes additional resources for learning and best practices.	https://www.ksde.org/Agency/Division-of-Learning-Services/Career-Standards-and-Assessment-Services/Content-Area-M-Z/School-Counseling/Social-Emotional-Character-Development-Standards-Assessment-and-Instruction
<i>Documents</i>		
Kansas Social, Emotional, and Character Development (SECD) Standards, KSDE	Standards provided to schools as a framework to integrate social-emotional learning (SEL) with character development for students to learn, practice and model essential personal life habits that contribute to academic, vocational, and personal success.	http://www.ksde.org/Portals/0/Learning%20Services%20Documents/Fact%20Sheets/Social,%20Emotional,%20and%20Charcter%20Development%20Standards.pdf

Title	Description	Website address (if applicable)
Kansas Special Education Process Handbook Chapter 13 (2021), KSDE	Handbook providing an overview of issues related to disciplinary actions for code of conduct violations including violations related to weapons, drugs, serious bodily injury and behavior substantially likely to result in injury to the child or others.	https://www.ksde.org/Portals/0/SES/PH/PH-complete.pdf?ver=2021-01-14-162139-073
Measuring Social-Emotional Growth Locally, KSDE	Provides guidelines for SEL implementation and accountability to school leaders and educators.	https://www.ksde.org/Portals/0/CSAS/Content%20Area%20(M-Z)/School%20Counseling/Soc_Emot_Char_Dev/Measuring%20SEG%20Locally%20010121.pdf?ver=2021-02-01-125432-263
Other Resources		
Bullying Awareness and Prevention	Resources and training on bullying prevention.	https://www.ksde.org/Agency/Division-of-Learning-Services/Student-Staff-Training/Prevention-and-Responsive-Culture/Bullying-Awareness-and-Prevention
Kansas K-12 Report Generator, KSDE	Database containing links to view the state report card, K-12 reports, finance reports, educational directory report, GIS reports, and child nutrition and wellness reports.	http://datacentral.ksde.org/
Kansas Safe Schools Hotline, KSDE	Anonymous hotline for reporting potential acts or threats of violence.	https://community.ksde.org/Default.aspx?tabid=4302



Kentucky Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 2. Citizenship, Emblems, Holidays, and Time

[2.227.](#) Anti-Bullying Month

Title III. Executive Branch

Chapter 16. State Police

[16.128.](#) The Department of Kentucky State police is encouraged to receive training on issues pertaining to school and student safety, to meet with local superintendents, and to collaborate with local school districts on policies and procedures for communicating any instances of trauma-exposed students

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[158.148.](#) Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code

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- [158.1559.](#) Superintendent of each local school district shall require the principal of each school within the district to provide written notice to all students, parents, and guardians about the provisions of KRS 508.078, and the potential penalties for terroristic threatening - Notice shall be given within ten days of the first instructional day of each school year
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- [158.440.](#) Legislative findings on school safety and order
- [158.441.](#) Definitions for chapter
- [158.4410.](#) State school security marshal, duties and responsibilities - marshal appointed by and reporting to the commissioner of the Department of Criminal Justice Training - Annual report to the Center for School Safety, the Legislative Research Commission, and the Kentucky Board of Education - School security risk assessment tool, purpose - Areas considered when evaluating school security - Annual verification of completion of state security risk assessment - Additional mandatory training, when required
- [158.4412.](#) Appointment of district's school safety coordinator - School safety coordinator's functions and duties - Policies and procedures excluded from application of KRS 61.870 to 61.884
- Limitation of civil and criminal liability for school district, school safety coordinator, and school employees acting in good faith
- [158.4414.](#) Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations – School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position
- [158.4415.](#) Kentucky State Police school resource officer (KSPSRO), specifications for employment as a school resource officer by a school district - When officer considered an employee of the school district and when an employee of the Kentucky State Police - Duties and prohibited activities - Funding of position - Rights, privileges, immunities, and matters of defense protected
- [158.4416.](#) Trauma-informed approach to education - Definitions – Goals for employment of school – based counselors - School counselor or school-based mental health services provider to facilitate creation of trauma-informed team - Training and guidance of school personnel

to assist in recognizing and dealing with issues of student trauma - Collaboration for provision of services between two or more school districts or between school districts and educational cooperatives, or other public or private entities - Annual report to department number and placement of school counselors in each district, source of funding, summary of job duties, and percentage of time devoted to each duty - Department of Education to make available toolkits to develop trauma-informed approach in schools - Plan and strategies for implementing trauma-informed approach

- [158.442.](#) Center for School Safety - Duties - School safety coordinator training program - Members of board - Center for School safety and its board of directors not subject to reorganization by the Governor
- [158.443.](#) Terms of board members - Meetings - Selection of administrator for the center - Duties of board of directors
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- [158.445.](#) Local assessment of school safety and school discipline - District assessment - Local plans
- [158.4451.](#) The Kentucky Office of Homeland Security, after collaboration with others, shall make available an anonymous reporting tool to allow students, parents, and community members to supply information about potentially harmful, dangerous, or criminal activities to public safety agencies and school officials - Goal is to facilitate widespread awareness of the reporting tool and to provide a comprehensive training and awareness program on the use of the tool
- [158.446.](#) Use of appropriated funds
- [158.449.](#) Annual report of assessment of disruptive behavior school incidents resulting in a complaint

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- [158.471.](#) Local board of education authorized to establish police department for local school districts.
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- [158.475.](#) Appointed police officers to comply with KRS 61.300 and other requirements set by the local board of education

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Title 704. Education and Workforce Development Cabinet Kentucky Board of Education Department of Education Office of Learning Programs Development

Chapter 3. Office of Instruction

[3:095.](#) The use of response-to-intervention in kindergarten through grade 3

Chapter 7. Office of Learning Support Services

[7:070.](#) Guidelines for dropout prevention programs

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Chapter 19. Alternative Education Programs

[19:002.](#) Alternative education programs

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(2) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of Professional Educators, the Kentucky Association of School Superintendents, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

(a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444. [...]

(5)(a) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(2)(a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of at least 12 months for a student who:

1. Is determined by the board through clear and convincing evidence to have made threats that pose a danger to the well-being of students, faculty, or staff of the district; or
2. Is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:

1. Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction; or
2. Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction; or
3. Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.

(3)a) The board may modify the expulsion requirement and length for students on a case-by-case basis, except the length of expulsion shall at least be twelve(12) months for a violation set forth in subsection (2)(a) of this section.

(b) Nothing in this section shall prohibit a board from expelling a student for longer than twelve(12) months.

(c) A board that has expelled a student from the student's regular school setting shall provide or ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be

placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

KRS 158.440. Legislative findings on school safety and order.

The General Assembly finds that:

- (1) Every student should have access to a safe, secure, and orderly school that is conducive to learning;
- (2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior; and
- (3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools

KRS 158.445. Local assessment of school safety and school discipline - District assessment - Local plans.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community. The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

KRS 160.345. Definitions -- Required adoption of school councils for school-based decision making -- Composition -- Responsibilities -- Personnel decisions -- Procedures to fill vacancy in principal position -- Professional development -- Exemption -- Formula for allocation of school district funds - - Intentionally engaging in conduct detrimental to school-based decision making by board member, superintendent, district employee, or school council member -- Complaint procedure -- Disciplinary action -- Rescission of right to establish and powers of council -- Wellness policy.

- (i) The school council shall adopt a policy that shall be consistent with local board policy and shall be implemented by the principal in the following additional areas:
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal

REGULATIONS

KAR 7:170 Corporal Punishment

Section 7.

- (1) Each local board of education shall adopt a policy that either:

- (a) Prohibits the use of corporal punishment in the district; or
 - (b) Allows the use of corporal punishment in the district.
- (2) If the local board of education adopts a policy allowing the use of corporal punishment, its policy shall:
- (a) Define the circumstances under which corporal punishment may be deployed which shall not exceed the justification included in KRS 503.110;
 - (b) Define the procedures for deploying corporal punishment;
 - (c) Define the tool or instrument to be used when administering corporal punishment and include a prohibition on the use of dangerous instruments or deadly weapons;
 - (d) Define the limits on corporal punishment and ensure that corporal punishment shall not result in physical injury or serious physical injury; and
 - (e) Define the procedures for documenting and reporting corporal punishment.

Scope

LAWS

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(1)(a) As used in this section, "bullying" means any unwanted verbal, physical, or social behavior among students that involves a real or perceived power imbalance and is repeated or has the potential to be repeated:

- 1. That occurs on school premises, on school-sponsored transportation, or at a school-sponsored event.

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(1) All students admitted to the common schools shall comply with the lawful regulations for the government of the schools:

- (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and
- (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

KRS 158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

KRS 161.180. Supervision of pupils' conduct.

(1) Each teacher and administrator in the public schools shall in accordance with the rules, regulations, and bylaws of the board of education made and adopted pursuant to KRS 160.290 for the conduct of

pupils, hold pupils to a strict account for their conduct on school premises, on the way to and from school, and on school sponsored trips and activities.

(2) The various boards of education of the Commonwealth of Kentucky, and the principals of the public schools, may use teacher's aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

KRS 438.345. Use of tobacco products, alternative nicotine products, and vapor products on school property and during school activities - Written policies - Penalties - Board may opt out.

(2) The use of any tobacco product, alternative nicotine product, or vapor product:

(a) Shall be prohibited for all persons and at all times on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education;

(b) Shall be prohibited for all students while attending or participating in any school-related student trip or student activity; and

(c) Is prohibited for school district employees, volunteers, and all other individuals affiliated with a school while the user is attending or participating in any school-related student trip or student activity and is in the presence of a student or students.

(3) On or before July 1, 2020, each local board of education shall implement this section by adopting written policies that prohibit the use of tobacco products, alternative nicotine products, and vapor products pursuant to this section. The policies shall provide for:

(a) Adequate notice regarding the policy to be provided to students, parents and guardians, school employees, and the general public;

(b) A requirement to post signage on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education, clearly stating that use of tobacco products, alternative nicotine products, and vapor products is prohibited at all times and by all persons on or in the property; and

(c) A requirement that school employees enforce the policies.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(4) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan. [...]

(5)(g) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

KRS 158.1559. Superintendent of each local school district shall require the principal of each school within the district to provide written notice to all students, parents, and guardians about the provisions of KRS 508.078, and the potential penalties for terroristic threatening - Notice shall be given within ten days of the first instructional day of each school year.

The superintendent of each local school district shall require the principal of each school within the district to provide written notice to all students, parents, and guardians of students within ten (10) days of the first instructional day of each school year of the provisions of KRS 508.078 and potential penalties under KRS 532.060 and 534.030 upon conviction.

KRS 438.345. Use of tobacco products, alternative nicotine products, and vapor products on school property and during school activities - Written policies - Penalties - Board may opt out.

(2) The use of any tobacco product, alternative nicotine product, or vapor product:

- (a) Shall be prohibited for all persons and at all times on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education;
- (b) Shall be prohibited for all students while attending or participating in any school-related student trip or student activity; and
- (c) Is prohibited for school district employees, volunteers, and all other individuals affiliated with a school while the user is attending or participating in any school-related student trip or student activity and is in the presence of a student or students.

(3) On or before July 1, 2020, each local board of education shall implement this section by adopting written policies that prohibit the use of tobacco products, alternative nicotine products, and vapor products pursuant to this section. The policies shall provide for:

- (a) Adequate notice regarding the policy to be provided to students, parents and guardians, school employees, and the general public;
- (b) A requirement to post signage on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education, clearly stating that use of tobacco products, alternative nicotine products, and vapor products is prohibited at all times and by all persons on or in the property; and
- (c) A requirement that school employees enforce the policies.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2.

- (1) Each local school district shall establish policies and procedures that:
 - (a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(5) (a) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(b) Except as described in subsection (10) of this section:

1. A principal may establish procedures for a student's removal from and reentry to the classroom when the student's behavior disrupts the classroom environment and education process or the student challenges the authority of a supervising adult. In addition to removal, the student shall be subject to further discipline for the behavior consistent with the school's code of conduct.
2. A student who is removed from the same classroom three (3) times within a thirty (30) day period shall be considered chronically disruptive and may be suspended from school in accordance with the section, and no other basis for suspension shall be deemed necessary.
3. At any time during the school year, for a student who has been removed from the classroom under this paragraph, a principal may require a review of the classroom issues with the teacher and the parent, guardian, or other person having legal custody or control of the student and determine a course of action for the teacher and student regarding the student's continued placement in the classroom.
4. At any time during the school year, a principal may permanently remove a student from a classroom for the remainder of the school year if the principal determines the student's continued placement in the classroom with chronically disrupt the education process for other students.
5. When a student is removed from a classroom under this paragraph temporarily or permanently, the principal shall determine the placement of the student in lieu of that classroom, which may include but is not limited to:
 - a. Another classroom in that school;
 - b. An alternative program or setting, which may be provided virtually, as approved by the superintendent
6. Any permanent action by a principal under this paragraph shall be subject to an appeal process in accordance with a policy adopted by the board.
7. Policies compliant with this paragraph shall be included in the code of behavior and discipline adopted by the board of education under KRS 158.148 and the policies adopted by the school council under KRS 160.345.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

KRS 158.150. Suspension or expulsion of students -- Placement into alternative program option.

(3) (d) 1. In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. of this paragraph.

2. The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.

3. The alternative program or setting may be provided virtually.

4. Notwithstanding any other statute or administrative regulation to the contrary, students placed in an alternative program or setting under this paragraph shall be counted in attendance and membership for state funding purposes in the same manner as other students participating in alternative programs of the district.

5. Students placed in an alternative program or setting under this paragraph shall be subject to compulsory attendance requirements under KRS Chapter 159 and applicable local board policy.

6. Following the initial alternative placement of a student under this paragraph, the board shall review the alternative program or setting placement at least once per year and determine if the placement should be continued in accordance with subparagraph 1. of this paragraph.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

KRS 158.444. Administrative regulations relating to school safety - Role of Department of Education to maintain statewide data collection system - Reportable incidents - Annual statistical reports - Confidentiality.

(2) The Kentucky Department of Education shall:

- (a) Collaborate with the Center for School Safety in carrying out the center's mission;
- (b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

3. The number of suspensions, expulsions, and corporal punishments.

REGULATIONS

KAR 7:170 Corporal Punishment

Section 1.

Definitions.

- (1) "Corporal punishment" means the deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student misbehavior.
- (2) "Dangerous instrument" is defined by KRS 500.080(3).
- (3) "Deadly weapon" is defined by KRS 500.080(4).
- (4) "Evidence-based" is defined by 34 C.F.R. 77.1.
- (5) "Physical injury" is defined by KRS 500.080(13).
- (6) "Qualified mental health professional" is defined by KRS 202A.011(12).
- (7) "Serious physical injury" is defined by KRS 500.080(15).
- (8) "Trauma-informed approach" is defined by KRS 158.4416(1).

Section 2.

A student with an Individual Education Program (IEP) pursuant to 707 KAR Chapter 1, 504 plan pursuant to Section 504 of the Rehabilitation Act of 1973, or identified as a homeless or foster care youth pursuant to 704 KAR 7:090 shall not be subjected to corporal punishment.

Section 3.

(1) Except for a local board of education that prohibits corporal punishment pursuant to Section 7(1)(a) of this administrative regulation, within the first five (5) days of enrollment each school year, the school shall request written consent from the legal guardian of each student to use corporal punishment as a behavior intervention for their child. The written consent shall inform the legal guardian of how to access the student code of conduct, describe the code of conduct violations that may result in corporal punishment, and notify the legal guardian that consent may be withdrawn at any point during the school year. Absent valid written consent signed by the legal guardian, corporal punishment shall not be administered.

(2) Before administering corporal punishment to a pupil, the school shall contact the child's legal guardian to provide prior notification and receive affirmative verbal consent.

Section 4.

Prior to administering corporal punishment to a pupil, the school shall attempt to remedy problematic behavior through the use of evidence-based practices consistent with a trauma-informed approach.

Section 5.

(1) Corporal punishment may only be administered by the Principal or Assistant Principal. Corporal punishment shall only be administered in the presence of at least one (1) additional certified staff member who is the same gender as the student.

(2) Corporal punishment shall not be administered in a location where another student, staff member other than those described in subsection (1) of this section, or adult visitor to the school can see or hear the corporal punishment.

(3) A staff member shall not be compelled to administer or witness corporal punishment.

Section 6.

(1) After administering corporal punishment, the school shall ensure that the student receives a minimum of thirty (30) minutes of counseling provided by the school's guidance counselor, school social worker, school psychologist, or other qualified mental health professional no later than the end of the next school day.

(2) Each incidence of corporal punishment shall be recorded in the student information system. Schools shall report:

- (a) The time and date the punishment was administered;
- (b) The name and position of the individual who administered the punishment;
- (c) The names and positions of any witnesses to the punishment;
- (d) The time and date of the prior consent required under Section 3 of this administrative regulation;
- (e) The name and relationship of the individual providing consent under Section 3 of this administrative regulation;
- (f) The behavioral interventions deployed prior to corporal punishment as required under Section 4 of this administrative regulation; and
- (g) The time and date of the student counseling appointment required under Section 5 of this administrative regulation.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 1. Definitions.

- (1) "Aversive behavioral interventions" means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.
- (2) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous or inappropriate, or otherwise impedes the learning of the students.
- (3) "Chemical restraint" means the use of medication to control behavior or restrict a student's freedom of movement that includes over-the-counter medications used for purposes not specified on the label but does not include medication prescribed by a licensed medical professional and supervised by qualified and trained individuals in accordance with professional standards.
- (4) "Dangerous behavior" means behavior that presents an imminent danger of physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.
- (5) "De-escalation" means the use of behavior management techniques intended to:
- (a) Mitigate and defuse dangerous behavior of a student; or
 - (b) Reduce the imminent danger of physical harm to self or others.
- (6) "Emancipated youth" means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student's parents.
- (7) "Emergency" means a sudden, urgent occurrence, usually unexpected but sometimes anticipated, that requires immediate action.
- (8) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement, but does not include:
- (a) A device implemented by trained school personnel or utilized by a student that has been prescribed by an appropriate medical or related services professional that is used for the specific and approved purposes for which the device was designed;
 - (b) An adaptive device or mechanical support used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of the device or mechanical support;
 - (c) A vehicle safety restraint if used as intended during the transport of a student in a moving vehicle;
 - (d) Restraint for medical immobilization; or
 - (e) An orthopedically prescribed device that permits a student to participate in activities without risk of harm.
- (9) "Parent" means a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian of the student.
- (10) "Physical Restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely, but does not include:
- (a) Temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location;
 - (b) A behavioral intervention, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student;
 - (c) Less restrictive physical contact or redirection to promote student safety; or
 - (d) Physical guidance or prompting when teaching a skill or redirecting the student's attention.
- (11) "Positive behavioral supports" means a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to:

- (a) Improve school climate and culture in order to achieve improved academic and social outcomes;
 - (b) Increase learning for all students, including those with the most complex and intensive behavior needs;
 - (c) Encompass a range of systemic and individualized positive strategies to reinforce desired behaviors;
 - (d) Diminish reoccurrence of inappropriate or dangerous behaviors; and
 - (e) Teach appropriate behaviors to students.
- (12) "Prone restraint" means the student is restrained in a face down position on the floor or other surface, and physical pressure is applied to the student's body to keep the student in the prone position.
- (13) "School personnel" means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, school resource officers, sworn law enforcement officers, and other support staff who are employed in a school or who perform services in the school on a contractual basis.
- (14) "School resource officer" is defined in KRS 158.441(2).
- (15) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.
- (16) "Student" means any person enrolled in a preschool, school level as established in 703 KAR 5:240, Section 5, or other educational program offered by a local public school district.
- (17) "Supine restraint" means the student is restrained in a face up position on the student's back on the floor or other surface, and physical pressure is applied to the student's body to keep the student in the supine position.
- (18) "Timeout" means a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Section 2.

- (1) Each local school district shall establish policies and procedures that:
- (a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion;
 - (b) Are designed to ensure the safety of all students, school personnel, and visitors;
 - (c) Require school personnel to be trained in accordance with the requirements outlined in Section 6 of this administrative regulation;
 - (d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session;
 - (e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;
 - (f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action; and
 - (g) Outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed.

(2) Each local school district shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

Section 3.

(1) Physical restraint shall not be used in a public school or educational program:

- (a) As punishment or discipline;
- (b) To force compliance or to retaliate;
- (c) As a substitute for appropriate educational or behavioral support;
- (d) To prevent property damage, except as permitted under KRS Chapter 503;
- (e) As a routine school safety measure; or
- (f) As a convenience for staff.

(2) School personnel shall not impose the following on any student at any time:

- (a) Mechanical restraint;
- (b) Chemical restraint;
- (c) Aversive behavioral interventions;
- (d) Physical restraint that is life-threatening;
- (e) Prone or supine restraint; or
- (f) Physical restraint if they know that physical restraint is contraindicated based on the student's disability, health care needs, or medical or psychiatric condition.

(3) Physical restraint may only be implemented in a public school or educational program if:

- (a) The student's behavior poses an imminent danger of physical harm to self or others and as permitted under KRS 503.050, 503.070, and 503.110;
- (b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication, unless the student uses sign language or an augmentative mode of communication as the student's primary mode of communication and the implementer determines that freedom of the student's hands for brief periods during the restraint appears likely to result in physical harm to self or others;
- (c) The student's physical and psychological well-being is monitored for the duration of the physical restraint;
- (d) Less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others, except in the case of a clearly unavoidable emergency situation posing imminent danger of physical harm to self or others; and
- (e) School personnel implementing the physical restraint are appropriately trained as required by Section 6(3) of this administrative regulation, except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

(4) When implementing a physical restraint, school personnel shall use only the amount of force reasonably believed to be necessary to protect the student or others from imminent danger of physical harm.

(5) The use of physical restraint shall end as soon as:

- (a) The student's behavior no longer poses an imminent danger of physical harm to self or others; or
- (b) A medical condition occurs putting the student at risk of

harm. Section 4.

(1) Seclusion shall not be used in a public school or educational program:

- (a) As punishment or discipline;
- (b) To force compliance or to retaliate;
- (c) As a substitute for appropriate educational or behavioral support;
- (d) To prevent property damage in the absence of imminent danger of physical harm to self or others;
- (e) As a routine school safety measure;
- (f) As a convenience for staff; or
- (g) As a substitute for timeout.

(2) Seclusion may only be implemented in a public school or educational program if:

- (a) The student's behavior poses an imminent danger of physical harm to self or others;
- (b) The student is visually monitored for the duration of the seclusion;
- (c) Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and
- (d) School personnel implementing the seclusion are appropriately trained to use seclusion.

(3) The use of seclusion shall end as soon as:

- (a) The student's behavior no longer poses an imminent danger of physical harm to self or others; or
- (b) A medical condition occurs putting the student at risk of harm.

(4) A setting used for seclusion shall:

- (a) Be free of objects and fixtures with which a student could inflict physical harm to self or others;
- (b) Provide school personnel a view of the student at all times;
- (c) Provide adequate lighting and ventilation;
- (d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;
- (e) Have an unlocked and unobstructed door; and
- (f) Have at least an annual fire and safety

inspection. Section 5.

(1) All physical restraints and seclusions shall be documented by a written record of each use of seclusion or physical restraint and be maintained in the student's education record. Each record of a use of physical restraint or seclusion shall be informed by an interview with the student and shall include:

- (a) The student's name;
- (b) A description of the use of physical restraint or seclusion and the student behavior that resulted in the physical restraint or seclusion;
- (c) The date of the physical restraint or seclusion and school personnel involved;
- (d) The beginning and ending times of the physical restraint or seclusion;
- (e) A description of any events leading up to the use of physical restraint or seclusion including possible factors contributing to the dangerous behavior;
- (f) A description of the student's behavior during physical restraint or seclusion;
- (g) A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;
- (h) A description of any behavioral interventions used immediately prior to the implementation of physical restraint or seclusion;
- (i) A description of any injuries to students, school personnel, or others;

- (j) A description as to how the student's behavior posed an imminent danger of physical harm to self or others;
 - (k) The date the parent was notified;
 - (l) A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;
 - (m) A description of the school personnel response to the dangerous behavior;
 - (n) A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and
 - (o) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a referral under either law or documentation of the basis for declining to refer the student.
- (2) If the student is not an emancipated youth, the parent of the student shall be notified of the physical restraint and seclusion verbally or through electronic communication, if available to the parent, as soon as possible within twenty-four (24) hours of the incident. If the parent cannot be reached within twenty-four (24) hours, a written communication shall be mailed to the parent via U.S. mail.
- (3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.
- (4) The physical restraint or seclusion record as outlined in subsection (1) of this section shall be completed by the end of the next school day following the use of seclusion or physical restraint.
- (5) If the parent or emancipated youth requests a debriefing session under Section 2(1)(d) of this administrative regulation, a debriefing session shall be held after the imposition of physical restraint or seclusion upon a student.
- (6) The following persons shall participate in the debriefing session:
- (a) The implementer of the physical restraint or seclusion;
 - (b) At least two (2) of any other school personnel who were in the proximity of the student immediately before or during the physical restraint or seclusion;
 - (c) The parent of an unemancipated student;
 - (d) The student, if the parent requests or if the student is an emancipated youth; and
 - (e) Appropriate supervisory and administrative school personnel, which may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members.
- (7) The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the request of the parent or the emancipated youth, unless delayed by written mutual agreement of the parent or emancipated youth and the school.
- (8) The debriefing session shall include:
- (a) Identification of the events leading up to the seclusion or physical restraint;
 - (b) Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;
 - (c) Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of recommended appropriate positive behavioral supports and interventions to assist school personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, if applicable, and consideration of whether positive behavioral supports and interventions were implemented with fidelity; and
 - (d) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, consideration of a referral under

either law and documentation of the referral or documentation of the basis for declining to refer the student.

(9) All documentation utilized in the debriefing session shall become part of the student's education record.

Section 6.

(1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;
2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;
3. Proper use of positive reinforcement;
4. The continuum of use for alternative behavioral interventions;
5. Crisis prevention;
6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and
7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.

(2) All school personnel shall receive annual written or electronic communication from the district identifying core team members in the school setting who have been trained to implement physical restraint.

(3) A core team of selected school personnel shall be designated to respond to dangerous behavior and to implement physical restraint of students. The core team, except school resource officers and other sworn law enforcement officers, shall receive additional yearly training in the following areas:

- (a) Appropriate procedures for preventing the use of physical restraint except as permitted by this administrative regulation;
- (b) A description and identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint is safe and warranted;
- (c) Simulated experience of administering and receiving physical restraint, and instruction regarding the effect on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and notification requirements and investigation of injuries; and
- (e) Demonstration by core team members of proficiency in the prevention and use of physical restraint.

Section 7. The following data shall be reported by the district in the student information system related to incidents of physical restraint and seclusion:

- (1) Aggregate number of uses of physical restraint;
- (2) Aggregate number of students placed in physical restraint;
- (3) Aggregate number of uses of seclusion;
- (4) Aggregate number of students placed in seclusion;
- (5) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;
- (6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and
- (7) Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

- (1) All students admitted to the common schools shall comply with the lawful regulations for the government of the schools:
- (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and
 - (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.
- (2)(a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of at least 12 months for a student who:
- 1. Is determined by the board through clear and convincing evidence to have made threats that pose a danger to the well-being of students, faculty, or staff of the district; or
 - 2. Is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.
- (b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:
- 1. Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction; or
 - 2. Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction; or
 - 3. Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.
- (3)a) The board may modify the expulsion requirement and length for students on a case-by-case basis, except the length of expulsion shall at least be twelve(12) months for a violation set forth in subsection (2)(a) of this section.
- (b) Nothing in this section shall prohibit a board from expelling a student for longer than twelve(12) months.
- (c) A board that has expelled a student from the student's regular school setting shall provide or ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the

influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(11) Nothing in this section shall be interpreted or construed to preclude the requirements contained in KRS 158.305 or 158.4416

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option..

(2)(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:

(1) Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction:

(2) Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction; or

(3) Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.

(3) (a) The board may modify the expulsion requirement and length for students on a case-by-case basis, Except the length of expulsion shall be at least twelve (12) months for a violation set forth in subsection (2)(a) of this section.

(b) Nothing in this section shall prohibit a board from expelling a student for longer than twelve (12) months

(c) A board that has expelled a student from the student's regular school setting shall provide or ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(8)(a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his or her disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(9) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

(10) Any action under this section related to students with disabilities shall be in compliance with applicable federal law.

KRS 158.153. Punishment based on child's records - Disclosure of records - Cause of action - Districtwide standards of behavior for students participating in extracurricular activities.

(1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

(2) No school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or parents other than the pupil, or parents of the pupil who is the subject of the record.

(3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.

(4) Nothing in this section shall be construed to prohibit a local board of education from establishing districtwide standards of behavior for students who participate in extracurricular and cocurricular activities, including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)(i)8. A student's right to

participate in extracurricular or cocurricular activities, including athletics, may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option..

(3)(d) 1. In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. of this paragraph.

2. The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.

(5)(b)

5. When a student is removed from a classroom under this paragraph temporarily or permanently, the principal shall determine the placement of the student in lieu of that classroom, which may include but is not limited to:

- a. Another classroom in that school;
- b. An alternative program or setting, which may be provided virtually, as approved by the superintendent

6. Any permanent action by a principal under this paragraph shall be subject to an appeal process in accordance with a policy adopted by the board.

(6). A student shall not be suspended from the common schools until after at least the following due process procedures have been provided:

- (a) The student has been given oral or written notice of the charge or charges against him or her which constitute cause for suspension;
- (b) The student has been given an explanation of the evidence of the charge or charges if the student denies them; and
- (c) The student has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(7)(b) 1. The board of education of any school district may expel or extend the expulsion of any student for misconduct as described in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board. The decision of the board shall be final.

2. Within thirty (30) days prior to the end of a student's expulsion, the board shall review the details of the expulsion and current factors and circumstances, including if ending the expulsion will substantially disrupt the education process or constitute a threat to the safety of students or school staff, to determine if the expulsion shall be extended for a period not to exceed twelve (12) months.

3. The expulsion review process shall be used prior to the end of each expulsion period until the board ends the expulsion or the student is no longer subject to compulsory attendance under KRS 159.010.

4. Each board of education shall adopt a policy for implementation of the process described in this paragraph.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

KRS 158.146. Establishment of strategy to address school dropout problem - Department to provide technical assistance, award grants, and disseminate information to school districts and school level personnel.

(1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:

(b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy.

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option..

3(c) A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(d)(1) In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the

parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. Of this paragraph.

2. The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.

3. The alternative program or setting may be provided virtually.

4. Notwithstanding any other statute or administrative regulation to the contrary, students placed in an alternative program or setting under this paragraph shall be counted in attendance and membership for state funding purposes in the same manner as other students participating in alternative programs of the district.

5. Students placed in an alternative program or setting under this paragraph shall be subject to compulsory attendance requirements under KRS chapter 159 and applicable local board policy.

6. Following the initial alternative placement of a student under this paragraph, the board shall review the alternative program or setting placement at least once per year and determine if the placement should be continued in accordance with subparagraph 1. Of this paragraph.

(4) For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that, if a student is suspended or expelled for any reason or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission, which may include placement of the student into an alternative program or setting as described in subsection (3)(d) of this section.

(5)(b)

5. When a student is removed from a classroom under this paragraph temporarily or permanently, the principal shall determine the placement of the student in lieu of that classroom, which may include but is not limited to:

a. Another classroom in that school;

b. An alternative program or setting, which may be provided virtually, as approved by the superintendent

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

KRS 158.445. Local assessment of school safety and school discipline - District assessment - Local plans.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community. The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

KRS 158.446. Use of appropriated funds.

Of the funds appropriated to support the school safety fund program in the biennial budget, twenty percent (20%) of the funds in 1998-99, and ten percent (10%) in 1999-2000, shall be used for the operation of the Center for School Safety and grants to be distributed by the Center to support exemplary programs in local school districts. The remainder of the appropriation shall be distributed to local school districts on a per pupil basis. The funds shall be used for the purpose of improving school safety and student discipline through alternative education programs and intervention services in compliance with KRS 158.148, 158.150, and 158.445. School districts shall be responsible for documenting the purposes for which these funds were expended.

REGULATIONS

704 KAR 7:070. Guidelines for dropout prevention programs.

Section 1.

(3) A school district applying for funds shall describe the special service(s) to be provided to eligible students, including the services listed below:

(a) Alternative curriculum which shall provide academic alternatives for students. Alternative educational programs, classes or schools shall provide the students with a positive learning environment to develop and build student academic-behavioral successes.

704 KAR 19:002. Alternative education programs.

Section 2. General Requirements.

(1)(a) A district shall ensure that each alternative education program:

1. Aligns with college and career readiness outcomes;
2. Is not limited in scope or design; and
3. Includes training to build capacity of staff and administrators to deliver high-quality services and programming that conform with best practices and guide all students to college and career readiness.

(b) A student enrolled in an alternative education program may be eligible to participate in one (1) or more types of programs to address student learning needs that may include an alternative digital learning environment, credit recovery, or an innovative path to graduation.

(2) Each local board of education shall adopt and annually review policies and procedures for the operation of each alternative education program within the district. Locally-adopted policies and procedures shall include the:

- (a) Purpose of the program, including the ways the program supports the district's college and career readiness goals for students;
- (b) Eligibility criteria, as appropriate;
- (c) Process for entering students into the program;
- (d) Process for transitioning students out of the program;
- (e) Composition of the team to develop the ILPA, which shall include an invitation to the parents to participate and, as appropriate, an invitation to the student to participate; and
- (f) Procedures for collaboration with outside agencies involved with involuntary placements, including courts or other social service agencies to address student transitions between programs.

(3) An alternative education program shall be either an on-site program or an off-site program.

- (4) Alternative education program curriculum shall be aligned with the Kentucky Core Academic Standards established in 704 KAR 3:303, and the student learning goals in the ILP.
- (5) Each alternative education program student shall be subject to the minimum graduation requirements established in 704 KAR 3:305 and any additional local district graduation requirements.
- (6) An alternative education program shall be subject to any applicable requirements of 703 KAR 5:225 and Kentucky's Elementary and Secondary Education Act Flexibility Waiver, or its successor.
- (7) Each student participating in an alternative education program shall be eligible to access extracurricular activities as allowed by local district and school council policies and by 702 KAR 7:065 or other applicable organization rules.
- (8) Each student participating in an alternative education program shall continue to be able to access resources and services already available in the district, including instructional materials, tutoring, intervention, and counseling services, in furtherance of each student's educational program as determined through the development of the ILPA.

Section 3. Placement of Students.

- (1)(a) The placement of students by the district in an alternative education program shall be either voluntary or involuntary.
 - (b) A student entering an alternative education program shall meet the eligibility requirements for the program established by the local board pursuant to Section 2 of this administrative regulation.
 - (c) The district shall ensure that an ILP, as required by 704 KAR 3:305, exists prior to placement of a student in an alternative education program.
- (2)(a) The placement decision for all students with an IEP shall be made through the admissions and release committee (ARC) process pursuant to 707 KAR 1:320.
 - (b) For a child with a disability, the IEP shall address the changed educational delivery needs of the student based upon entry into or exit from an alternative education program.
 - (c) The placement decisions for a student who has been identified under 29 U.S.C. § 794., Section 504 of the Rehabilitation Act of 1973, as amended, shall be made through a team process consistent with the applicable requirements outlined in 34 C.F.R. Part 104.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option..

(1) All students admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2)(a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of at least twelve(12) for a student who:

1. Is determined by the board through clear and convincing evidence to have made threats that pose a danger to the well-being of students, faculty, or staff of the district; or

2. Is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:

1. Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction;

2. Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction; or

3. Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.

(3) (a) The board may modify the expulsion requirement and length for students on a case-by-case basis , except the length of expulsion shall be at least twelve (12) months for a violation set forth in subsection (2)(a) of this section.

(b) Nothing in this section shall prohibit a board from expelling a student for longer than twelve (12) months .

(c) A board that has expelled a student from the student's regular school setting shall provide or ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other

intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(d) 1. In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. Of this paragraph.

2. The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.

3. The alternative program or setting may be provided virtually.

4. Notwithstanding any other statute or administrative regulation to the contrary, students placed in an alternative program or setting under this paragraph shall be counted in attendance and membership for state funding purposes in the same manner as other students participating in alternative programs of the district.

5. Students placed in an alternative program or setting under this paragraph shall be subject to compulsory attendance requirements under KRS Chapter 159 and applicable local board policy.

6. Following the initial alternative placement of a student under this paragraph, the board shall review the alternative program or setting placement at least once per year and determine if the placement should be continued in accordance with subparagraph 1. Of this paragraph.

KRS 158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school

property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

KRS 158.155. Reporting of specified incidents of student conduct - Notation on school records - Report to law enforcement of certain student conduct - Immunity.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

- a. Carrying, possession, or use of a deadly weapon; or
- b. Use, possession, or sale of controlled substances; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(6) "School safety" means a program of prevention that protects students and staff from substance abuse, violence, bullying, theft, the sale or use of illegal substances, exposure to weapons and threats on school grounds, and injury from severe weather, fire, and natural disasters.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

KRS 159.140. Duties of director of pupil personnel or assistant.

(1) The director of pupil personnel, or an assistant appointed under KRS 159.080, shall:

(c) Acquaint the school with the home conditions of a habitual truant as described in KRS 159.150(3), and the home with the work and advantages of the school;

(d) Ascertain the causes of irregular attendance and truancy, through documented contact with the custodian of the student, and seek the elimination of these causes.

KRS 159.150. Definitions of truant and habitual truant - Attendance record requirements - Adoption of truancy policies by local school boards - Implementation of early intervention and prevention programs.

(1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.

- (2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (3) Any student who has been reported as a truant two (2) or more times is an habitual truant.
- (4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one (1) Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under KRS 159.170 in the student's official attendance record.
- (5) A local board of education may adopt reasonable policies that:
- (a) Require students to comply with compulsory attendance laws;
 - (b) Require truants and habitual truants to make up unexcused absences;
 - (c) Impose sanctions for noncompliance; and
 - (d) Collaborate and cooperate with the Court of Justice, the Department for Community Based Services, the Department of Juvenile Justice, regional community mental health centers, and other service providers to implement and utilize early intervention and prevention programs, such as truancy diversion, truancy boards, mediation, and alternative dispute resolution to reduce referrals to a court-designated worker.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

KRS 156.496. Family resource and youth service centers - Design - Core components - Location - Grant program - Prohibition on abortion counseling and referrals - Monetary donations.

(3) Youth services centers shall be located in or near each school in the Commonwealth, except elementary schools, in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Youth services centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:

- (d) Substance abuse education and counseling.

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(1) All students admitted to the common schools shall comply with the lawful regulations for the government of the schools:

- (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and
- (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

2)(a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of at least twelve(12) for a student who:

1. Is determined by the board through clear and convincing evidence to have made threats that pose a danger to the well-being of students, faculty, or staff of the district; or
- 2.Is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:

- 1.Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have;
- 2.Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. ; or
3. Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.

(3)(A)The board may modify the expulsion requirement and length for students on a case-by-case basis , except the length of expulsion shall be at least twelve (12) months for a violation set forth in subsection (2)(a) of this section.

(B). Nothing in this section shall prohibit a board from expelling a student for longer than twelve (12) months .

(C) A board that has expelled a student from the student's regular school setting shall provide or assure ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(d) 1. In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. Of this paragraph.

2. The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.

3. The alternative program or setting may be provided virtually.

4. Notwithstanding any other statute or administrative regulation to the contrary, students placed in an alternative program or setting under this paragraph shall be counted in attendance and membership for state funding purposes in the same manner as other students participating in alternative programs of the district.

5. Students placed in an alternative program or setting under this paragraph shall be subject to compulsory attendance requirements under KRS Chapter 159 and applicable local board policy.

6. Following the initial alternative placement of a student under this paragraph, the board shall review the alternative program or setting placement at least once per year and determine if the placement should be continued in accordance with subparagraph 1. Of this paragraph.

KRS 158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

KRS 158.155. Reporting of specified incidents of student conduct - Notation on school records - Report to law enforcement of certain student conduct - Immunity.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

- (a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:
 - 1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:
 - a. Carrying, possession, or use of a deadly weapon; or
 - b. Use, possession, or sale of controlled substances; or
 - 2. Any felony offense under the laws of this Commonwealth; and
- (b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

- (6) "School safety" means a program of prevention that protects students and staff from substance abuse, violence, bullying, theft, the sale or use of illegal substances, exposure to weapons and threats on school grounds, and injury from severe weather, fire, and natural disasters.

KRS 438.345. Use of tobacco products, alternative nicotine products, and vapor products on school property and during school activities - Written policies - Penalties - Board may opt out.

(2) The use of any tobacco product, alternative nicotine product, or vapor product:

- (a) Shall be prohibited for all persons and at all times on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education;
- (b) Shall be prohibited for all students while attending or participating in any school-related student trip or student activity; and
- (c) Is prohibited for school district employees, volunteers, and all other individuals affiliated with a school while the user is attending or participating in any school-related student trip or student activity and is in the presence of a student or students.

(3) On or before July 1, 2020, each local board of education shall implement this section by adopting written policies that prohibit the use of tobacco products, alternative nicotine products, and vapor products pursuant to this section. The policies shall provide for:

- (a) Adequate notice regarding the policy to be provided to students, parents and guardians, school employees, and the general public;

(b) A requirement to post signage on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education, clearly stating that use of tobacco products, alternative nicotine products, and vapor products is prohibited at all times and by all persons on or in the property; and

(c) A requirement that school employees enforce the policies.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

KRS 2.227. Anti-Bullying Month.

(1) The General Assembly recognizes its responsibility to secure the environment for all Kentucky students. Thus, October of each year shall be designated as Anti-Bullying Month in the Commonwealth.

(2) As a symbol of awareness of the serious issues and negative effects of bullying, the official ribbon for the Anti-Bullying Month in the Commonwealth shall be purple and yellow. The color purple is a reminder of domestic violence and the color yellow is in memory of those who have taken their lives as a result of bullying.

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(1)(a) As used in this section, "bullying" means any unwanted verbal, physical, or social behavior among students that involves a real or perceived power imbalance and is repeated or has the potential to be repeated:

1. That occurs on school premises, on school-sponsored transportation, or at a school-sponsored event; or
2. That disrupts the education process.

[...] (5)(c) The code shall prohibit bullying.

(e) The code shall contain:

1. Procedures for identifying, documenting, and reporting incidents of bullying, incidents of violations of the code, and incidents for which reporting is required under KRS 158.156;
2. Procedures for investigating and responding to a complaint or a report of bullying or a violation of the code, or of an incident for which reporting is required under KRS 158.156, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;
3. A strategy or method of protecting from retaliation a complainant or person reporting an incident of bullying, a violation of the code, or an incident for which reporting is required under KRS 158.156;
4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions

of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and

5. Information regarding the consequences of bullying and violating the code and violations reportable under KRS 158.154, 158.156, or 158.444.

KRS 158.156. Reporting of commission of felony KRS Chapter 508 offense against a student - Investigation - Immunity from liability for reporting - Privileges no bar to reporting.

(4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding student harassment in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding student harassment.

KRS 158.183. Prohibited acts by students - Rights of student - Duties of local board of education - Administrative remedies.

(1) Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, a student shall have the right to carry out an activity described in any of paragraphs (a) to (j) of subsection

(2) of this section, if the student does not:

(a) Infringe on the rights of the school to:

1. Maintain order and discipline;
2. Prevent disruption of the educational process; and
3. Determine educational curriculum and assignments;

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(6) "School safety" means a program of prevention that protects students and staff from substance abuse, violence, bullying, theft, the sale or use of illegal substances, exposure to weapons and threats on school grounds, and injury from severe weather, fire, and natural disasters.

KRS 525.070. Harassment.

(1) A person is guilty of harassment when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Strikes, shoves, kicks, or otherwise subjects him to physical contact;

(b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact;

(c) In a public place, makes an offensively coarse utterance, gesture, or display, or addresses abusive language to any person present;

(d) Follows a person in or about a public place or places;

(e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose; or

(f) Being enrolled as a student in a local school district, and while on school premises, on school- sponsored transportation, or at a school-sponsored event:

1. Damages or commits a theft of the property of another student;
2. Substantially disrupts the operation of the school; or

3. Creates a hostile environment by means of any gestures, written communications, oral statements, or physical acts that a reasonable person under the circumstances should know would cause another student to suffer fear of physical harm, intimidation, humiliation, or embarrassment.

(2)(a) Except as provided in paragraph (b) of this subsection, harassment is a violation.

(b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor.

KRS 525.080. Harassing communications.

(1) A person is guilty of harassing communications when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of electronic or written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; or

(c) Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

KRS 156.095. Professional development programs - Professional development coordinator - Longterm improvement plans - Suicide prevention awareness information - Suicide prevention training - Active shooter training, also applicable to charter schools - Evidence-informed trainings on child abuse and neglect - Electronic consumer bulletin board - Training to address needs of students at risk - Teacher academics - Annual report to Juvenile Justice Oversight Council .

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(l) Strategies to incorporate character education throughout the curriculum.

(4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

KRS 158.146. Establishment of strategy to address school dropout problem - Department to provide technical assistance, award grants, and disseminate information to school districts and school level personnel.

(1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:

(b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy.

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(2) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of Professional Educators, the

Kentucky Association of School Superintendents, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

- (a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444;
- (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement; and
- (c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.

(3) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (2) of this section.

KRS 158.305. Response-to-intervention system to identify and assist students having difficulty in reading, writing, mathematics, or behavior and to determine needs of advanced learners - Web-based resource for teachers - District-wide use - Department to provide technical assistance and training - Annual report.

(3) The Department of Education shall provide technical assistance and training, if requested by a local district, to assist in the implementation of the district-wide, response-to-intervention system as a means to identify and assist any student experiencing difficulty in reading, writing, mathematics, or behavior and to determine appropriate instructional modifications needed by advanced learners to make continuous progress. [...]

(5) The department shall develop and maintain a Web-based resource providing teachers access to:

- (a) Information on the use of specific screening processes and programs to identify student strengths and needs, including those for advanced learners;
- (b) Current, evidence-based research and age-appropriate instructional tools that may be used for substantial, steady improvement in:
 1. Reading when a student is experiencing difficulty with phonemic awareness, phonics, vocabulary, fluency, general reading comprehension, or reading in specific content areas, or is exhibiting characteristics of dyslexia, aphasia, or other reading difficulties;
 2. Writing when a student is experiencing difficulty with consistently producing letters or numbers with accuracy or is exhibiting characteristics of dysgraphia;
 3. Mathematics when a student is experiencing difficulty with basic math facts, calculations, or application through problem solving, or is exhibiting characteristics of dyscalculia or other mathematical difficulties; or
 4. Behavior when a student is exhibiting behaviors that interfere with his or her learning or the learning of other students; and

(c) Current, evidence-based research and age-appropriate instructional tools that may be used for continuous progress of advanced learners.

(6) The department shall encourage districts to utilize both state and federal funds as appropriate to implement a district-wide system of interventions.

(7) The department is encouraged to coordinate technical assistance and training on current best practice interventions with state postsecondary education institutions.

(8) The department shall collaborate with the Kentucky Collaborative Center for Literacy Development, the Kentucky Center for Mathematics, the Kentucky Center for Instructional Discipline, the Education Professional Standards Board, the Council on Postsecondary Education, postsecondary teacher education programs, and other agencies and organizations as deemed appropriate to ensure that teachers are prepared to utilize evidence-based interventions in reading, writing, mathematics, and behavior.

KRS 158.442. Center for School Safety - Duties - School safety coordinator training program- Members of board - Center for School safety and its board of directors not subject to reorganization by the Governor.

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety and school security programs, best practices, training standards, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention.

KRS 158.443. Terms of board members - Meetings - Selection of administrator for the center - Duties of board of directors.

(10) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

KRS 158.4416. Trauma-informed approach to education - Definitions - Goals for employment of school - based counselors - School counselor or school-based mental health services provider to facilitate creation of trauma-informed team - Training and guidance of school personnel to assist in recognizing and dealing with issues of student trauma - Collaboration for provision of services between two or more school districts or between school districts and educational cooperatives, or other public or private entities - Annual report to department number and placement of school counselors in each district, source of funding, summary of job duties, and percentage of time devoted to each duty - Department of Education to make available toolkits to develop trauma-informed approach in schools - Plan and strategies for implementing trauma-informed approach .

(4) On or before July 1, 2020, the Department of Education shall make available a toolkit that includes guidance, strategies, behavioral interventions, practices, and techniques to assist school districts and public charter schools in developing a trauma-informed approach in schools.

KRS 158.6451. Legislative declaration on goals for Commonwealth's schools - Model curriculum framework.

(2) The Kentucky Board of Education shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies developed pursuant to this section and KRS 158.645 and 158.6453. The framework shall provide direction to local districts and schools as they develop their curriculum. The framework shall identify teaching and assessment strategies, instructional material resources, ideas on how to incorporate the resources of the community, a directory of model teaching sites, alternative ways of using school time, and strategies to incorporate character education throughout the curriculum.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

KRS 158.305. Response-to-intervention system to identify and assist students having difficulty in reading, writing, mathematics, or behavior and to determine needs of advanced learners - Web-based resource for teachers - District-wide use - Department to provide technical assistance and training - Annual report.

(2) Notwithstanding any other statute or administrative regulation to the contrary, the Kentucky Board of Education shall promulgate administrative regulations for district-wide use of a response-to-intervention system for students in kindergarten through grade three (3), that includes a tiered continuum of interventions with varying levels of intensity and duration and which connects general, compensatory, and special education programs to provide interventions implemented with fidelity to evidence-based research and matched to individual student strengths and needs. At a minimum, evidence of implementation shall be submitted by the district to the department for:

- (a) Reading and writing by August 1, 2013;
- (b) Mathematics by August 1, 2014; and
- (c) Behavior by August 1, 2015.

(3) The Department of Education shall provide technical assistance and training, if requested by a local district, to assist in the implementation of the district-wide, response-to-intervention system as a means to identify and assist any student experiencing difficulty in reading, writing, mathematics, or behavior and to determine appropriate instructional modifications needed by advanced learners to make continuous progress.

REGULATIONS

704 KAR 3:095. The use of response-to-intervention in kindergarten through grade 3.

Section 1. Definitions.

- (7) "Response-to-intervention" means a multi-level prevention system to maximize student achievement and social and behavioral competencies through an integration of assessment and intervention.

Section 2. Each local district shall implement a comprehensive response-to-intervention system for Kindergarten through Grade 3 that includes:

- (1) Multi-tiered systems of support, including differentiated core academic and behavioral instruction and targeted, intensive academic and behavioral intervention, delivered by individuals most qualified to provide the intervention services, that maximize student achievement and reduce behavioral problems;
- (2) Universal screening and diagnostic assessments to determine individual student needs and baseline performance;
- (3) Interventions that:
 - (a) Are evidence-based;
 - (b) Vary in intensity and duration based on student need;
 - (c) Meet the needs of the individual student;
 - (d) Are implemented with fidelity;
 - (e) Are delivered by individuals most qualified to provide the intervention services; and
 - (f) Are monitored through a comparison of baseline data collected prior to intervention and ongoing progress data;
- (4) Support for early intervention to address academic and behavioral issues; and
- (5) Data-based documentation of:

- (a) Assessments or measures of behavior;
- (b) Progress during instruction;
- (c) Evaluation, at regular intervals, for continuous progress; and
- (d) Individual student reports shared with the parents of each student in Kindergarten through Grade 3 that summarize the student's skills in mathematics, reading, and writing; the student's behavior; and any intervention plans and services being delivered.

Section 3. The response-to-intervention system for Kindergarten through Grade 3 shall coordinate with district-wide interventions required by KRS 158.792, 158.6453(11)(b), 158.6459(1), (2), (3), 704 KAR

3:305, Section 1(1)(b), (3)(d), 704 KAR 3:530, Section 2(1)(b), 704 KAR 3:285, Section 3(4), 707 KAR 1:300, Section 1, 707 KAR 1:310, Section 1(3)(a), and 707 KAR 1:320.

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 1. Definitions.

(11) "Positive behavioral supports" means a school-wide systematic approach to embed evidence- based practices and data-driven decision-making to:

- (a) Improve school climate and culture in order to achieve improved academic and social outcomes;
- (b) Increase learning for all students, including those with the most complex and intensive behavior needs;
- (c) Encompass a range of systemic and individualized positive strategies to reinforce desired behaviors;
- (d) Diminish reoccurrence of inappropriate or dangerous behaviors; and
- (e) Teach appropriate behaviors to students.

[...] Section 5.

(8) The debriefing session shall include:

- (c) Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of recommended appropriate positive behavioral supports and interventions to assist school personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, if applicable, and consideration of whether positive behavioral supports and interventions were implemented with fidelity.

Section 6.

(1)(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

Prevention

LAWS

KRS 158.442. Center for School Safety - Duties - School safety coordinator training program- Members of board - Center for School safety and its board of directors not subject to reorganization by the Governor.

(2) To fulfill its mission, the Center for School Safety shall:

- (a) Establish a clearinghouse for information and materials concerning school violence prevention.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

KRS 156.095. Professional development programs - Professional development coordinator - Longterm improvement plans - Suicide prevention awareness information - Suicide prevention training - Active shooter training, also applicable to charter schools - Evidence-informed trainings on child abuse and neglect - Electronic consumer bulletin board - Training to address needs of students at risk - Teacher academics - Annual report to Juvenile Justice Oversight Council .

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(l) Strategies to incorporate character education throughout the curriculum.

KRS 158.060. School month and school day - Duty-free lunch period - Nonteaching time for teachers.

(5) Character education programs and activities shall be considered valuable and legitimate components of the actual school work constituting a school day under subsection (3) of this section.

KRS 158.6451. Legislative declaration on goals for Commonwealth's schools - Model curriculum framework.

(1) The General Assembly finds, declares, and establishes that:

(b) Schools shall develop their students' ability to:

3. Become self-sufficient individuals of good character exhibiting the qualities of altruism, citizenship, courtesy, hard work, honesty, human worth, justice, knowledge, patriotism, respect, responsibility, and self-discipline. [...]

(2) The Kentucky Board of Education shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies developed pursuant to this section and KRS 158.645 and 158.6453. The framework shall provide direction to local districts and schools as they develop their curriculum. The framework shall identify teaching and assessment strategies, instructional material resources, ideas on how to incorporate the resources of the community, a directory of model teaching sites, alternative ways of using school time, and strategies to incorporate character education throughout the curriculum.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

KRS 158.4414. Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations - School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position.

(7) Course curriculum for school resource officers employed on or after March 11, 2019, shall include but not be limited to:

(h) Trauma-informed action.

KRS 158.4416. Trauma-informed approach to education - Definitions - Goals for employment of school - based counselors - School counselor or school-based mental health services provider to facilitate creation of trauma-informed team - Training and guidance of school personnel to assist in recognizing and dealing with issues of student trauma - Collaboration for provision of services between two or more school districts or between school districts and educational cooperatives, or other public or private entities - Annual report to department number and placement of school counselors in each district, source of funding, summary of job duties, and percentage of time devoted to each duty - Department of Education to make available toolkits to develop trauma-informed approach in schools - Plan and strategies for implementing trauma-informed approach .

(1) For purposes of this section:

(a) "School counselor" means an individual who holds a valid school counselor certificate issued in accordance with the administrative regulations of the Education Professional Standards Board;

(b) "School-based mental health services provider" means a licensed or certified school counselor, school psychologist, school social worker, or other qualified mental health professional as defined in KRS 202A.011; and

(c) "Trauma-informed approach" means incorporating principles of trauma awareness and trauma-informed practices, as recommended by the federal Substance Abuse and Mental Health Services Administration, in a school in order to foster a safe, stable, and understanding learning environment for all students and staff and ensuring that all students are known well by at least one (1) adult in the school setting.

(2) The General Assembly recognizes that all schools must provide a place for students to feel safe and supported to learn throughout the school day, and that any trauma a student may have experienced can have a significant impact on the ability of a student to learn. The General Assembly directs all public schools to adopt a trauma-informed approach to education in order to better recognize, understand, and address the learning needs of students impacted by trauma and to foster a learning environment where all students, including those who have been traumatized, can be safe, successful, and known well by at least one (1) adult in the school setting.

(3)(a) Beginning July 1, 2021, or as funds and qualified personnel become available:

1. Each school district and each public charter school shall employ at least one (1) school counselor in each school with the goal of the school counselor spending sixty percent (60%) or more of his or her time providing counseling and related services directly to students; and

2. It shall be the goal that each school district and each public charter school shall provide at least one (1) school counselor or school-based mental health services provider who is employed

by the school district for every two hundred fifty (250) students, including but not limited to the school counselor required in subparagraph 1. of this paragraph.

(b) A school counselor or school-based mental health services provider at each school shall facilitate the creation of a trauma-informed team to identify and assist students whose learning, behavior, and relationships have been impacted by trauma. The trauma-informed team may consist of school administrators, school counselors, school-based mental health services providers, family resource and youth services coordinators, school nurses, and any other school or district personnel.

(c) Each school counselor or school-based mental health services provider providing services pursuant to this section, and the trauma-informed team members described in paragraph (b) of this subsection, shall provide training, guidance, and assistance to other administrators, teachers, and staff on:

1. Recognizing symptoms of trauma in students;
2. Utilizing interventions and strategies to support the learning needs of those students; and
3. Implementing a plan for a trauma-informed approach as described in subsection (5) of this section.

(d)1. School districts may employ or contract for the services of school-based mental health services providers to assist with the development and implementation of a trauma-informed approach and the development of a trauma-informed team pursuant to this subsection and to enhance or expand student mental health support services as funds and qualified personnel become available.

2. School-based mental health services providers may provide services through a collaboration between two (2) or more school districts or between school districts and educational cooperatives or any other public or private entities, including but not limited to local or regional mental health day treatment programs.

(e) No later than November 1, 2022, and each subsequent year, the local school district superintendent shall report to the department the number of school-based mental health service providers, the position held, placement in the district, certification or licensure held, the source of funding for each position, a summary of the job duties and work undertaken by each school-based mental health service provider, and the approximate percent of time devoted to each duty over the course of the year.

(f) The department shall annually compile and maintain a list of school-based mental health service providers by district which shall include the information required in subsection (3)(f) of this section.

(g) No later than June 1, 2023, and each subsequent year, the department shall provide the Interim Joint Committee on Education with the information reported by local school district superintendents and compiled in accordance with subsection (3)(f) of this section.

(4) On or before July 1, 2020, the Department of Education shall make available a toolkit that includes guidance, strategies, behavioral interventions, practices, and techniques to assist school districts and public charter schools in developing a trauma-informed approach in schools.

(5) On or before July 1, 2021, each local board of education and board of a public charter school shall develop a plan for implementing a trauma-informed approach in its schools. The plan shall include but not be limited to strategies for:

- (a) Enhancing trauma awareness throughout the school community;
- (b) Conducting an assessment of the school climate, including but not limited to inclusiveness and respect for diversity;
- (c) Developing trauma-informed discipline policies;
- (d) Collaborating with the Department of Kentucky State Police, the local sheriff, and the local chief of police to create procedures for notification of trauma-exposed students; and
- (e) Providing services and programs designed to reduce the negative impact of trauma, support critical learning, and foster a positive and safe school environment for every student.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

KRS 156.095. Professional development programs - Professional development coordinator - Longterm improvement plans - Suicide prevention awareness information - Suicide prevention training - Active shooter training, also applicable to charter schools - Evidence-informed trainings on child abuse and neglect - Electronic consumer bulletin board - Training to address needs of students at risk - Teacher academics - Annual report to Juvenile Justice Oversight Council.

(c) 1. Beginning with the 2018-2019 school year, and every year thereafter, a minimum of one (1) hour of high-quality suicide prevention training, including the recognition of signs and symptoms of possible mental illness, shall be required for all school district employees with job duties requiring direct contact with students in grades six (6) through twelve (12). The training shall be provided either in person, by live streaming, or via a video recording and may be included in the four (4) days of professional development under KRS 158.070.

2. When a staff member subject to the training under subparagraph 1. of this paragraph is initially hired during a school year in which the training is not required, the local district shall provide suicide prevention materials to the staff member for review.

KRS 158.4414. Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations - School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position.

(7) Course curriculum for school resource officers employed on or after March 11, 2019, shall include but not be limited to:

(f) Youth mental health awareness.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

KRS 158.443. Terms of board members - Meetings - Selection of administrator for the center - Duties of board of directors.

(10) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

KRS 158.4416. Trauma-informed approach to education - Definitions - Goals for employment of school - based counselors - School counselor or school-based mental health services provider to facilitate creation of trauma-informed team - Training and guidance of school personnel to assist in recognizing and dealing with issues of student trauma - Collaboration for provision of services between two or more school districts or between school districts and educational cooperatives, or other public or private entities - Annual report to department number and placement of school counselors in each district, source of funding, summary of job duties, and percentage of time devoted to each duty - Department of Education to make available toolkits to develop trauma-informed approach in schools - Plan and strategies for implementing trauma-informed approach.

(1) For purposes of this section:

(b) "School-based mental health services provider" means a licensed or certified school counselor, school psychologist, school social worker, or other qualified mental health professional as defined in KRS 202A.011. [...]

(3)(a) Beginning July 1, 2021, or as funds and qualified personnel become available:

2. It shall be the goal that each school district and each public charter school shall provide at least one (1) school counselor or school-based mental health services provider who is employed by the school district for every two hundred fifty (250) students, including but not limited to the school counselor required in subparagraph 1. of this paragraph.

(b) A school counselor or school-based mental health services provider at each school shall facilitate the creation of a trauma-informed team to identify and assist students whose learning, behavior, and relationships have been impacted by trauma. The trauma-informed team may consist of school administrators, school counselors, school-based mental health services providers, family resource and youth services coordinators, school nurses, and any other school or district personnel. [...]

(d) 1. School districts may employ or contract for the services of school-based mental health services providers to assist with the development and implementation of a trauma-informed approach and the development of a trauma-informed team pursuant to this subsection and to enhance or expand student mental health support services as funds and qualified personnel become available.

2. School-based mental health services providers may provide services through a collaboration between two (2) or more school districts or between school districts and educational cooperatives or any other public or private entities, including but not limited to local or regional mental health day treatment programs.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(7)(a) The superintendent, principal, assistant principal, or head teacher of any school may suspend a student but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the student.

KRS 158.155. Reporting of specified incidents of student conduct - Notation on school records - Report to law enforcement of certain student conduct - Immunity.

(5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.

KRS 158.156. Reporting of commission of felony KRS Chapter 508 offense against a student - Investigation - Immunity from liability for reporting - Privileges no bar to reporting.

(1) Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:

- (a) The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;
- (b) The student's age;
- (c) The nature and extent of the violation;
- (d) The name and address of the student allegedly responsible for the violation; and
- (e) Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.

(2) An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.

KRS 161.195. Notice to teacher of student's history of physically abusive conduct or carrying a concealed weapon.

Before a student with a documented history of physical abuse of a school employee or of carrying a concealed weapon on school property or at a school function is assigned to work directly with or comes in contact with a teacher, that teacher shall be notified in writing by the principal, guidance

counselor, or other school official who has knowledge of the student's behavior. The notice shall describe the nature of the student behavior

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2.

(1) Each local school district shall establish policies and procedures that:

(d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session [...]

Section 5.

(1) All physical restraints and seclusions shall be documented by a written record of each use of seclusion or physical restraint and be maintained in the student's education record. Each record of a use of physical restraint or seclusion shall be informed by an interview with the student and shall include:

(a) The student's name;

(b) A description of the use of physical restraint or seclusion and the student behavior that resulted in the physical restraint or seclusion;

(c) The date of the physical restraint or seclusion and school personnel involved;

(d) The beginning and ending times of the physical restraint or seclusion;

(e) A description of any events leading up to the use of physical restraint or seclusion including possible factors contributing to the dangerous behavior;

(f) A description of the student's behavior during physical restraint or seclusion;

(g) A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;

(h) A description of any behavioral interventions used immediately prior to the implementation of physical restraint or seclusion;

(i) A description of any injuries to students, school personnel, or others;

(j) A description as to how the student's behavior posed an imminent danger of physical harm to self or others;

(k) The date the parent was notified;

(l) A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;

(m) A description of the school personnel response to the dangerous behavior;

(n) A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and

(o) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a referral under either law or documentation of the basis for declining to refer the student. [...]

(3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.

Parental Notification

LAWS

KRS 158.148. Definition of "bullying"- Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(5)(e) The code shall contain:

4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees.

KRS 158.150. Suspension or expulsion of students – Placement into alternative program option.

(7) (a) The superintendent, principal, assistant principal, or head teacher of any school may suspend a student but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the student.

KRS 158.156. Reporting of commission of felony KRS Chapter 508 offense against a student - Investigation - Immunity from liability for reporting - Privileges no bar to reporting.

(1) Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:

- (a) The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;
- (b) The student's age;
- (c) The nature and extent of the violation;
- (d) The name and address of the student allegedly responsible for the violation; and
- (e) Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.

(2) An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2.

- (1) Each local school district shall establish policies and procedures that:
 - (d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session. [...]

Section 5.

- (2) If the student is not an emancipated youth, the parent of the student shall be notified of the physical restraint and seclusion verbally or through electronic communication, if available to the parent, as soon

as possible within twenty-four (24) hours of the incident. If the parent cannot be reached within twenty-four (24) hours, a written communication shall be mailed to the parent via U.S. mail.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

KRS 158.148. Definition of "bullying" - Discipline guidelines and model policy - Local code of acceptable behavior and discipline - Required contents of code.

(3) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (2) of this section.

KRS 158.444. Administrative regulations relating to school safety - Role of Department of Education to maintain statewide data collection system - Reportable incidents - Annual statistical reports - Confidentiality.

(2) The Kentucky Department of Education shall:

- (a) Collaborate with the Center for School Safety in carrying out the center's mission;
- (b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:
 - 1.a. All incidents of violence and assault against school employees and students;
 - b. All incidents of possession of guns or other deadly weapons on school property or at school functions;
 - c. All incidents of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; and
 - d. All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct constituting a violation of any offense specified in KRS Chapter 508; KRS 525.070 occurring on school premises, on school-sponsored transportation, or at school functions; or KRS 525.080;
- 2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;
- 3. The number of suspensions, expulsions, and corporal punishments; and
- 4. Data required during the assessment process under KRS 158.445; and
- (c) Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

(3) The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.

(4) All personally identifiable student data collected pursuant to subsection (2)(b) of this section shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS

160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its implementing regulations.

KRS 158.445. Local assessment of school safety and school discipline - District assessment - Local plans.

(1) Each local school shall begin an assessment of school safety and student discipline during the 1998- 1999 school year including a review of the following:

(a) Reports of school incidents relating to disruptive behaviors [...]

(2) By May 15, 1999, each local school district shall complete a district-level assessment of district-level data, resources, policies and procedures, and district-wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.

KRS 158.449. Annual report of assessment of disruptive behavior school incidents resulting in a complaint.

Each local school shall annually provide to the Department of Education, through the Kentucky Department of Education's student information system, an assessment of school incidents relating to disruptive behaviors resulting in a complaint, including whether:

(1) The incident involved a public offense or noncriminal misconduct;

(2) The incident was reported to law enforcement or the court-designated worker and the charge or type of noncriminal misconduct that was the basis of the referral or report; and

(3) The report was initiated by a school resource officer.

KRS 160.340. Reports by boards to Kentucky Board of Education - Filing of policies on specified matters.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(b) Discipline and conduct of pupils.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 7. The following data shall be reported by the district in the student information system related to incidents of physical restraint and seclusion:

(1) Aggregate number of uses of physical restraint;

(2) Aggregate number of students placed in physical restraint;

(3) Aggregate number of uses of seclusion;

(4) Aggregate number of students placed in seclusion;

(5) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;

(6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and

(7) Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

KRS 158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

KRS 158.155. Reporting of specified incidents of student conduct - Notation on school records - Report to law enforcement of certain student conduct - Immunity.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

- (a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:
 - 1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:
 - a. Carrying, possession, or use of a deadly weapon; or
 - b. Use, possession, or sale of controlled substances; or
 - 2. Any felony offense under the laws of this Commonwealth; and
- (b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

KRS 158.156. Reporting of commission of felony KRS Chapter 508 offense against a student - Investigation - Immunity from liability for reporting - Privileges no bar to reporting.

(1) Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:

- (a) The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;
- (b) The student's age;
- (c) The nature and extent of the violation;
- (d) The name and address of the student allegedly responsible for the violation; and
- (e) Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.

(2) An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.

KRS 158.4451. The Kentucky Office of Homeland Security, after collaboration with others, shall make available an anonymous reporting tool to allow students, parents, and community members to supply information about potentially harmful, dangerous, or criminal activities to public safety agencies and school officials - Goal is to facilitate widespread awareness of the reporting tool and to provide a comprehensive training and awareness program on the use of the tool.

(3) Information reported using the tool shall immediately be sent to the administration of each school district affected and the law enforcement agencies responsible for protection of those school districts, including but not limited to the local sheriff's office, the local city police department, and the Kentucky State Police.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2.

(1) Each local school district shall establish policies and procedures that:

(e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

KRS 16.128. The Department of Kentucky State Police is encouraged to receive training on issues pertaining to school and student safety, to meet with local superintendents, and to collaborate with local school districts on policies and procedures for communicating any instances of trauma-exposed students.

(1) The Department of Kentucky State Police is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

(2) The Department of Kentucky State Police is encouraged to collaborate with local school districts on policies and procedures for communicating to the school district any instances of trauma-exposed students.

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(5) "School resource officer" or "SRO" means an officer whose primary job function is to work with youth at a school site as described in KRS 158.4414, who has specialized training to work with youth at a school site pursuant to KRS 158.4414, and who is:

- (a) 1. A sworn law enforcement officer; or
2. A special law enforcement officer appointed pursuant to KRS 61.902; and

(b) Employed:

1. Through a contract between a local law enforcement agency and a school district;
2. Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district; or
3. Directly by a local board of education.

KRS 158.4414. Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations - School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position.

(6) On or before January 1, 2020, the Kentucky Law Enforcement Council, in collaboration with the Center for School Safety, shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish three (3) levels of training for certification of school resource officers first employed as a school resource officer on or after March 11, 2019: School Resource Officer Training I (SRO I), School Resource Officer Training II (SRO II), and School Resource Officer Training III (SRO III). Each level shall consist of forty (40) hours of training, with SRO I to be completed within one (1) year of the date of the officer's employment and SRO II and SRO III within the subsequent two (2) years.

(7) Course curriculum for school resource officers employed on or after March 11, 2019, shall include but not be limited to:

- (a) Foundations of school-based law enforcement;
- (b) Threat assessment and response;
- (c) Youth drug use and abuse;
- (d) Social media and cyber security;
- (e) School resource officers as teachers and mentors;
- (f) Youth mental health awareness;
- (g) Diversity and bias awareness training;
- (h) Trauma-informed action;
- (i) Understanding students with special needs; and
- (j) De-escalation strategies.

(8) Effective January 1, 2020, all school resource officers with active school resource officer certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council for school resource officers.

(9) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the Department of Criminal Justice Training or a designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(10) Any school resource officer who fails to successfully complete training requirements within the specified time periods, including any approved time extensions, shall lose his or her school resource officer certification and shall no longer serve in the capacity of a school resource officer in a school.

(11) When a school resource officer is deficient in required training, the commissioner of the Department of Criminal Justice Training or his or her designee shall notify the council, which shall notify the officer and the officer's employing agency.

(12) A school resource officer who has lost school resource officer certification due solely to the officer's failure to meet the training requirements of this section may regain certification status as a school resource officer and may resume service in the capacity of a school resource officer in a school setting upon successful completion of the training deficiency.

KRS 158.4415. Kentucky State Police school resource officer (KSPSRO), specifications for employment as a school resource officer by a school district - When officer considered an employee of the school district and when an employee of the Kentucky State Police - Duties and prohibited activities - Funding of position - Rights, privileges, immunities, and matters of defense protected.

(1) A KSPSRO shall possess sworn law enforcement authority and shall be trained in school-based policing and crisis response including all training required of school resource officers. If a school district decides to utilize a KSPSRO, the school district and the officer shall first enter into a memorandum of understanding that clarifies the purpose of the KSPSRO program and the roles and expectations of the participating entities.

REGULATIONS

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 1. Definitions.

(13) "School personnel" means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, school resource officers, sworn law enforcement officers, and other support staff who are employed in a school or who perform services in the school on a contractual basis. [...]

Section 6.

(1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;
2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;
3. Proper use of positive reinforcement;
4. The continuum of use for alternative behavioral interventions;
5. Crisis prevention;
6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and
7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

KRS 16.128. The Department of Kentucky State Police is encouraged to receive training on issues pertaining to school and student safety, to meet with local superintendents, and to collaborate with local school districts on policies and procedures for communicating any instances of trauma-exposed students.

(1) The Department of Kentucky State Police is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

(2) The Department of Kentucky State Police is encouraged to collaborate with local school districts on policies and procedures for communicating to the school district any instances of trauma-exposed students.

KRS 158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(2) "Kentucky State Police school resource officer" or "KSPSRO" means a Kentucky State Police officer, CVE R Class, or Trooper R Class, as defined in KRS 16.010, who is employed by a school district as a school resource officer, as defined in this section, through a contract as secondary employment for the officer. [...]

(5) "School resource officer" or "SRO" means an officer whose primary job function is to work with youth at a school site as described in KRS 158.4414, who has specialized training to work with youth at a school site pursuant to KRS 158.4414, and who is:

- (a) 1. A sworn law enforcement officer; or
- 2. A special law enforcement officer appointed pursuant to KRS 61.902; and

(b) Employed:

- 1. Through a contract between a local law enforcement agency and a school district;
- 2. Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district; or
- 3. Directly by a local board of education.

KRS 158.442. Center for School Safety - Duties - School safety coordinator training program-Members of board - Center for School safety and its board of directors not subject to reorganization by the Governor.

(2) To fulfill its mission, the Center for School Safety shall:

(i) Beginning July 1, 2020 and by July 1 of each subsequent year, provide an annual report to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky, including the number and placement of school resource officers working in school districts in Kentucky and the source of funding and method of employment for each position in accordance with KRS 158.4414.

KRS 158.471. Local board of education authorized to establish police department for local school districts.

Pursuant to the authority granted to them under KRS 160.160 and 160.290, local boards of education are authorized to establish a police department for local school districts, appoint police officers and other employees, prescribe distinctive uniforms for the police officers of the school district, and designate and operate emergency vehicles. Police officers appointed under this section shall take an appropriate oath of office in the form and manner consistent with the Constitution of Kentucky. Police officers appointed pursuant to this section shall be granted with the protections provided in KRS 15.520 and shall be certified in accordance with KRS 15.380(1)(e).

KRS 158.473. Police officers appointed by local board of education – Powers.

(1) Police officers appointed by the local board of education pursuant to KRS 158.471 shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the local board of education authorizing and employing them. Without limiting the generality of the foregoing, such police officers are hereby specifically authorized and empowered, and it shall be their duty:

(a) To preserve the peace, maintain order, and prevent unlawful use of force or violence or other unlawful conduct on all property owned by or being used by the school district for appropriate educational services and extracurricular activities, and to protect all persons and property located thereon from injury, harm, and damage;

(b) If permitted by and in accordance with local board of education policy, to enforce, and to assist the school district in the enforcement of, the lawful rules, regulations, and code of conduct of the school district; and

(c) To assist and cooperate with other law enforcement agencies and officers.

Provided, however, that such police officers shall exercise the powers herein granted upon any real property owned or occupied by the local board of education, including any streets passing through and adjacent thereto. Said powers may be exercised where the local board of education owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency where the property is located, dependent upon the jurisdiction involved.

(2) Police officers may exercise their powers away from the locations described in subsection (1) of this section only when:

(a) In immediate pursuit of an actual or suspected violator of the law;

(b) Authorized to do so pursuant to the agreement authorized by subsection (1) of this section;

(c) Requested to act by the chief of police of the city or county in which the school district's property is located;

(d) Requested to act by the sheriff of the county in which the school district's property is located;

(e) Requested to act by the commissioner of the Department of Kentucky State Police;

(f) Requested to act by the authorized delegates of those persons or agencies listed in paragraph (c), (d), or (e) of this subsection;

(g) Requested to assist a state, county, or municipal police officer, sheriff, or other peace officer in the performance of his or her lawful duties; or

(h) Operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

(3) Police officers appointed pursuant to KRS 158.471 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided the investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the employing school district. At the discretion of the local school board's police officials, the school board's police department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Police departments created and operated by the local board of education shall for all purposes, be deemed public police departments, and its sworn police officers are deemed public police officers.

(5) Nothing in KRS 158.471 to 158.483 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer, either on the property of a local school district or otherwise.

KRS 158.475 Appointed police officers to comply with KRS 61.300 and other requirements set by the local board of education.

All persons appointed as police officers pursuant to KRS 158.471 shall, at the time of their employment:

(1) Comply with the requirements of KRS 61.300; and

(2) Possess whatever other requirements as may be set by the local board of education which employs them.

KRS 158.4410. State school security marshal, duties and responsibilities - Marshal appointed by and reporting to the commissioner of the Department of Criminal Justice Training - Annual report to the Center for School Safety, the Legislative Research Commission, and the Kentucky Board of Education - School security risk assessment tool, purpose - Areas considered when evaluating school security - Annual verification of completion of state security risk assessment - Additional mandatory training, when required.

(6) The assessment tool shall enable administrators to evaluate school security compared to best practices and standards in a minimum of the following areas:

(f) School resource officer staffing, operational practices, and related services.

KRS 158.4414. Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations - School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position.

(1) Local boards of education, school district superintendents, administrators of state-controlled facilities, and local and state law enforcement agencies shall cooperate to assign one (1) or more certified school resource officers to serve each campus where one (1) or more school buildings are used to deliver instruction to students on a continuous basis as funds and qualified personnel become available.

(2) Local boards of education utilizing a school resource officer employed by a law enforcement agency or the Department of Kentucky State Police shall enter into a memorandum of understanding with the law enforcement agency or the Department of Kentucky State Police that specifically states the purpose of the school resource officer program and clearly defines the roles and expectations of each party involved in the program. The memorandum shall provide that the school resource officer shall not be responsible for school discipline matters that are the responsibility of school administrators or school employees.

(3) Local boards of education utilizing a school resource officer employed directly by the local board of education shall adopt policies and procedures that specifically state the purpose of the school resource officer program and clearly define the roles and expectations of school resource officers and other school employees.

(4) In accordance with KRS 61.926, 527.020, and 527.070, as applicable, each school resource officer shall be armed with a firearm, notwithstanding any provision of local board policy, local school council policy, or memorandum of agreement. [...]

(12) No later than November 1 of each year, the local school district superintendent shall report to the Center for School Safety the number and placement of school resource officers in the district. The report shall include the source of funding and method of employment for each position.

KRS 158.4415. Kentucky State Police school resource officer (KSPSRO), specifications for employment as a school resource office by a school district - When officer considered an employee of the school district and when an employee of the Kentucky State Police - Duties and prohibited activities - Funding of position - Rights, privileges, immunities, and matters of defense protected.

(1) A KSPSRO shall possess sworn law enforcement authority and shall be trained in school-based policing and crisis response including all training required of school resource officers. If a school

district decides to utilize a KSPSRO, the school district and the officer shall first enter into a memorandum of understanding that clarifies the purpose of the KSPSRO program and the roles and expectations of the participating entities. Any contract entered into pursuant to this subsection shall include:

(a) A provision specifying that the KSPSRO shall follow the policies and procedures of the Department of Kentucky State Police and shall abide by federal, state, and local laws. The responsibility and decision to arrest or take other police action lies solely with the KSPSRO, respective to state law and the KSPSRO's departmental standard operating procedures or standing order. The KSPSRO's continual collaboration with school personnel and his or her understanding of each student's needs may impact the decision to arrest or take other police action, but the responsibility is that of the KSPSRO;

(b) A provision stipulating that the KSPSRO shall be an employee of the school district, but shall revert to Department of Kentucky State Police employee status during such time that the KSPSRO takes police action pursuant to state or federal law. The KSPSRO shall be under the immediate supervision and direction of the Department of Kentucky State Police when taking police action;

(c) A provision stipulating that the school district shall be responsible for worker's compensation coverage for the KSPSRO; and

(d) A provision detailing how liability coverage will be provided for any acts or omissions of the KSPSRO within the scope of his or her duties.

(2)(a) A KSPSRO shall promote the safety and security of students and school personnel during school activities and on school property.

(b) A KSPSRO may assist with supportive activities and programs, including but not limited to:

1. Planning and implementing procedures that train and drill all school personnel to respond to crisis events, control access to the school property during the school day, and close or partially close the school property after students arrive;
2. Identifying risk and protective factors of students; and
3. Coordinating nurturing intervention and prevention efforts.

(c) A KSPSRO shall not address school discipline issues that do not constitute crimes or that do not impact the immediate health or safety of the students or school personnel.

(d) A KSPSRO shall not administer formal school discipline such as detentions, suspensions, or expulsions. These decisions are the sole responsibility of school personnel.

(3) Notwithstanding KRS Chapter 11A, the KSPSRO shall wear the uniform and utilize the vehicles, firearms, ammunition, and equipment issued to him or her by the Department of Kentucky State Police or other agency-authorized clothing or equipment. In the event additional weapons or gear is utilized than that which is carried on his or her person, the storage of these items shall be defined by the Department of Kentucky State Police. If a vehicle or equipment is damaged during the scope of a KSPSRO's secondary employment with the school district, but not while the KSPSRO is engaged in police action, the school district is responsible for restitution to the Department of Kentucky State Police.

(4) Notwithstanding subsection (2) of this section, a KSPSRO shall be deemed an employee of the Department of Kentucky State Police for all purposes whenever engaged in any police action, including arrests, searches and seizures, uses of force, issuing citations, serving warrants, pursuing suspects, or investigating criminal offenses or vehicle accidents.

(5) Nothing in this section shall be construed to require the Department of Kentucky State Police to assign or provide funding for KSPSROs.

(6) Nothing in this section shall be deemed to waive or otherwise limit the rights, privileges, immunities, and matters of defense, now available or hereafter made available, to school districts, the Department of

Kentucky State Police, any local law enforcement agency, any KSPSRO, or any school resource officer in any suit brought against them in consequence of acts or omissions.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

KRS 158.4412. Appointment of district's school safety coordinator - School safety coordinator's functions and duties - Policies and procedures excluded from application of KRS 61.870 to 61.884 - Limitation of civil and criminal liability for school district, school safety coordinator, and school employees acting in good faith.

(2) The district's school safety coordinator shall:

(b) Designate a school safety and security threat assessment team at each school of the district consisting of two (2) or more staff members in accordance with policies and procedures adopted by the local board of education to identify and respond to students exhibiting behavior that indicates a potential threat to school safety or security. Members of a threat assessment team may include school administrators, school counselors, school resource officers, school-based mental health services providers, teachers, and other school personnel.

- **KRS 158.4414. Cooperation of school personnel with local and state law enforcement agencies in efforts to assign certified school resource officers to each campus as funds and personnel become available - Memorandum of understanding between local boards of education and law enforcement agencies or the Kentucky State Police - Policies and procedures stating the purpose of the school resource officer program and defining roles and expectations - School resource officer to be armed with firearm - Promulgation of administrative regulations establishing levels of training for certification of school resource officers - Course curriculum, specifications for training requirements, and consequences for deficiencies in required training - Officers to regain certification status upon completion of training deficiency - Local school district superintendents to report annually to the Center for School Safety upon the number and placement of school resource officers in the district, source of funding, and methods of employment for each position.**

(6) Course curriculum for school resource officers employed on or after March 11, 2019, shall include but not be limited to:

(b) Threat assessment and response.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Kentucky provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying and Harassment, Kentucky Department of Education (KDE)	Addresses bullying and provides links to resources such as prevention, statistics, and technical assistance in promoting positive school climates.	https://education.ky.gov/school/sdfs/Pages/Bullying.aspx
Bullying Prevention Spotlight, KDE	This page is designated for spotlighting Kentucky schools who have implemented successful bullying prevention initiatives.	https://education.ky.gov/school/sdfs/Pages/Bullying-Prevention-Spotlight.aspx
District and Public School Building Emergency Management Plans, KDE	Provides resources and guidelines on developing district and school emergency management plans.	https://education.ky.gov/school/sdfs/Pages/District%20and%20Public%20School%20Building%20Emergency%20Management%20Plans.aspx
Juvenile Justice Reform and Education, KDE	Provides information about juvenile justice reform in education, including amended and new obligations for school resource officers, school security officers, local schools, and directors of pupil personnel.	https://education.ky.gov/school/sdfs/Pages/Senate%20Bill%20200.a.spx
Kentucky Multi-Tiered System of Supports (KMTSS), KDE	Provides an overview of the KyMTSS framework and offers guidance for planning and decision making as districts and schools develop a system of interventions to meet the needs of all students.	https://education.ky.gov/curriculum/standards/teachtools/Pages/ks.i.aspx
Physical Restraint and Seclusion in Public Schools, KDE	Provides information about physical restraint and seclusion in KY public schools.	https://education.ky.gov/school/sdfs/Pages/useofrestsecl.aspx
Positive Behavioral Interventions and Supports (PBIS), KDE	Provides information and training for implementation and best practices of PBIS in the classroom.	https://education.ky.gov/school/sdfs/Pages/Positive-Behavior-in-Schools-(PBIS).aspx

Title	Description	Website address (if applicable)
Safe Schools Data Collection and Reporting, KDE	Provides data standards for data entry of discipline events and resolutions, reporting timeline and requirements.	https://education.ky.gov/school/sdfs/Pages/Safe-Schools-Data-Collection-and-Reporting.aspx
Safe Schools, KDE	Provides an overview of the Safe Schools Team at the Department of Education, including a list of related regulations and statutes, school safety resources, and information for discipline, social emotional learning, PBIS, restraint and seclusion, and bullying.	https://education.ky.gov/school/sdfs/Pages/default.aspx
School Crisis and Emergency Response/Recovery, KDE	Provides resources to help schools and districts recover from a crisis or emergency that has impacted the learning community, including resources to help address the health, social, emotional, and behavioral recovery of students and staff.	https://education.ky.gov/school/sdfs/Pages/School-Crisis-and-Emergency-Response-Resources.aspx
School Improvement, KDE	Provides information on KDE's continuous goal of improving schools including additional information and resources regarding alternative education programs, chronic absenteeism, and evidence-based practices.	https://education.ky.gov/school/Pages/default.aspx
School Safety and Resiliency Act	Provides information about the School Safety and Resiliency Act, which affects multiple statutes regarding school safety and student resiliency, district trauma-informed education plans, and the Trauma-Informed Toolkit.	https://education.ky.gov/school/sdfs/Pages/School-Safety-and-Resiliency-Act-(Senate-Bill,-2019).aspx
School Safety, Kentucky Center for School Safety	Collaborated with Kentucky Department of Education to provide training and professional development to school districts on bullying and cyberbullying prevention, classroom management, and school violence.	https://kycss.org/school-safety-issues/
Social, Emotional and Behavioral Learning/Health, KDE	Provides information about social emotional learning, links to resources for elementary and middle/high schools, and access to mental health prevention and intervention training videos and documents.	https://education.ky.gov/school/sdfs/Pages/Social-Emotional-and-Behavioral-Learning-Health.aspx

Title	Description	Website address (if applicable)
Student Discipline Guidelines and Model Policies, KDE	Provides downloadable links to student discipline guidelines and model policies as required by KRS 158.148(2)(c), including bullying/hazing, harassment/discrimination, and employee reports of criminal activity.	https://education.ky.gov/school/sdfs/Pages/Student-Discipline-Guidelines-and-Model-Policy.aspx
Suicide Prevention and Awareness	Provides information to help educators, students, and communities learn warning signs and how to take action when a young person might be at risk of a suicidal crisis.	https://education.ky.gov/school/sdfs/Pages/Suicide-Prevention-and-Awareness.aspx
Supporting LGBTQI Plus Students	Provides resources and guidance to support schools as they seek to create welcoming and inclusive environments for all students, with a focus on LGBTQI+ students	https://education.ky.gov/school/sdfs/Pages/Supporting-LGBTQ%20Plus%20Students.aspx
Documents		
A Guide to the Kentucky Multi-Tiered System of Supports (KyMTSS), KDE	Resource guide for districts and schools planning and decision making for developing and implementing MTSS to meet the needs of all students.	https://education.ky.gov/curriculum/standards/teachtools/Pages/KSI.aspx
Bullying/Hazing Model Policy, KDE	Model policy addressing bullying and hazing in Kentucky schools.	https://education.ky.gov/school/sdfs/Documents/A09.422%20Bullying%20Hazing.pdf
Harassment/Discrimination (A09.42811), KDE	Model policy addressing harassment and discrimination in Kentucky schools.	https://education.ky.gov/school/sdfs/Documents/A09.42811%20Harassment%20Discrimination.pdf
Student Discipline Code (A09.438), KDE	Model policy for student discipline code required to be posted at each school, reference in all school handbooks, and provided to school employees, parents, legal guardians, and other persons exercising custodial control or supervision.	https://education.ky.gov/school/sdfs/Documents/Model%20Policy%20A09.438.pdf
Student Discipline Guidelines (2022), KDE	Guidelines for local boards of education in developing or refining current district discipline codes.	https://education.ky.gov/school/sdfs/Documents/Student%20Discipline%20Guidelines.pdf

Title	Description	Website address (if applicable)
Trauma-Informed Discipline Response and Behavior System	Provides information and resources on developing appropriate discipline responses and proactive practices that support positive student behavior while recognizing trauma-related causal factors and minimizing opportunities for re-traumatization.	https://education.ky.gov/school/sdfs/Documents/Trauma%20Informed%20Discipline%20Response%20and%20Behavior%20System.pdf
Other Resources		
Academic and Behavioral Response to Intervention, University of Louisville	Kentucky Department of Education Project focused on developing training and technical assistance in the basics of effective instruction and classroom management that formulate the universal level of PBS and RTI in the school and classroom.	https://louisville.edu/education/kyabri
Center for Instructional and Behavioral Research in Schools (CIRBS) Videos	Training videos in partnership with Kentucky Department of education on PBIS, mental health prevention and intervention, and restraint and seclusion.	https://cibrs.com/
Safe Schools Annual Statistical Report 2019-2020 (November 2020), KDE	Report with an overview, starting with student enrollment compared with behavior events, followed by disaggregated discipline resolutions and incident categories sorted by race/ethnicity, sex, grade level, and socioeconomic status.	https://education.ky.gov/school/sdfs/Documents/2019-20%20School%20Safety%20Annual%20Statistical%20Report.pdf



Louisiana Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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- [RS 14:40.7.](#) Cyberbullying
- [RS 14:40.8.](#) Criminal hazing
- [RS 14:95.](#) Illegal carrying of weapons
- [RS 14:95.2.](#) Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone
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Title 17. Education

- [RS 17:7.](#) Duties, functions, and responsibilities of board
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RS 17:416.3.	Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized
RS 17:416.6.	Search of persons entering public school buildings or grounds
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Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability

§3501. Alternative education [Formerly LAC 28:LXXXIII.3501]

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§301. Transition processes [Formerly §1301]

Chapter 5. Behavioral Interventions and Supports

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Chapter 7. Workforce Talent

§701. Annual professional development plan

Chapter 9. Academic Interventions and Supports

§901. Curriculum and intervention

Chapter 11. School Climate and Culture

§1101. Climate and culture

Chapter 15. Mental Health Supports and Interventions [Formerly Chapter 17]

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- §1302. Student code of conduct
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[Bulletin 1566: Pupil Progression Policies and Procedures](#)**Chapter 5. Placement Policies - General Requirements**

- §505. Other placement requirements

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- §540. Definitions
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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§17:7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5)(a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b)(i) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

(ii) The rules and guidelines adopted pursuant to Item (i) of this Subparagraph shall not be applicable to a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

§17:223. Discipline of pupils; suspension from school.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

B. School principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. Principals shall notify the visiting teacher or supervisor of child welfare and attendance of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17:240. Prohibition against use of tobacco in schools; prohibition against smoking on school bus; rules and regulations.

B. (1) Notwithstanding any other provision of law, no person shall smoke, chew, inhale, ingest, absorb, or otherwise consume any tobacco or tobacco product in any elementary or secondary school building nor shall any student or school employee smoke, chew, inhale, or absorb, or otherwise consume any tobacco product on any other school property; however, this prohibition shall not be applicable to any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is marketed and sold solely for such an approved purpose.

(2) No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device, including but not limited to e-cigs, e-cigarettes, electronic cigarettes, advanced personal vaporizers, vape pens, and vape mods on any school property.

(3) The use of tobacco or any tobacco product is hereby prohibited on any school bus or school vehicle transporting students attending any elementary or secondary school.

(4) The provisions of this Subsection shall not apply to any school property that is rented, leased, or otherwise made available for use for non-educational purposes.

C. (1) The governing authority of each public elementary or secondary school shall and any governing authority of any nonpublic elementary or secondary school may adopt necessary rules and regulations to assure compliance with the provisions of this Section.

(2) The governing authority of each public elementary or secondary school and each nonpublic elementary or secondary school may provide for appropriate penalties for violators, including but not limited to disciplinary action or a fine not to exceed two hundred dollars, or both.

(3) The provisions of this Section shall be enforced by the local superintendents of education or their designees pursuant to any rules, regulations, and penalties promulgated pursuant to this Section.

§17:251. Short title; legislative intent.

A. This Subpart may be cited as the "Education/Juvenile Justice Partnership Act".

B. The legislature hereby finds and declares that:

(1) The good behavior and discipline of students are essential prerequisites to academic learning, the development of student character, and the general, as well as educational, socialization of children and youth.

(2) Bad behavior and lack of discipline in many schools of the state are impairing the quality of teaching, learning, character development, and socialization, and, in some schools, are creating real and potential threats to school and public safety.

(3) Greater communication, coordination, and collaboration need to exist between and among state, city, parish, and other local public school systems and juvenile justice agencies to address effectively issues affecting the behavior and discipline of students, especially with respect to safe school planning, mental health service delivery, family strengthening, alternative schools, special education, school zero tolerance policies, school suspensions, and positive behavioral supports.

§17:416. Discipline of students; suspension; expulsion.

A.(1)(a) Every teacher and other school employee shall endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, on any school bus, during intermission or recess, or at any school-sponsored activity or function.

§17:416.1. Discipline of pupils; additional disciplinary authority.

A. In addition to the specific disciplinary measures authorized in R.S. 17:416 teachers, principals, and administrators of the public schools may, subject to any rules as may be adopted by the parish or city school board, employ other reasonable disciplinary and corrective measures to maintain order in the schools; provided, however, that nothing in this Section shall be construed as superseding the provisions of R.S. 17:416 relative to the disciplining of students, suspensions, and expulsions.

B.(1)(a) Corporal punishment means using physical force to discipline a 2 student, with or without an object. Corporal punishment includes hitting, paddling, 3 striking, spanking, slapping, or any other physical force that causes pain or physical 4 discomfort.

(b) Corporal punishment does not include:

(i) The use of reasonable and necessary physical restraint of a student to 7 protect the student, or others, from bodily harm or to obtain possession of a weapon 8 or other dangerous object from a student.

(ii) The use of seclusion and restraint as provided in R.S. 17:416.21.

(2) The governing authority of a public elementary or secondary school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942 or to a student who has been determined to be eligible for services under Section 504 of the Rehabilitation Act of 1973 and has an Individual Accommodation Plan. Each governing authority of a public elementary or secondary school shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

C. Should any teacher, principal, or administrator in the public school system be sued for damages by any student, the parent of any student or other persons qualified to bring suit on behalf of such student based upon the act or omission of such teacher, principal, or administrator in the directing of and disciplining of school children under their care and supervision, it shall be the responsibility of the school board employing such teacher, principal, or administrator to provide such defendant with a legal defense to such suit including reasonable attorney's fees, investigatory costs, and other related expenses. Should any such teacher, principal, or administrator be cast in judgment for damages in such suit, it shall be the obligation of the school board employing such defendant to indemnify him fully against such judgment including all principal, interest, and costs. Nothing in this Section shall require a school board to indemnify a teacher, principal, or administrator against a judgment wherein there is a specific decree in the judgment that the action of the teacher, principal, or administrator was malicious, and willfully and deliberately intended to cause bodily harm.

(2) As used in this Subsection, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(3) Any such student who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection shall have his driver's license for the operation of a motor vehicle suspended for a period of one year, in accordance with the provisions of R.S. 32:431. The terms "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

D. (1) In addition to the specific disciplinary measures authorized in R.S. 17:416, a principal or headmaster at a public or private school shall notify the Department of Public Safety and Corrections, office of motor vehicles, of any student between the ages of fourteen and eighteen who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection.

§17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized.

A. (1) The parish and city school systems of the state are the exclusive owners of all public school buildings and all desks and lockers within the building assigned to any student and any other area of any public school building or grounds set aside specifically for the personal use of the students. Any teacher, principal, school security guard, or administrator in any parish or city school system of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

(2)(a) The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

(b) Random searches with a metal detector of students or their personal effects may be conducted at any time, provided they are conducted without deliberate touching of the student.

B. (1) If any teacher, principal, school security guard, or administrator in the public school system is sued for damages by any student, the parent of any student, or other person qualified to bring suit on behalf of the student, based upon a search of that student's person, desk, locker, or any other area of a school building or grounds set aside specifically for that student's personal use, when the teacher, principal, school security guard, or administrator reasonably believed that the student had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy on his person, or had reasonable belief that such desk, locker, or other area contained such items, or based upon a search using a metal detector, it shall be the responsibility of the school board employing such teacher, principal, school security guard, or administrator to provide the defendant with legal defense, including reasonable attorney's fees, investigatory costs, and other related expenses.

(2) If any such teacher, principal, school security guard, or administrator is cast in judgment for damages in the suit, it shall be the obligation of the school board employing the defendant to indemnify him fully against such judgment, including all principal, interest, and costs.

(3) Nothing in this Section shall require a school board to indemnify a teacher, principal, school security guard, or administrator against a judgment wherein there is a specific finding that the action of the teacher, principal, school security guard, or administrator was maliciously, wilfully, and deliberately intended to harass, embarrass, or intimidate the student.

C.(1)(a) On or before January 1, 1995, each parish and city school board shall adopt a policy that is consistent with Subsection A of this Section to provide for reasonable search and seizure by public school teachers, principals, and other school administrators of students' persons, desks, lockers, or other school areas for evidence that the law, a school rule, or a parish or city school board policy has been violated.

(b) Such policy shall include at a minimum:

(i) Specification of standards regarding procedures for searching students to prevent excessive intrusion.

(ii) Specification of standards for retaining and securing confiscated implements and materials.

(iii) Directions regarding the disposal of implements and materials reported to law enforcement authorities when such authorities notify the principal that the implements and materials need not be retained.

(iv) Specification of disciplinary action when a principal or designated administrator violates any provision of this Section.

(2)(a) Nothing in this Section shall require defense and/or indemnification by a school board, a principal, or other school administrator for suits regarding search and seizure unless such acts are in accordance with the policy adopted by the school board that employs him, if the policy is declared to be reasonable by a court of competent jurisdiction.

(b) No teacher, principal, school security guard, or administrator shall be held personally liable for any action authorized by this Section and performed in accordance with school board policies adopted pursuant to this Section.

D. (1) Upon the seizure by any public school teacher, principal, school security guard, or administrator of any firearm, bomb, knife, or other implement which can be used as a weapon and the careless use of which might inflict harm or injury or any controlled dangerous substance as defined in R.S. 40:961, the principal or his designated administrator shall report the confiscation of such implement or material to the appropriate law enforcement officials. The principal or his designated administrator may report the confiscation of any other implement or material.

(2) Any implement or material required by Paragraph (1) of this Subsection to be reported to law enforcement officials shall be retained and secured by the school principal in such a manner as to prevent the destruction, alteration, or disappearance of it until such time as the law enforcement authority either takes custody of the implement or material or provides notice to the school principal that it need no longer be retained. In the case that it need not be retained, the school principal shall comply with his school board's policy regarding disposal of the item.

(3) The failure of any principal or designated administrator to report the confiscation of such implement or material or the failure to retain and secure such implement or material shall be reported by the law enforcement authority to the employing school board which shall take disciplinary action pursuant to its policy.

E. The provisions of this Section shall apply to the State Board of Elementary and Secondary Education as it relates to state schools operated by the board in the same way it applies to city and parish school boards.

§17:416.13. Student code of conduct; requirement.

A. The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the local school governing authority and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

REGULATIONS

LAC 28: CXV.337. Written Policies and Procedures.

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

LAC 28: CXV.1302. Student code of conduct.

A. Each LEA shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. Such student code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Each LEA shall adopt and incorporate into its student code of conduct a policy prohibiting the bullying of a student by another student, which includes the definition of bullying and all other requirements listed in the following Section.

3. Each LEA shall include in its student code of conduct the definition of dating violence, data violence warning signs and instructions for reporting or seeking help relative to dating violence.

LAC 28: CXV.1303. Bullying.

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy must be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

a. behavior constituting bullying;

b. the effect the behavior has on others, including bystanders; and

c. the disciplinary and criminal consequences of bullying another student.

LAC 28: CXV.1315. Corporal punishment.

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942, or to a student who has been

determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

C. Corporal Punishment-using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

D. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; nor
2. the use of seclusion and restraint as provided in R.S. 17:416.21.

E. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

F. Each LEA shall collect and report corporal punishment data according to procedures established by the department.

LAC 28: CXV.1317. Search and seizure.

A. Any teacher, principal, school security guard, or administrator may search any building, desk, locker, area, or school grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

C. Each LEA shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an LEA policy has been violated.

D. Any such policy shall be in accordance with applicable law.

LAC 28: CXV.1319. Advisory council on student behavior and discipline.

C. Advisory Council on Student Behavior and Discipline (ACSBD) Established

1. Authority per R.S. 17:253 and BESE policy.
2. Function and responsibilities:
 - a. Provide guidance and recommendations to BESE and LDE regarding best practices in providing support to public school local governing agencies (LEA) in the adoption and implementation of the school master plan for student behavior and discipline in accordance with R.S. 17:252.

Scope

LAWS

§14:95.2. Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone.

A. Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

- (1) "Campus" means all facilities and property within the boundary of the school property.
- (2) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.
- (3) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.
- (4) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

- (1) A federal law enforcement officer or a Louisiana-commissioned state or local Post Certified law enforcement officer who is authorized to carry a firearm.
- (2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.
- (3) Any person having the written permission of the principal or as provided in R.S. 17:3361.1.
- (4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence.
- (5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.
- (6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.
- (7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.
- (8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.
- (9) Any person who has a valid concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 and who carries a concealed handgun within one thousand feet of any school campus.

D. (1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F. (1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

§17:223. Discipline of pupils; suspension from school.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

B. School principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. Principals shall notify the visiting teacher or supervisor of child welfare and attendance of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17:240. Prohibition against use of tobacco in schools; prohibition against smoking on school bus; rules and regulations.

A. For purposes of this Section the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "School property" means school grounds, playgrounds, premises, and property, including but not limited to land, improvements, and school facilities, located on the property of any elementary or secondary school, the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, and schools in the Special School District. "School property" also means any school vehicle used for the provision of academic and extracurricular programs and administration at any elementary or secondary school, the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, and schools in the Special School District.

(2) "Smoking" means possession of a lighted cigar, cigarette, pipe, or any other lighted tobacco product; including but not limited to e-cigs, e-cigarettes, electronic cigarettes, advanced personal vaporizers, vape pens, and vape mods.

§17:416. Discipline of students; suspension; expulsion.

A. (1)(a) Every teacher and other school employee shall endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, on any school bus, during intermission or recess, or at any school-sponsored activity or function.

REGULATIONS

LAC 28: CXV.337. Written Policies and Procedures.

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

Communication of Policy

LAWS

§17:235.1. Parent orientation; local public school boards; guidelines.

B. Each local public school board shall conduct a parent orientation course according to the following guidelines:

- (1) The program shall be scheduled to accommodate the attendance of the parents or guardians without the loss of work.
- (2) All parents or guardians shall be encouraged to attend as many times as they wish.
- (3) The school board shall provide every parent or guardian who attends the program a certificate verifying completion of the course.
- (4) At the parent orientation meeting, the school board or its representative shall provide each parent or guardian a copy of and shall explain school board policies which:
 - (a) Govern the discipline of students, including but not limited to corporal punishment, detention, suspension, and expulsion of students.
 - (b) Govern the attendance of students and truancy sanctions.
 - (c) Govern the behavior and decorum expected of students at all times.
 - (d) Govern dress codes for students for all school functions, including but not limited to in-school and out-of-school functions, including but not limited to dances.
 - (e) Address parental access to instructional materials as provided in R.S. 17:355.
 - (f) Address any other such matters as the school board may deem appropriate.
- (5) At the parent orientation meeting, the school board or its representative shall explain:
 - (a) Existing school board grading systems.
 - (b) Standardized test procedures in effect, including but not limited to preparation for tests, procedures to be followed on the testing days, and an explanation of the assessment of the test results.
 - (c) Policies governing promotion of students from grade to grade and procedures implemented when a student fails to attain sufficient standards for promotion.
 - (d) Other such matters as the school board may deem appropriate.

§17:416.13. Student code of conduct; requirement.

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

- (1) Notice to Students and Parents. - The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

§17:416.20. Student conduct standards; awareness and understanding by students; required orientation; guidelines.

A. In addition to any other requirements established by law, rule, or regulation relative to student discipline and conduct, the governing authority of a public elementary or secondary school shall require that every student be provided an orientation during the first five days of each school year regarding school disciplinary rules and provisions of the code of student conduct applicable to such students, including but not limited to the policy on bullying as provided in R.S. 17:416.13. Orientation instruction shall be provided by the school principal or his designees and shall include but not be limited to consequences for failing to comply with such school disciplinary rules and code requirements, including suspension, expulsion, the possibility of suspension of a student's driver's license for one year as provided in R.S. 17:416.1, and the possible criminal consequences of violent acts committed on school property, at a school-sponsored function, or in a firearm-free zone. The orientation also shall clearly communicate to students the rights afforded teachers pursuant to R.S. 17:416.18 and other applicable law relative to the discipline of students.

B. The orientation instruction required by this Section shall be age and grade appropriate and shall give full consideration as to whether the student is in a regular or special program of education.

C. Any student who for any reason does not receive the orientation provided for by this Section during the first five days of a school year shall be provided such orientation during the first five days of such student's attendance at the public elementary or secondary school.

REGULATIONS

LAC 28: CXV.1113. Orientation for Parents of First-Time Students.

A. Each student entering public school within the state for the first time, including kindergarten, shall present at the time of registering or entering satisfactory evidence that at least one of his parents or guardians has completed the orientation course required by this Section. The certificate of completion required by this Section shall constitute satisfactory evidence.

B. Each local educational governing authority shall conduct a parent orientation course according to the following guidelines.

1. The program shall be scheduled to accommodate the attendance of the parents or guardians without the loss of work.
2. All parents or guardians shall be encouraged to attend as many times as they wish.
3. The local educational governing authority shall provide every parent or guardian who attends the program a certificate verifying completion of the course.
4. At the parent orientation meeting, the local educational governing authority or its representative shall provide each parent or guardian a copy of and shall explain school board policies which:
 - a. govern the discipline of students, including but not limited to corporal punishment, detention, suspension, and expulsion of students;
 - b. govern the attendance of students and truancy sanctions;
 - c. govern the behavior and decorum expected of students at all times;
 - d. govern dress codes for students for all school functions, including but not limited to in-school and out-of-school functions, including but not limited to dances; and
 - e. address any other such matters as the local educational governing authority may deem appropriate.
5. At the parent orientation meeting, the local educational governing authority or its representative shall explain:
 - a. existing grading systems for the LEA;

- b. standardized test procedures in effect, including but not limited to preparation for tests, procedures to be followed on the testing days, and an explanation of the assessment of the test results;
- c. policies governing promotion of students from grade to grade and procedures implemented when a student fails to attain sufficient standards for promotion; and
- d. other such matters as the local educational governing authority may deem appropriate.

C. Completion of one orientation course shall be satisfactory for the enrollment or registration of all children of a parent or guardian.

D. A local educational governing authority shall schedule not less than three orientation meetings during a school year, and at various times during the day, in order to facilitate attendance with as little inconvenience to the parents or guardians as possible. In order to carry out the intent and purpose of this Section, a local educational governing authority shall schedule not less than three orientation meetings between March and September of each year, and shall publish notice and otherwise seek to notify parents or guardians whose children may enter a school in the system of the attendance requirements.

E. If teachers of any LEA are required to attend an orientation meeting for first time parents as part of their job responsibilities on a day or at a time when the teachers would not otherwise have been required to work, then the teachers shall be compensated at their usual rate of pay on a pro rata basis.

F. Under no circumstances shall a student be denied entry into school because of noncompliance by a parent or guardian with the provisions of this Section.

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

In-School Discipline

Discipline Frameworks

LAWS

§17:252. School master plans for supporting student behavior and discipline.

A. (1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

(a) Improving communication, coordination, and collaboration between the schools and juvenile justice agencies.

(b) Improving safe school planning.

(c) Revising school zero tolerance policies to ensure compliance with all applicable provisions of law to ensure that schools do not make inappropriate referrals to juvenile justice agencies.

(d) Providing improved mental health services in or through the schools.

(e) Providing better assistance to parents in knowing about and accessing family strengthening programs.

(f) Improving the coordination of special education and juvenile justice services.

(g) Improving classroom management using positive behavioral supports and other effective disciplinary tools.

(h) Improving methods and procedures for the handling of school suspensions, the referral of students to alternative schools, and the use of seclusion and physical restraint in addressing challenging student behavior.

(i) Providing for better and more useful reporting on an annual basis of school behavioral and disciplinary problems.

B. Each city, parish, and other local public school board shall cause to be developed and shall submit by October 1, 2004, a master plan for each school under the board's jurisdiction for improving behavior and discipline in each such school based on the model master plan developed and approved by the State Board of Elementary and Secondary Education.

C. The model master plan for improving behavior and discipline within the schools and the school master plans required of city, parish, and other local public school boards by this Section shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons in accordance with the provisions of R.S. 17:416.

D. (1) The school master plans required of city, parish, and other local public school boards by this Section shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

(2) City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

REGULATIONS

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

LAC 28: CXV.1302. Student code of conduct.

A. Each LEA shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. Such student code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Each LEA shall adopt and incorporate into its student code of conduct a policy prohibiting the bullying of a student by another student, which includes the definition of bullying and all other requirements listed in the following Section.

3. Each LEA shall include in its student code of conduct the definition of dating violence, data violence warning signs and instructions for reporting or seeking help relative to dating violence.

Teacher Authority to Remove Students From Classrooms

LAWS

§17:416. Discipline of students; suspension; expulsion.

A.(1)(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

(dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

§17:416.18. Teacher Bill of Rights.

A. Respecting the authority of teachers is essential to creating an environment conducive to learning, effective instruction in the classroom, and proper administration of city, parish, and other local public schools. To maintain and protect that authority, it is important that teachers, administrators, parents, and students are fully informed of the various rights conferred upon teachers pursuant to this Section, which are:

(1) A teacher has the right to teach free from the fear of frivolous lawsuits, including the right to qualified immunity and to a legal defense, and to indemnification by the employing school board, pursuant to R.S. 17:416.1(C), 416.4, 416.5, and 416.11, for actions taken in the performance of duties of the teacher's employment.

(2) A teacher has the right to appropriately discipline students in accordance with R.S. 17:223 and 416 through 416.16 and any city, parish, or other local public school board regulation.

(3) A teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c).

(4) A teacher has the right to have his or her professional judgment and discretion respected by school and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and with R.S. 17:416(A)(1)(c).

(5) A teacher has the right to teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers or hazards that are causing or likely to cause serious injury in accordance with R.S. 17:416.9 and 416.16.

(6) A teacher has the right to be treated with civility and respect as provided in R.S. 17:416.12.

(7) A teacher has the right to communicate with and to request the participation of parents in appropriate student disciplinary decisions pursuant to R.S. 17:235.1 and 416(A).

(8) A teacher has the right to complete only paperwork that is not excessively burdensome and that, if required by law or regulation, adheres to the law or regulation and does not result in overly cumbersome interpretations of that law or regulation.

(9) A beginning teacher has the right to receive leadership and support in accordance with R.S. 17:3881, including the assignment of a qualified, experienced mentor who commits to helping him become a competent, confident professional in the classroom and offers support and assistance as needed to meet performance standards and professional expectations.

(10) A teacher has the right to be afforded time during the school day or week to collaborate with other teachers.

B. No city, parish, or other local public school board shall establish policies that prevent teachers from exercising the rights provided in this Section or in any other provision included in R.S. 17:416 through 416.16.

C. The provisions of this Section shall not be construed to supersede any other state law, State Board of Elementary and Secondary Education policy, or city, parish, or other local public school board policy enacted or adopted relative to the discipline of students.

D. Each city, parish, or other local public school board shall provide a copy of this Section to all teachers at the beginning of each school year. Each such school board also shall post a copy of the rights provided in this Section in a prominent place in every school and administrative building it operates and provide such a copy to parents or legal guardians of all children attending such schools in a form and manner approved by the school board. Each city, parish, or other local public school board and every school under its jurisdiction that maintains an Internet website shall post on such website a copy of the Teacher Bill of Rights required by this Section.

REGULATIONS

LAC 28: CXV.519. Teacher Bill of Rights.

A. Respecting the authority of teachers is essential to creating an environment conducive to learning, effective instruction in the classroom, and proper administration of city, parish, and other local public schools. To maintain and protect that authority, it is important that teachers, administrators, parents, and students are fully informed of the various rights conferred upon teachers pursuant to this policy, which are:

3. a teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c).

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

Alternatives to Suspension

LAWS

§17:223.1. In-school suspension pilot projects.

A. Prior to the beginning of the 1985-1986 school year, the Department of Education, hereafter referred to as "the department", shall invite each public school system in the state to submit to the department a proposal for a pilot project for in-school suspension of students in the public elementary and secondary schools operated by those school systems.

B. The department shall consider and evaluate each proposal and recommend for approval by the State Board of Elementary and Secondary Education, hereafter referred to as the board, from among those submitted and deemed eligible pursuant to Subsection C of this Section, the maximum number of projects which can be funded by monies appropriated for this purpose. The board shall approve the projects to be funded. In making recommendations to the board for approval of projects for funding, the department shall evaluate each proposal on each of the following elements:

- (1) The probable educational value. For evaluation of this element, project applicants shall submit and the department shall review the statistical history of out-of-school suspensions from the schools in which the program is proposed to be piloted for the 1985-1986 school year.
- (2) The probable effectiveness of the project as an alternative to suspensions from school.
- (3) The probable cost effectiveness of the use of the funds.
- (4) The potential for improving the attendance of students and the education provided to students if the project were to be implemented on a statewide basis.

C. To be eligible for selection for funding as provided in this Section, any project proposal shall contain at a minimum:

- (1) A statement of the needs the project intends to address.
- (2) A statement of anticipated results and the basis upon which results are expected.
- (3) A specific outline of implemental steps.
- (4) A detailed plan for staff usage.
- (5) A detailed budget for expending the monies granted.
- (6) A detailed explanation of and plan for evaluation of the project results.
- (7) A parental involvement component which requires the principal or his designee to personally contact the parents prior to in-school or out-of-school suspension or expulsion of a child unless the child presents imminent danger to the school environment. This component shall also require the principal, after contacting parents or parent, to conduct a conference with the parent, the teacher if the teacher's presence is deemed necessary by the principal, and student when a child is suspended for any of the following: fighting students or faculty, disrespect for authority, disturbance in classroom or campus, cutting class, leaving campus, excess tardiness and absence, habitual violation of school rules, profane or obscene language, smoking, threatening students, stealing, possession of weapon, possession of drugs, vandalism, possession of or shooting of fireworks, or gambling.

D. Any school system whose pilot project is selected for funding shall receive, through the department from monies appropriated for the purpose, the funds requested in the proposal to implement the project during the 1985-1986 school year.

E. Each school system awarded monies under this Section shall implement its project during the 1985-1986 school year. The pilot program may be implemented in no more than one school per selected school system; which school system may expend a maximum of thirty-five thousand dollars on the project. Before July 1st, 1986, the school system shall provide to the department a thorough written review of the project, including documentation of how the monies awarded under this Section were spent, the results of the project, and the recommendations of the school system with regard to the project. Each school system shall return to the department any of the money awarded pursuant to this Section that is unexpended and shall reimburse the department for any undocumented expenditure of funds received under this Section.

§17:416. Discipline of students; suspension; expulsion.

(A)(1)(c)(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.

(v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.

(vi)(aa) If disruptive behavior persists, the teacher may request that the principal transfer the pupil into another setting.

(bb) Each city, parish, or other local public school board may adopt a policy that requires the parent or legal guardian of a pupil removed from the classroom pursuant to this Subparagraph to attend after school or Saturday intervention sessions with the pupil. The school board may refer a parent who fails to attend such session to the court of competent jurisdiction in accordance with Chapter 2 of Title VII of the Louisiana Children's Code. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than twenty-five dollars and not more than two hundred fifty dollars, forty hours of court-approved school or community service activities, or a combination of forty hours of court-approved school or community service and attendance at a court-approved family counseling program by both a parent or legal guardian and the pupil, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

(vii)(aa) Notwithstanding any provision of law to the contrary, whenever a pupil is formally accused of violating the provisions of R.S. 14:34.3 or school disciplinary rules, or both, by committing a battery on any school employee or is formally accused of violating the provisions of R.S. 14:38.2 or school disciplinary rules, or both, by committing an assault on any school employee, the principal shall suspend the pupil from school immediately and the pupil shall be removed immediately from the school premises without the benefit of the suspension procedures provided by this Section; however, the necessary notifications and other procedures shall follow as soon as is practicable.

(bb) No pupil suspended in accordance with the provisions of this Item shall be considered for readmission to the school to which the school employee, allegedly assaulted or battered, or both, by the pupil, is assigned until all hearings and appeals associated with the alleged violation have been exhausted.

(cc) Except when the school system has no other school of suitable grade level for the pupil to attend, no pupil found guilty by a court of competent jurisdiction of violating the provisions of R.S. 14:34.3 or 38.2, or both, or found guilty at a school system suspension hearing of committing a battery on any school employee or committing an assault on any school employee, or both, shall be assigned to attend or shall attend the school to which the school employee battered or assaulted by the pupil is assigned.

(dd) Notwithstanding any provision of R.S. 17:158 to the contrary, a school system shall not be required to provide transportation to any pupil reassigned to attend a school pursuant to the provisions of this Item if providing such transportation for the pupil will result in additional transportation costs to the school system.

§17:416.15. Zero tolerance policies; authorization; conflict resolution classes; fees; compliance.

Any city, parish, or other local public school board may adopt and implement a zero tolerance policy for fighting in the schools under its jurisdiction. Such policy may include a requirement that a student who is disciplined pursuant to the policy and such student's parent or parents shall attend a conflict resolution class or classes and may include provisions for the school board to take appropriate action, as determined by the board, against any student or parent who fails to comply with the class attendance requirement. Such classes may be provided by the school board or other appropriate provider as determined by the board. Any city, parish, or other local public school board may charge a fee for such attendance in an amount as may be determined by the board. However, such fee amount shall not exceed one hundred dollars.

REGULATIONS

LAC 28:CXLIX.501. Safety and Counseling.

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:

a. provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:

- i. positive behavior interventions and supports;
- ii. restorative practices; or
- iii. trauma-informed response; and

b. detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

B. In addition to the required behavioral interventions and supports, alternative sites must prioritize the following:

1. adopt and implement a social-emotional learning curriculum for use that aligns to the selected behavioral intervention and overall behavioral approach selected by the site;
2. maintain a list of identified student growth measures, such as evaluation plans, assessments, and learning outcomes, that measure student behavioral improvement resulting from evidence-based behavioral intervention; and
3. identify annually a set of implementation fidelity measures used to evaluate the efficacy of the selected behavioral intervention and assess interventions needing improvement.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§17:81.6. Investigation of employees; reporting of certain irregularities or improprieties; prohibited actions; penalties; remedies.

A. On or before January 1, 1989, each city and parish school board shall adopt a policy establishing the procedures for the investigation of employees accused of impermissible corporal punishment or moral offenses involving students.

§17:223. Discipline of pupils; suspension from school.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

B. School principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. Principals shall notify the visiting teacher or supervisor of child welfare and attendance of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17:235.1. Parent orientation; local public school boards; guidelines.

B. Each local public school board shall conduct a parent orientation course according to the following guidelines:

(4) At the parent orientation meeting, the school board or its representative shall provide each parent or guardian a copy of and shall explain school board policies which:

(a) Govern the discipline of students, including but not limited to corporal punishment, detention, suspension, and expulsion of students.

§17:416.1. Discipline of pupils; additional disciplinary authority.

A. In addition to the specific disciplinary measures authorized in R.S. 17:416 teachers, principals, and administrators of the public schools may, subject to any rules as may be adopted by the parish or city school board, employ other reasonable disciplinary and corrective measures to maintain order in the schools; provided, however, that nothing in this Section shall be construed as superseding the provisions of R.S. 17:416 relative to the disciplining of students, suspensions, and expulsions.

B. (1)(a) Corporal punishment means using physical force to discipline a 2 student, with or without an object. Corporal punishment includes hitting, paddling, 3 striking, spanking, slapping, or any other physical force that causes pain or physical 4 discomfort.

(b) Corporal punishment does not include:

(i) The use of reasonable and necessary physical restraint of a student to 7 protect the student, or others, from bodily harm or to obtain possession of a weapon 8 or other dangerous object from a student.

(ii) The use of seclusion and restraint as provided in R.S. 17:416.21.

(2) The governing authority of a public elementary or secondary school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942 or to a student who has been determined to be eligible for services under Section 504 of the Rehabilitation Act of 1973 and has an Individual Accommodation Plan. Each governing authority of a public elementary or secondary school shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

C. Should any teacher, principal, or administrator in the public school system be sued for damages by any student, the parent of any student or other persons qualified to bring suit on behalf of such student based upon the act or omission of such teacher, principal, or administrator in the directing of and disciplining of school children under their care and supervision, it shall be the responsibility of the school board employing such teacher, principal, or administrator to provide such defendant with a legal defense to such suit including reasonable attorney's fees, investigatory costs, and other related expenses. Should any such teacher, principal, or administrator be cast in judgment for damages in such suit, it shall be the obligation of the school board employing such defendant to indemnify him fully against such judgment including all principal, interest, and costs. Nothing in this Section shall require a school board to indemnify a teacher, principal, or administrator against a judgment wherein there is a specific decree in the judgment that the action of the teacher, principal, or administrator was malicious, and willfully and deliberately intended to cause bodily harm.

(2) As used in this Subsection, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(3) Any such student who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection shall have his driver's license for the operation of a motor vehicle suspended for a period of one year, in accordance with the provisions of R.S. 32:431. The terms "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

D. (1) In addition to the specific disciplinary measures authorized in R.S. 17:416, a principal or headmaster at a public or private school shall notify the Department of Public Safety and Corrections, office of motor vehicles, of any student between the ages of fourteen and eighteen who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection.

REGULATIONS

LAC 28: CXV.1113. Orientation for Parents of First-Time Students.

A. Each student entering public school within the state for the first time, including kindergarten, shall present at the time of registering or entering satisfactory evidence that at least one of his parents or guardians has completed the orientation course required by this Section. The certificate of completion required by this Section shall constitute satisfactory evidence.

B. Each local educational governing authority shall conduct a parent orientation course according to the following guidelines.

4. At the parent orientation meeting, the local educational governing authority or its representative shall provide each parent or guardian a copy of and shall explain school board policies which:

- a. govern the discipline of students, including but not limited to corporal punishment, detention, suspension, and expulsion of students.

LAC 28: CXV.1315. Corporal punishment.

- A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.
- B. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.
- C. Corporal Punishment-using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.
- D. Corporal punishment does not include:
1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; nor
 2. the use of seclusion and restraint as provided in R.S. 17:416.21.
- E. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.
- F. Each LEA shall collect and report corporal punishment data according to procedures established by the department.

Search and Seizure

LAWS

§17:81. General powers of local public school boards.

J. (1) Each city and parish school board may purchase appropriate metal detection devices and shall provide training to school administrators consistent with that provided as required in Paragraph (3) of this Subsection if metal detectors are going to be used in the system.

(2) The State Board of Elementary and Secondary Education shall develop a plan for using metal detection devices for random weapon searches in elementary and secondary schools and shall submit it to the attorney general for approval. The attorney general shall periodically review the plan as changes in the law in relation to random searches occur.

(3) The board shall provide the approved plan to each city and parish school board and shall provide training on the use of metal detectors and other techniques for weapon searches to system administrators that is consistent with the approved plan.

§17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized.

A. (1) The parish and city school systems of the state are the exclusive owners of all public school buildings and all desks and lockers within the building assigned to any student and any other area of any public school building or grounds set aside specifically for the personal use of the students. Any teacher, principal, school security guard, or administrator in any parish or city school system of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

(2)(a) The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

(b) Random searches with a metal detector of students or their personal effects may be conducted at any time, provided they are conducted without deliberate touching of the student.

B. (1) If any teacher, principal, school security guard, or administrator in the public school system is sued for damages by any student, the parent of any student, or other person qualified to bring suit on behalf of the student, based upon a search of that student's person, desk, locker, or any other area of a school building or grounds set aside specifically for that student's personal use, when the teacher, principal, school security guard, or administrator reasonably believed that the student had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy on his person, or had reasonable belief that such desk, locker, or other area contained such items, or based upon a search using a metal detector, it shall be the responsibility of the school board employing such teacher, principal, school security guard, or administrator to provide the defendant with legal defense, including reasonable attorney's fees, investigatory costs, and other related expenses.

(2) If any such teacher, principal, school security guard, or administrator is cast in judgment for damages in the suit, it shall be the obligation of the school board employing the defendant to indemnify him fully against such judgment, including all principal, interest, and costs.

(3) Nothing in this Section shall require a school board to indemnify a teacher, principal, school security guard, or administrator against a judgment wherein there is a specific finding that the action of the teacher, principal, school security guard, or administrator was maliciously, wilfully, and deliberately intended to harass, embarrass, or intimidate the student.

C. (1)(a) On or before January 1, 1995, each parish and city school board shall adopt a policy that is consistent with Subsection A of this Section to provide for reasonable search and seizure by public school teachers, principals, and other school administrators of students' persons, desks, lockers, or other school areas for evidence that the law, a school rule, or a parish or city school board policy has been violated.

(b) Such policy shall include at a minimum:

(i) Specification of standards regarding procedures for searching students to prevent excessive intrusion.

(ii) Specification of standards for retaining and securing confiscated implements and materials.

(iii) Directions regarding the disposal of implements and materials reported to law enforcement authorities when such authorities notify the principal that the implements and materials need not be retained.

(iv) Specification of disciplinary action when a principal or designated administrator violates any provision of this Section.

(2)(a) Nothing in this Section shall require defense and/or indemnification by a school board, a principal, or other school administrator for suits regarding search and seizure unless such acts are in accordance with the policy adopted by the school board that employs him, if the policy is declared to be reasonable by a court of competent jurisdiction.

(b) No teacher, principal, school security guard, or administrator shall be held personally liable for any action authorized by this Section and performed in accordance with school board policies adopted pursuant to this Section.

D. (1) Upon the seizure by any public school teacher, principal, school security guard, or administrator of any firearm, bomb, knife, or other implement which can be used as a weapon and the careless use of which might inflict harm or injury or any controlled dangerous substance as defined in R.S. 40:961, the principal or his designated administrator shall report the confiscation of such implement or material to the appropriate law enforcement officials. The principal or his designated administrator may report the confiscation of any other implement or material.

(2) Any implement or material required by Paragraph (1) of this Subsection to be reported to law enforcement officials shall be retained and secured by the school principal in such a manner as to prevent the destruction, alteration, or disappearance of it until such time as the law enforcement authority either takes custody of the implement or material or provides notice to the school principal that it need no longer be retained. In the case that it need not be retained, the school principal shall comply with his school board's policy regarding disposal of the item.

(3) The failure of any principal or designated administrator to report the confiscation of such implement or material or the failure to retain and secure such implement or material shall be reported by the law enforcement authority to the employing school board which shall take disciplinary action pursuant to its policy.

E. The provisions of this Section shall apply to the State Board of Elementary and Secondary Education as it relates to state schools operated by the board in the same way it applies to city and parish school boards.

§17:416.6. Search of persons entering public school buildings or grounds.

A. Notwithstanding any other provision of law to the contrary, any school principal, administrator, or school security guard may search the person, handbag, briefcase, purse, or other object in possession of any person who is not a student enrolled at the school, or a school employee while in any school building or on school grounds either by conducting a random search with a metal detector or when there is reasonable suspicion that such person has any weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board's policy.

B. If any principal, administrator, or school security guard is sued for damages by any person based upon a search of the person, handbag, briefcase, purse, or other object in possession of that person after the principal, administrator, or school security guard conducts a random search with a metal detector or has a reasonable suspicion that the person had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy, it shall be the responsibility of the school board employing such principal, administrator, or school security guard, to indemnify him fully against such judgment, including all principal, interest, and costs. Nothing in this Section shall require a school board to indemnify a principal, administrator, or school security guard against a judgment wherein there is a specific finding that the action of the principal, administrator, or school security guard was maliciously, wilfully, and deliberately intended to harass, embarrass, or intimidate the visitor.

C. The provisions of this Section shall not apply to any state or local law enforcement officer while in the performance of his official duties.

REGULATIONS

LAC 28: CXV.1317. Search and seizure.

A. Any teacher, principal, school security guard, or administrator may search any building, desk, locker, area, or school grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

C. Each LEA shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an LEA policy has been violated.

D. Any such policy shall be in accordance with applicable law.

Restraint and Seclusion

LAWS

§17:7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5)(a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b)(i) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

(ii) The rules and guidelines adopted pursuant to Item (i) of this Subparagraph shall not be applicable to a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

§14:328. Obstruction or interference with members of staff, faculty, or students of educational institutions; trespass, damage to property; felony; penalties.

A. No person shall, on the campus or grounds of any state or public owned and operated junior college, college, university or branch thereof or any high school or junior high school in this state, hereinafter referred to as "educational institutions", or at or in any building or other facility thereof, willfully deny to students, school officials, teachers or other employees and invitees and guests thereof:

(1) Lawful freedom of movement on the campus or grounds;

(2) Lawful use of any property or facilities of any educational institution; or

(3) Their right of lawful ingress and egress to and from the physical facilities of such educational institution.

B. No person shall, on the campus or grounds of any educational institution or at or in any building or other facility owned, operated, controlled or administered by the governing authority of any such institution, willfully obstruct or impede any member of the faculty or administrative staff or other personnel of such institution in the lawful performance of their duties, or willfully obstruct or impede any student of such institution in the lawful pursuit of his educational activities or activities related thereto or a part thereof, through the use of restraint, abduction, coercion or intimidation, or by any action as a result of which force and/or violence are present or threatened.

C. No person shall willfully refuse or fail to leave the property of or any building or other facility owned, operated, controlled or administered by the governing authority of any such institution of higher education upon being requested to do so by the chief administrative officer or his designee charged with maintaining order on the campus or grounds and in the facilities thereon, if such person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the educational institution.

D. Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, or any contractor or subcontractor or any employees thereof. Providing that nothing herein contained shall apply to a bona fide legal labor organization or to any of its legal activities such as picketing, lawful assembly or concerted activities in the interest of its members for the purpose of accomplishing or securing more favorable wage standards, hours of employment and working conditions.

E. Whoever violates any provision of this section shall be punished by a fine of not to exceed five hundred dollars or be imprisoned for not more than six months, or both.

§14:329.5. Prohibition of interference with educational process; certain activities excepted.

A. No person shall, on the campus or lands of any university, college, junior college, trade or vocational-technical school, special school, elementary or secondary school in this state, hereinafter referred to as "institutions of learning," or at or in any building or other facility thereof owned, operated or controlled by the state or any of its agencies or political subdivisions, willfully deny to students, school officials, faculty, employees, invitees and guests thereof:

- (1) Lawful freedom of movement on the campus or lands; or
- (2) Lawful use of the property, facilities or parts of any institution of learning; or
- (3) The right of lawful ingress and egress to and from the institution's physical facilities.

B. No person shall, on the campus of any institution of learning or at or in any building or other facility thereof owned, operated or controlled by the state or any agency or political subdivision thereof, willfully impede the staff or faculty of such institution in the lawful performance of their duties, or willfully impede a student of such institution in lawful pursuit of his educational activities, through use of restraint, abduction, coercion, or intimidation, or when force and violence are present or threatened.

C. No person shall willfully refuse or fail to leave the property of, or any building or other facility owned, operated or controlled by the state or any agency or political subdivision thereof, upon being requested to do so by the chief administrative officer thereof, or by his designee charged with maintaining order on the campus or grounds and in its facilities, or a dean of such institution of learning, if such person is committing, threatens to commit, or incites others to commit, any act which would or is likely to disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of such institutions of learning.

§17:252. School master plans for supporting student behavior and discipline.

A. (2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

- (h) Improving methods and procedures for the handling of school suspensions, the referral of students to alternative schools, and the use of seclusion and physical restraint in addressing challenging student behavior.

§17:3911. Data collection system; establishment.

A. The department shall establish a standardized data collection and analysis system which shall be used to collect the data provided in Subsection B of this Section and shall be the basis for the creation of the progress profiles provided for in this Subpart.

B.(4)(b) The data collection system shall also include information on student discipline for each public school by percentage and unduplicated counts of total students with exceptionalities receiving discipline, including:

(v) Restraint procedures.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

A. As used in this Section:

(1) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(2)(a) "Mechanical restraint" means the application of any device or object used to limit a person's movement.

(b) Mechanical restraint does not include:

(i) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.

(ii) Any device used by a duly licensed law enforcement officer in the execution of his official duties.

(3)(a) "Physical restraint" means bodily force used to limit a person's movement.

(b) Physical restraint does not include:

(i) Consensual, solicited, or unintentional contact.

(ii) Momentary blocking of a student's action if the student's action is likely to result in harm to the student or any other person.

(iii) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.

(iv) Minimal physical contact for the purpose of safely escorting a student from one area to another.

(v) Minimal physical contact for the purpose of assisting the student in completing a task or response.

(4) "Positive behavior interventions and support" means a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.

(5) "School employee" means a teacher, paraprofessional, administrator, support staff member, or a provider of related services.

(6) "Seclusion" means a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.

(7) "Seclusion room" means a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.

(8) "Written guidelines and procedures" means the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

B. (1) Seclusion shall be used only:

(a) For behaviors that involve an imminent risk of harm.

(b) As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

(2) Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.

(3)(a) A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.

(b) A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.

(c) Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

(4) A seclusion room shall:

(a) Be free of any object that poses a danger to the student placed in the room.

(b) Have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.

(c) Have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

C. (1) Physical restraint shall be used only:

(a) When a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others.

(b) To the degree necessary to stop dangerous behavior.

(c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

(2) No student shall be subjected to any form of mechanical restraint.

(3) No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

(4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

D. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

E. No student shall be subjected to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

F. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

G. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student's behavior.

H. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

I. (1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

(2) The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Program team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2)(a) These guidelines and procedures shall be provided to the state Department of Education, all school employees and every parent of a student with an exceptionality. The guidelines and procedures shall also be posted at each school and on each school system's website.

(b) The provisions of Subparagraph (a) of this Paragraph shall not be applicable to the parent of a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

N. (1) The State Board of Elementary and Secondary Education shall adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting.

(2) The governing authority of each public elementary and secondary school, in accordance with state board policy, shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education.

(3)(a) The state Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

(b)(i) Based upon the data collected, the state Department of Education shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

(aa) The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(bb) The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(cc) A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph (2) of this Subsection.

(ii) The state Department of Education shall post the annual report on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

REGULATIONS

LAC 28:XLIII.540. Definitions.

A. As used in these Sections 541 through 543:

1. Imminent Risk of Harm-an immediate and impending threat of a person causing substantial injury to self or others;
2. Mechanical Restraint-
 - a. the application of any device or object used to limit a person's movement;
 - b. does not include:
 - i. a protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider;
 - ii. any device used by a duly licensed law enforcement officer in the execution of his official duties;
3. Physical Restraint-
 - a. bodily force used to limit a person's movement;
 - b. does not include:
 - i. consensual, solicited, or unintentional contact;
 - ii. momentary blocking of a student's action if said action is likely to result in harm to the student or any other person;
 - iii. holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted;
 - iv. minimal physical contact for the purpose of safely escorting a student from one area to another;or
 - v. minimal physical contact for the purpose of assisting the student in completing a task or response;
4. Positive Behavior Interventions and Support-a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate;

5. Seclusion-a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others;
6. Seclusion Room-a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving;
7. School Employee-a teacher, paraprofessional, administrator, support staff member, or a provider of related services;
8. Written Guidelines and Procedures-the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

LAC 28:XLIII.541. Use of seclusion.

A. Seclusion shall be used only:

1. for behaviors that involve an imminent risk of harm;
2. as a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

B. Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.

C. A seclusion room shall be used only as a last resort and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.

D. A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.

E. Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

F. A seclusion room shall:

1. be free of any object that poses a danger to the student placed in the room;
2. have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age; and
3. have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

LAC 28:XLIII.542. Physical restraint.

A. Physical restraint shall be used only:

1. when a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others;
2. to the degree necessary to stop dangerous behavior; and
3. in a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

B. No student shall be subjected to any form of mechanical restraint.

C. No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

D. A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

LAC 28:XLIII.543. Restrictions on the use of seclusion or physical restraint.

Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

B. No student shall be subjected to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

C. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

D. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every 15 minutes and adjustments made accordingly, based upon observations of the student's behavior.

E. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

F. The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The school shall document all efforts, including conversations, phone calls, electronic communications, and home visits, to notify the parent of a student who has been placed in seclusion or physically restrained.

1. The student's parent or other legal guardian shall also be notified in writing, within 24 hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

G. The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

H. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

I. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's individualized education plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

J. The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

1. reporting requirements and follow-up procedures;
2. notification requirements for school officials and a student's parent or other legal guardian; and
3. an explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

K. The guidelines and procedures shall be provided to the LDE, all school employees and every parent of a child with a disability. The guidelines and procedures shall also be posted at each school and on each school system's website.

L. The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education through the special education reporting (SER) system. At a minimum, all instances must be reported on a monthly basis.

M. The state Department of Education, using the data elements collected in SER, shall maintain a database of all reported incidents of seclusion and physical restraint of students with disabilities and shall disaggregate the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

N. Based upon the data collected, the LDE shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

1. The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.
2. The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.
3. A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph 2 of this Subsection.

O. The state Department of Education shall post the annual report pursuant to Subsection O of this Section on its website and submit a written copy to the Senate and House Committees on Education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§17:223. Discipline of pupils; suspension from school.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

B. School principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. Principals shall notify the visiting teacher or supervisor of child welfare and attendance of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

- (1) Seventeen years of age or older with less than five units of credit toward graduation.
- (2) Eighteen years of age or older with less than ten units of credit toward graduation.
- (3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17:416. Discipline of students; suspension; expulsion.

A.(1)(b)(i) Prior to any suspension, the school principal, or his designee, shall advise the pupil in question of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts to the school principal or his designee. In each case of suspension or expulsion the school principal, or his designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent, tutor, or legal guardian of the pupil in question giving notice of the suspension or expulsion, the reasons therefor and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the pupil provided that in the case of expulsion, the contact with the parent or guardian shall include a certified letter. If the parent, tutor, or legal guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective. On not more than one occasion each school year when the parent, tutor, or legal guardian refuses to respond, the principal may determine whether readmitting the pupil is in the best interest of the student.

On any subsequent occasions in the same year, the pupil shall not be readmitted unless the parent, tutor, legal guardian, court, or other appointed representative responds. A pupil whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described hereinabove; however, the necessary procedure shall follow as soon as is practicable.

(ii)(aa) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent, tutor, or legal guardian of a pupil who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the pupil's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, the principal or his designee, shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the pupil.

(bb) The principal, assistant principal, or child attendance and welfare supervisor or his assistant of any school, public or nonpublic, shall be a representative of an agency having the responsibility or ability to supply services to a family as that phrase is used in Children's Code Article 731(A).

(c) Any parent, tutor or legal guardian of a pupil suspended shall have the right to appeal to the city or parish superintendent of schools or his designee, who shall conduct a hearing on the merits. The decision of the superintendent of schools on the merits of the case, as well as the term of suspension, shall be final, reserving to the superintendent of schools the right to remit any portion of the time of suspension.

(d) A pupil suspended for damages to any property belonging to the school system or to property contracted to the school system shall not be readmitted until payment in full has been made for such damage or until directed by the superintendent of schools. If the property damaged is a school bus owned by, contracted to, or jointly owned by any parish or city school board, a pupil suspended for such damage shall not be permitted to enter or ride any school bus until payment in full has been made for such damage or until directed by the superintendent of schools.

(e) A pupil who is suspended for ten days or fewer shall be assigned school work missed while he is suspended and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the pupil's teacher. A pupil who is suspended for more than ten days, or is expelled and receives educational services at an alternative school site, shall be assigned work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the pupil was suspended or expelled.

(f) When a pupil is suspended for a second time within one school year, the principal may require that a counseling session be held with the parent and pupil by the school counselor if a counselor is assigned or available to that school. In the event there is no school counselor available, the principal may require a conference between the parent, pupil, and all the pupil's teachers and the principal or other administrator.

REGULATIONS

LAC 28: CXV.1305. Reasons for suspension (Formerly §1303).

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;

2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;
11. possessing firearms, knives, or other implements that can be used as weapons;
12. throwing missiles on the school grounds;
13. instigating or participating in fights while under school supervision;
14. violating traffic and safety regulations;
15. leaving the school premises without permission or his/her classroom or detention room without permission;
16. habitual tardiness or absenteeism; and
17. committing any other serious offense.

LAC 28: CXV.1307. Reasons for expulsions.

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in § 1305., may be expelled upon recommendation by the principal of the public school in which the student is enrolled;
2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;
3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;
4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);
5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).
6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school

property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the uniform controlled dangerous substances law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

Limitations or Conditions on Exclusionary Discipline

LAWS

§17:416. Discipline of students; suspension; expulsion.

(A)(1)(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

(ii)(aa) Upon being sent to the principal's office pursuant to the provisions of this Subparagraph, the principal or his designee shall advise the pupil of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts. The principal or his designee then shall conduct a counseling session with the pupil as may be appropriate to establish a course of action, consistent with school board policy to identify and correct the behavior for which the pupil is being disciplined.

(bb) The principal or his designee shall provide oral or written notification to the parent or legal guardian of any pupil removed from the classroom pursuant to the provisions of this Subparagraph. Such notification shall include a description of any disciplinary action taken.

(cc) The principal or his designee may provide oral or written feedback to teachers initiating the removal of pupils from the classroom. The principal or his designee may provide to such teachers guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

(dd) The principal or designee shall follow all procedures set forth in R.S. 17:416.13 regarding bullying.

(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

- (aa) In-school suspension.
 - (bb) Detention.
 - (cc) Suspension.
 - (dd) Initiation of expulsion hearings.
 - (ee) Assignment to an alternative school.
 - (ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.
 - (gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.
- (iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.
- (v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.
- (vi)(aa) If disruptive behavior persists, the teacher may request that the principal transfer the pupil into another setting.
- (bb) Each city, parish, or other local public school board may adopt a policy that requires the parent or legal guardian of a pupil removed from the classroom pursuant to this Subparagraph to attend after school or Saturday intervention sessions with the pupil. The school board may refer a parent who fails to attend such session to the court of competent jurisdiction in accordance with Chapter 2 of Title VII of the Louisiana Children's Code. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than twenty-five dollars and not more than two hundred fifty dollars, forty hours of court-approved school or community service activities, or a combination of forty hours of court-approved school or community service and attendance at a court-approved family counseling program by both a parent or legal guardian and the pupil, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

REGULATIONS

LAC 28: CXV.1309. Guidelines for expulsions.

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to any public school in the state except upon the review and approval by the governing body of the admitting school.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon; or

2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.

C. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission, information on the dates of any expulsion and the reason(s) for which the student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled. Refer to R.S. 17:416(B)(3).

D. Any student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city or parish city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

LAC 28: CXV.1313. Discipline for students with disabilities.

A. If a school district removes a student with a disability from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, students must continue to receive educational services to enable the student to continue participating in the general education curriculum, to progress toward meeting the goals set out in the IEP, and to receive behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

NOTE: Refer to Bulletin 1706-Regulations for Implementation of the Children with Exceptionalities Act.

Due Process

LAWS

§17:416. Discipline of students; suspension; expulsion.

A.(3)(a) A school principal may suspend from school or suspend from riding on any school bus any student who:

- (i) Is guilty of willful disobedience.
- (ii) Treats a teacher, principal, superintendent, member, or employee of the local school board with intentional disrespect.
- (iii) Makes against any one of them an unfounded charge.
- (iv) Uses unchaste or profane language.
- (v) Is guilty of immoral or vicious practices, or of conduct or habits injurious to his associates.

(vi) Uses tobacco or who possesses alcoholic beverages or any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law, in any form, in school buildings, on school grounds, or on school buses owned by, contracted to, or jointly owned by any city or parish school board.

(vii) Disturbs the school and habitually violates any rule.

(viii) Cuts, defaces, or injures any part of public school buildings, any property belonging to the buildings, or any school buses owned by, contracted to, or jointly owned by any city or parish school board.

(ix) Writes any profane or obscene language or draws obscene pictures in or on any school material or on any public school premises, or on any fence, pole, sidewalk, or building on the way to or from school, or on any school bus, including those owned by, contracted to, or jointly owned by any city or parish school board.

(x) Is found carrying firearms, knives, or other implements which can be used as weapons, the careless use of which might inflict harm or injury.

(xi) Throws missiles liable to injure other persons on the school grounds or while on any school bus, including those owned by, contracted to, or jointly owned by any city or parish school board.

(xii) Instigates or participates in fights while under school supervision.

(xiii) Violates traffic and safety regulations.

(xiv) Leaves the school premises without permission.

(xv) Leaves his classroom during class hours or detention without permission.

(xvi) Is habitually tardy or absent.

(xvii) Has engaged in bullying.

(xviii) Commits any other serious offense.

(b)(i) Prior to any suspension, the school principal, or his designee, shall advise the pupil in question of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts to the school principal or his designee. In each case of suspension or expulsion the school principal, or his designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent, tutor, or legal guardian of the pupil in question giving notice of the suspension or expulsion, the reasons therefor and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the pupil provided that in the case of expulsion, the contact with the parent or guardian shall include a certified letter. If the parent, tutor, or legal guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective. On not more than one occasion each school year when the parent, tutor, or legal guardian refuses to respond, the principal may determine whether readmitting the pupil is in the best interest of the student. On any subsequent occasions in the same year, the pupil shall not be readmitted unless the parent, tutor, legal guardian, court, or other appointed representative responds. A pupil whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described hereinabove; however, the necessary procedure shall follow as soon as is practicable.

(ii)(aa) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent, tutor, or legal guardian of a pupil who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the pupil's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, the principal or his designee, shall file a complaint with a court exercising juvenile

jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the pupil.

(bb) The principal, assistant principal, or child attendance and welfare supervisor or his assistant of any school, public or nonpublic, shall be a representative of an agency having the responsibility or ability to supply services to a family as that phrase is used in Children's Code Article 731(A).

(c) Any parent, tutor or legal guardian of a pupil suspended shall have the right to appeal to the city or parish superintendent of schools or his designee, who shall conduct a hearing on the merits. The decision of the superintendent of schools on the merits of the case, as well as the term of suspension, shall be final, reserving to the superintendent of schools the right to remit any portion of the time of suspension.

(d) A pupil suspended for damages to any property belonging to the school system or to property contracted to the school system shall not be readmitted until payment in full has been made for such damage or until directed by the superintendent of schools. If the property damaged is a school bus owned by, contracted to, or jointly owned by any parish or city school board, a pupil suspended for such damage shall not be permitted to enter or ride any school bus until payment in full has been made for such damage or until directed by the superintendent of schools.

(e) A pupil who is suspended for ten days or fewer shall be assigned school work missed while he is suspended and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the pupil's teacher. A pupil who is suspended for more than ten days, or is expelled and receives educational services at an alternative school site, shall be assigned work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the pupil was suspended or expelled.

(f) When a pupil is suspended for a second time within one school year, the principal may require that a counseling session be held with the parent and pupil by the school counselor if a counselor is assigned or available to that school. In the event there is no school counselor available, the principal may require a conference between the parent, pupil, and all the pupil's teachers and the principal or other administrator.

(4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S.

17:416.13. Such rules and regulations shall include but not be limited to the following provisions:

REGULATIONS

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

LAC 28: CXV.1306. Due process for suspensions (Formerly §1305).

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

LAC 28: CXV.1311. Due process for expulsions.

A. A recommendation for expulsion is made by the principal.

B. A hearing is conducted by the superintendent of the LEA or someone designated by the superintendent.

C. A determination of whether to expel the student is made by the superintendent or his designee.

D. The principal and teacher as well as the student may be represented by someone of their choice at this hearing.

E. Until the hearing takes place, the student shall remain on suspension.

F. The parent or guardian of the student may, within five days after the decision to expel the student has been rendered, request the local educational governing authority to review the findings of the superintendent or his designee. Otherwise, the decision of the superintendent shall be final.

G. The board, in reviewing the case, may affirm, modify, or reverse the action previously taken.

H. If the board upholds the decision of the superintendent, the parent or guardian of the student may, within 10 days, appeal to the district court for the parish in which the student's school is located. The court may reverse the ruling of the board.

Return to School Following Removal

LAWS

§17:416. Discipline of students; suspension; expulsion.

A.(1)(c)(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.

(v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially

appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

A. (1) Any student suspended or expelled from school pursuant to the provisions of R.S. 17:416, shall remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students. Alternative education programs of any local public school shall be approved by the State Board of Elementary and Secondary Education; however, no school system shall be liable for any student attending an alternative education program at a location other than a school site.

(2) A student expelled pursuant to the provisions of R.S. 17:416(B) and (C)(2) may be readmitted only to a city, parish, or other local public school in the school system from which he was expelled prior to the completion of the specified period of expulsion, in accordance with the provisions of R.S. 17:416(C)(2)(d).

REGULATIONS

LAC 28: CXV.1306. Due process for suspensions (Formerly §1305).

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

LAC 28: CXV.1309. Guidelines for expulsions.

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to any public school in the state except upon the review and approval by the governing body of the admitting school.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon; or
2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.

C. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission, information on the dates of any expulsion and the reason(s) for which the student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled. Refer to R.S. 17:416(B)(3).

D. Any student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city or parish city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

Alternative Placements

LAWS

§17:7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

Defense that is located on a federal military installation.

- (32) Report in writing to the House Committee on Education and the Senate Committee on Education by not later than September 15, 2010, relative to the standards and criteria used by the board to approve alternative schools and alternative education programs for students in public elementary and

secondary schools who are suspended for more than ten days or who are expelled from school for violations of school discipline law or policy and who remain under the supervision of the city, parish, or other local public school taking the action. The report shall specify in detail all minimum standards and criteria that must be met in order for the board to approve the alternative school or program and note standards and criteria that are subject to waiver by the board in making approval determinations.

§17:7.5. Alternative educational programs of instruction; submission of plans; board approval; program monitoring.

A. The Department of Education, in collaboration with other appropriate state agencies, shall establish guidelines, with the approval of the State Board of Elementary and Secondary Education, for alternative educational programs of instruction for at-risk public middle and high school students in grades six through twelve. The Department of Education shall provide for the definition of said at-risk students with the approval of the board.

B. Each city and parish school system shall submit plans for such alternative educational programs for instruction to the board for approval, based on approved guidelines pursuant to Subsection A, at any time during the 1992-1993 school year. Plans submitted by each city and parish school system shall include a written program regarding alternate schools and programs for the prevention of school dropouts. Prior to the 1993-1994 school year, the board shall approve standards for said alternative educational programs of instruction for each city and parish school system in this state.

C. Alternative educational programs provided for in this Section may include provisions allowing students to advance through the board approved curriculum or pursue a course of instruction relative to the General Educational Development Testing Program (GED), when applicable and approved by the board.

D. Programs shall be monitored by the Department of Education through an interagency monitoring process as established by the State Board of Elementary and Secondary Education. The board shall report annually on the effectiveness of such programs to the governor and to the House and Senate Committees on Education.

§17:100.1. Alternative educational programs; certain adjudicated students; students in the custody of the office of juvenile justice; funding; authority of the local school board to contract; inclusion in minimum foundation program; funding formula.

A. (1) Any child who has been adjudicated delinquent or as a member of a family in need of services by a court or who is in the custody of the office of juvenile justice as a result of any such adjudication and is assigned by the office of juvenile justice to a community-based program or facility shall be counted by the city, parish, or other local public school board for the city or parish where such program or facility exists for purposes of the minimum foundation program and any other available state or federal funding for which the child is eligible. No other city, parish, or other local public school board shall include such a child in any count for purposes of the minimum foundation program or any other available state or federal funding for which the child may be eligible. Funds inuring to the city, parish, or other local public school board as a result of the presence of such children in its jurisdiction shall be used to provide educational services for such children.

(2) Subject to the requirements of Subsection B of this Section, any city, parish, or other local public school board may contract for the provision of educational services for children described in Paragraph (1) of this Subsection.

B. Private providers of alternative educational services shall be approved by the city, parish, or other local public school board and the State Board of Elementary and Secondary Education as alternative schools pursuant to standards established by the state board before a contract as authorized by this Section may be entered into by the city, parish, or other local public school board.

C. (1) An alternative school located in a secure care facility under the jurisdiction of the office of juvenile justice shall be considered a public elementary or secondary school and, as such, shall be included by the State Board of Elementary and Secondary Education in the formula required by Article VIII, Section

13 of the Constitution of Louisiana used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools.

(2) Each student in such an alternative school shall be provided for and funded at one hundred percent of the state share per pupil amount as provided in the approved minimum foundation program formula for the city, parish, or other local public school system in which such student would otherwise have been enrolled, as contained in the budget letter approved by the State Board of Elementary and Secondary Education, and the board shall allocate such funds to the office of juvenile justice.

(3) In addition to the allocation of the state share per pupil amount provided for in Paragraph (2) of this Subsection, the city, parish, or other local public school system in which the student would have otherwise been enrolled shall allocate and transfer to the office of juvenile justice an amount of money equal to the local share per pupil amount allocated by such system times the number of students enrolled in alternative schools located in secure care facilities under the jurisdiction of the office of juvenile justice who would have otherwise been enrolled in such local school system. The State Board of Elementary and Secondary Education shall provide for the transfer of the local share per pupil amount from the appropriate city, parish, or other local public school system to the office of juvenile justice.

(4) The office of juvenile justice shall expend all minimum foundation program funds allocated to it pursuant to this Subsection to operate the alternative schools located in secure care facilities under its jurisdiction.

(5) The State Board of Elementary and Secondary Education, in collaboration with the office of juvenile justice, shall develop an equitable means by which to identify and determine the number of students eligible for funding each year pursuant to this Subsection.

(6) The State Board of Elementary and Secondary Education shall adopt necessary rules and regulations to assure that no funds provided through the minimum foundation program or any other state or federal program as provided in this Section shall supplant any other funding provided to the office of juvenile justice for the educational services for such children.

D. It is the intent of the legislature that the expenditure of minimum foundation program funds and other state and federal funds for office of juvenile justice schools be subject to the same oversight and accountability as the expenditure of such funds for city, parish, and other local public school boards.

§17:100.5. Alternative schools; establishment by local boards.

A. Parish and city school boards, with the approval of the State Board of Elementary and Secondary Education, may establish and maintain one or more alternative schools for children whose behavior is disruptive. Any alternative school shall be maintained and funded at the same level of support as other schools for children in the school district.

B. The State Board of Elementary and Secondary Education shall develop, adopt, and implement guidelines for alternative schools which, at a minimum, shall provide for the following:

- (1) Identifying the needs of students.
- (2) Using group and individualized courses of study.
- (3) Providing assistance with social skills and work habits.
- (4) Using alternative teaching methods.

C. (1) Teachers employed in alternative schools established pursuant to this Section shall be selected from regularly employed school teachers who volunteer.

(2) Eligibility for enrollment in alternative schools shall be determined from a list compiled by each city and parish school board of students with discipline problems whose behavior is disruptive. Students selected for enrollment in the alternative schools from the eligibility list shall be selected from volunteers, provided that there shall be no racial, sexual, or ethnic discrimination in either the compilation of the eligibility list or in the operation of the school.

D. Each city or parish school board operating an alternative school annually shall evaluate such school. The evaluation shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school.

§17:221.6. Louisiana School Dropout Recovery program.

A. Each school district and charter school that provides instruction to high school students may offer a dropout recovery program for eligible students. School districts and charter schools should maximize the use of federal Title 1 funds and funds provided through the minimum foundation program formula to establish such programs. [...]

G. Dropout recovery programs shall be classified as alternative programs.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

- (1) Seventeen years of age or older with less than five units of credit toward graduation.
- (2) Eighteen years of age or older with less than ten units of credit toward graduation.
- (3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17:252. School master plans for supporting student behavior and discipline.

A. (1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

- (h) Improving methods and procedures for the handling of school suspensions, the referral of students to alternative schools, and the use of seclusion and physical restraint in addressing challenging student behavior.

§17:416. Discipline of students; suspension; expulsion.

A.(1)(c)(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

- (ee) Assignment to an alternative school.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

A. (1) Any student suspended or expelled from school pursuant to the provisions of R.S. 17:416, shall remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students. Alternative education programs of any local public school shall be approved by the State Board of Elementary and Secondary Education; however, no school system shall be liable for any student attending an alternative education program at a location other than a school site.

(2) A student expelled pursuant to the provisions of R.S. 17:416(B) and (C)(2) may be readmitted only to a city, parish, or other local public school in the school system from which he was expelled prior to

the completion of the specified period of expulsion, in accordance with the provisions of R.S. 17:416(C)(2)(d).

(3)(a) Any student placed in an alternative school or an alternative education program, including but not limited to any student receiving education services pursuant to an agreement subject to Paragraph (D)(2) of this Section, shall attend and participate in such school, program, or education services.

(b) The parent, tutor, or legal guardian of any such student shall ensure attendance as required by this Paragraph and any violation of this Subparagraph shall be subject to the provisions of R.S. 17:221(A)(2) and (3).

(c) Visiting teachers or supervisors of child welfare and attendance, with the approval of the superintendent of the local public school system, shall file proceedings in court to enforce the provisions of this Paragraph.

C. For purposes of this Section, alternative education programs may mean programs designed to offer variations of traditional instructional programs and strategies for the purpose of increasing the likelihood that students who are unmotivated or unsuccessful in traditional programs or who are disruptive in the traditional school environment remain in school and obtain a high school diploma. Alternative programs may include but not be limited to programs that hold students to strict standards of behavior in highly structured and controlled environments, sometimes referred to as "boot camps", "police schools", or "court schools". [...]

(4) Nothing in this Section shall prevent any nonprofit organization that provides alternative education services to a school governing authority from applying to operate a charter school pursuant to R.S. 17:3983.

(5) The governing authority of a Type 5 charter school shall receive approval from the superintendent of the Recovery School District before entering into an agreement with an educational service provider for alternative education services pursuant to the provisions of this Section, and any such agreement shall not be subject to the provisions of Subparagraph (3)(a) of this Subsection.

(6) Any agreement in effect on the effective date of this Paragraph and any prospective agreement between the Recovery School District and an educational service provider for alternative education shall not be subject to Subparagraph (3)(a) of this Subsection, but shall be approved by the state superintendent of education.

REGULATIONS

LAC 28:XI.3501. Alternative education [Formerly LAC 28:LXXXIII.3501].

A. Districts must provide an alternative education placement for students who are expelled or who have been suspended for more than 10 consecutive school days. Districts must either operate an alternative education program or school (direct-run or charter), or enter into an agreement with an education service provider to run a program or school.

B. Alternative education schools and programs must be approved by BESE. Classifications must be submitted annually to the LDE no later than March 15 and cannot be changed until the following year.

C. Alternative education school and program accountability:

1. addresses student behavior, dropout prevention, dropout recovery, and/or credit recovery through alternative educational placements;
2. serve students self-selecting due to extenuating personal circumstances; and
3. does not exist only for students who are academically advanced, gifted, talented, or pursuing specific areas of study (arts, engineering, medical, technical, etc.).

LAC 28:XI.3505. Alternative education program accountability [Formerly LAC 28:LXXXIII 3505].

A. Alternative education programs are approved by BESE for the current school year.

B. Scores for students attending alternative education programs will be included at the sending school at which the student is enrolled.

1. For the purposes of this Chapter, a sending school is the last school a student attended. If the student's current grade level is not included in the configuration of the last school they attended, the LEA must enroll the student at school that includes the student's grade using a feeding pattern or attendance zone when possible.

LAC 28:XI.8509. Expelled students.

A. If a student is expelled from school and is not enrolled in any type of alternative program or receiving any services from the school district, the parent/legal guardian may make a timely request that the student be tested and the school district shall make arrangements to test the student.

LAC 28:XXXIX.505. Other Placement Requirements.

B. Alternative Schools/Programs

1. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

LAC 28:CXV.1301. Disciplinary regulations.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

LAC 28:CXV.1303. Bullying.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

8. Parental Relief. If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the LEA.

- a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the LEA for the transfer of the student to another school under the LEA's jurisdiction.
- b. The LEA shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the LEA has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the LEA shall:
 - i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;
 - ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the LEA;
 - iii. enter into a memorandum of understanding with the superintendent of another LEA to secure a placement and provide for the transfer of the student to a school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.

c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.

d. At the end of any school year, the parent or legal guardian may request that the LEA transfer the student back to the original school. The LEA shall make a seat available at the school.

LAC 28: CXV.2911. Alternative Education Providers.

A. A school governing authority may enter into an agreement with an education service provider to provide an alternative education placement for students.

B. Required Interventions

1. The program or school run by the educational service provider must provide academic, behavioral, and mental health interventions including, but not limited to, those listed in R.S. 17:416.2(D)(3)(b) for any student who meets any of the following criteria:

- a. has been adjudicated delinquent by a court having juvenile jurisdiction as defined in Article 302 of the Louisiana Children's Code;
- b. has been adjudicated by a court as a member of a family in need of services and is assigned by the office of juvenile justice to a community-based program or facility;
- c. is in the custody of the office of juvenile justice as a result of an adjudication and is assigned by the office of juvenile justice to a community-based program or facility; or
- d. is a student who has been suspended or expelled pursuant to the provisions of R.S. 17:416(B) or (C)(2).

2. Such services shall be provided to the school governing authority at the actual costs incurred by the provider, not to exceed for each student the pro rata share of the combined state and local per pupil amount of the minimum foundation program for such governing authority.

LAC 28: CXLIX.101. Mission and Purpose.

A. Exemplary alternative education develops a guiding mission and purpose that drives the overall operation of the alternative education site. All stakeholders share in developing, implementing, directing and maintaining the mission and purpose. The mission and purpose include the identification of the target student population, reasons that a student is transitioned to the alternative site, and identified outcomes for students to achieve while at the alternative education site. Each alternative school or program will be organized and staffed to support the identified mission and ensure successful student outcomes.

B. Any student suspended or expelled from school for more than 10 school days will remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students.

C. Each alternative school or program will develop and maintain a written statement of the mission and the major purposes to be served by the school or program. The statement will reflect the individual vision of the school or program and the characteristics and needs of the students served.

D. The educational school or program will be designed to implement the stated goals and objectives, which are directly related to the unique educational requirements of the student body.

E. The provisions of this Part (Bulletin 131) will not be construed to conflict with any federal or state laws, rules, and regulations affecting special education students as defined in R.S. 17:1943 et seq.

LAC 28: CXLIX.301. Transition Processes [Formerly § 1301].

A. The school system will ensure that students are transitioned to an alternative education site using a formalized intake process that addresses both behavioral and academic needs. The transition process will include a review of academic and behavioral records including, but not limited to, individual academic improvement plans, individual graduation plans, or individualized education plans (IEP), as applicable, in order to ensure that appropriate academic supports and opportunities remain available to the student.

1. Each school system with an alternative education site will develop a consistent transition process that includes a checklist of all records produced by a referring school and a fixed timeframe specifying when information will be forwarded to the alternative education school or program.
2. The transition process will:
 - a. address appropriate behavior interventions and specific goals for behavioral progress;
 - b. define specific goals for academic progress, including Carnegie credits for grades 9-12;
 - c. outline a timeframe for updating IEPs for students with disabilities and individual accommodation/section 504 plans (IAP); and
 - d. provide a plan for students returning to the sending school including, but not limited to, bridge supports such as mentoring or counseling, to assist students in readjusting to a traditional school setting.

LAC 28:CXLIX.501. Safety and Counseling.

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:
 - a. provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:
 - i. positive behavior interventions and supports;
 - ii. restorative practices; or
 - iii. trauma-informed response; and
 - b. detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

B. In addition to the required behavioral interventions and supports, alternative sites must prioritize the following:

1. adopt and implement a social-emotional learning curriculum for use that aligns to the selected behavioral intervention and overall behavioral approach selected by the site;
2. maintain a list of identified student growth measures, such as evaluation plans, assessments, and learning outcomes, that measure student behavioral improvement resulting from evidence-based behavioral intervention; and
3. identify annually a set of implementation fidelity measures used to evaluate the efficacy of the selected behavioral intervention and assess interventions needing improvement.

LAC 28:CXLIX.701. Annual Professional Development Plan.

A. Alternative education sites will create an annual professional development plan that will:

1. identify staff training needs;
2. match needs to relevant training;
3. emphasize quality implementation of evidence-based and best practices; and
4. establish performance evaluations aimed at improving program and student outcomes and overall school or program quality.

B. Alternative sites must identify and provide annual staff professional development trainings and tools to that support the target student population as identified in the alternative education site application which includes, but is not limited to:

1. behavioral interventions;
2. classroom management;
3. trauma-informed response;
4. adverse childhood experiences (ACEs); and
5. implementation strategies for selected behavioral interventions.

LAC 28:CXLIX.901. Curriculum and Instruction.

A. School systems operating alternative education sites must address the root cause of academic challenges while a student is educated at the alternative education school or program, utilizing evidence-based academic interventions and strategies.

1. Alternative education sites must:
 - a. utilize standards-aligned curriculum comparable to curriculum utilized at the sending school in the school system;
 - b. provide targeted instructional methods to aid student progress and academic achievement;
 - c. monitor student academic progress on a regular and frequent basis, including a review of academic work completed, noting any improvements from the time since the student was transferred to the site; and
 - d. meet targeted credit accumulation goals identified in LAC 28:XI.Chapter 35 (Bulletin 111), for students enrolled at the alternative education site for at least one semester. For high school students, the goals must include specific Carnegie credit goals.

LAC 28:CXLIX.1101. Climate and culture.

A. Alternative education sites must have a plan to address and continually evaluate school climate and culture to ensure academic and behavioral improvement.

1. Alternative schools should utilize an annual climate survey. The survey should seek to assess student, staff and administrative attitudes and perception of the environment and overall culture of the site.
2. Results of the annual climate survey, if administered, should be shared with teachers, staff, administration, parents and students no later than May 15 each academic year.

LAC 28:CXLIX.1501. Counseling and Community Partnerships [Formerly § 1701].

A. Alternative education sites must provide students with academic, behavioral, and social-emotional counseling designed to promote student academic progress and to address the underlying causes of student behavioral misconduct.

B. Counseling provided by the site or per R.S. 17:416.2 may include student access to mental health supports and interventions via a community partnership that includes evidence-based cognitive interventions to support improved student behavior, address childhood trauma, and enhance social skills to increase the likelihood of the student success.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§14:95. Illegal carrying of weapons.

A. Illegal carrying of weapons is:

(1) The intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one's person; or

(2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien; or

(3) The ownership, possession, custody or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime; or

(4)(a) The intentional concealment on one's person of any switchblade knife, spring knife, or other knife or similar instrument having a blade which may be automatically unfolded or extended from a handle by the manipulation of a button, switch, latch, or similar contrivance located on the handle.

(b) The provisions of this Paragraph shall not apply to the following:

(i) Any knife that may be opened with one hand by manual pressure applied to the blade or any projection of the blade.

(ii) Any knife that may be opened by means of inertia produced by the hand, wrist, or other movement, provided the knife has either a detent or other structure that provides resistance that shall be overcome in opening or initiating the opening movement of the blade or a bias or spring load toward the closed position.

(5)(a) The intentional possession or use by any person of a dangerous weapon on a school campus during regular school hours or on a school bus. "School" means any elementary, secondary, high school, or vo-tech school in this state and "campus" means all facilities and property within the boundary of the school property. "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

(b) The provisions of this Paragraph shall not apply to:

(i) A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.

(ii) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(iii) Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

§14:95.2. Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone.

A. Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

(1) "Campus" means all facilities and property within the boundary of the school property.

(2) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(3) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(4) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

(1) A federal law enforcement officer or a Louisiana-commissioned state or local Post Certified law enforcement officer who is authorized to carry a firearm.

(2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(3) Any person having the written permission of the principal or as provided in R.S. 17:3361.1.

(4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.

(6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.

(7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.

(8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.

(9) Any person who has a valid concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 and who carries a concealed handgun within one thousand feet of any school campus.

D. (1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F. (1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or

seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

§17:416. Discipline of students; suspension; expulsion.

A.(3)(a) A school principal may suspend from school or suspend from riding on any school bus any student who:

(x) Is found carrying firearms, knives, or other implements which can be used as weapons, the careless use of which might inflict harm or injury.

(xi) Throws missiles liable to injure other persons on the school grounds or while on any school bus, including those owned by, contracted to, or jointly owned by any city or parish school board. [...]

(d)(i) In addition to any other limitations established by this Subsection on the admission of previously expelled pupils to public elementary and secondary schools in Louisiana, no pupil who has been expelled from any public or nonpublic school within or outside the state of Louisiana for possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon, or for possessing, possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law shall be admitted to any public elementary or secondary school in the state, or readmitted to any such school on a probationary basis prior to the completion of the minimum period of expulsion as provided in Subsection C of this Section, until the pupil produces written documentation that he and his parent or legal guardian have enrolled and participated in an appropriate rehabilitation or counseling program related to the reason or reasons for the pupil's expulsion.

REGULATIONS

LAC 28: CXV.1305. Reasons for suspension (Formerly §1303).

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

11. possessing firearms, knives, or other implements that can be used as weapons.

LAC 28: CXV.1307. Reasons for expulsions.

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in § 1305., may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;
3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;
4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);
5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).
6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the uniform controlled dangerous substances law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

LAC 28: CXV.1309. Guidelines for expulsions.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon.

Students with Chronic Disciplinary Issues

LAWS

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by

the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

- (1) Seventeen years of age or older with less than five units of credit toward graduation.
- (2) Eighteen years of age or older with less than ten units of credit toward graduation.
- (3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17:416. Discipline of students; suspension; expulsion.

A.(1)(a) Every teacher and other school employee shall endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, on any school bus, during intermission or recess, or at any school-sponsored activity or function.

(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

(dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

(ii)(aa) Upon being sent to the principal's office pursuant to the provisions of this Subparagraph, the principal or his designee shall advise the pupil of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts. The principal or his designee then shall conduct a counseling session with the pupil as may be appropriate to establish a course of action, consistent with school board policy to identify and correct the behavior for which the pupil is being disciplined.

(bb) The principal or his designee shall provide oral or written notification to the parent or legal guardian of any pupil removed from the classroom pursuant to the provisions of this Subparagraph. Such notification shall include a description of any disciplinary action taken.

(cc) The principal or his designee may provide oral or written feedback to teachers initiating the removal of pupils from the classroom. The principal or his designee may provide to such teachers

guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

(dd) The principal or designee shall follow all procedures set forth in R.S. 17:416.13 regarding bullying.

(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.

(v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.

(vi)(aa) If disruptive behavior persists, the teacher may request that the principal transfer the pupil into another setting.

(bb) Each city, parish, or other local public school board may adopt a policy that requires the parent or legal guardian of a pupil removed from the classroom pursuant to this Subparagraph to attend after school or Saturday intervention sessions with the pupil. The school board may refer a parent who fails to attend such session to the court of competent jurisdiction in accordance with Chapter 2 of Title VII of the Louisiana Children's Code. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than twenty-five dollars and not more than two hundred fifty dollars, forty hours of court-approved school or community service activities, or a combination of forty hours of court-approved school or community service and attendance at a court-approved family counseling program by both a parent or legal guardian and the pupil, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§17:221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges.

A. (1) Every parent, tutor, or other person residing within the state of Louisiana having control or charge of any child from that child's seventh birthday until his eighteenth birthday shall send such child to a public or private day school, unless the child graduates from high school prior to his eighteenth birthday. Any child below the age of seven who legally enrolls in school shall also be subject to the provisions of this Subpart. Every parent, tutor, or other person responsible for sending a child to a public or private day school under provisions of this Subpart shall also assure the attendance of such child in regularly assigned classes during regular school hours established by the school board and shall assure that such child is not habitually tardy from school pursuant to the provisions of R.S. 17:233.

(2) Whoever violates the provisions of this Subsection shall be fined not more than two hundred and fifty dollars or imprisoned not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent, tutor, or other person having control or charge of the child participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court having jurisdiction, as applicable, or the suspension of any state-issued recreational license.

(3) Whoever violates any other provision of this Subpart or any other provision of law which provides for the penalty provided for in this Section shall be fined not more than fifteen dollars, and, for such violations, each day the violation continues shall constitute a separate offense.

(4) Visiting teachers or supervisors of child welfare and attendance, with the approval of the parish or city superintendents of schools, shall file proceedings in court to enforce the provisions of this Subpart.

B. (1) A city, parish, or other local public school board shall grant admission or readmission to school to any person who meets all of the following criteria:

(a) Resides within the geographic boundaries of the school system.

(b) Meets the eligibility requirements for school entrance pursuant to R.S. 17:222(A).

(c) Is nineteen years of age or younger on September thirtieth of the calendar year in which the school year begins or is twenty years of age on September thirtieth of the calendar year in which the school year begins and has sufficient course credits that he will be able to graduate within one school year of admission or readmission.

(d) Has not received a high school diploma or its equivalent.

(e) Is otherwise eligible for enrollment in a public school pursuant to state law and the policies of the local school board and the State Board of Elementary and Secondary Education.

(2) If a person meets all of the criteria in Paragraph (1) of this Subsection, no city, parish, or other local public school board may deny him admission or readmission based on any of the following characteristics:

(a) The person voluntarily withdrew from school.

(b) The person is pregnant.

(c) The person is a parent.

(d) The person is married.

(3) The admission or readmission of a person who will be twenty years of age on September thirtieth of the calendar year in which the school year begins shall be limited to grade twelve.

(4) The admission or readmission of any person who has been suspended or expelled from a Louisiana public school is subject to all laws and policies applicable to such disciplinary actions.

(5) The admission or readmission of a person with an exceptionality is subject to federal and state law governing the age of eligibility for services for students with exceptionalities.

C. Each of the school boards shall:

(1) Develop and submit to the state superintendent of education a detailed written program plan designed to improve school attendance, based on local needs and resources.

(2) Give priority in selecting pilot schools within the local school districts to those with the highest percentage of nonattendance.

(3) Focus the program in a manner designed to remedy the underlying problems causing poor school attendance.

D. Each school shall develop and implement a system whereby the school shall attempt to provide verbal notification and, if such verbal notification cannot be provided, then shall provide written notification to a child's parent, tutor, or legal guardian when that child has been absent from school for five school days in schools operating on a semester basis, and for ten days in schools not operating on a semester basis.

E. Repealed by Acts 2010, No. 927, § 1, effective August 15, 2010.

F. The parent, tutor, or other person responsible for the school attendance of a child who is under age eighteen and who is enrolled in school beyond his sixteenth birthday may request that the student be allowed to attend an alternative education program or a vocational-technical education program. In the case of a child who has no parent, tutor, or other person responsible for his school attendance, the superintendent of the city, parish, or other local public school system may act on behalf of the student in making such a request. Upon such request, the superintendent of the city, parish, or other local school system in which the student is enrolled shall be responsible for determining whether the student remains in the regular school setting or attends an alternative education program or a vocational-technical education program and for developing and implementing an individualized plan of education for such student.

G. The provisions of Paragraph (A)(1) of this Section shall not be applicable to any child who is under the age of seventeen and is attending or is seeking admission to a National Guard Youth Challenge Program in this state, and the parent, tutor, or legal guardian of any such child shall not be considered in violation of the provisions of Paragraph (A)(1) of this Section.

§17:232. Attendance records, principals' and teachers' duty to furnish; penalty for violation; pupil absence upon own authority prohibited; notice.

A. Visiting teachers, or supervisors of child welfare and attendance, shall receive the cooperation of all teachers and principals, public and private, in the parish or city in which they are appointed to serve. The principals, or heads, and the teachers of all schools, public, private, denominational, and parochial, shall report in writing to the visiting teachers, or supervisors of child welfare and attendance, the name, birthdate, race, parents, and residence of each pupil in attendance at their schools or classes within thirty days after the beginning of the school term or session, and at such other times as may be required, and make such other reports not inconsistent with law on attendance, census, and child-school adjustment as may be required by the State Board of Elementary and Secondary Education or the State Department of Education, all in accordance with rules adopted pursuant to the Administrative Procedure Act and reviewed in public hearings by legislative oversight subcommittees acting under the authority of R.S. 49:968.

B. (1) The attendance of all school pupils shall be checked each school day and at the beginning of each class period and shall be verified by the teacher keeping such record, which shall be open to inspection by the visiting teacher, or supervisor of child welfare and attendance, or duly authorized representative, at all reasonable times. All schools shall immediately report to the visiting teacher, or supervisor of child welfare and attendance, any unexplained, unexcused, or illegal absence, or habitual tardiness.

(2) Effective with the 1995-1996 school year and thereafter, no public elementary or secondary school pupil shall be permitted for any reason to absent himself from school attendance during the school day

upon his own authority. The school principal or the principal's designee shall make all reasonable efforts to verbally notify the parent or other person responsible for the pupil's school attendance of any such prohibited absence by a pupil. For the purposes of notification as required by this Paragraph, a parent or other person responsible for a pupil's school attendance may designate in writing with the school principal one or more alternative contact persons.

C. The provisions of this Section shall not apply to schools which receive no local, state, or federal funds or support, directly or indirectly, and in which neither students nor their parents are recipients or beneficiaries of any local, state, or federal education program or assistance. However, such schools shall be required to report to the state Department of Education their total attendance as of the thirtieth day of their school term or session.

No school which violates the provisions of R.S. 14:358 or R.S. 42:54 shall be exempted from the provisions of this Section.

D. Notwithstanding any provision of law to the contrary, each school in this state, both public and nonpublic, shall, upon the request of the city or parish public school system within which such school is located, state whether any individual student is enrolled in such school and whether such pupil is fulfilling the compulsory attendance requirements provided under R.S. 17:221.

§17:233. Cases of habitual absence or tardiness referred to juvenile or family court; denial or suspension of driving privileges.

A. Any student who is a juvenile and who is habitually absent from school or is habitually tardy shall be reported by visiting teachers and supervisors of child welfare and attendance to the family or juvenile court of the parish or city as a truant child, pursuant to the provisions of Chapter 2 of Title VII of the Louisiana Children's Code relative to families in need of services, there to be dealt with in such manner as the court may determine, either by placing the truant in a home or in a public or private institution where school may be provided for the child, or otherwise.

B.(1)(a) A student shall be considered habitually absent or habitually tardy when either condition continues to exist after all reasonable efforts by any school personnel, truancy officer, or other law enforcement personnel have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any school semester.

(b) The parent or legal guardian of a student shall enforce the attendance of the student at the school to which the student is assigned.

(c) The principal of the school, or his designee, shall notify the parent or legal guardian in writing on or before a student's third unexcused absence or unexcused occurrence of being tardy, and shall hold a conference with such student's parent or legal guardian. This notification shall include information relative to the parent or legal guardian's legal responsibility to enforce the student's attendance at school and the civil penalties that may be incurred if the student is determined to be habitually absent or habitually tardy. The student's parent or legal guardian shall sign a receipt for such notification.

(d) The parent or legal guardian of any student in kindergarten through grade eight who is considered habitually absent or habitually tardy pursuant to the provisions of this Section shall be in violation of the provisions of Subparagraph (b) of this Paragraph and shall be punished as follows:

(i) A first offense shall be punishable by a fine of not more than fifty dollars or the performance of not less than twenty-five hours of community service.

(ii) Any subsequent offense shall be punishable in accordance with R.S. 17:221(A)(2).

(iii) For purposes of this Subparagraph, an offense means a violation of this Subsection by the parent or legal guardian of a child who is habitually absent or habitually tardy; multiple offenses may result from violations involving different habitually absent or tardy children of that parent or legal guardian.

(iv) In any case where the child is the subject of a court ordered custody or visitation plan, the parent or legal guardian who is lawfully exercising actual physical custody or visitation of the child

shall be responsible for the child's attendance at school on those days and shall be solely responsible for any absence or tardiness of the child on such days. The parent or legal guardian not exercising actual physical custody or visitation on the day of the absence or tardiness shall not be in violation of this Section.

(2) In a nonpublic school, a student shall be considered habitually absent or tardy only when the student has been absent or tardy for more than five days within any month without approval of the parent or other person responsible for the student's school attendance and when the student's principal has filed a written report showing dates of absence or tardiness and dates and results of school contacts with the home.

C. If a student is less than eighteen years of age and is habitually absent or tardy as determined pursuant to this Section, the Department of Public Safety and Corrections may, upon notification from the school board, deny or suspend the driver's permit or license of the student in accordance with the provisions of R.S. 32:431.1.

D. For purposes of this Section, the term "tardy" shall include but not be limited to leaving or checking out of school unexcused prior to the regularly scheduled dismissal time at the end of the school day but shall not include reporting late to class when transferring from one class to another during the school day.

REGULATIONS

LAC 28: CXV.1103. Compulsory Attendance.

A. School systems operating alternative education sites must address the root cause of academic challenges while a student is educated at the alternative education school or program, utilizing evidence-based academic interventions and strategies.

1. Alternative education sites must:

- a. utilize standards-aligned curriculum comparable to curriculum utilized at the sending school in the school system;
- b. provide targeted instructional methods to aid student progress and academic achievement;
- c. monitor student academic progress on a regular and frequent basis, including a review of academic work completed, noting any improvements from the time since the student was transferred to the site; and
- d. meet targeted credit accumulation goals identified in LAC 28: XI. Chapter 35 (Bulletin 111), for students enrolled at the alternative education site for at least one semester. For high school students, the goals must include specific Carnegie credit goals.

LAC 28: CXV.1117. Child welfare and attendance.

A. Supervisors of child welfare and attendance and home-school coordinators shall give written notice, either in person or by registered mail, to the parent or guardian of a student within the compulsory school attendance age, when no valid reason is found for a student's nonenrollment or unexcused absence from school, requiring enrollment or attendance within three days from the date of notice.

B. Supervisors of child welfare and attendance shall receive the cooperation of all teachers and principals in the parish or city in which they are appointed to serve.

C. Each school shall, upon the request of the LEA where the school is located, state whether any individual student is enrolled in such school and whether such pupil is fulfilling the compulsory attendance requirements.

D. Any student who is a juvenile and who is habitually absent from school or is habitually tardy shall be reported by supervisors of child welfare and attendance to the family or juvenile court of the parish or city as a truant child, pursuant to the provisions of chapter 2 of title VII of the Louisiana Children's Code relative to families in need of services, there to be dealt with in such manner as the court may determine,

either by placing the truant in a home or in a public or private institution where school may be provided for the child, or otherwise.

E. A student shall be considered habitually absent or habitually tardy when either condition continues to exist after all reasonable efforts by any school personnel, truancy officer, or other law enforcement personnel have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any school semester. The parent or legal guardian of a student shall enforce the attendance of the student at the school to which the student is assigned.

F. In those districts participating in an interagency agreement to operate a truancy and assessment service center and to the extent specified in said agreement, school boards and their systems in general will assist child welfare and attendance officers in creating student background data, including attendance records, unexcused absences, conduct violations, discipline records, report cards, and transcripts as permitted by law and families in need of services personnel will work in partnership with the child welfare and attendance officers to monitor client progress, file all petitions in the cases of noncompliance of the plan for court appearance, and coordinate other services.

Substance Use

LAWS

§14:403.1. Substance abuse in schools; definitions; confidential reports; immunity; penalty.

A. The purpose of this Section is to protect teachers, administrators, school support personnel, and employees of the public school systems of this state from liability for damages as a result of reporting substance abuse on school campuses. It is intended that as a result of such reporting, the children attending schools in this state shall not be exposed to substance abuse while on campus, and law enforcement shall be aided in efforts to eradicate substance abuse by students.

B. For the purposes of this Section, the following terms shall mean:

(1) "Person" is any employee of a public school system including, but not limited to, teachers, administrators, school bus drivers, janitors, lunch room workers, maintenance employees, and coaches of athletic teams.

(2) "Student" is any person enrolled at school, including any person so enrolled but on temporary suspension, and any person physically on campus, whether a student or non-student.

(3) "School" is any public elementary or secondary school in the state of Louisiana.

(4) "Campus" is all facilities and property within the boundary of the school property and all vehicles used for public transportation of students.

(5) "Controlled dangerous substance" is any substance regulated or defined in the Uniform Controlled Dangerous Substance Law, Part X, Chapter IV of Title 40 of the Louisiana Revised Statutes of 1950, except where prescribed by a physician and possessed and consumed by the person for whom prescribed.

(6) "Substance Abuse Prevention Team," hereafter sometimes referred to as "the team," is a panel of not less than six members consisting of at least one (a) administrator, (b) teacher, (c) guidance counselor, (d) parent representative, and (e) school support person. The team shall be trained by personnel from the Substance Abuse Prevention Education Program of the Louisiana Department of Education.

In the absence of the availability of a team trained by personnel from the Substance Abuse Prevention Education Program, the principal of a school may establish a substantially similar panel which shall be considered a substance abuse prevention team.

C. (1) Any person having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus, under circumstances other than those described in Paragraph (2) of this Subsection, shall report such fact to the principal of the school or to the

chairman of the Substance Abuse Prevention Team on a report form prepared by the Department of Education or on a substantially similar form. If the report is to the principal, the principal immediately shall forward it to the chairman of the team.

The team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall also meet with the parents of the student reported. The team shall thereafter report to the principal of the school and make recommendations for treatment, counselling, or other appropriate action.

(2) Any person having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon a finding that there is reasonable cause to believe that the student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency. If the principal determines that there are reasonable grounds to believe the student possessed a controlled dangerous substance but did not manufacture, distribute, or possess with intent to distribute a controlled dangerous substance, he shall refer the matter to the Substance Abuse Prevention Team chairman.

(3) The report required in Paragraphs (1) and (2) of this Subsection shall be written and shall include the name of the person making the report, the name of the student suspected of committing the act so reported, and the specific incident which caused the reporting person to believe the act had occurred. Sufficient detail shall be included to allow the report to be adequately reviewed. When appropriate, the report shall include a behavioral profile of the student since his enrollment in class.

D. (1) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that the manufacture or distribution of a controlled dangerous substance has taken or is taking place and that delay would jeopardize or impair the ability to control the manufacture or distribution of a controlled dangerous substance on a campus.

(2) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that a student on campus is under the influence of alcoholic beverages and that delay would jeopardize or impair the ability to operate the school or result in the student's being a danger to himself or others.

(3) A law enforcement agency receiving a report under the provisions of this Subsection may conduct an investigation of the report. Such investigation may include the administering, upon the school grounds and after consent has been obtained from student's parent or legal tutor, of a breath or urine test for the presence of alcohol or a controlled dangerous substance, if the investigating officer has reasonable cause to believe the student is or recently was on campus while under the influence of alcoholic beverages or a controlled dangerous substance. The methods for the administration and analysis of a breath or urine test under the provisions of this Subsection shall be the same as for chemical testing and analysis authorized under R.S. 32:663. The results of a breath or urine test authorized under this Subsection shall be provided solely to the student, the parent or legal tutor of the student, the principal of the school, and the chairman of the Substance Abuse Prevention Team, and shall not be used as the basis for any disciplinary proceeding against the student. The law enforcement agency may keep a copy of the test results which copy shall not be a public record and shall not be open for public inspection but shall be kept confidential under lock and key and maintained only for internal record keeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. The test results shall be exempt from the Public Records Act [Link to the text of the note](#) and shall not be admissible as evidence in any civil or criminal trial, hearing, or other proceeding.

E. All reports filed pursuant to this Section shall be confidential. The identity of the reporting person shall not be disclosed except when the constitution of the State of Louisiana or the United States so requires. All reports shall be exempt from the Public Records Act.

F. Any person who makes a report in good faith, pursuant to Subsections C and D of this Section, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

G. The willful failure by a person with permanent status to make a report required by Subsection C of this Section shall constitute willful neglect of duty which may subject the person to dismissal pursuant to R.S. 17:443, R.S. 17:462, R.S. 17:493, R.S. 17:523, or R.S. 17:533, as appropriate. Any person without permanent status may be dismissed for willful neglect of duty under this Section after a hearing in accordance with the procedures set forth in R.S. 17:443.

§17:240. Prohibition against use of tobacco in schools; prohibition against smoking on school bus; rules and regulations.

B. (1) Notwithstanding any other provision of law, no person shall smoke, chew, inhale, ingest, absorb, or otherwise consume any tobacco or tobacco product in any elementary or secondary school building nor shall any student or school employee smoke, chew, inhale, or absorb, or otherwise consume any tobacco product on any other school property; however, this prohibition shall not be applicable to any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is marketed and sold solely for such an approved purpose.

(2) No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device, including but not limited to e-cigs, e-cigarettes, electronic cigarettes, advanced personal vaporizers, vape pens, and vape mods on any school property.

(3) The use of tobacco or any tobacco product is hereby prohibited on any school bus or school vehicle transporting students attending any elementary or secondary school.

(4) The provisions of this Subsection shall not apply to any school property that is rented, leased, or otherwise made available for use for non-educational purposes.

C. (1) The governing authority of each public elementary or secondary school shall and any governing authority of any nonpublic elementary or secondary school may adopt necessary rules and regulations to assure compliance with the provisions of this Section.

(2) The governing authority of each public elementary or secondary school and each nonpublic elementary or secondary school may provide for appropriate penalties for violators, including but not limited to disciplinary action or a fine not to exceed two hundred dollars, or both.

(3) The provisions of this Section shall be enforced by the local superintendents of education or their designees pursuant to any rules, regulations, and penalties promulgated pursuant to this Section.

§17:402. Findings and purpose.

A. The legislature finds that the use and abuse of alcohol, drugs, and other substances among the children of school age in this state is a problem of serious concern and destructive societal impact and that the incidence of alcohol, drug, and substance abuse among the young is high. Substance abuse leads to serious consequences and impairs one's ability to perform normally and productively in his educational and social environment. The legislature also finds that dependence on alcohol, drug, or other substances is an illness that can be prevented, identified, and treated. The legislature further finds that substantial alleviation of these problems may result from the development and implementation of comprehensive education programs and counseling in the public school systems of this state, combined with an enhanced law enforcement effort in the area of schools.

B. The purpose of this Part is to create a comprehensive program of alcohol, drug, and substance abuse prevention and education, which brings together the education system and the criminal justice system to educate, prevent, and punish such abuses, culminating in a drug free zone in and around the public schools in the state. The existence of such zones should enhance the whole community by bringing a clear-minded student into an environment more conducive to learning.

§17:403. Section on drug free schools and communities; program; section administrator; counselors.

A. The State Board of Elementary and Secondary Education and the state superintendent of education shall establish and maintain within the bureau of student services of the state Department of Education a separate program section which shall be designated as the section on drug free schools and communities. The board shall adopt such rules and regulations as are necessary to establish, operate, and maintain a state-wide alcohol, drug, and substance abuse education program for the benefit of students attending the schools of this state. The program may be extended to benefit adult citizens through adult education programs. The program shall be administered through the schools.

B. There shall be a section administrator of the section on drug free schools and communities who shall be appointed by the superintendent. The section administrator shall administer and be responsible for the affairs of the section on drug free schools and communities and the state-wide alcohol, drug, and substance abuse education program.

C. (1) There shall be addictive disorders professionals in every school system who regularly visit every secondary school and elementary school at a maximum of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem. The duties of each counselor shall be coordinated by the section on drug-free schools and communities and each employing parish or city school system.

(2) Qualifications for addictive disorders professionals shall be determined, implemented, and enforced by the Department of Health and Hospitals, office of behavioral health.

§17:404. Establishment of programs of substance abuse.

A. Each city and parish school board shall establish and maintain in every school such grade appropriate programs of alcohol, drug, and substance abuse prevention, education, information, and counseling as are developed by the section on drug free schools and communities, and approved by the State Board of Elementary and Secondary Education for inclusion in the school program as required in Subsection B of this Section.

B. (1) The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, shall develop, furnish to local school boards, and coordinate the implementation of the programs required by this Section. Such programs shall be included in the school program such that every student in grades kindergarten through nine is involved for a minimum of sixteen contact hours every school year and every student in grades ten through twelve is involved for a minimum of eight contact hours every school year. The required minimum contact hours shall be incorporated into a comprehensive school health program. Each city and parish school system shall enact policies and procedures for implementation of such programs in accordance with guidelines promulgated by the State Board of Elementary and Secondary Education.

(2) In addition, the section on drug free schools and communities shall develop and make available to each school system development programs for teachers and other staff. Such programs shall include procedures for identifying students who exhibit signs of misuse or abuse of such substances and for referral for counseling or treatment, as an alternative to other disciplinary procedures and sanctions provided by law, or in other cases where such referral would be appropriate.

C. The state superintendent of education and the State Board of Elementary and Secondary Education through the section on drug free schools and communities shall continually study the existing programs, resources, and needs of school districts, and shall utilize this data and local school personnel in the development of a state plan and minimum standards for alcohol, drug and substance abuse prevention and education programs required in Subsection A of this Section.

D. Any minor who is a student enrolled in any public or private elementary, secondary, vocational-technical, training, special school or institution in Louisiana who is identified as having a substance abuse

problem or who is involved in the production, manufacture, possession, distribution, or dispensation of any controlled dangerous substance shall be required to participate in the school drug counseling program as provided in this Section in addition to any other penalties as provided by law. However, nothing herein shall prevent the student from participating in any other drug counseling program in lieu of the one in his school, provided such program is approved by the school system.

§17:416. Discipline of students; suspension; expulsion.

(3)(a) Any student arrested for possession of, or intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property shall be referred by the school principal or his designee, within five days after such arrest, for testing or screening by a qualified medical professional for evidence of abuse of alcohol, illegal narcotics, drugs, or other controlled dangerous substances.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

D. (3) Rules and regulations pursuant to Paragraph (2) of this Subsection shall include all of the following:

(b) In an effort to support the on-time graduation of students who are suspended, expelled, or at high risk for dropping out or entry into the juvenile justice system, academic, behavioral, and mental health interventions must be provided. Interventions offered shall include but not be limited to the following:

(iii) Mental health interventions and supports:

(cc) Interventions to address substance use and to prevent substance abuse.

REGULATIONS

LAC 28: CXV.337. Written Policies and Procedures.

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Each LEA shall have policies and procedures that address, but are not limited to, the following:

15. the prohibition of teachers from recommending that a student be administered a psychotropic drug and from specifying or identifying any specific mental health diagnosis for a student;

16. the prohibition of teachers from using a parents refusal to consent to administration of a psychotropic drug or psychiatric evaluation, screening or evaluation as grounds for prohibiting a student from attending class or participating in school related activities or as the sole basis of accusations of child abuse or neglect against the parent or guardian.

LAC 28: CXV.503. Staff Organization.

E. There shall be alcohol, drug, and substance abuse counselors who regularly visit every secondary school and elementary school at a maximum ratio of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem.

LAC 28: CXV.1133. Substance abuse.

A. Any school employee having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus shall report such fact to the principal of the school.

1. If a Substance Abuse Prevention Education (SAPE) team exists within the school, the principal shall forward the report to the chairperson of the team.

2. If the report has been given to the team directly or if the report has been forwarded to the team by the principal, the team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall meet with the parents of the student reported.

3. The team shall report to the principal of the school and make recommendations for treatment, counseling, or other appropriate action.

B. Any school employee having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon finding that there is reasonable cause to believe that the student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency.

C. Any person who makes a report in good faith, pursuant to substance abuse, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

LAC 28: CXV.1143. Prohibition against the use of tobacco.

A. No person shall smoke, chew, or otherwise consume any tobacco or tobacco product in any elementary or secondary school building.

B. No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device on the grounds of any public or private elementary or secondary school property, except in an area specifically designated as a smoking area.

C. Smoking shall be prohibited on any school bus transporting students attending any public elementary or secondary school.

LAC 28: CXV.1305. Reasons for suspension (Formerly §1303).

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;
11. possessing firearms, knives, or other implements that can be used as weapons;
12. throwing missiles on the school grounds;
13. instigating or participating in fights while under school supervision;
14. violating traffic and safety regulations;
15. leaving the school premises without permission or his/her classroom or detention room without permission;
16. habitual tardiness or absenteeism; and

17. committing any other serious offense.

LAC 28: CXV.1307. Reasons for expulsions.

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in § 1305., may be expelled upon recommendation by the principal of the public school in which the student is enrolled;
2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;
3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;
4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);
5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).
6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the uniform controlled dangerous substances law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

LAC 28: CXV.1309. Guidelines for expulsions.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.

Gang-related Activity

LAWS

§17:13.1. Crime Prevention in Schools Act.

A. The state Department of Education shall develop and implement, with the approval of the State Board of Elementary and Secondary Education, minimum guidelines for a program on the prevention of crime and disruptive behavior in public schools by the 1993-94 school year. In order to decrease the epidemic level of crime in and around public elementary and secondary schools, the department shall coordinate the instruction, development, and training of teachers in the crime prevention in schools program, provide for the preparation and distribution of instructional materials, and develop program guidelines.

B. In developing the program guidelines, the department, at a minimum, shall:

(6) Provide for the coordination of school safety programs and any other existing programs addressing drug and alcohol abuse, gang membership, and gang violence.

C. The program shall be funded by the state and the department may enrich the program using monies available from other sources.

D. Each city and parish school board shall submit a program for approval to the State Board of Elementary and Secondary Education by the 1994-1995 school year. Any such program shall be developed in accordance with the minimum guidelines established by the state Department of Education. Each city and parish school board shall also submit a budget and a method of evaluation of the local program to the board for approval prior to implementation.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§14:40.7. Cyberbullying.

A. Cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen.

B. For purposes of this Section:

(1) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(2) "Electronic textual, visual, written, or oral communication" means any communication of any kind made through the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C. An offense committed pursuant to the provisions of this Section may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

D. (1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) When the offender is under the age of eighteen, the disposition of the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.

E. The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

F. The provisions of this Section shall not be construed to prohibit or restrict religious free speech pursuant to Article I, Section 8 of the Constitution of Louisiana.

§14:40.8. Criminal hazing.

A. (1) Except as provided by Subsection D of this Section, it shall be unlawful for any person to commit an act of hazing.

(2)(a) Except as provided by Subparagraph (b) of this Paragraph, any person who commits an act of hazing shall be either fined up to one thousand dollars, imprisoned for up to six months, or both.

(b) If the hazing results in the serious bodily injury or death of the victim, or the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, any person who commits an act of hazing shall be fined up to ten thousand dollars and imprisoned, with or without hard labor, for up to five years.

B.(1)(a) If any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any of the underlying entities provided for in Paragraph (C)(3) of this Section is a sanctioned or recognized member at the time of the hazing, knew and failed to report, as soon as practicable under the circumstances, to law enforcement that one or more of the organization's members were hazing another person, the organization may be subject to the following:

(i) Payment of a fine of up to ten thousand dollars.

(ii) Forfeiture of any public funds received by the organization.

(iii) Forfeiture of all rights and privileges of being an organization that is organized and operating at the education institution for a specific period of time as determined by the court. If the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the period of time shall be for not less than four years.

(b) Information reported to law enforcement as provided in Subparagraph (a) of this Paragraph shall include all details received by the organization relative to the alleged incident, with no information being redacted, including the name of all individuals alleged to have committed the act or acts of hazing.

(2) An education institution that receives a report alleging the commission of an act or acts of hazing by one or more members of an organization that is organized and operating at the education institution shall report, as soon as practicable under the circumstances, the alleged act or acts to the law enforcement agency having jurisdiction in the place where the alleged act or acts of hazing occurred.

The information reported to law enforcement as required by this Paragraph shall include all details received by the institution relative to the alleged incident, with no information being redacted, including the name of all individuals alleged to have committed the act or acts of hazing. Any education institution

who fails to comply with the provisions of this Paragraph may be subject to a fine of up to ten thousand dollars.

C. For purposes of this Section:

(1) "Education institution" means any elementary or secondary school or any postsecondary education institution in this state.

(2)(a) "Hazing" is any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

(i) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.

(ii) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

(b) "Hazing" includes but is not limited to any of the following acts associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

(i) Physical brutality, such as whipping, beating, paddling, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iii) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) A physical activity that is normal, customary, and necessary for a person's training and participation in an athletic, physical education, military training, or similar program sanctioned by the education institution is not considered "hazing" for purposes of this Section.

(3) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an education institution." "Organization" includes the national or parent organization of which any of the underlying entities provided for in this Paragraph is a sanctioned or recognized member at the time of the hazing.

(4) "Pledging", also known as "recruitment" or "rushing", means any action or activity related to becoming a member of an organization.

D. (1) This Section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself to be hazed.

(2) It is not a defense to prosecution for a violation of this Section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

E. (1) The penalties provided in Subsection B of this Section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or education institution pursuant to its by-laws, rules, or policies regarding hazing.

(2) Nothing in this Section precludes any civil remedy provided by law.

§17:53. School board members; training required.

A. (1) Each member of a city, parish, and other local public school board shall receive a minimum of sixteen hours of training and instruction during his first year of service on the board in order to receive the designation of "Distinguished School Board Member" pursuant to Paragraph (B)(3) of this Section.

(2) Except as provided in Paragraph (1) of this Subsection, each member of a city, parish, and other local public school board shall receive a minimum of six hours of training and instruction annually.

(3) The training and instruction referred to in Paragraphs (1) and (2) of this Subsection shall be in the school laws of this state, in the laws governing the powers, duties, and responsibilities of city, parish, and other local public school boards, and in educational trends, research, and policy. Such training and instruction shall also include education policy issues, including but not limited to the minimum foundation program and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction relative to the provisions of the Open Meetings Law, R.S. 42:11 et seq., and the Public Bid Law, Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950.

§17:100.7. Policies; governing authorities of public elementary and secondary schools; Internet and online sites; access by students and employees; resources for parents; exceptions.

B. (1) The state Department of Education shall prepare information to be distributed to each public school governing authority for dissemination to the parent of each student enrolled in a school under its jurisdiction regarding the public health risks and harms associated with pornography.

(2) The information shall include the following:

(a) The dangers of sexually charged cyberbullying.

(b) The addictive and destructive nature of pornographic and illicit materials.

(c) The dangers of internet interaction with strangers.

(d) Resources available to parents who are seeking information regarding child safeguards and free internet filters for home computers. A list of free internet filters that filter out pornography shall also be provided.

§17:183. Hazing; public elementary and secondary students; intent and findings; definitions; policies.

A. (1) It is the intent of the legislature that every public elementary and secondary school in this state shall be a safe, orderly, civil, and positive learning environment so that no student in this state feels threatened while in school.

(2) The legislature finds that while some forms of initiation for membership in student clubs and organizations constitute acceptable behavior, the hazing of students may degenerate into a dangerous form of intimidation and degradation.

B. (1) As used in this Section, "hazing" means any knowing behavior, whether by commission or omission, of any student to encourage, direct, order, or participate in any activity which subjects another student to potential physical, mental, or psychological harm for the purpose of initiation or admission into, affiliation with, continued membership in, or acceptance by existing members of any organization or extracurricular activity at a public elementary or secondary school, whether such behavior is planned or occurs on or off school property, including any school bus and school bus stop.

(2) Hazing does not mean any adult-directed and school-sanctioned athletic program practice or event or military training program.

C. Hazing is prohibited in public elementary and secondary schools.

D. (1) Each city, parish, and other local public school board shall develop, adopt, and post a policy to enforce the prohibition in this Section against hazing and to prevent its occurrence.

(2) Each such policy shall include, at a minimum, the following:

- (a) A statement that hazing of students, as defined in Subsection B of this Section, is prohibited.
- (b) A statement that any solicitation to engage in hazing is prohibited.
- (c) A statement that aiding and abetting another person who engages in hazing is prohibited.
- (d) A statement that consent of the hazing victim is not a defense.
- (e) A statement that all students, teachers, and other school employees shall take reasonable measures within the scope of their individual authority to prevent violations of the policy.
- (f) A description of the procedures for students, teachers, and other school employees to report violations of the policy and the procedures to file a complaint for a violation of the policy.
- (g) Procedures to investigate reports or complaints of violations of the policy.
- (h) A description of the circumstances under which a violation of the policy shall be reported to the appropriate law enforcement agency.
- (i) A description of the appropriate penalties and appeal mechanisms for persons that violate the policy.

§17:280. Internet and cell phone safety education; required instruction.

A. The governing authority of each public elementary and secondary school shall provide age and grade appropriate classroom instruction regarding Internet and cell phone safety. Such instruction shall be integrated into an existing course of study and shall include but need not be limited to providing students with information on the following with respect to both cell phones and the Internet:

- (5) Recognizing and reporting harassment and cyberbullying.

§17:416. Discipline of students; suspension; expulsion.

A.(1)(a) Every teacher and other school employee shall endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, on any school bus, during intermission or recess, or at any school-sponsored activity or function.

(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

- (aa) Oral or written reprimands.
- (bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.
- (cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.
- (dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have

the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment. [...]

(3)(a) A school principal may suspend from school or suspend from riding on any school bus any student who:

(xvii) Has engaged in bullying. [...]

(4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S.

17:416.13. Such rules and regulations shall include but not be limited to the following provisions:

(a) A procedure permitting any teacher or other school employee to report any violation of the provisions of this Subsection to the appropriate school principal. The procedure shall provide for the uniform use throughout the school system of two forms to report incidents of alleged discipline violations. One form shall be used to report only school transportation-related incidents and one form shall be used to report all other incidents.

(i) The form for reporting a transportation-related incident shall provide for the following information:

(ee) A menu of check-off items to indicate the nature of the incident, including fighting or bullying at the bus stop, fighting or bullying on the bus, smoking on the bus, leaving the bus without permission, boarding the bus at the incorrect stop, showing disrespect toward the operator, committing an immoral or vicious act, throwing objects within the bus or out of bus windows or doors, refusing to occupy an assigned seat, using profane language, showing willful disobedience, defacing the bus, carrying objects or implements which can be used as weapons, or committing some other undesignated violation.

§17:416.13. Student code of conduct; requirement. The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the local school governing authority and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in R.S. 17:416.14. This policy shall be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

§ 17:416.14. Bullying; definition; prohibition; notice; reporting; accountability

A. For the purposes of this Title, "bullying" shall mean:

(1) A pattern of any one or more of the following:

(a) Gestures, including but not limited to obscene gestures.

(b) Written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

(c) Physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property.

(d) Repeatedly and purposefully shunning from activities.

(2)(a) Where the pattern of behavior as provided in Paragraph (1) of this Subsection is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, at any designated school bus stop, in any school bus or any other school or private vehicle used to transport students to and from school or any school-sponsored activity or event.

(b) The pattern of behavior as provided in Paragraph (1) of this Subsection shall have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or shall be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

B. Each elementary and secondary school shall institute a program to prohibit and prevent bullying. The program shall:

(1) Define bullying as provided in Subsection A of this Section.

(2) Ensure each student, each student's parent or legal guardian, and each school administrator, teacher, counselor, bus operator, school employee, and volunteer is aware of his duties and responsibilities relative to preventing and stopping bullying.

(3) Provide for a process for reporting and investigating alleged incidents of bullying.

(4) Provide for appropriate discipline of a student found guilty of bullying.

(5) Provide for appropriate remedies for a student found to have been bullied.

(6) Provide for procedures for investigating and reporting each school administrator, teacher, counselor, bus operator, and school employee for failure to act as provided in Subsection I of this Section.

(C) The governing authority of each public elementary and secondary school shall:

(1) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

(2) Create a program to provide a minimum of four hours of training for new employees who have contact with students and two hours of training each year for all school employees who have contact with students, including bus operators, with respect to bullying. The training shall specifically include the following:

(a) How to recognize the behaviors defined as bullying in Subsection C of this Section.

(b) How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.

(c) How to use appropriate intervention and remediation techniques and procedures.

(d) The procedures by which incidents of bullying are to be reported to school officials.

(e) Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience.

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. - The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

(2)(a) Reporting. - The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website and the website of each public elementary and secondary school.

(b) Students and parents. - Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any chaperone or supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. - School personnel. Any teacher, counselor, bus operator, or other school employee, whether full- or part-time, and any chaperone supervising a school function or activity, who witnesses bullying or who learns of bullying pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident, and a written report shall be filed no later than two days thereafter.

(d) Retaliation. - Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. - Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. - The State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. - An investigation shall include an interview of the reporter, the alleged victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio-visual evidence.

(b) Timing. - The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal.

(i) If the school official does not take timely and effective action pursuant to this Section, the student, parent, or school employee may report the bullying incident to the local school governing authority. The governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the governing authority official.

(ii) If the local school governing authority does not take timely and effective action, the student, parent or legal guardian, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the parent or legal guardian of each involved student according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with his child conducted as part of the investigation. If, after three attempts in a forty-eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the alleged victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the alleged victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the alleged victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. - If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

(f) Parental Relief.

(i) If a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying, as provided in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3) of this Subsection has occurred, the parent or legal guardian with responsibility for decisions regarding the education of the alleged victim about whom the report or reports have been made may exercise an option to have the student enroll in or attend another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled on the dates when at least three of the reports were submitted.

(ii) The parent or legal guardian shall file a request with the local school superintendent for the transfer of the student to another school under the governing authority's jurisdiction.

(iii) The governing authority of the public elementary or secondary school in which the student is enrolled shall make a seat available at another public elementary or secondary school under its jurisdiction within ten school days of the parent or legal guardian's request for a transfer. If the governing authority has no other school under its jurisdiction serving the grade level of the alleged victim, within fifteen school days of receiving the request, the superintendent or director of the governing authority shall:

(aa) Inform the student and his parent or legal guardian and facilitate the student's enrollment in a statewide virtual school.

(bb) Offer the student a placement in a full-time virtual program or virtual school under the jurisdiction of the school's governing authority.

(cc) Enter into a memorandum of understanding with the superintendent or director of another governing authority to secure a placement and provide for the transfer of the student to a school serving the grade level of the alleged victim under the jurisdiction of the cooperating governing authority, pursuant to R.S. 17:105 and 105.1.

(iv) If no seat or other placement pursuant to Item (iii) of this Subparagraph is made available within thirty calendar days of the receipt by the local school superintendent of the request, the parent or legal guardian may request a hearing with the school's governing authority, which shall be public or private at the option of the parent or legal guardian. The school's governing authority shall grant the hearing at the next scheduled meeting or within sixty calendar days, whichever is sooner.

(v) At the end of any school year, the parent or legal guardian may make a request to the governing authority of the school at which the student was enrolled when at least three of the reports were filed to transfer the student back to the school. The governing authority shall make a seat available at the school at which the student was originally enrolled. No other schools shall qualify for transfer under this Subparagraph.

(g) Documentation.

(i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents or legal guardians of each involved student pursuant to this Section, a school or local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of each involved student.

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

(gg) As applicable, provide a copy of any reports and investigative documents to the appropriate law enforcement officials.

E. Parental Responsibilities. - Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion.

(2) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.

(3) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. - All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

I. The State Board of Elementary and Secondary Education shall adopt rules to require all approved nonpublic schools to implement bullying policies to those required of public schools.

J. Failure to act. (1) Any teacher, counselor, bus operator, administrator, or other school employee, whether full- or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay. The length of the suspension shall be determined by the school's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report and the length of suspension issued to each employee who failed to report to the state Department of Education.

(2) Any school administrator or official who fails to notify a parent or legal guardian of a report of bullying, timely investigate a report of bullying, take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying, or report criminal conduct to the appropriate law enforcement official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual

without pay. The length of the suspension shall be determined by the school's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report bullying and the length of suspension issued to the employee who failed to report to the department. The report shall be submitted by August first annually.

- (3)The department shall provide a report to the state board on the number of reports of failures to report bullying received by the department from school governing authorities. The report shall be submitted by September first annually.

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

C. (2) Such programs may include but shall not be limited to the following components:

- (a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

§17:416.20. Student conduct standards; awareness and understanding by students; required orientation; guidelines.

A. In addition to any other requirements established by law, rule, or regulation relative to student discipline and conduct, the governing authority of a public elementary or secondary school shall require that every student be provided an orientation during the first five days of each school year regarding school disciplinary rules and provisions of the code of student conduct applicable to such students, including but not limited to the policy on bullying as provided in R.S. 17:416.13. Orientation instruction shall be provided by the school principal or his designees and shall include but not be limited to consequences for failing to comply with such school disciplinary rules and code requirements, including suspension, expulsion, the possibility of suspension of a student's driver's license for one year as provided in R.S. 17:416.1, and the possible criminal consequences of violent acts committed on school property, at a school-sponsored function, or in a firearm-free zone. The orientation also shall clearly communicate to students the rights afforded teachers pursuant to R.S. 17:416.18 and other applicable law relative to the discipline of students.

REGULATIONS

LAC 28: CXV.303. General powers of local educational governing authorities.

B. Each local school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the Minimum Foundation Program (MFP) and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Law and the Louisiana Public Bid Law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

LAC 28: CXV.337. Written Policies and Procedures.

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Each LEA shall have policies and procedures that address, but are not limited to, the following:

29. in the student code of conduct, the prohibition against bullying as defined in § 1303.

LAC 28: CXV.1303. Bullying.

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy must be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.
2. The policy shall contain the definition of bullying found in this Section and shall address the following:
 - a. behavior constituting bullying;
 - b. the effect the behavior has on others, including bystanders; and
 - c. the disciplinary and criminal consequences of bullying another student.

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four-hour training. The training shall specifically include the following:

1. how to recognize the behaviors defined as bullying;
2. how to identify students at each grade level who are most likely to become victims of bullying, while not excluding any student from protection from bullying;
3. how to use appropriate intervention and remediation techniques and procedures;
4. the procedures by which incidents of bullying are to be reported to school officials; and
5. information on suicide prevention, including the relationship between suicide risk factors and bullying.

C. Definition of Bullying

1. Bullying is defined as a pattern of one or more of the following behaviors:
 - a. gestures, including but not limited to obscene gestures and making faces;
 - b. written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors;
 - c. physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property; and
 - d. repeatedly and purposefully shunning or excluding from activities.
2. Behavior defined as bullying is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.
3. Bullying must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. Notice of Bullying Policy to students and parents. The LEA shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website. The procedure shall include the following.

1. Students and Parents

- a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.
- b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.
- c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

1. Timing. The investigation shall begin the next school day following the day on which the written report was received and shall be completed no later than 10 school days after receipt of the report. If additional information is received after the end of the 10-day period, the school official shall amend all documents and reports to reflect such information.

2. Parental Notification of Allegation of Bullying

- a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.
- b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.
- c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.
- d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:
 - i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;
 - ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.
- e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after

notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to Children's Code article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to Children's Code article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

3. Scope

a. The investigation shall include documented interviews by the designated school official of the reporter, the alleged victim, the alleged offender, and any witnesses.

b. The school official shall collect and evaluate all facts using the bullying investigation form approved by BESE and available on the DOE website.

c. The school official shall obtain copies or photographs of any audio-visual evidence.

4. Documentation. At the conclusion of a bullying investigation, and after meeting with the parents or legal guardians, the school official or school board shall:

a. prepare a written report containing the findings of the investigation, including input from students' parents or legal guardians, and the decision by the school official or school system official. The document shall be placed in the school records of both students. If completed entirely, the bullying investigation form may serve as the report;

b. promptly notify the reporter/complainant of the findings of the investigation and whether remedial action has been taken, if such release of information does not violate the law;

c. keep reports/complaints and investigative reports confidential, except where disclosure is required by law;

d. maintain reports/complaints and investigative reports for three years;

e. provide a copy of any reports and investigative documents to the LEA, as necessary.

5. Disciplinary Action. If the school official has determined bullying has occurred, and after meeting with the parents or legal guardians of the students involved, the school official shall take prompt and appropriate disciplinary action against the offender and report criminal conduct to law enforcement, if appropriate.

6. LEA Reporting

a. The LEA shall electronically report all such documented incidences of bullying to the DOE using the DOE behavior report and incidence checklist to document the details of each reported incident of bullying.

7. Appeal

a. If the school official does not take timely and effective action, the student, parent, or school employee may report the bullying incident to the school board. The school board shall begin an investigation of any properly reported complaint of bullying no later than the next school day after the board receives the report.

b. If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the DOE. The DOE shall track the number of reports, shall notify the superintendent and the president of the LEA, and shall publish the number of reports by school district on its website.

8. Parental Relief. If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the LEA.

a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the LEA for the transfer of the student to another school under the LEA's jurisdiction.

- b. The LEA shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the LEA has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the LEA shall:
- i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;
 - ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the LEA;
 - iii. enter into a memorandum of understanding with the superintendent of another LEA to secure a placement and provide for the transfer of the student to a school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.
- c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.
- d. At the end of any school year, the parent or legal guardian may request that the LEA transfer the student back to the original school. The LEA shall make a seat available at the school.

Dating and Relationship Violence

LAWS

§17:81. General powers of local public school boards.

T. (1) Each school year the governing authority of each public school shall provide to students in grades seven through twelve enrolled in Health Education age and grade appropriate classroom instruction relative to dating violence.

(2) Such instruction shall include but need not be limited to providing students with the following information:

- (a) The definition of "dating violence", which is a pattern of behavior where one person threatens to use, or actually uses, physical, sexual, verbal, or emotional abuse to control his or her dating partner.
- (b) Dating violence warning signs.
- (c) Characteristics of healthy relationships.

REGULATIONS

LAC 28: CXV.1129. Dating violence.

A. At the beginning of each school year, each LEA shall provide all school employees having contact with students in grades 7 through 12 instruction relative to:

1. the definition of dating violence;
2. dating violence warning signs; and
3. how to properly address suspected or reported dating violence involving students including but not limited to counseling and notification of law enforcement.

B. Each LEA shall also provide information relative to dating violence to the parents of students in grades 7 through 12.

C. In the spring of each school year, each local superintendent or CEO shall make an oral report at a meeting of the local governing authority that shall include

1. the compliance of each school with the requirements of this section;
2. aggregate data relative to dating violence; and
3. any recommendations for reducing data violence among students.

LAC 28: CXV.1302. Student code of conduct.

A. Each LEA shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. Such student code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.
2. Each LEA shall adopt and incorporate into its student code of conduct a policy prohibiting the bullying of a student by another student, which includes the definition of bullying and all other requirements listed in the following Section.
3. Each LEA shall include in its student code of conduct the definition of dating violence, data violence warning signs and instructions for reporting or seeking help relative to dating violence.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§17:252. School master plans for supporting student behavior and discipline.

A. (1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

(a) Improving communication, coordination, and collaboration between the schools and juvenile justice agencies.

(b) Improving safe school planning.

(c) Revising school zero tolerance policies to ensure compliance with all applicable provisions of law to ensure that schools do not make inappropriate referrals to juvenile justice agencies.

(d) Providing improved mental health services in or through the schools.

(e) Providing better assistance to parents in knowing about and accessing family strengthening programs.

(f) Improving the coordination of special education and juvenile justice services.

(g) Improving classroom management using positive behavioral supports and other effective disciplinary tools.

(h) Improving methods and procedures for the handling of school suspensions, the referral of students to alternative schools, and the use of seclusion and physical restraint in addressing challenging student behavior.

(i) Providing for better and more useful reporting on an annual basis of school behavioral and disciplinary problems.

B. Each city, parish, and other local public school board shall cause to be developed and shall submit by October 1, 2004, a master plan for each school under the board's jurisdiction for improving behavior and discipline in each such school based on the model master plan developed and approved by the State Board of Elementary and Secondary Education.

C. The model master plan for improving behavior and discipline within the schools and the school master plans required of city, parish, and other local public school boards by this Section shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons in accordance with the provisions of R.S. 17:416.

D. (1) The school master plans required of city, parish, and other local public school boards by this Section shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

(2) City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

§17:253. Advisory council on student behavior and discipline.

A. There is hereby established the Advisory Council on Student Behavior and Discipline to provide advice and guidance to the State Board of Elementary and Secondary Education and the state Department of Education regarding best practices in providing support to public school governing authorities in the adoption and implementation of each school's master plan for student behavior and discipline as provided in R.S. 17:252.

B. The advisory council shall be composed of twenty nine members as follows:

- (1) The state superintendent of education, or his designee.
- (2) Three members shall be appointed by the Louisiana Association of Principals. The association shall appoint one principal or assistant principal from the elementary, middle school, and high school levels.
- (3) One member shall be a local school superintendent, appointed by the Louisiana Association of School Superintendents.
- (4) One member shall be a child welfare and attendance officer, appointed by the Louisiana Association of School Superintendents.
- (5) One member shall be a safe and drug-free schools coordinator, appointed by the Louisiana Association of School Superintendents.
- (6) One member shall be a director of special education, appointed by the Louisiana Association of Special Education Administrators.
- (7) One member shall be a pupil appraisal coordinator, appointed by the Louisiana Association of School Superintendents.
- (8) Three members shall be the parent of a child who presents challenging behavior, two of whom shall be the parent of a child with exceptionalities, other than gifted and talented, all of whom shall be appointed by the Louisiana Developmental Disabilities Council.
- (9) One member appointed by the Louisiana Developmental Disabilities Council.
- (10) One member appointed by the Louisiana Advocacy Center.
- (11) One member appointed by the Louisiana School Boards Association.
- (12) One member appointed by the Louisiana Council of Juvenile and Family Court Judges.
- (13) The secretary of the Department of Health and Hospitals, or his designee.
- (14) One member shall be a classroom teacher appointed by the Louisiana Federation of Teachers.
- (15) One member shall be a classroom teacher appointed by the Louisiana Association of Educators.
- (16) One member shall be a classroom teacher appointed by the Associated Professional Educators of Louisiana.
- (17) One member appointed by the Southern Poverty Law Center.
- (18) One member appointed by the Louisiana Association of Public Charter Schools.
- (19) One member appointed by the Louisiana Center for Children's Rights.
- (20) One member appointed by the Louisiana Parent Teacher Association.
- (21) The executive director of Families and Friends of Louisiana's Incarcerated Children, or his designee.
- (22) The president of the Urban League of Louisiana, or his designee.
- (23) The president of Metro Morphosis, or his designee.
- (24) The president of the Louisiana Psychological Association, or his designee.
- (25) The president of the Louisiana School Counselors Association, or his designee.

C. The state superintendent of education shall convene the first meeting of the advisory council not later than September 1, 2016, and the state Department of Education shall provide staff support to the council.

- D. The council shall serve in an advisory capacity and shall comply with the Open Meetings Law.
- E. By February fifteenth of each calendar year, the members of the council shall elect a new chair from among its membership.
- F. The council shall meet at least three times annually. Meetings shall be called by the chair, who shall set the agenda.
- G. The advisory council shall annually submit a written report to the Senate Committee on Education, the House Committee on Education, and the State Board of Elementary and Secondary Education regarding its findings and recommendations with respect to the implementation of school master plans for improving student behavior and discipline as provided in R.S. 17:252.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

§17:252. School master plans for supporting student behavior and discipline.

A. (1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

(g) Improving classroom management using positive behavioral supports and other effective disciplinary tools. [...]

D. (1) The school master plans required of city, parish, and other local public school boards by this Section shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

(3) Rules and regulations pursuant to Paragraph (2) of this Subsection shall include all of the following:

(a) Such services shall be provided to the school governing authority at the actual costs incurred by the provider, not to exceed for each student the pro rata share of the combined state and local per pupil amount of the minimum foundation program for such governing authority.

(b) In an effort to support the on-time graduation of students who are suspended, expelled, or at high risk for dropping out or entry into the juvenile justice system, academic, behavioral, and mental health interventions must be provided. Interventions offered shall include but not be limited to the following:

(ii) Behavioral interventions and supports:

(aa) Positive behavioral supports with a high ratio of positive reinforcement over punishment.

REGULATIONS

LAC 28:CI.105. Pupil Appraisal Services.

A. Pupil appraisal services comprise an integral part of the total instructional program of the LEA. The purpose of pupil appraisal services is to assist students who have academic, behavioral, and/or communication challenges, adjustment difficulties, or other special needs which are adversely impacting

the student's educational performance by providing services to students, parents, teachers, and other school personnel. These services include, but are not limited to the examples provided below:

1. assistance to teachers and other school personnel in the development and implementation of behavioral and/or instructional interventions through a district's Response to Intervention (RTI) process, positive behavior support process, or other intervention processes.

LAC 28:CI.301. Response to intervention.

A. The Response to Intervention (RTI) process is a three-tiered approach to providing services and interventions to struggling learners and/or students with challenging behaviors at increasing levels of intensity. Essential components of the process include three tiers of instruction and intervention, use of standard protocols and/or problem-solving methods, and an integrated data collection/assessment system to inform decisions at each tier of instruction/intervention. The process incorporates increasing intensities of instruction and/or intervention that are provided to students in direct proportion to their individual needs. Embedded in each tier is a set of unique support structures or activities that help teachers implement, with fidelity, research-based curricula, instructional practices, and interventions designed to improve student achievement. RTI is designed for use when making decisions in both general and special education, creating a well-integrated system of instruction and intervention guided by student outcome data.

LAC 28:CI.1511. School psychological services.

A. Definition. School Psychological Services include but are not limited to:

6. assisting in developing positive behavioral intervention strategies.

LAC 28:CI.1513. School social work services.

A. Definition. Social Work Services in schools include but are not limited to:

5. assisting in developing positive behavioral intervention strategies to address behaviors of concern that will enhance the student's ability to benefit from his or her educational experience.

LAC 28:CXV.337. Written Policies and Procedures.

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Each LEA shall have policies and procedures that address, but are not limited to, the following:

24. grade appropriate classroom management training for teachers, principals, and other appropriated school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

LAC 28:CXLIX.501. Safety and Counseling.

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:

- a. provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:
 - i. positive behavior interventions and supports;
 - ii. restorative practices; or
 - iii. trauma-informed response; and

b. detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

LAC 28: CXV.1304. Classroom Management Training for School Staff [Formerly §1302].

A. The school master plans for improving behavior and discipline required of LEAs shall make provision for pre-service and ongoing grade-appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. LEAs shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

Prevention

LAWS

§17:13.1. Crime Prevention in Schools Act.

A. The state Department of Education shall develop and implement, with the approval of the State Board of Elementary and Secondary Education, minimum guidelines for a program on the prevention of crime and disruptive behavior in public schools by the 1993-94 school year. In order to decrease the epidemic level of crime in and around public elementary and secondary schools, the department shall coordinate the instruction, development, and training of teachers in the crime prevention in schools program, provide for the preparation and distribution of instructional materials, and develop program guidelines.

B. In developing the program guidelines, the department, at a minimum, shall:

- (1) Assess the problem of disruptive behavior and crime in local school systems in order to provide data on a statewide basis and to define the specific needs of the students.
- (2) Define the goals for alleviating disruptive and criminal behavior in schools.
- (3) Provide continued training of personnel within the department and within local school systems to enhance the development and training of personnel relative to the prevention of crime and disruptive behavior.
- (4) Provide for community programs to educate members of the community concerning crime and disruptive behavior in schools and to involve the community in contributing to the solution to these problems.
- (5) Provide for continuing research to define further needs to accomplish the ultimate goal of decreasing crime and disruptive behavior in schools and to refine any programs developed to meet these needs.
- (6) Provide for the coordination of school safety programs and any other existing programs addressing drug and alcohol abuse, gang membership, and gang violence.
- (7) Review available materials and programs established and funded by the Drug-Free Schools and Communities Program for incorporation into any program guidelines.
- (8) Consider any other existing programs within the state which may be utilized or modified in order to deliver the program to the city and parish schools in the state.

C. The program shall be funded by the state and the department may enrich the program using monies available from other sources.

D. Each city and parish school board shall submit a program for approval to the State Board of Elementary and Secondary Education by the 1994-1995 school year. Any such program shall be developed in accordance with the minimum guidelines established by the state Department of Education.

Each city and parish school board shall also submit a budget and a method of evaluation of the local program to the board for approval prior to implementation.

§17:286. Violence prevention, self-esteem, and peer mediation.

A. Any public elementary school may offer instruction in violence prevention, self-esteem, and peer mediation. Any public secondary school may offer instruction in self-esteem and peer mediation. The curriculum for such instruction shall be developed and approved by the State Board of Elementary and Secondary Education.

B. The State Board of Elementary and Secondary Education shall adopt necessary rules and regulations to insure the proper implementation of this Section and any city or parish school board offering such instruction shall do so in accordance with such rules and regulations.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§17:282.2. Character education programs; legislative findings; clearinghouse for information; permissive curriculum; dissemination of information; progress reports; rules and regulations.

A. The legislature finds and acknowledges that while character development is a parental responsibility, the responsibility also extends to others. The legislature further finds that character education must be augmented and reinforced by public schools in order to prepare students to be productive, self-sufficient citizens who can ably assume societal responsibilities.

B. The State Board of Elementary and Secondary Education shall provide a clearinghouse for information on nonsectarian practices in character education programs within Louisiana and across the nation in order to assist public elementary and secondary schools in improving character education. Clearinghouse information shall include information about comprehensive character education programs or curricula, which focus on the development of character traits such as honesty, fairness, and respect for self and others.

C. Any city or parish school system may offer a nonsectarian character education curriculum pursuant to the provisions of this Section in kindergarten through grade twelve, which focuses on the development of character traits such as honesty, fairness, respect for self and others, or other character traits as determined by individual school communities.

D. The state superintendent of education shall insure that information on nonsectarian practices, models, and potential funding sources relative to character education programs is disseminated to all city and parish school systems in the state by not later than August 1, 1999, and by not later than August first annually thereafter.

E. Beginning January 1, 1999, the state superintendent shall annually provide a progress report on the implementation of the provisions of this Section and the effectiveness thereof to the House Committee on Education, the Senate Committee on Education, and the governor.

F. The State Board of Elementary and Secondary Education shall adopt rules and regulations in accordance with the Administrative Procedure Act necessary for the implementation of this Section and any city or parish school system offering a character education curriculum shall do so in accordance with such rules and regulations.

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

A. (1) The legislature finds that early identification and intervention of aggressive, antisocial, or delinquent behaviors are critical components in recognizing and preventing chronic juvenile delinquency in later years.

(2) The legislature further finds that school-based preventive interventions for violent or aggressive behavior in youth are recognized as beneficial to the overall developmental success of students.

(3) The legislature recognizes that the introduction of violence prevention strategies in the early elementary grades may reduce the incidence of delinquent behaviors in the later grades, especially when such programs include parental involvement in the prevention and intervention strategies.

(4) The purpose of this Section is to authorize elementary schools to develop prevention and intervention strategies to address disruptions and violence in schools to create safe school environments in which teachers can teach and students can learn and which increase student and family connectedness to the school.

B. A school may, upon approval of its governing authority, develop and offer youth development and assistance programs that employ violence prevention and intervention initiatives for students in kindergarten and the elementary grades. Such programs shall provide for early identification of and support for students who are at risk before their behavior escalates into aggression or disruption, disciplinary problems, or juvenile delinquency.

C. (1) A youth development and assistance program may consist of age- or grade-appropriate alternative classrooms during school or special intervention or prevention programs before, after, or during the school day.

(2) Such programs may include but shall not be limited to the following components:

(a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

(b)(i) Provision of services which support the parents of students identified with behavioral needs that may need intervention or support. Such parent services may include literacy services or parental training.

(ii) Required participation of any parent of a student so identified in such intervention at the school or other designated facility.

(c) Collaboration with community-based organizations, including but not limited to youth services, civic, social services, mental health, volunteer services, and juvenile justice agencies.

D. The provisions of this Section shall be implemented upon the approval of each city, parish, or other local public school board of any program submitted by a school and the availability of funds to a school for such purpose.

REGULATIONS

LAC 28: CXV.2305. Ancillary Areas of Instruction.

A. Each LEA may develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

LAC 28: CXLIX.501. Safety and Counseling.

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:

a. provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:

- i. positive behavior interventions and supports;
- ii. restorative practices; or
- iii. trauma-informed response; and

b. detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

B. In addition to the required behavioral interventions and supports, alternative sites must prioritize the following:

1. adopt and implement a social-emotional learning curriculum for use that aligns to the selected behavioral intervention and overall behavioral approach selected by the site;
2. maintain a list of identified student growth measures, such as evaluation plans, assessments, and learning outcomes, that measure student behavioral improvement resulting from evidence-based behavioral intervention; and
3. identify annually a set of implementation fidelity measures used to evaluate the efficacy of the selected behavioral intervention and assess interventions needing improvement.

Trauma-informed Practices

LAWS

§17:437.1. Suicide prevention; in-service training; materials and supplies; limitation on liability.

B. (1) The board shall adopt rules to require that all public and approved nonpublic school teachers, school counselors, and principals and, as determined by the board, other school administrators for whom such training is deemed beneficial participate annually in at least two hours of in-service training in suicide prevention. Such rules shall include provisions permitting such training to be provided by self-review of suitable materials.

(2) The training shall address the following:

(a) Increasing awareness of risk factors including but not limited to the following:

- (i) Mental health and substance abuse conditions.
- (ii) Childhood abuse, neglect, and trauma.
- (iii) Potential causes of stress, such as bullying, harassment, and relationship problems.
- (iv) Secondary trauma from a suicide or sensationalized or graphic accounts of suicide in media.
- (v) History of suicide attempts and related family history.

REGULATIONS

LAC 28: CXV.1127. Preventive Programs.

D. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools shall receive two hours of annual in-service training in suicide prevention. The training shall address the following:

1. increasing awareness of risk factors, including, but not limited to the following:

- b. childhood abuse, neglect, and trauma; [...]
- d. secondary trauma from a suicide or sensationalized or graphic accounts of suicide in media.

LAC 28:CXLIX.701. Annual Professional Development Plan.

A. Alternative education sites will create an annual professional development plan that will:

1. identify staff training needs;
2. match needs to relevant training;
3. emphasize quality implementation of evidence-based and best practices; and
4. establish performance evaluations aimed at improving program and student outcomes and overall school or program quality.

B. Alternative sites must identify and provide annual staff professional development trainings and tools to that support the target student population as identified in the alternative education site application which includes, but is not limited to:

1. behavioral interventions;
2. classroom management;
3. trauma-informed response;
4. adverse childhood experiences (ACEs); and
5. implementation strategies for selected behavioral interventions.

Mental Health Literacy Training

LAWS

§17:437.1. Suicide prevention; in-service training; materials and supplies; limitation on liability.

A. The State Board of Elementary and Secondary Education shall develop and adopt guidelines for in-service training in suicide prevention as provided for in Subsection B of this Section. The board, in coordination with the Louisiana Department of Health, shall identify suitable programs for use in such training. The state Department of Education shall post on its website a listing of approved programs. The list shall include instructions on accessing such programs. The board shall update the list every five years.

B. (1) The board shall adopt rules to require that all public and approved nonpublic school teachers, school counselors, and principals and, as determined by the board, other school administrators for whom such training is deemed beneficial participate annually in at least two hours of in-service training in suicide prevention. Such rules shall include provisions permitting such training to be provided by self-review of suitable materials.

(2) The training shall address the following:

(a) Increasing awareness of risk factors including but not limited to the following:

- (i) Mental health and substance abuse conditions.
- (ii) Childhood abuse, neglect, and trauma.
- (iii) Potential causes of stress, such as bullying, harassment, and relationship problems.
- (iv) Secondary trauma from a suicide or sensationalized or graphic accounts of suicide in media.
- (v) History of suicide attempts and related family history.

(b) How teachers should respond to suspicious behavior or warning signs exhibited by students.

(c) How teachers should respond to a crisis situation in which a student is in imminent danger to himself.

(d) Policies and protocol for communication with parents, including specifications for circumstances in which parental notification is not in the best interest of the student.

(e) Counseling services available within the school for students and their families related to suicide prevention.

(f) Dissemination of information concerning crisis intervention, suicide prevention, and mental health services in the community for students and their families and school employees.

(g) Community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the school system and such an entity in the community or region.

C. (1) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of or good faith attempt to implement the provisions of this Section or resulting from any training or lack thereof required by this Section, unless such loss or damage was caused by willful or wanton misconduct.

(2) Neither the training required by this Section nor the lack thereof shall be construed to impose any specific duty of care.

D. (1) The State Board of Elementary and Secondary Education shall randomly survey employees of public and approved nonpublic secondary schools to ascertain their compliance with the suicide prevention training requirements of this Section.

(2) The governing authority of each such secondary school shall document and verify to the state Department of Education, by December thirty-first of each year, that all school employees have received the mandatory suicide prevention training as outlined in this Section.

(3) The board shall annually develop a written report of the survey findings and any recommendations and shall submit such report to the Senate Committee on Education, the House Committee on Education, the Senate Committee on Health and Welfare, and the House Committee on Health and Welfare not later than March first of each year.

REGULATIONS

LAC 28: CXV.1127. Preventive Programs.

A. Preventive programs are those programs aimed at identifying and eliminating problems that impede student learning.

B. Each LEA shall have a program on the prevention of crime and disruptive behavior.

C. Each LEA may develop and implement, after submission to BESE for approval, a plan for the modification of approved course content and structure to produce interdisciplinary courses for purposes of enhancing dropout prevention programs.

D. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools shall receive two hours of annual in-service training in suicide prevention. The training shall address the following:

1. increasing awareness of risk factors, including, but not limited to the following:
 - a. mental health and substance abuse conditions;
 - b. childhood abuse, neglect, and trauma;
 - c. potential causes of stress, such as bullying, harassment, and relationship problems;
 - d. secondary trauma from a suicide or sensationalized or graphic accounts of suicide in media; and
 - e. history of suicide attempts and related family history;
2. responding to suspicious behavior or warning signs exhibited by students;
3. responding to crisis situations in which a student is an imminent danger to himself;
4. policies and protocol for communication with parents, including specifications for circumstances in which parental notification is not in the best interest of the student;
5. counseling services available within the school for students and their families related to suicide prevention;

6. information concerning crisis intervention, suicide prevention, and mental health services in the community for students and their families and school employees;

7. community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the school system and such an entity in the community or region.

E. By no later than the 2020-2021 school year, the governing authority of each public secondary school that issues student identification cards shall have printed on the cards the following information:

1. the National Suicide Prevention Lifeline hotline number; and
2. a local suicide prevention hotline number, if available.

School-based Behavioral Health Programs

LAWS

§17:173. Behavioral health services for students.

A. (1) A public school governing authority shall not prohibit a behavioral health provider from providing behavioral health services to a student at school during school hours if the student's parent or legal guardian requests such services from the provider.

(2) Each public school governing authority shall adopt and make available to the public a policy to implement the provisions of this Section and such policy, at a minimum, shall provide that:

(a) A behavioral health provider who provides services pursuant to this Section shall maintain general liability insurance coverage in an amount not less than one million dollars per occurrence and one million dollars per aggregate and provide a certificate of insurance naming the public school as the certificate holder.

(b) A behavioral health provider shall complete a criminal background check conducted by the Louisiana State Police and shall pay all related costs.

(c) Behavioral health services shall be permitted during school hours if the student's parent or legal guardian presents a behavioral health evaluation performed by an evaluator chosen by the parent or legal guardian and the evaluation indicates that the services are necessary during school hours to assist the student with behavioral health impairments that the evaluator determines are interfering with the student's ability to thrive in the educational setting. A behavioral health evaluation presented by the parent or legal guardian of a student shall not be construed as an independent educational evaluation for purposes of determining if a student meets the criteria established for eligibility for special education and related services.

(d) Behavioral health services may be provided during instructional time in English, reading, mathematics, and science if the public school governing authority and the behavioral health provider agree that it is in the best interest of the student.

(e) A public school governing authority shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student. However the provisions of this Subparagraph shall not impair any extant contract on the effective date of this Section, or the renewal thereof.

(f) The cost of all behavioral health services provided to a student shall be the sole responsibility of the parent or legal guardian, individually or through an applicable health insurance policy, Medicaid, or other third-party payor, other than the public school governing authority, that has made funds available for the payment for the services provided.

(g) While on a school campus, a behavioral service provider shall comply with, and abide by, the terms of any Individualized Education Plan, Individualized Accommodation Plan, Section 504 Plan, Behavior Management Plan, or Individualized Health Plan applicable to a student who is a patient of

the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to a student.

(h) The parent or legal guardian of a student receiving services from a behavioral service provider shall be required to execute a "consent to release information form" between the provider and the public school governing authority.

(i) A public school governing authority shall establish reporting requirements for a behavioral health provider related to the student's progress and student and school safety concerns as related to the student's educational program.

(j) A public school governing authority may establish sanctions, including termination of a provider's authorization to provide services on any school campus, against a behavioral health provider for failure to comply with the governing authority's policy.

(3) The failure of a public school governing authority to adopt a policy shall not be cause to prohibit the provision of behavioral health services to a student as provided in this Section.

B. For purposes of this Section, the following terms shall have the following meanings:

(1) "Applied behavior analysis provider" shall mean a provider who is licensed, certified, or registered by the Louisiana Behavior Analyst Board and is in good standing to provide applied behavior analysis services.

(2) "Applied behavior analysis services" shall include the design, implementation, and evaluation of systematic instructional and environmental modifications by an applied behavior analysis provider to produce socially significant improvements in behavior as described in the Behavior Analyst Practice Act.

(3) "Behavioral health evaluation" shall include but not be limited to the following criteria:

(a) Diagnosis.

(b) Type of intervention.

(c) Length of intervention.

(d) Identification of a student's goals.

(e) Identification of impact of student behavior on a student's educational program.

(f) Recommendations for applied behavior analysis services.

(4) "Behavioral health provider" shall mean a provider who is licensed by the Louisiana Department of Health or a health profession licensing board and is in good standing to provide behavioral health services in Louisiana including but not limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, marriage and family therapist, professional counselor, clinical social worker, applied behavior analysis provider, or a behavioral health provider organization licensed to provide behavioral health services in Louisiana.

(5) "Behavioral health services" shall include but not be limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services.

(6) "Evaluator" shall mean a licensed psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, professional counselor, marriage and family therapist, clinical social worker, or applied behavior analysis provider who is certified by the respective board of examiners in Louisiana to provide necessary evaluations and who is not an employee of the public school governing authority or the state Department of Education.

C. Nothing in this Section shall be construed to supersede any of the following:

(1) The authority of a student's Individualized Education Program team or Section 504 committee to determine appropriate services for a student pursuant to applicable federal and state law.

(2) The provisions of the Behavioral Health Services Provider Licensing Law or any regulation promulgated by the Louisiana Department of Health pursuant to that law.

(3) The provisions of the Behavior Analyst Practice Act.

§17:252. School master plans for supporting student behavior and discipline.

A. (1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

(d) Providing improved mental health services in or through the schools.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

D.(3)(b) In an effort to support the on-time graduation of students who are suspended, expelled, or at high risk for dropping out or entry into the juvenile justice system, academic, behavioral, and mental health interventions must be provided. Interventions offered shall include but not be limited to the following:

(ii) Behavioral interventions and supports:

(aa) Positive behavioral supports with a high ratio of positive reinforcement over punishment.

(bb) Behavioral shaping steps aligned to assessed behavioral needs and goals.

(cc) Mentoring and frequent behavioral feedback focused on individualized shaping steps for students enrolled.

(dd) Successive approximations and reinforcements to develop more complex social behaviors.

(iii) Mental health interventions and supports:

(aa) Evidence-based cognitive behavioral interventions to address, anger, impulsivity, and aggression.

(bb) Interventions to address past childhood traumas, including forms of abuse and neglect, being a victim of or a witness to violence, and involvement in natural disasters.

(cc) Interventions to address substance use and to prevent substance abuse.

(dd) Interventions to build life skills and social skills in order to increase employability and success in the community.

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

C. (1) A youth development and assistance program may consist of age- or grade-appropriate alternative classrooms during school or special intervention or prevention programs before, after, or during the school day.

(2) Such programs may include but shall not be limited to the following components:

(a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

(b)(i) Provision of services which support the parents of students identified with behavioral needs that may need intervention or support. Such parent services may include literacy services or parental training.

(ii) Required participation of any parent of a student so identified in such intervention at the school or other designated facility.

(c) Collaboration with community-based organizations, including but not limited to youth services, civic, social services, mental health, volunteer services, and juvenile justice agencies.

REGULATIONS

LAC 28:CI.1511. School psychological services.

A. Definition. School Psychological Services include but are not limited to:

1. administering psychological and educational tests, and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about student behavior and conditions relating to learning (which may also include assisting in the development of academic intervention strategies, progress monitoring, evaluating intervention and service delivery outcomes, conducting functional behavior assessments, and conducting program evaluations);
4. consulting with other staff members in planning school programs to meet the special educational needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
5. planning and managing a program of psychological services, including psychological counseling for students and parents (which may also include implementing and/or monitoring interventions, conducting social skills training, anger management/conflict resolution training, study skills training, substance abuse prevention, crisis prevention and intervention, parent skills training, and coordinating services with other community agencies.); and
6. assisting in developing positive behavioral intervention strategies.

B. Criteria for Eligibility

1. Evidence of criteria listed in Subparagraphs a and b below shall be met.
 - a. The student is classified and eligible for special education services.
 - b. There is documented, observable and measurable evidence that school psychological services are necessary for the student to benefit from special education.

C. Procedures for Evaluation

1. The assessment shall be conducted by a certified school psychologist and shall include at a minimum the following procedures:
 - a. a review, analysis and determination of the appropriateness of evidence documenting the specific referral concern(s);
 - b. a systematic observation in the setting(s) in which the concern is manifested; and
 - c. any additional procedures judged necessary to determine if the area of concern interferes with the student's ability to benefit from his or her educational program.
2. The assessment should be designed to provide recommendations for interventions, strategies and/or services necessary to improve the student's educational performance. Such recommendations should take into account the diverse activities involving direct and indirect service provision that comprise the delivery system described in Subsection A above. These activities complement one another and therefore are most accurately viewed as being integrated and coordinated rather than discrete services. The provision of services shall be determined at the IEP Team meeting, using the results and recommendations of the assessment. The continuation of services will be determined at the annual IEP review using input from the school psychologist.

LAC 28:CI.1513. School social work services.

A. Definition. Social Work Services in schools include but are not limited to:

1. preparing a social or developmental history on a student with a disability;

2. providing group and individual counseling with the student and the family. (This may include linking them to community resources, helping them to actively participate in the student's educational process, and providing crisis intervention services in the event of a death, illness, or community trauma. The school social worker shall maintain adequate safeguards for the privacy and confidentiality of information, and maintain data that is relevant to planning management and evaluation of school social work services.);

3. working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school. (The school social worker will advocate for services to be provided in the context of multicultural understanding and competence, as well as work collaboratively as a part of an interdisciplinary team that will enhance the student's academic performance.);

4. mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and

5. assisting in developing positive behavioral intervention strategies to address behaviors of concern that will enhance the student's ability to benefit from his or her educational experience.

B. Criteria for Eligibility

1. Evidence of criteria listed in Subparagraphs a and b below must be met.

a. The student is classified and eligible for special education services.

b. There is documented, observable and measurable evidence that school social work services are necessary for the student to benefit from special education.

C. Procedures for Evaluation

1. The assessment shall be conducted by a qualified school social worker and shall include the supporting documentation of the psycho-social stressors (see Appendix) being experienced by the student and/or his family and will include at a minimum the following procedures:

a. a review, analysis and determination of the appropriateness of evidence documenting the specific referral concern;

b. a family interview;

c. an interview with the student;

d. interview(s) with the students teacher(s); and

e. review of available mental health and/or health records.

2. The assessment should be designed to provide recommendations for interventions, strategies and/or services necessary to improve the student's educational performance. Such recommendations should take into account the diverse activities involving direct and indirect service provision that comprise the delivery system described in Subsection A above. These activities complement one another and therefore are most accurately viewed as being integrated and coordinated rather than discrete services. The provision of services shall be determined at the IEP Team meeting, using the results and recommendations of the assessment. The continuation of services will be determined at the annual IEP review using input from the school social worker.

LAC 28: CXV.1127. Preventive Programs.

A. Preventive programs are those programs aimed at identifying and eliminating problems that impede student learning.

B. Each LEA shall have a program on the prevention of crime and disruptive behavior.

C. Each LEA may develop and implement, after submission to BESE for approval, a plan for the modification of approved course content and structure to produce interdisciplinary courses for purposes of enhancing dropout prevention programs.

D. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools shall receive two hours of annual in-service training in suicide prevention. The training shall address the following:

1. increasing awareness of risk factors, including, but not limited to the following:
 - a. mental health and substance abuse conditions;
 - b. childhood abuse, neglect, and trauma;
 - c. potential causes of stress, such as bullying, harassment, and relationship problems;
 - d. secondary trauma from a suicide or sensationalized or graphic accounts of suicide in media; and
 - e. history of suicide attempts and related family history;

2. responding to suspicious behavior or warning signs exhibited by students;
3. responding to crisis situations in which a student is an imminent danger to himself;
4. policies and protocol for communication with parents, including specifications for circumstances in which parental notification is not in the best interest of the student;
5. counseling services available within the school for students and their families related to suicide prevention;
6. information concerning crisis intervention, suicide prevention, and mental health services in the community for students and their families and school employees;
7. community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the school system and such an entity in the community or region.

E. By no later than the 2020-2021 school year, the governing authority of each public secondary school that issues student identification cards shall have printed on the cards the following information:

1. the National Suicide Prevention Lifeline hotline number; and
2. a local suicide prevention hotline number, if available.

LAC 28:CXLIX.1501. Counseling and Community Partnerships [Formerly § 1701].

A. Alternative education sites must provide students with academic, behavioral, and social-emotional counseling designed to promote student academic progress and to address the underlying causes of student behavioral misconduct.

B. Counseling provided by the site or per R.S. 17:416.2 may include student access to mental health supports and interventions via a community partnership that includes evidence-based cognitive interventions to support improved student behavior, address childhood trauma, and enhance social skills to increase the likelihood of the student success.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§14:403.1. Substance abuse in schools; definitions; confidential reports; immunity; penalty.

A. The purpose of this Section is to protect teachers, administrators, school support personnel, and employees of the public school systems of this state from liability for damages as a result of reporting substance abuse on school campuses. It is intended that as a result of such reporting, the children attending schools in this state shall not be exposed to substance abuse while on campus, and law enforcement shall be aided in efforts to eradicate substance abuse by students.

B. For the purposes of this Section, the following terms shall mean:

- (1) "Person" is any employee of a public school system including, but not limited to, teachers, administrators, school bus drivers, janitors, lunch room workers, maintenance employees, and coaches of athletic teams.
- (2) "Student" is any person enrolled at school, including any person so enrolled but on temporary suspension, and any person physically on campus, whether a student or non-student.
- (3) "School" is any public elementary or secondary school in the state of Louisiana.
- (4) "Campus" is all facilities and property within the boundary of the school property and all vehicles used for public transportation of students.
- (5) "Controlled dangerous substance" is any substance regulated or defined in the Uniform Controlled Dangerous Substance Law, Part X, Chapter IV of Title 40 of the Louisiana Revised Statutes of 1950, except where prescribed by a physician and possessed and consumed by the person for whom prescribed.
- (6) "Substance Abuse Prevention Team," hereafter sometimes referred to as "the team," is a panel of not less than six members consisting of at least one (a) administrator, (b) teacher, (c) guidance counselor, (d) parent representative, and (e) school support person. The team shall be trained by personnel from the Substance Abuse Prevention Education Program of the Louisiana Department of Education.

In the absence of the availability of a team trained by personnel from the Substance Abuse Prevention Education Program, the principal of a school may establish a substantially similar panel which shall be considered a substance abuse prevention team.

C. (1) Any person having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus, under circumstances other than those described in Paragraph (2) of this Subsection, shall report such fact to the principal of the school or to the chairman of the Substance Abuse Prevention Team on a report form prepared by the Department of Education or on a substantially similar form. If the report is to the principal, the principal immediately shall forward it to the chairman of the team.

The team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall also meet with the parents of the student reported. The team shall thereafter report to the principal of the school and make recommendations for treatment, counselling, or other appropriate action.

(2) Any person having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon a finding that there is reasonable cause to believe that the student has manufactured,

distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency. If the principal determines that there are reasonable grounds to believe the student possessed a controlled dangerous substance but did not manufacture, distribute, or possess with intent to distribute a controlled dangerous substance, he shall refer the matter to the Substance Abuse Prevention Team chairman.

(3) The report required in Paragraphs (1) and (2) of this Subsection shall be written and shall include the name of the person making the report, the name of the student suspected of committing the act so reported, and the specific incident which caused the reporting person to believe the act had occurred. Sufficient detail shall be included to allow the report to be adequately reviewed. When appropriate, the report shall include a behavioral profile of the student since his enrollment in class.

D. (1) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that the manufacture or distribution of a controlled dangerous substance has taken or is taking place and that delay would jeopardize or impair the ability to control the manufacture or distribution of a controlled dangerous substance on a campus.

(2) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that a student on campus is under the influence of alcoholic beverages and that delay would jeopardize or impair the ability to operate the school or result in the student's being a danger to himself or others.

(3) A law enforcement agency receiving a report under the provisions of this Subsection may conduct an investigation of the report. Such investigation may include the administering, upon the school grounds and after consent has been obtained from student's parent or legal tutor, of a breath or urine test for the presence of alcohol or a controlled dangerous substance, if the investigating officer has reasonable cause to believe the student is or recently was on campus while under the influence of alcoholic beverages or a controlled dangerous substance. The methods for the administration and analysis of a breath or urine test under the provisions of this Subsection shall be the same as for chemical testing and analysis authorized under R.S. 32:663. The results of a breath or urine test authorized under this Subsection shall be provided solely to the student, the parent or legal tutor of the student, the principal of the school, and the chairman of the Substance Abuse Prevention Team, and shall not be used as the basis for any disciplinary proceeding against the student. The law enforcement agency may keep a copy of the test results which copy shall not be a public record and shall not be open for public inspection but shall be kept confidential under lock and key and maintained only for internal record keeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. The test results shall be exempt from the Public Records Act [Link to the text of the note](#) and shall not be admissible as evidence in any civil or criminal trial, hearing, or other proceeding.

E. All reports filed pursuant to this Section shall be confidential. The identity of the reporting person shall not be disclosed except when the constitution of the State of Louisiana or the United States so requires. All reports shall be exempt from the Public Records Act.

F. Any person who makes a report in good faith, pursuant to Subsections C and D of this Section, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

G. The willful failure by a person with permanent status to make a report required by Subsection C of this Section shall constitute willful neglect of duty which may subject the person to dismissal pursuant to R.S. 17:443, R.S. 17:462, R.S. 17:493, R.S. 17:523, or R.S. 17:533, as appropriate. Any person without permanent status may be dismissed for willful neglect of duty under this Section after a hearing in accordance with the procedures set forth in R.S. 17:443.

§17:7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(f)(i) In addition to any other requirements of the minimum foundation program formula as most recently adopted by the State Board of Elementary and Secondary Education and approved by the legislature, the state board, beginning with the 2010-2011 school year and continuing thereafter, shall require each city, parish, or other local public school board to expend funds generated by applying the weighted factors contained in such formula for at-risk students, career and technical education course units, special education students other than gifted and talented students, and gifted and talented students on personnel, professional services, instructional materials, equipment, and supplies that serve the unique needs of students who generate such funds and to submit annually a written report to the State Board of Elementary and Secondary Education that details the types of activities on which these funds were expended to serve the needs of the weighted students at all schools that serve such students. The information contained in such annual report shall be published on the state Department of Education website in an easily understandable format.

(ii) Beginning with the 2009-2010 school year and continuing thereafter, the State Board of Elementary and Secondary Education shall offer guidance and technical assistance to each city, parish, or other local public school board in making strategic fiscal decisions that promote improved student achievement. Such guidance and technical assistance shall include but not be limited to the identification of best practices in school finance that promote efficiency, economies of scale, and the use of comparative data to improve spending and educational outcomes.

(iii) Beginning with the 2009-2010 school year and continuing thereafter, the State Board of Elementary and Secondary Education shall annually publish revenue and expenditure data, including but not limited to the allocation and expenditure of funds generated by the minimum foundation program, local revenues, and federal grants, for each city, parish, or other local public school board by district and by school level, to the extent possible, in an easily understandable format on the state Department of Education website. Such data shall include but not be limited to comparative per pupil expenses reported by the school system for personnel, transportation, and other major categories of common expenditures as determined by the state Department of Education.

(iv) The State Board of Elementary and Secondary Education shall establish a system for the uniform collection and reporting of all data required by this Subparagraph.

(v) For the purposes of this Subparagraph, the term "city, parish, or other local public school board" shall mean the governing authority of any public elementary or secondary school.

§17:183. Hazing; public elementary and secondary students; intent and findings; definitions; policies.

A. (1) It is the intent of the legislature that every public elementary and secondary school in this state shall be a safe, orderly, civil, and positive learning environment so that no student in this state feels threatened while in school.

(2) The legislature finds that while some forms of initiation for membership in student clubs and organizations constitute acceptable behavior, the hazing of students may degenerate into a dangerous form of intimidation and degradation.

B. (1) As used in this Section, "hazing" means any knowing behavior, whether by commission or omission, of any student to encourage, direct, order, or participate in any activity which subjects another student to potential physical, mental, or psychological harm for the purpose of initiation or admission into, affiliation with, continued membership in, or acceptance by existing members of any organization or extracurricular activity at a public elementary or secondary school, whether such behavior is planned or occurs on or off school property, including any school bus and school bus stop.

(2) Hazing does not mean any adult-directed and school-sanctioned athletic program practice or event or military training program.

C. Hazing is prohibited in public elementary and secondary schools.

D. (1) Each city, parish, and other local public school board shall develop, adopt, and post a policy to enforce the prohibition in this Section against hazing and to prevent its occurrence.

(2) Each such policy shall include, at a minimum, the following:

(a) A statement that hazing of students, as defined in Subsection B of this Section, is prohibited.

(b) A statement that any solicitation to engage in hazing is prohibited.

(c) A statement that aiding and abetting another person who engages in hazing is prohibited.

(d) A statement that consent of the hazing victim is not a defense.

(e) A statement that all students, teachers, and other school employees shall take reasonable measures within the scope of their individual authority to prevent violations of the policy.

(f) A description of the procedures for students, teachers, and other school employees to report violations of the policy and the procedures to file a complaint for a violation of the policy.

(g) Procedures to investigate reports or complaints of violations of the policy.

(h) A description of the circumstances under which a violation of the policy shall be reported to the appropriate law enforcement agency.

(i) A description of the appropriate penalties and appeal mechanisms for persons that violate the policy.

§17:416. Discipline of students; suspension; expulsion.

A. (4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S.

17:416.13. Such rules and regulations shall include but not be limited to the following provisions:

(a) A procedure permitting any teacher or other school employee to report any violation of the provisions of this Subsection to the appropriate school principal. The procedure shall provide for the uniform use throughout the school system of two forms to report incidents of alleged discipline violations. One form shall be used to report only school transportation-related incidents and one form shall be used to report all other incidents.

(i) The form for reporting a transportation-related incident shall provide for the following information:

(aa) Bus number and name of operator.

(bb) Pupil name and grade level.

(cc) School name and name of the principal.

(dd) Date of the incident and whether it occurred on the way to or on the way from the school or school function.

(ee) A menu of check-off items to indicate the nature of the incident, including fighting or bullying at the bus stop, fighting or bullying on the bus, smoking on the bus, leaving the bus without permission, boarding the bus at the incorrect stop, showing disrespect toward the operator, committing an immoral or vicious act, throwing objects within the bus or out of bus windows or doors, refusing to occupy an assigned seat, using profane language, showing willful disobedience, defacing the bus, carrying objects or implements which can be used as weapons, or committing some other undesignated violation.

(ff) Space to provide specific remarks and comments concerning the incident and alleged discipline violation.

(gg) Space to indicate a pupil's prior history of discipline violations related to school transportation incidents.

(hh) A statement to be signed and dated by the bus operator or other school employee, if applicable, that the named pupil is causing a discipline problem, that disciplinary action against the pupil is recommended, and that the signatory desires to be informed of action taken on the incident report or the reasons for not taking action.

(ii) A space to report action taken on the incident report, including a menu of check off items to indicate that a parent or other person responsible for the pupil's school attendance has been contacted, that a conference has been conducted with the pupil's parent or other responsible person, that the pupil has been reprimanded, that the pupil has been suspended from receiving school transportation services and for what period of time, that the pupil has been suspended from school and for what period of time, or that some other action has been taken and an explanation of such action. The report on action taken shall be dated and signed by the school principal.

(jj) Space for comments and remarks by the pupil or a pupil's parent or other responsible person concerning the incident and action taken.

(kk) A menu of check off items to indicate that copies of the completed document have been supplied to the pupil's parent or other responsible person, the school's pupil file, the school employee filing the incident report, the supervisor of transportation services for the school system, and the principal.

(ll) Such other information as may be determined by the city or parish school board.

(ii) The form for reporting a nontransportation-related incident shall provide for the following information:

(aa) School name.

(bb) Name and telephone number of the pupil.

(cc) Indication of whether the pupil is in regular or special education and the pupil's homeroom number.

(dd) Time and location of the incident.

(ee) Space to provide specific remarks and comments concerning the incident and alleged discipline violation.

(ff) A menu of check off items indicating action taken by the teacher, including having a conference with the pupil, assigning remedial work, referring the pupil to a counselor, referring the pupil to a social worker, placing the pupil in detention, or taking other action with an explanation of such other action.

(gg) A menu of check off items indicating the type and date of contact with the pupil's parent or other person responsible for the pupil's school attendance, including by phone, by letter, by school conference, or by behavior reports.

(hh) A space for recommendations from the teacher or other school employee initiating the incident report.

(ii) A statement to be signed and dated by the teacher or other school employee initiating the incident report that the named pupil is causing a discipline problem, that disciplinary action against the pupil is recommended, and that the signatory desires to be informed of action taken on the incident report or the reasons for not taking action.

(jj) A space to report action taken on the incident report, including a menu of check off items to indicate contact with the pupil's parent or other responsible person, conduct of a conference with the pupil and the pupil's parent or other responsible person and a summary of conference proceedings, referral to a counselor, issuance of a reprimand, placement on detention, placement on probation, suspension, or that some other action has been taken and an explanation of such action. The report on action taken shall be dated and signed by the school principal.

(kk) Space for comments and remarks by the pupil or a pupil's parent or other responsible person concerning the incident and action taken.

(ll) A menu of check off items to indicate that copies of the completed document have been supplied to the pupil's parent or other responsible person, the school's pupil file, the teacher or other school employee filing the incident report, and the principal.

(mm) Such other information as may be determined by the city or parish school board.

(iii) The State Board of Elementary and Secondary Education shall develop the forms necessary to implement the provisions of this Subparagraph and such forms shall be used by each city and parish school board.

(b) Procedures implementing the provisions of R.S. 17:416.13 regarding bullying.

(c) A procedure requiring that, within a reasonable period of time, a principal shall review any such report and then act upon it as provided by this Section, or R.S. 17:416.13, or explain the reasons for failing to act to the local superintendent of schools or his designee and to the teacher, other school employee, student, parent, or legal guardian reporting the violation.

§17:416.13. Student code of conduct; requirement.

A. The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the local school governing authority and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in R.S. 17:416.14. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

§ 17:416.14. Bullying; definition; prohibition; notice; reporting; accountability

A. For the purposes of this Title, "bullying" shall mean:

(1) A pattern of any one or more of the following:

(a) Gestures, including but not limited to obscene gestures.

(b) Written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

(c) Physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property.

(d) Repeatedly and purposefully shunning from activities.

(2)(a) Where the pattern of behavior as provided in Paragraph (1) of this Subsection is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, at any designated school bus stop, in any school bus or any other school or private vehicle used to transport students to and from school or any school-sponsored activity or event.

(b) The pattern of behavior as provided in Paragraph (1) of this Subsection shall have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or shall be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening

educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

B. Each elementary and secondary school shall institute a program to prohibit and prevent bullying. The program shall:

- (1) Define bullying as provided in Subsection A of this Section.
- (2) Ensure each student, each student's parent or legal guardian, and each school administrator, teacher, counselor, bus operator, school employee, and volunteer is aware of his duties and responsibilities relative to preventing and stopping bullying.
- (3) Provide for a process for reporting and investigating alleged incidents of bullying.
- (4) Provide for appropriate discipline of a student found guilty of bullying.
- (5) Provide for appropriate remedies for a student found to have been bullied.
- (6) Provide for procedures for investigating and reporting each school administrator, teacher, counselor, bus operator, and school employee for failure to act as provided in Subsection I of this Section.

C. The governing authority of each public elementary and secondary school shall:

(1) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

(2) Create a program to provide a minimum of four hours of training for new employees who have contact with students and two hours of training each year for all school employees who have contact with students, including bus operators, with respect to bullying. The training shall specifically include the following:

1. How to recognize the behaviors defined as bullying in Subsection C of this Section.
2. How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.
3. How to use appropriate intervention and remediation techniques and procedures.
4. The procedures by which incidents of bullying are to be reported to school officials.
5. Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience.

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. - The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

(2)(a) Reporting. - The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website and the website of each public elementary and secondary school

(b) Students and parents. - Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or legal guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any chaperone supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. - School personnel. Any teacher, counselor, bus operator, or other school employee, whether full- or part-time, and any chaperone supervising a school function or activity, who witnesses bullying or who learns of bullying pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident, and a written report shall be filed no later than two days thereafter.

(d) Retaliation. - Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. - Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. - The State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. - An investigation shall include an interview of the reporter, the alleged victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio- visual evidence.

(b) Timing. - The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal.

(i) If the school official does not take timely and effective action pursuant to this Section, the student, parent or legal guardian, or school employee may report the bullying incident to the local school governing authority. The governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the or governing authority official.

(ii) If the local school governing authority does not take timely and effective action, the student, parent or legal guardian, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the student's parent or legal guardian of each involved student according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with his child conducted as part of the investigation. If, after three attempts in a forty-eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the alleged victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the alleged victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the alleged victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, , or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. - If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

(f) Parental Relief.

(i) If a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying, as provided in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3) of this Subsection has occurred, the parent or legal guardian with responsibility for decisions regarding the education of the alleged victim about whom the report or reports have been made may exercise an option to have the student enroll in or attend another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled on the dates when at least three of the reports were submitted.

(ii) The parent or legal guardian shall file a request with the local school superintendent for the transfer of the student to another school under the governing authority's jurisdiction.

(iii) The governing authority of the public elementary or secondary school in which the student is enrolled shall make a seat available at another public elementary or secondary school under its jurisdiction within ten school days of the parent or legal guardian's request for a transfer. If the governing authority has no other school under its jurisdiction serving the grade level of the alleged victim, within fifteen school days of receiving the request, the superintendent or director of the governing authority shall:

(aa) Inform the student and his parent or legal guardian and facilitate the student's enrollment in a statewide virtual school.

(bb) Offer the student a placement in a full-time virtual program or virtual school under the jurisdiction of the school's governing authority.

(cc) Enter into a memorandum of understanding with the superintendent or director of another governing authority to secure a placement and provide for the transfer of the student to a school serving the grade level of the alleged victim under the jurisdiction of the cooperating governing authority, pursuant to R.S. 17:105 and 105.1.

(iv) If no seat or other placement pursuant to Item (iii) of this Subparagraph is made available within thirty calendar days of the receipt by the local school superintendent of the request, the parent or legal guardian may request a hearing with the school's governing authority, which shall be public or private at the option of the parent or legal guardian. The school's governing authority shall grant the hearing at the next scheduled meeting or within sixty calendar days, whichever is sooner.

(v) At the end of any school year, the parent or legal guardian may make a request to the governing authority of the school at which the student was enrolled when at least three of the reports were filed to transfer the student back to the school. The governing authority shall make a seat available at the school at which the student was originally enrolled. No other schools shall qualify for transfer under this Subparagraph.

(g) Documentation.

(i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents or legal guardians of each involved student pursuant to this Section, a school, or local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the involved students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of each involved student..

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

(gg) As applicable, provide a copy of any reports and investigative documents to the appropriate law enforcement officials.

E. Parental Responsibilities. - Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion.

(1) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.

(2) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. - All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

I. The State Board of Elementary and Secondary Education shall adopt rules to require all approved nonpublic schools to implement bullying policies to those required of public schools.

J. Failure to act. (1) Any teacher, counselor, bus operator, administrator, or other school employee, whether full- or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay. The length of the suspension shall be determined by the school's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report and the length of suspension issued to each employee who failed to report to the state Department of Education.

(2) Any school administrator or official who fails to notify a parent or legal guardian of a report of bullying, timely investigate a report of bullying, take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying, or report criminal conduct to the appropriate law enforcement official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay. The length of the suspension shall be determined by the school's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report bullying and the length of suspension issued to the employee who failed to report to the department. The report shall be submitted by August first annually.

(3) The department shall provide a report to the state board on the number of reports of failures to report bullying received by the department from school governing authorities. The report shall be submitted by September first annually.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian. [...]

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

- (a) Reporting requirements and follow-up procedures.
- (b) Notification requirements for school officials and a student's parent or other legal guardian.
- (c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2)(a) These guidelines and procedures shall be provided to the state Department of Education, all school employees and every parent of a student with an exceptionality. The guidelines and procedures shall also be posted at each school and on each school system's website.

- (b) The provisions of Subparagraph (a) of this Paragraph shall not be applicable to the parent of a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

N. (1) The State Board of Elementary and Secondary Education shall adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting.

(2) The governing authority of each public elementary and secondary school, in accordance with state board policy, shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education.

(3)(a) The state Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

- (b)(i) Based upon the data collected, the state Department of Education shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

- (aa) The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

- (bb) The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

- (cc) A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph (2) of this Subsection.

- (ii) The state Department of Education shall post the annual report on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

REGULATIONS

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

LAC 28: CXV.1303. Bullying.

D. Notice of Bullying Policy to students and parents. The LEA shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website. The procedure shall include the following.

1. Students and Parents

- a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.
- b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.
- c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal

report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure. [...]

4. Documentation. At the conclusion of a bullying investigation, and after meeting with the parents or legal guardians, the school official or school board shall:

a. prepare a written report containing the findings of the investigation, including input from students' parents or legal guardians, and the decision by the school official or school system official. The document shall be placed in the school records of both students. If completed entirely, the bullying investigation form may serve as the report;

b. promptly notify the reporter/complainant of the findings of the investigation and whether remedial action has been taken, if such release of information does not violate the law;

c. keep reports/complaints and investigative reports confidential, except where disclosure is required by law;

d. maintain reports/complaints and investigative reports for three years;

e. provide a copy of any reports and investigative documents to the LEA, as necessary.

5. Disciplinary Action. If the school official has determined bullying has occurred, and after meeting with the parents or legal guardians of the students involved, the school official shall take prompt and appropriate disciplinary action against the offender and report criminal conduct to law enforcement, if appropriate.

6. LEA Reporting

a. The LEA shall electronically report all such documented incidences of bullying to the DOE using the DOE behavior report and incidence checklist to document the details of each reported incident of bullying.

7. Appeal

a. If the school official does not take timely and effective action, the student, parent, or school employee may report the bullying incident to the school board. The school board shall begin an investigation of any properly reported complaint of bullying no later than the next school day after the board receives the report.

b. If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the DOE. The DOE shall track the number of reports, shall notify the superintendent and the president of the LEA, and shall publish the number of reports by school district on its website.

Parental Notification

LAWS

§14:403.1. Substance abuse in schools; definitions; confidential reports; immunity; penalty.

C. (1) Any person having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus, under circumstances other than those described in Paragraph (2) of this Subsection, shall report such fact to the principal of the school or to

the chairman of the Substance Abuse Prevention Team on a report form prepared by the Department of Education or on a substantially similar form. If the report is to the principal, the principal immediately shall forward it to the chairman of the team.

The team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall also meet with the parents of the student reported. The team shall thereafter report to the principal of the school and make recommendations for treatment, counselling, or other appropriate action.

§14:95.2. Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone.

F. (1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

§17:221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges.

D. Each school shall develop and implement a system whereby the school shall attempt to provide verbal notification and, if such verbal notification cannot be provided, then shall provide written notification to a child's parent, tutor, or legal guardian when that child has been absent from school for five school days in schools operating on a semester basis, and for ten days in schools not operating on a semester basis.

§17:223. Discipline of pupils; suspension from school.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

B. School principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. Principals shall notify the visiting teacher or supervisor of child welfare and attendance of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17:223.1. In-school suspension pilot projects.

A. Prior to the beginning of the 1985-1986 school year, the Department of Education, hereafter referred to as "the department", shall invite each public school system in the state to submit to the department a

proposal for a pilot project for in-school suspension of students in the public elementary and secondary schools operated by those school systems.

B. The department shall consider and evaluate each proposal and recommend for approval by the State Board of Elementary and Secondary Education, hereafter referred to as the board, from among those submitted and deemed eligible pursuant to Subsection C of this Section, the maximum number of projects which can be funded by monies appropriated for this purpose. The board shall approve the projects to be funded. In making recommendations to the board for approval of projects for funding, the department shall evaluate each proposal on each of the following elements:

- (1) The probable educational value. For evaluation of this element, project applicants shall submit and the department shall review the statistical history of out-of-school suspensions from the schools in which the program is proposed to be piloted for the 1985-1986 school year.
- (2) The probable effectiveness of the project as an alternative to suspensions from school.
- (3) The probable cost effectiveness of the use of the funds.
- (4) The potential for improving the attendance of students and the education provided to students if the project were to be implemented on a statewide basis.

C. To be eligible for selection for funding as provided in this Section, any project proposal shall contain at a minimum:

- (1) A statement of the needs the project intends to address.
- (2) A statement of anticipated results and the basis upon which results are expected.
- (3) A specific outline of implemental steps.
- (4) A detailed plan for staff usage.
- (5) A detailed budget for expending the monies granted.
- (6) A detailed explanation of and plan for evaluation of the project results.
- (7) A parental involvement component which requires the principal or his designee to personally contact the parents prior to in-school or out-of-school suspension or expulsion of a child unless the child presents imminent danger to the school environment. This component shall also require the principal, after contacting parents or parent, to conduct a conference with the parent, the teacher if the teacher's presence is deemed necessary by the principal, and student when a child is suspended for any of the following: fighting students or faculty, disrespect for authority, disturbance in classroom or campus, cutting class, leaving campus, excess tardiness and absence, habitual violation of school rules, profane or obscene language, smoking, threatening students, stealing, possession of weapon, possession of drugs, vandalism, possession of or shooting of fireworks, or gambling.

D. Any school system whose pilot project is selected for funding shall receive, through the department from monies appropriated for the purpose, the funds requested in the proposal to implement the project during the 1985-1986 school year.

E. Each school system awarded monies under this Section shall implement its project during the 1985-1986 school year. The pilot program may be implemented in no more than one school per selected school system; which school system may expend a maximum of thirty-five thousand dollars on the project. Before July 1st, 1986, the school system shall provide to the department a thorough written review of the project, including documentation of how the monies awarded under this Section were spent, the results of the project, and the recommendations of the school system with regard to the project. Each school system shall return to the department any of the money awarded pursuant to this Section that is unexpended and shall reimburse the department for any undocumented expenditure of funds received under this Section.

§17:416. Discipline of students; suspension; expulsion.

A. (4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S.

17:416.13. Such rules and regulations shall include but not be limited to the following provisions:

(a) A procedure permitting any teacher or other school employee to report any violation of the provisions of this Subsection to the appropriate school principal. The procedure shall provide for the uniform use throughout the school system of two forms to report incidents of alleged discipline violations. One form shall be used to report only school transportation-related incidents and one form shall be used to report all other incidents.

(i) The form for reporting a transportation-related incident shall provide for the following information:

(ii) A space to report action taken on the incident report, including a menu of check off items to indicate that a parent or other person responsible for the pupil's school attendance has been contacted, that a conference has been conducted with the pupil's parent or other responsible person, that the pupil has been reprimanded, that the pupil has been suspended from receiving school transportation services and for what period of time, that the pupil has been suspended from school and for what period of time, or that some other action has been taken and an explanation of such action. The report on action taken shall be dated and signed by the school principal.

(jj) Space for comments and remarks by the pupil or a pupil's parent or other responsible person concerning the incident and action taken.

(kk) A menu of check off items to indicate that copies of the completed document have been supplied to the pupil's parent or other responsible person, the school's pupil file, the school employee filing the incident report, the supervisor of transportation services for the school system, and the principal.

§17:416.13. Student code of conduct; requirement.

D.(3)(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the parent or legal guardian of each involved student according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with his child conducted as part of the investigation. If, after three attempts in a forty-eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the alleged victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the alleged victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the alleged victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not

judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

I. (1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved. [...]

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(b) Notification requirements for school officials and a student's parent or other legal guardian.

REGULATIONS

LAC 28: CXV.1303. Bullying.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

2. Parental Notification of Allegation of Bullying

a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.

b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:

i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;

ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.

e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to Children's Code article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to Children's Code article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

LAC 28: CXV.1306. Due process for suspensions (Formerly §1305).

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such

accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.
2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.
3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§17:22. Superintendent; functions and duties.

The superintendent shall:

(11)(a) Prepare a report to provide information that will assist policymakers and the public in assessing the extent to which the state's students have access to quality public education. The superintendent shall submit this report, which shall be in addition to the report required by Paragraph (7) of this Section, not later than December first annually to the House Committee on Education and the Senate Committee on Education. The report shall include school-level information for each public school, including charter schools, for the preceding school year. Such report shall include but need not be limited to data relative to the following:

- (i) The type of school.
- (ii) The percentage of students who are economically disadvantaged.
- (iii) The percentage of students with exceptionalities who have an Individualized Education Program and the percentage of students who have an Individual Accommodation Plan.
- (iv) The percentage of students who are racial or ethnic minorities.

- (v) The percentage of students who are English language learners.
 - (vi) The percentage of students who complete Advanced Placement, International Baccalaureate, or dual-enrollment courses.
 - (vii) The percentage of students who complete courses included in the core curricula for the Taylor Opportunity Program for Students.
 - (viii) The percentage of students who complete industry-based certifications.
 - (ix) The percentage of students in world language immersion programs.
 - (x) The percentage of students who have access to instruction in the visual and performing arts and the percentage of students who have access to instruction in world languages.
 - (xi) The percentage of students who have out-of-school suspensions and the percentage of students who have expulsions.
 - (xii) Results of state assessments administered in grades three through twelve.
 - (xiii) The percentage of teachers determined to be highly effective.
 - (xiv) The number of teacher absences.
- (b) The report also shall provide aggregate data required by Items (a)(vi) through (xii) of this Paragraph according to the categories of students in Items (a)(ii) through (v) of this Paragraph.

§17:221.4. Louisiana School Dropout Prevention Act.

A. This Section shall be known and may be cited as the "Louisiana School Dropout Prevention Act.

(3) The state board shall also gather the following data to ensure that all programs are research-based and data-driven and use such data for continuous program improvement:

- (a) Total number of high school suspensions and expulsions.
- (b) Total number of students enrolled in alternative schools.
- (c) Total number of students who have failed Algebra I or English I.
- (d) Total number of students who are repeating the ninth grade.
- (e) Total number of students required to repeat a ninth grade course.

§17:415. School records; duty to keep records by school principal.

Local superintendents and teachers of the public schools of the state shall make and keep such school records as shall be prescribed by the state superintendent of education, prior to receiving their monthly salaries. Each principal of a school shall make to the local superintendent of schools such reports as may be required, including but not limited to the disciplinary reports required in R.S. 17:416(A)(4). If any principal wilfully neglects or fails to do this, the local superintendent of schools may withhold the salary due until the report is satisfactorily made.

§17:416.8. Discipline policy review committees; school option.

A. (2) Each school board shall review its discipline policies prior to the end of the 1994-1995 school year and shall review such policies at least annually thereafter. Following a public hearing on the recommendations of the discipline policy review committee, each school board's discipline policies shall delineate the specific consistent actions to be taken by teachers and other designated school employees to maintain order in the schools and on the school grounds. In addition, such policies shall contain specific consistent penalties which shall be imposed when pupils violate school discipline policies or state laws on school discipline. Copies of school board discipline policies shall be distributed to each school within its jurisdiction prior to the beginning of the 1995-1996 school session. In addition, copies of current school board discipline policies shall be distributed to each school within its jurisdiction prior to the beginning of the 1999-2000 school year and each school year thereafter. Each board shall provide each pupil and his parent, tutor, or legal guardian with a copy of the board's current discipline policy. In addition, each school shall plan and conduct meetings necessary to fully inform all employees and pupils

of all such policies within the first week of each school year. Meetings also shall be held throughout the school year as may be necessary to inform new employees and new pupils of such policies.

§17:416.13. Student code of conduct; requirement.

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(2)(a) Reporting. - The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website and the website of each public elementary and secondary school.

(b) Students and parents. - Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or legal guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any chaperone supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. - School personnel. Any teacher, counselor, bus operator, or other school employee, whether full- or part-time, and any chaperone supervising a school function or activity, who witnesses bullying or who learns of bullying pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident, and a written report shall be filed no later than two days thereafter.

(d) Retaliation. - Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. - Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2)(a) These guidelines and procedures shall be provided to the state Department of Education, all school employees and every parent of a student with an exceptionality. The guidelines and procedures shall also be posted at each school and on each school system's website.

(b) The provisions of Subparagraph (a) of this Paragraph shall not be applicable to the parent of a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

N. (1) The State Board of Elementary and Secondary Education shall adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting.

(2) The governing authority of each public elementary and secondary school, in accordance with state board policy, shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education.

(3)(a) The state Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

(b)(i) Based upon the data collected, the state Department of Education shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

(aa) The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(bb) The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(cc) A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph (2) of this Subsection.

(ii) The state Department of Education shall post the annual report on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

§17:3911. Data collection system; establishment.

A. The department shall establish a standardized data collection and analysis system which shall be used to collect the data provided in Subsection B of this Section and shall be the basis for the creation of the progress profiles provided for in this Subpart.

B. (1) The data collection system shall provide for but shall not be limited to the regular collection of the following information on a per school basis, including schools and educational programs located within secure care facilities under the jurisdiction of the Department of Public Safety and Corrections, office of juvenile justice:

(a) The results of all tests required by law or board regulation, including results from any state required criterion-referenced test, norm-referenced test, and graduation exit exam.

(b) College readiness test information, including American College Test scores.

(c) School performance scores pursuant to R.S. 17:10.1.

(d) Dropout rates, as defined by board rule.

(e) Student attendance rates.

(f) High school completion rates.

(g) Faculty information.

(h) Financial information.

(i) Student discipline information, in total and by unduplicated counts, disaggregated by race, ethnicity, gender, sex, English learner status, and students with exceptionalities, excluding gifted and talented, in accordance with data collection conducted pursuant to 20 U.S.C. 3413(c)(1), including but not limited to the following:

(i) In-school suspensions.

(ii) Out-of-school suspensions.

- (iii) In-school expulsions.
- (iv) Out-of-school expulsions.
- (v) Removals to an alternative education setting by school personnel.
- (vi) Referrals to law enforcement.
- (vii) School-related arrests.
- (j) Class size information.
- (k) Number of students in the general population and number of students in classes for students with exceptionalities.
- (l) Number of school resource officers.
- (m) Such other data as the board may approve.

(2) The data collection system may also provide for but shall not be limited to the regular collection of the following information:

- (a) Faculty attendance rates.
- (b) Number of students in advanced placement classes.
- (c) Number of National Merit Scholarship finalists and semi-finalists.
- (d) Socio-demographic student information.
- (e) Such other data as the board may approve.

(3) Each city and parish school board shall ensure that all schools under its jurisdiction accurately report student discipline information, including referrals by teachers for serious disciplinary offenses, using the uniform reporting form developed by the State Board of Elementary and Secondary Education in accordance with the provisions of R.S. 17:416(A)(4)(a)(iii). Each board shall have school-level summaries of the reported student discipline information prepared for its use and shall formally review and analyze the summary information on a regular basis. Upon request by the state Department of Education, the student discipline information required by this Paragraph also shall be collected as part of the data collection system provided for by this Section. The provisions of this Paragraph shall apply to schools and educational programs located within secure care facilities under the jurisdiction of the Department of Public Safety and Corrections, office of juvenile justice.

(4)(a) The department shall annually collect the following data elements for students with an exceptionality by each disability classification, including breakouts of each speech or language impairment category and breakouts of each intellectual disability category, not including students identified exclusively as gifted and talented, for each city, parish, or other local public school board. The following data elements shall be reported for each disability classification in total as well as by unduplicated counts by race, gender, age, and sex:

- (i) Setting.
- (ii) Exit code.
- (iii) Participation in each assessment type by grade and subject.
- (iv) Scoring at the proficient level on each test administered pursuant to the school and district accountability program by grade and subject.
- (v) Eligibility for an extended school year program.
- (vi) Attending extended school year program.
- (vii) Receiving initial evaluations, re-evaluations and waivers from evaluations.

(b) The data collection system shall also include information on student discipline for each public school by percentage and unduplicated counts of total students with exceptionalities receiving discipline, including:

- (i) In-school suspensions, broken down by categories of ten days or less and more than ten days.

- (ii) Out-of-school suspensions, broken down by categories of ten days or less and more than ten days.
 - (iii) In-school expulsions, broken down by categories of ten days or less and more than ten days.
 - (iv) Out-of-school expulsions, broken down by categories of ten days or less and more than ten days.
 - (v) Restraint procedures.
 - (vi) Seclusion procedures.
 - (vii) Unilateral removals to an interim alternative educational setting by school personnel by disability classification and by reason for removal.
- (c) The data collection system shall also include:
- (i) Percentage and unduplicated count of special education teachers by qualification level for each city, parish, or other local public school system.
 - (ii) Data and information regarding city, parish, or other local public school board high cost assistance requests and awards including but not limited to the unduplicated count of students included in the request, the total amount requested, and the amount awarded.
- (d) The department shall annually compile a report that includes data on each element gathered from the latest collection cycle and trend data from the three prior years. The report shall be sent to each public school governing authority and published on the department's website.
- (e) The requirements of this Paragraph shall not be construed to violate the provisions of R.S. 17:3914.
- (f) For any fiscal year in which the department fails to collect and report the required data, the state treasurer shall withhold an amount equal to twenty- five percent of the state general funds appropriated to the state Department of Education through the general appropriations bill for "STATE

ACTIVITIES" which are allocated for travel expenses, until such time as the department complies with the provisions of this Paragraph.

C. The department shall:

- (1) Develop all procedures and formats for the defining and reporting of all data and statistical components and annually review them.
- (2) Assist each local board and the office of juvenile justice in compiling the information by identifying and providing any required and discretionary information currently collected at the state level.
- (3) Perform the statistical analysis necessary to aggregate the reported data.
- (4) Coordinate all existing and new data collection efforts so as to minimize paperwork at the school and school system level.
- (5) Repealed by Acts 1999, No. 1373, § 2, effective July 12, 1999.

D. The board shall review and approve, modify, or reject the data collection system created by the department pursuant to this Section.

REGULATIONS

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§14:403.1. Substance abuse in schools; definitions; confidential reports; immunity; penalty.

A. The purpose of this Section is to protect teachers, administrators, school support personnel, and employees of the public school systems of this state from liability for damages as a result of reporting substance abuse on school campuses. It is intended that as a result of such reporting, the children attending schools in this state shall not be exposed to substance abuse while on campus, and law enforcement shall be aided in efforts to eradicate substance abuse by students.

B. For the purposes of this Section, the following terms shall mean:

(1) "Person" is any employee of a public school system including, but not limited to, teachers, administrators, school bus drivers, janitors, lunch room workers, maintenance employees, and coaches of athletic teams.

(2) "Student" is any person enrolled at school, including any person so enrolled but on temporary suspension, and any person physically on campus, whether a student or non-student.

(3) "School" is any public elementary or secondary school in the state of Louisiana.

(4) "Campus" is all facilities and property within the boundary of the school property and all vehicles used for public transportation of students.

(5) "Controlled dangerous substance" is any substance regulated or defined in the Uniform Controlled Dangerous Substance Law, Part X, Chapter IV of Title 40 of the Louisiana Revised Statutes of 1950, except where prescribed by a physician and possessed and consumed by the person for whom prescribed.

(6) "Substance Abuse Prevention Team," hereafter sometimes referred to as "the team," is a panel of not less than six members consisting of at least one (a) administrator, (b) teacher, (c) guidance counselor, (d) parent representative, and (e) school support person. The team shall be trained by personnel from the Substance Abuse Prevention Education Program of the Louisiana Department of Education.

In the absence of the availability of a team trained by personnel from the Substance Abuse Prevention Education Program, the principal of a school may establish a substantially similar panel which shall be considered a substance abuse prevention team.

C. (1) Any person having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus, under circumstances other than those described in Paragraph (2) of this Subsection, shall report such fact to the principal of the school or to the chairman of the Substance Abuse Prevention Team on a report form prepared by the Department of Education or on a substantially similar form. If the report is to the principal, the principal immediately shall forward it to the chairman of the team.

The team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall also meet with the parents of the student reported. The team shall thereafter report to the principal of the school and make recommendations for treatment, counselling, or other appropriate action.

(2) Any person having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon a finding that there is reasonable cause to believe that the student has manufactured,

distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency. If the principal determines that there are reasonable grounds to believe the student possessed a controlled dangerous substance but did not manufacture, distribute, or possess with intent to distribute a controlled dangerous substance, he shall refer the matter to the Substance Abuse Prevention Team chairman.

(3) The report required in Paragraphs (1) and (2) of this Subsection shall be written and shall include the name of the person making the report, the name of the student suspected of committing the act so reported, and the specific incident which caused the reporting person to believe the act had occurred. Sufficient detail shall be included to allow the report to be adequately reviewed. When appropriate, the report shall include a behavioral profile of the student since his enrollment in class.

D. (1) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that the manufacture or distribution of a controlled dangerous substance has taken or is taking place and that delay would jeopardize or impair the ability to control the manufacture or distribution of a controlled dangerous substance on a campus.

(2) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that a student on campus is under the influence of alcoholic beverages and that delay would jeopardize or impair the ability to operate the school or result in the student's being a danger to himself or others.

(3) A law enforcement agency receiving a report under the provisions of this Subsection may conduct an investigation of the report. Such investigation may include the administering, upon the school grounds and after consent has been obtained from student's parent or legal tutor, of a breath or urine test for the presence of alcohol or a controlled dangerous substance, if the investigating officer has reasonable cause to believe the student is or recently was on campus while under the influence of alcoholic beverages or a controlled dangerous substance. The methods for the administration and analysis of a breath or urine test under the provisions of this Subsection shall be the same as for chemical testing and analysis authorized under R.S. 32:663. The results of a breath or urine test authorized under this Subsection shall be provided solely to the student, the parent or legal tutor of the student, the principal of the school, and the chairman of the Substance Abuse Prevention Team, and shall not be used as the basis for any disciplinary proceeding against the student. The law enforcement agency may keep a copy of the test results which copy shall not be a public record and shall not be open for public inspection but shall be kept confidential under lock and key and maintained only for internal record keeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. The test results shall be exempt from the Public Records Act [Link to the text of the note](#) and shall not be admissible as evidence in any civil or criminal trial, hearing, or other proceeding.

E. All reports filed pursuant to this Section shall be confidential. The identity of the reporting person shall not be disclosed except when the constitution of the State of Louisiana or the United States so requires. All reports shall be exempt from the Public Records Act.

F. Any person who makes a report in good faith, pursuant to Subsections C and D of this Section, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

G. The willful failure by a person with permanent status to make a report required by Subsection C of this Section shall constitute willful neglect of duty which may subject the person to dismissal pursuant to R.S. 17:443, R.S. 17:462, R.S. 17:493, R.S. 17:523, or R.S. 17:533, as appropriate. Any person without permanent status may be dismissed for willful neglect of duty under this Section after a hearing in accordance with the procedures set forth in R.S. 17:443.

§14:95.2. Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone.

A. Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

- (1) "Campus" means all facilities and property within the boundary of the school property.
- (2) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.
- (3) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.
- (4) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

- (1) A federal law enforcement officer or a Louisiana-commissioned state or local Post Certified law enforcement officer who is authorized to carry a firearm.
- (2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.
- (3) Any person having the written permission of the principal or as provided in R.S. 17:3361.1.
- (4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence.
- (5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.
- (6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.
- (7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.
- (8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.
- (9) Any person who has a valid concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 and who carries a concealed handgun within one thousand feet of any school campus.

D. (1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate

examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F. (1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

§17:183. Hazing; public elementary and secondary students; intent and findings; definitions; policies.

A. (1) It is the intent of the legislature that every public elementary and secondary school in this state shall be a safe, orderly, civil, and positive learning environment so that no student in this state feels threatened while in school.

(2) The legislature finds that while some forms of initiation for membership in student clubs and organizations constitute acceptable behavior, the hazing of students may degenerate into a dangerous form of intimidation and degradation.

B. (1) As used in this Section, "hazing" means any knowing behavior, whether by commission or omission, of any student to encourage, direct, order, or participate in any activity which subjects another student to potential physical, mental, or psychological harm for the purpose of initiation or admission into, affiliation with, continued membership in, or acceptance by existing members of any organization or extracurricular activity at a public elementary or secondary school, whether such behavior is planned or occurs on or off school property, including any school bus and school bus stop.

(2) Hazing does not mean any adult-directed and school-sanctioned athletic program practice or event or military training program.

C. Hazing is prohibited in public elementary and secondary schools.

D. (1) Each city, parish, and other local public school board shall develop, adopt, and post a policy to enforce the prohibition in this Section against hazing and to prevent its occurrence.

(2) Each such policy shall include, at a minimum, the following:

(a) A statement that hazing of students, as defined in Subsection B of this Section, is prohibited.

- (b) A statement that any solicitation to engage in hazing is prohibited.
- (c) A statement that aiding and abetting another person who engages in hazing is prohibited.
- (d) A statement that consent of the hazing victim is not a defense.
- (e) A statement that all students, teachers, and other school employees shall take reasonable measures within the scope of their individual authority to prevent violations of the policy.
- (f) A description of the procedures for students, teachers, and other school employees to report violations of the policy and the procedures to file a complaint for a violation of the policy.
- (g) Procedures to investigate reports or complaints of violations of the policy.
- (h) A description of the circumstances under which a violation of the policy shall be reported to the appropriate law enforcement agency.
- (i) A description of the appropriate penalties and appeal mechanisms for persons that violate the policy.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

- (1) Seventeen years of age or older with less than five units of credit toward graduation.
- (2) Eighteen years of age or older with less than ten units of credit toward graduation.
- (3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17:410. Safety education; recognition and reporting of potential threats to safety.

A. Each public school governing authority, in consultation with local law enforcement agencies, shall develop and distribute age and grade appropriate information to each student regarding internet and cell phone safety and online content that is a potential threat to school safety. The information shall include how to recognize and report potential threats to school safety that are posted on the internet, including but not limited to posts on social media. The information shall either be distributed to or explained to students and school personnel at the beginning of each school year and shall be posted on an easily accessible page of each school's website and the website of the school's governing authority.

B. The information shall include the following:

- (1) Instruction on how to detect potential threats to school safety exhibited online, including on any social media platform.
- (2) Visual examples of possible threats.
- (3) The reporting process, as provided in Subsection C of this Section.

C. Each public school governing authority shall develop procedures for reporting potential threats to school safety. The reporting procedures, at a minimum, shall include:

- (1) A standardized form to be used by students and school personnel to report potential threats which requests, at a minimum, the following information:
 - (a) Name of school, person, or group being threatened.
 - (b) Name of student, individual, or group threatening violence.

(c) Date and time the threat was made.

(d) Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.

(2) A process for allowing school personnel to assist students in completing the standardized form.

(3) A process for allowing reporting by an automated voice system.

(4) A process for allowing anonymous reporting and for safeguarding the identity of a person who reports a threat.

(5) For every threat reported, a school administrator shall record, on the form provided for by this Subsection, the action taken by the school.

D. If information reported to a school pursuant to Subsection C of this Section is deemed a potential threat to school safety, the school shall present the form and evidence to local law enforcement agencies. If the information poses an immediate threat, school administrators shall follow procedures provided in R.S. 17:416.16.

§17:416.1. Discipline of pupils; additional disciplinary authority.

A. In addition to the specific disciplinary measures authorized in R.S. 17:416 teachers, principals, and administrators of the public schools may, subject to any rules as may be adopted by the parish or city school board, employ other reasonable disciplinary and corrective measures to maintain order in the schools; provided, however, that nothing in this Section shall be construed as superseding the provisions of R.S. 17:416 relative to the disciplining of students, suspensions, and expulsions.

B.(1)(a) Corporal punishment means using physical force to discipline a 2 student, with or without an object. Corporal punishment includes hitting, paddling, 3 striking, spanking, slapping, or any other physical force that causes pain or physical 4 discomfort.

(b) Corporal punishment does not include:

(i) The use of reasonable and necessary physical restraint of a student to 7 protect the student, or others, from bodily harm or to obtain possession of a weapon 8 or other dangerous object from a student.

(ii) The use of seclusion and restraint as provided in R.S. 17:416.21.

(2) The governing authority of a public elementary or secondary school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942 or to a student who has been determined to be eligible for services under Section 504 of the Rehabilitation Act of 1973 and has an Individual Accommodation Plan. Each governing authority of a public elementary or secondary school shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

C. Should any teacher, principal, or administrator in the public school system be sued for damages by any student, the parent of any student or other persons qualified to bring suit on behalf of such student based upon the act or omission of such teacher, principal, or administrator in the directing of and disciplining of school children under their care and supervision, it shall be the responsibility of the school board employing such teacher, principal, or administrator to provide such defendant with a legal defense to such suit including reasonable attorney's fees, investigatory costs, and other related expenses. Should any such teacher, principal, or administrator be cast in judgment for damages in such suit, it shall be the obligation of the school board employing such defendant to indemnify him fully against such judgment including all principal, interest, and costs. Nothing in this Section shall require a school board to indemnify a teacher, principal, or administrator against a judgment wherein there is a specific decree in the judgment that the action of the teacher, principal, or administrator was malicious, and willfully and deliberately intended to cause bodily harm.

(2) As used in this Subsection, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(3) Any such student who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection shall have his driver's license for the operation of a motor vehicle suspended for a period of one year, in accordance with the provisions of R.S. 32:431. The terms "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

D. (1) In addition to the specific disciplinary measures authorized in R.S. 17:416, a principal or headmaster at a public or private school shall notify the Department of Public Safety and Corrections, office of motor vehicles, of any student between the ages of fourteen and eighteen who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection.

§17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized.

A. (1) The parish and city school systems of the state are the exclusive owners of all public school buildings and all desks and lockers within the building assigned to any student and any other area of any public school building or grounds set aside specifically for the personal use of the students. Any teacher, principal, school security guard, or administrator in any parish or city school system of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

(2)(a) The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

(b) Random searches with a metal detector of students or their personal effects may be conducted at any time, provided they are conducted without deliberate touching of the student.

B. (1) If any teacher, principal, school security guard, or administrator in the public school system is sued for damages by any student, the parent of any student, or other person qualified to bring suit on behalf of the student, based upon a search of that student's person, desk, locker, or any other area of a school building or grounds set aside specifically for that student's personal use, when the teacher, principal, school security guard, or administrator reasonably believed that the student had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy on his person, or had reasonable belief that such desk, locker, or other area contained such items, or based upon a search using a metal detector, it shall be the responsibility of the school board employing such teacher, principal, school security guard, or administrator to provide the defendant with legal defense, including reasonable attorney's fees, investigatory costs, and other related expenses.

(2) If any such teacher, principal, school security guard, or administrator is cast in judgment for damages in the suit, it shall be the obligation of the school board employing the defendant to indemnify him fully against such judgment, including all principal, interest, and costs.

(3) Nothing in this Section shall require a school board to indemnify a teacher, principal, school security guard, or administrator against a judgment wherein there is a specific finding that the action of the teacher, principal, school security guard, or administrator was maliciously, wilfully, and deliberately intended to harass, embarrass, or intimidate the student.

C.(1)(a) On or before January 1, 1995, each parish and city school board shall adopt a policy that is consistent with Subsection A of this Section to provide for reasonable search and seizure by public school teachers, principals, and other school administrators of students' persons, desks, lockers, or other school areas for evidence that the law, a school rule, or a parish or city school board policy has been violated.

(b) Such policy shall include at a minimum:

(i) Specification of standards regarding procedures for searching students to prevent excessive intrusion.

(ii) Specification of standards for retaining and securing confiscated implements and materials.

(iii) Directions regarding the disposal of implements and materials reported to law enforcement authorities when such authorities notify the principal that the implements and materials need not be retained.

(iv) Specification of disciplinary action when a principal or designated administrator violates any provision of this Section.

(2)(a) Nothing in this Section shall require defense and/or indemnification by a school board, a principal, or other school administrator for suits regarding search and seizure unless such acts are in accordance with the policy adopted by the school board that employs him, if the policy is declared to be reasonable by a court of competent jurisdiction.

(b) No teacher, principal, school security guard, or administrator shall be held personally liable for any action authorized by this Section and performed in accordance with school board policies adopted pursuant to this Section.

D. (1) Upon the seizure by any public school teacher, principal, school security guard, or administrator of any firearm, bomb, knife, or other implement which can be used as a weapon and the careless use of which might inflict harm or injury or any controlled dangerous substance as defined in R.S. 40:961, the principal or his designated administrator shall report the confiscation of such implement or material to the appropriate law enforcement officials. The principal or his designated administrator may report the confiscation of any other implement or material.

(2) Any implement or material required by Paragraph (1) of this Subsection to be reported to law enforcement officials shall be retained and secured by the school principal in such a manner as to prevent the destruction, alteration, or disappearance of it until such time as the law enforcement authority either takes custody of the implement or material or provides notice to the school principal that it need no longer be retained. In the case that it need not be retained, the school principal shall comply with his school board's policy regarding disposal of the item.

(3) The failure of any principal or designated administrator to report the confiscation of such implement or material or the failure to retain and secure such implement or material shall be reported by the law enforcement authority to the employing school board which shall take disciplinary action pursuant to its policy.

E. The provisions of this Section shall apply to the State Board of Elementary and Secondary Education as it relates to state schools operated by the board in the same way it applies to city and parish school boards.

§17:416.13. Student code of conduct; requirement.

A. The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance

with all existing rules, regulations, and policies of the local school governing authority and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

B. The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in R.S. 17:416.14. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

§ 17.416.14. Bullying; definition; prohibition; notice; reporting; accountability

A. For the purposes of this Title, "bullying" shall mean:

(1) A pattern of any one or more of the following:

(a) Gestures, including but not limited to obscene gestures.

(b) Written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

(c) Physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property.

(d) Repeatedly and purposefully shunning from activities.

(2)(a) Where the pattern of behavior as provided in Paragraph (1) of this Subsection is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, at any designated school bus stop, in any school bus or any other school or private vehicle used to transport students to and from school or any school-sponsored activity or event.

(b) The pattern of behavior as provided in Paragraph (1) of this Subsection shall have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or shall be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

B. Each elementary and secondary school shall institute a program to prohibit and prevent bullying. The program shall:

(1) Define bullying as provided in Subsection A of this Section.

(2) Ensure each student, each student's parent or legal guardian, and each school administrator, teacher, counselor, bus operator, school employee, and volunteer is aware of his duties and responsibilities relative to preventing and stopping bullying.

(3) Provide for a process for reporting and investigating alleged incidents of bullying.

(4) Provide for appropriate discipline of a student found guilty of bullying.

(5) Provide for appropriate remedies for a student found to have been bullied.

(6) Provide for procedures for investigating and reporting each school administrator, teacher, counselor, bus operator, and school employee for failure to act as provided in Subsection I of this Section.

C. The governing authority of each public elementary and secondary school shall:

(1) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

(2) Create a program to provide a minimum of four hours of training for new employees who have contact with students and two hours of training each year for all school employees who have contact with students, including bus operators, with respect to bullying. The training shall specifically include the following:

(a) How to recognize the behaviors defined as bullying in Subsection C of this Section.

(b) How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.

(c) How to use appropriate intervention and remediation techniques and procedures.

(d) The procedures by which incidents of bullying are to be reported to school officials.

(e) Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience. D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. - The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

(2)(a) Reporting. - The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website and the website of each public elementary and secondary school.

(b) Students and parents. - Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any chaperone or supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. - School personnel. Any teacher, counselor, bus operator, or other school employee, whether full- or part-time, and any chaperone or supervising a school function or activity, who witnesses bullying or who learns of bullying pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident, and a written report shall be filed no later than two days thereafter.

(d) Retaliation. - Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. - Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. - The State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. - An investigation shall include an interview of the reporter, the victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio-visual evidence.

(b) Timing. - The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal.

(i) If the school official does not take timely and effective action pursuant to this Section, the student, parent or legal guardian, or school employee may report the bullying incident to the local school governing authority. The governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the or governing authority official.

(ii) If the local school governing authority does not take timely and effective action, the student, parent or legal guardian, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the parent or legal guardian of each involved student according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with his child conducted as part of the investigation. If, after three attempts in a forty-

eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the alleged victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the alleged victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. - If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

(f) Parental Relief.

(i) If a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying, as provided in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3) of this Subsection has occurred, the parent or legal guardian with responsibility for decisions regarding the education of the alleged victim about whom the report or reports have been made may exercise an option to have the student enroll in or attend another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled on the dates when at least three of the reports were submitted.

(ii) The parent or legal guardian shall file a request with the local school superintendent for the transfer of the student to another school under the governing authority's jurisdiction.

(iii) The governing authority of the public elementary or secondary school in which the student is enrolled shall make a seat available at another public elementary or secondary school under its jurisdiction within ten school days of the parent or legal guardian's request for a transfer. If the governing authority has no other school under its jurisdiction serving the grade level of the alleged victim, within fifteen school days of receiving the request, the superintendent or director of the governing authority shall:

(aa) Inform the student and his parent or legal guardian and facilitate the student's enrollment in a statewide virtual school.

(bb) Offer the student a placement in a full-time virtual program or virtual school under the jurisdiction of the school's governing authority.

(cc) Enter into a memorandum of understanding with the superintendent or director of another governing authority to secure a placement and provide for the transfer of the student to a school

serving the grade level of the alleged victim under the jurisdiction of the cooperating governing authority, pursuant to R.S. 17:105 and 105.1.

(iv) If no seat or other placement pursuant to Item (iii) of this Subparagraph is made available within thirty calendar days of the receipt by the local school superintendent of the request, the parent or legal guardian may request a hearing with the school's governing authority, which shall be public or private at the option of the parent or legal guardian. The school's governing authority shall grant the hearing at the next scheduled meeting or within sixty calendar days, whichever is sooner.

(v) At the end of any school year, the parent or legal guardian may make a request to the governing authority of the school at which the student was enrolled when at least three of the reports were filed to transfer the student back to the school. The governing authority shall make a seat available at the school at which the student was originally enrolled. No other schools shall qualify for transfer under this Subparagraph.

(g) Documentation.

(i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents or legal guardians of each involved student, pursuant to this Section, a school or local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the involved students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of each involved student.

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

(gg) As applicable, provide a copy of any reports and investigative documents to the appropriate law enforcement officials.

E. Parental Responsibilities. - Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion.

- (1) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.
- (2) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. - All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

I. The State Board of Elementary and Secondary Education shall adopt rules to require all approved nonpublic schools to implement bullying policies to those required of public schools.

J. Failure to act. (1) Any teacher, counselor, bus operator, administrator, or other school employee, whether full- or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay. The length of the suspension shall be determined by the 1649chooll's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report and the length of suspension issued to each employee who failed to report to the state Department of Education.

(2) Any school administrator or official who fails to notify a parent or legal guardian of a report of bullying, timely investigate a report of bullying, take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying, or report criminal conduct to the appropriate law enforcement official shall be investigated by the school governing authority. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay. The length of the suspension shall be determined by the school's governing authority based on the severity of the bullying inflicted on the victim. The school governing authority shall report each finding of a failure to report bullying and the length of suspension issued to the employee who failed to report to the department. The report shall be submitted by August first annually.

(3) The department shall provide a report to the state board on the number of reports of failures to report bullying received by the department from school governing authorities. The report shall be submitted by September first annually.

§17:1801.1. Hazing education; policies; new student orientation; organizations.

A. Not later than August 1, 2018, the Board of Regents shall develop and adopt a uniform policy on hazing prevention. The policy shall define hazing as defined in R.S. 17:1801. Each postsecondary education institution shall adopt the uniform policy developed by the Board of Regents. An institution may expand the definition of hazing to prohibit additional behaviors it determines may be dangerous but shall not otherwise amend the definition.

B. (1) Each new student shall be provided educational information on the dangers of and prohibition on hazing during the new student orientation process in the form of a handbook.

(2) In addition to the requirement provided in Paragraph (1) of this Subsection, beginning in the fall semester of 2019, each new student shall be provided educational information on the dangers of and prohibition on hazing during the new student orientation process either in person or electronically.

(3) If the student receiving the information required by Paragraphs (1) and (2) of this Subsection is a minor, the information shall also be provided to his parent or legal guardian.

C. Each organization as defined in R.S. 17:1801 shall, as a condition of operating at an institution, adopt the hazing prevention policy that the institution has adopted pursuant to Subsection A of this Section, which shall include possible institutional sanctions against the organization in the event of a reported or confirmed hazing incident, and a policy that prohibits hazing. Each organization shall provide annually at

least one hour of hazing prevention education that includes education relative to such policies to all members, prospective members, and anyone who is employed by or volunteers with the organization. The education may be provided in person, electronically, or both. Each organization shall submit a report annually to the institution with which it is affiliated relative to the students, employees, and volunteers receiving such education evidenced by an attestation of such individuals receiving the education.

REGULATIONS

LAC 28: CXV.303. General powers of local educational governing authorities.

I. No city or parish school board shall adopt any policy which forbids or discourages any teacher or other school board employee from reporting directly to any appropriate law enforcement authority any apparent criminal activity by any person involving, or appearing to involve, controlled dangerous substances, or any other apparent illegal activity.

1. No parish or city school board shall adopt any policy that would have the effect of preventing or hindering the response of law enforcement officials on school board property, to reports of illegal activity.

LAC 28: CXV.1133. Substance abuse.

B. Any school employee having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon finding that there is reasonable cause to believe that the student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency.

LAC 28: CXV.1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than

10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§17:416.19. School resource officers.

A. Any city, parish, or other local public school system and any nonpublic school may make or enter into agreements with a local law enforcement agency to provide for school resource officers. Any city, parish, or other local public school system and any nonpublic school shall ensure that any school resource officer provided by a local law enforcement agency as provided in this Section is in compliance with the provisions of Subsection B of this Section.

B. (1) A "school resource officer" shall be a peace officer as defined in R.S. 40:2402.

(2) A "school resource officer" shall be certified by a nationally accredited school resource officer program or a state school resource officer training program certified by the Council on Peace Officer Standards and Training.

C. The Council on Peace Officer Standards and Training shall review and approve any advanced, in-service, or specialized training for school resource officers as the council shall deem advisable.

D. A city, parish, or other local public school system that has entered into an agreement with a local law enforcement agency to provide for school resource officers shall annually report to the state Department of Education the total number of school resource officers provided to the system.

§40:2404. Powers of the council.

In addition to any other powers conferred upon the council elsewhere herein or by other law, the council shall have the following powers:

(9) To establish and implement curricula for such advanced, in-service, and specialized training courses as the council shall deem advisable, including school resource officer training, and to recognize the completion of such courses by the issuance of certificates.

§40:2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

B. The Council on Peace Officer Standards and Training shall have the power to establish and appoint a committee with members representing the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the accredited law enforcement training centers, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

C. The committee shall have the following powers:

- (1) To develop minimum curriculum requirements for the training and certification of school security guards, which standards shall apply uniformly throughout the state for all school security guards.
- (2) To establish minimum law enforcement instruction qualifications at an accredited P.O.S.T. academy.
- (3) To approve and certify a school security guard program and to establish other requirements relative to such program.

D. A portion of the funds appropriated for the program shall be allocated to local law enforcement agencies to be utilized for the cost of investigation, detection, and forensics costs of crime committed on school property.

E. After a secure funding source for this program becomes available, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall have six months to implement a one-year pilot test of the School Violence Prevention Training Program. The commission shall evaluate the results of the pilot test before recommending statewide implementation.

§40:2404.2. Minimum training requirements; basic curriculum; annual training.

C. No later than January 1, 2018, the council shall develop and implement curriculum for de-escalation, bias policing recognition, sudden in-custody death, and crisis intervention training, which shall include training for law enforcement interaction with persons with mental illness and persons with developmental disabilities, for peace officers that consists of classroom or internet instruction, or both.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§17:416.19. School resource officers.

A. Any city, parish, or other local public school system and any nonpublic school may make or enter into agreements with a local law enforcement agency to provide for school resource officers. Any city, parish, or other local public school system and any nonpublic school shall ensure that any school resource officer provided by a local law enforcement agency as provided in this Section is in compliance with the provisions of Subsection B of this Section.

B. (1) A "school resource officer" shall be a peace officer as defined in R.S. 40:2402.

- (2) A "school resource officer" shall be certified by a nationally accredited school resource officer program or a state school resource officer training program certified by the Council on Peace Officer Standards and Training.

C. The Council on Peace Officer Standards and Training shall review and approve any advanced, in-service, or specialized training for school resource officers as the council shall deem advisable.

D. A city, parish, or other local public school system that has entered into an agreement with a local law enforcement agency to provide for school resource officers shall annually report to the state Department of Education the total number of school resource officers provided to the system.

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(1) To develop minimum curriculum requirements for the training and certification of school security guards, which standards shall apply uniformly throughout the state for all school security guards.

(2) To establish minimum law enforcement instruction qualifications at an accredited P.O.S.T. academy.

(3) To approve and certify a school security guard program and to establish other requirements relative to such program.

D. A portion of the funds appropriated for the program shall be allocated to local law enforcement agencies to be utilized for the cost of investigation, detection, and forensics costs of crime committed on school property.

E. After a secure funding source for this program becomes available, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall have six months to implement a one-year pilot test of the School Violence Prevention Training Program. The commission shall evaluate the results of the pilot test before recommending statewide implementation.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

§17:410. Safety education; recognition and reporting of potential threats to safety.

A. Each public school governing authority, in consultation with local law enforcement agencies, shall develop and distribute age and grade appropriate information to each student regarding internet and cell phone safety and online content that is a potential threat to school safety. The information shall include how to recognize and report potential threats to school safety that are posted on the internet, including but not limited to posts on social media. The information shall either be distributed to or explained to students and school personnel at the beginning of each school year and shall be posted on an easily accessible page of each school's website and the website of the school's governing authority.

B. The information shall include the following:

(1) Instruction on how to detect potential threats to school safety exhibited online, including on any social media platform.

(2) Visual examples of possible threats.

(3) The reporting process, as provided in Subsection C of this Section.

C. Each public school governing authority shall develop procedures for reporting potential threats to school safety. The reporting procedures, at a minimum, shall include:

(1) A standardized form to be used by students and school personnel to report potential threats which requests, at a minimum, the following information:

(a) Name of school, person, or group being threatened.

(b) Name of student, individual, or group threatening violence.

(c) Date and time the threat was made.

(d) Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.

(2) A process for allowing school personnel to assist students in completing the standardized form.

(3) A process for allowing reporting by an automated voice system.

(4) A process for allowing anonymous reporting and for safeguarding the identity of a person who reports a threat.

(5) For every threat reported, a school administrator shall record, on the form provided for by this Subsection, the action taken by the school.

D. If information reported to a school pursuant to Subsection C of this Section is deemed a potential threat to school safety, the school shall present the form and evidence to local law enforcement agencies. If the information poses an immediate threat, school administrators shall follow procedures provided in R.S. 17:416.16.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Louisiana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Alternative Education Redesign, Louisiana Department of Education	Provides information and resources on alternative education (AE) programs for students including approved AE sites and AE redesign resources.	https://www.louisianabelieves.com/schools/public-schools/alternative-education-redesign
Bullying, Louisiana Department of Education	Provides links to resources assist school districts in preventing and responding to bullying incidents in schools, including implementation checklists, training resources, and sample letters and forms.	http://www.louisianabelieves.com/schools/public-schools/bullying
School Climate, Louisiana Department of Education	Provides an overview of school climate with definitions, why school climate matters, and creating a positive school climate.	http://www.louisianabelieves.com/schools/public-schools/school-climate
Student Behavior and Discipline, Louisiana Department of Education	Provides an overview of student behavior and discipline and related topics such as multi-tiered system of supports, behavioral intervention, and social-emotional learning. Webpage also includes support tools for behavioral intervention, PBIS, Multi-Tiered System of Supports (MTSS) and social emotional learning as well as 2019 Behavioral Intervention Summit Materials for download.	http://www.louisianabelieves.com/schools/public-schools/discipline
Documents		
Checklist for District Implementation, Act of 861 of the 2012 Legislative Session (October 2012), Louisiana Department of Education	Checklist for school authorities to help assist them in creating or reviewing their plans to ensure that all provisions of Act 861 are included in their policies and procedures.	https://www.louisianabelieves.com/docs/public-school/checklist-district-implementation-bullying.pdf?sfvrsn=73a9b667_3

Title	Description	Website address (if applicable)
Sample School Board Policy, Prohibition Against Bullying (July 2012), Louisiana Department of Education	Sample school board policy produced by the Office of Student Programs that prohibits bullying behavior and details the process of investigation, parent notification, discipline, follow-up, and documentation in response to bullying incidents.	http://www.louisianabelieves.com/docs/public-school/Louisiana---sample-bullying-policy12EA763F2BB4D1C6A5423027.pdf?sfvrsn=3
<i>Other Resources</i>		
2020-2021 School- District-State Discipline Rates, Louisiana Department of Education	Summarizes data on in-school, out of school, and alternative site suspensions and expulsions by district and school site.	http://www.louisianabelieves.com/resources/library/district-state-data-reports
Corporal Punishment Incidence Checklist, Louisiana Department of Education	Form used by schools to document the details of each instance of the administration of corporal punishment as a disciplinary measure.	https://www.louisianabelieves.com/docs/public-school/form---corporal-punishment-incidence-checklist.pdf?sfvrsn=e519f7d7_2
School Behavior Report, Louisiana Department of Education	Sample reporting form for informing parents/guardians of a behavior incident on the school campus.	http://www.louisianabelieves.com/docs/default-source/public-school/2017-school-behavior-report.pdf?sfvrsn=c847941f_4



Maine Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Tobacco use in elementary and secondary schools prohibited

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05 071. Education - General

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§254. Educational duties.

The commissioner shall have the following educational duties.

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

§1001. Duties of school boards.

School boards shall perform the following duties.

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

- A. Define unacceptable student behavior;
- B. Establish standards of student responsibility for behavior;
- C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate;
- D. Describe appropriate procedures for referring students in need of special services to those services;
- E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class;
- F. Establish policies and procedures concerning the removal of disruptive or violent students or students threatening death or bodily harm to others from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate;
- G. Establish guidelines and criteria concerning the appropriate circumstances when the superintendent or the superintendent's designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property; and
- H. Establish policies and procedures to address bullying, harassment and sexual harassment as set forth in section 6554.

The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

22. Workplace bullying. A school board shall adopt and implement a policy to address the negative effects of bullying of school employees by administrators, school employees, parents, students or any other individuals associated with the public school and to ensure the safety of employees and an inclusive environment for all employees and students in the public school. The policy must include, but is not limited to:

- A. A provision identifying the responsibility of all school employees to comply with the policy;
- B. A clear statement that bullying, harassment and retaliation for reporting such behavior are prohibited;

- C. A provision outlining the responsibility of a superintendent to implement and enforce the policy;
- D. A procedure for school employees to report incidents of bullying;
- E. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents; and
- F. A statement that any rights under the policy do not exclude access to or limit any other right or remedy under the law.

If an affected school employee is covered by a collective bargaining agreement, the policy under this subsection is subject to the dispute resolution process of the collective bargaining agreement.

For the purposes of this subsection, "bullying" includes cyberbullying as defined in section 6554, subsection 2, paragraph C.

REGULATIONS

05-071 CMR 33.4. Local policy; Notice to parents.

1. Local Policy Required

All covered entities shall have local policies, consistent with this rule, regarding the use of physical restraint and seclusion. Covered entities must also have a procedure available by which parents may submit a complaint regarding the use of physical restraint or seclusion on their child, based upon which the covered entity shall investigate the circumstances surrounding the incident complained of, make written findings and, where appropriate, determine to take corrective action.

Covered entities shall revise existing policies or develop policies consistent with this rule within 90 calendar days of the effective date of this rule.

05-071 CMR 127.3. General requirements K-12.

Each school administrative unit shall provide programs and instructional approaches that support the variety of learning styles of the students in the schools of the unit. The school board shall adopt a policy that provides all students with equitable opportunities to access the content standards of the system of Learning Results.

3.01 Ethical and Responsible Student Behavior

Instruction in ethical and responsible behavior shall be part of the educational program of each student. This shall be reflected in the Code of Conduct of the school administrative unit as specified in Me. Dept. of Ed. Reg. 125.

Scope

LAWS

§6553. Prohibition of hazing.

2. Adoption of policy. The school board shall adopt a policy which establishes that "injurious hazing," either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

§6554. Prohibition on bullying in public schools.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles.
[...]

4. Scope. This section applies to bullying that:

- A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or
- B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§255. School administrative unit; reports, records, information.

5. Information. The commissioner shall:

- C. Disseminate this information by outlines, suggestions and directions concerning the management, discipline and methods employed in teaching to teachers and school officers of the State.

§1001. Duties of school boards.

School boards shall perform the following duties.

15. Adoption of student code of conduct. [...]

The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

15-A. School disciplinary policies. [...]

The school board shall ensure that administrators inform students, parents and school personnel of the districtwide school disciplinary policies.

22. Workplace bullying. A school board shall adopt and implement a policy to address the negative effects of bullying of school employees by administrators, school employees, parents, students or any other individuals associated with the public school and to ensure the safety of employees and an inclusive environment for all employees and students in the public school.

§6553. Prohibition of hazing.

5. Dissemination. The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

§6554. Prohibition on bullying in public schools.

6. Dissemination of Policy. Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

REGULATIONS

05-071 CMR 33.4. Local policy; Notice to parents.

2. Annual notification of rule and local policies

Annually, each covered entity shall provide overview and awareness information to all staff, including contracted providers, regarding the content of this rule and any local policies or procedures related to the use of physical restraint and seclusion.

Each covered entity shall provide an annual notice informing parents of students enrolled at the covered entity of this rule and any local policies or procedures related to the use of physical restraint and seclusion, including the local complaint process.

05-071 CMR 128.12. School board policies required.

You will note on the first page of Section 911, sub-section 5, the statement requiring local boards to promulgate rules and regulations and to file a copy of these with the Commissioner. Such rules and regulations will be included in school board policies on the subjects identified in the legislation. It is expected that many of the needed policies are already in existence, but it may be necessary to adopt additional policies. Once all appropriate local policies have been adopted, these would become the rules and regulations required. The set of policies must then be submitted to the Commissioner prior to October 1, 1978. Any subsequent policy changes must be submitted upon adoption.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;

B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships, improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior.

§6554. Prohibition on bullying in public schools.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

(1) Meeting with the student and the student's parents;

- (2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- (4) Counseling;
- (5) Anger management;
- (6) Health counseling or intervention;
- (7) Mental health counseling;
- (8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (9) Community service; and
- (10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends. [...]

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline.

§6555. Dangerous behavior prevention and intervention.

2. Report of incident of dangerous behavior. Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the reported incident must be conducted by an administrator and an assigned public school employee. If the report of the incident of dangerous behavior is substantiated, the school administrative unit shall, in consultation with the public school employee who was subjected to the dangerous behavior, if any, develop an individualized response plan to avoid future dangerous behavior, which may include but is not limited to:

D. Restorative practices and restorative interventions as defined in section 1001, subsection 15-A, paragraph B.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§4009. Civil liability.

The following provisions apply to civil liability.

1. Reasonable force. A teacher or other person entrusted with the care or supervision of a person for special or limited purposes may not be held civilly liable for the use of a reasonable degree of force against the person who creates a disturbance if the teacher or other person reasonably believes it is necessary to:
 - A. Control the disturbing behavior; or
 - B. Remove the person from the scene of the disturbance.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§4502. School approval requirements.

5. Other requirements. The state board and the commissioner shall jointly adopt basic school approval rules governing school administrative units and elementary and secondary schools. These rules must set minimum requirements in the following areas, incorporating such requirements as are established by statute:

- M. The use of time-out areas, administered in accordance with requirements adopted by the department and with this paragraph. The use of a time-out area is subject to the following:
 - (1) The time-out area must be well ventilated and sufficiently lighted. The time-out area may not be locked; and
 - (2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or can be observed from outside of the time-out area and can be heard by a person supervising the time-out area.

REGULATIONS

05-071 CMR 33.1. Policy and purpose.

This rule establishes standards for the use of physical restraint and seclusion to provide for the safety of all individuals. Physical restraint and seclusion may only be used as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others.

05-071 CMR 33.2. Definitions.

1. Aversive procedure means the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to: infliction of bodily pain, (e.g. hitting, pinching, slapping), water spray, noxious fumes, extreme physical exercise, costumes, or signs.
2. Behavior Intervention Plan (BIP) is a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, and by strengthening replacement skills.
3. Chemical Restraint is the use of medication, including those administered PRN (as needed), given involuntarily to control student behavior.
4. Covered Entity means an entity that owns, operates or controls a school or educational program that receives public funds from the Maine Department of Education including, but not limited to: public schools, public regional programs, public charter schools, private schools, publicly-supported private schools, special purpose private schools, Career and Technical Education schools, public pre-kindergarten, and Child Development Services (CDS).
5. De-escalation is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk for injury or harm.
6. Dangerous Behavior is behavior that presents a risk of injury or harm to a student or others.
7. Emergency is a sudden, urgent occurrence, usually unexpected but sometimes anticipated, that requires immediate action.
8. Functional Behavioral Assessment (FBA) is a school-based process that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment. The term includes direct assessments, indirect assessments and data analysis designed to assist the team to identify and define the problem behavior in concrete terms, identify the contextual factors (including affective and cognitive factors) that contribute to the behavior, and formulate a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior. Formal documentation of the assessment by appropriately qualified individuals becomes part of the child's educational record.
9. Risk of injury or harm describes a situation in which a student has the means to cause physical harm or injury to self or others and such injury or harm is likely to occur; such that a reasonable and prudent person would take steps to protect the student and others against the risk of such injury or harm.
10. Individualized Education Plan (IEP) is a term used under special education law to reference the written document that states goals, objectives and services for students receiving special education.
11. Individual Health Plan (IHP) is a plan of action for a student with special health care needs, actual and potential. It is an adaptation of the nursing care plans commonly used in health care institutions.
12. Mechanical Restraint is any item worn by or placed on the student to limit behavior or movement and which cannot be removed by the student.
13. Parent means a parent, as defined in Title 20-A MRSA, section 1, subsection 20, with legal custody of a minor child, except that the "parent" of a child with disabilities means a parent as defined in the federal Individual with Disabilities Education Act, 20 United States Code, Section 1401 (23).
14. Physical escort is temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted.

15. Physical prompt is a teaching technique that involves physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency.

16. Physical Restraint is an intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily. Physical restraint does not include:

- A. Physical escort;
- B. Physical prompt;
- C. Physical contact when the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact;
- D. Momentarily deflecting the movement of a student when the student's movement would be destructive, harmful or dangerous to the student or to others;
- E. The use of seat belts, safety belts or similar passenger restraint, when used as intended, during the transportation of a child in a motor vehicle; or
- F. The use of a medically prescribed harness, when used as intended; or
- G. A brief period of physical contact necessary to break up a fight.

17. Positive alternatives are a set of instructional and environmental supports to teach students pro-social alternatives to problem behaviors with high rates of positive feedback.

18 School Day is a day in which a school or program is in operation as an instructional day and/or a teacher in-service day.

19. Seclusion is the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.

20. Section 504 Plan refers to a written plan of modifications and accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

21. Serious bodily injury is any bodily injury that involves-

- A. A substantial risk of death;
- B. Extreme physical pain;
- C. Protracted and obvious disfigurement; or
- D. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

22. Student is a child or adult aged 3 to 20 enrolled in a school or a program owned, operated or controlled by a covered entity as defined in this section

23. Timeout is an intervention where a student requests, or complies with an adult request for, a break, and is not covered by this rule. Timeout is not seclusion.

05-071 CMR 33.4. Local policy; Notice to parents.

1. Local Policy Required

All covered entities shall have local policies, consistent with this rule, regarding the use of physical restraint and seclusion. Covered entities must also have a procedure available by which parents may submit a complaint regarding the use of physical restraint or seclusion on their child, based upon which the covered entity shall investigate the circumstances surrounding the incident complained of, make written findings and, where appropriate, determine to take corrective action.

Covered entities shall revise existing policies or develop policies consistent with this rule within 90 calendar days of the effective date of this rule.

2. Annual notification of rule and local policies

Annually, each covered entity shall provide overview and awareness information to all staff, including contracted providers, regarding the content of this rule and any local policies or procedures related to the use of physical restraint and seclusion.

Each covered entity shall provide an annual notice informing parents of students enrolled at the covered entity of this rule and any local policies or procedures related to the use of physical restraint and seclusion, including the local complaint process.

05-071 CMR 33.5. Seclusion.

1. Permitted uses of seclusion

A. Seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

B. Seclusion must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a seclusion, trained personnel must be summoned to the scene and assume control of the situation as rapidly as possible.

2. Prohibited uses of seclusion

A. Seclusion may not be used for punitive purposes, staff convenience or to control challenging behavior.

B. Seclusion may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm.

C. Seclusion may not be used as a therapeutic or educational intervention.

D. Seclusion may not take place in a locked room.

3. Monitoring of a student in seclusion

A. At least one adult must be physically present to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times. Students must be continuously monitored until the student no longer presents a risk of injury or harm to self or others.

B. In the event of an injury to the student or staff, the local policy for emergency response must be initiated.

4. Termination of seclusion

A. The staff involved in the use of seclusion shall continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.

B. Time must be recorded consistent with the requirements of the documentation section of this rule and local policy.

C. The covered entity may request assistance from parents at any time during the incident.

D. If attempts to release from seclusion have been unsuccessful and a student is still presenting behaviors that create a risk of injury or harm to self or others, then the covered entity may request assistance from outside sources such as caregivers, case managers, crisis intervention teams, local EMS, or other community resources.

E. If seclusion continues for more than 10 minutes, an administrator or designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every 10 minutes until the seclusion is terminated.

5. Location of seclusion

Seclusion can be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height. If a specific room is designated as a seclusion room, it must be a minimum of 60

square feet with adequate light, heat, ventilation, be of normal room height, contain an unbreakable observation window in a wall or door and be free of hazardous material and objects with which a student could self-inflict bodily injury.

05-071 CMR 33.6. Physical restraint.

1. Permitted uses of physical restraint

A. Physical restraint may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

B. Physical restraint must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a physical restraint and if the need for physical restraint continues, trained personnel must be summoned to the scene and must assume control of the situation as rapidly as possible.

C. Physical restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement.

D. Protective equipment or devices that are part of a treatment plan as prescribed by a licensed health care provider are not prohibited by this rule.

2. Prohibited forms and uses of physical restraint

A. Physical restraint may not be used for punitive purposes, staff convenience or to control challenging behavior.

B. Physical restraint may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm.

C. No physical restraint may be used that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student.

D. No physical restraint may be used that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-down (e.g. tackle), the use of any physical structure (e.g. wall, railing or post), punching and hitting.

E. Physical restraint may not be used as a therapeutic or educational intervention.

F. Aversive procedures and mechanical and chemical restraints may not be used under any circumstances.

G. Prescribed assistive devices are not considered mechanical restraints when used as prescribed. Their use must be supervised by qualified and trained individuals in accordance with professional standards.

H. Prescribed medications are not considered chemical restraints when administered by a health care provider consistent with a student's health care plan are permitted.

3. Monitoring of a student in physical restraint

A. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult is precluded.

B. A student in physical restraint must be continuously monitored until the student no longer presents a risk of injury or harm to self or others.

C. In the event of an injury, local policy must be followed.

4. Termination of physical restraint

A. The staff involved in the use of physical restraint must continually assess for signs that the student in physical restraint is no longer presenting a risk of injury or harm to self or others, and the physical restraint must be discontinued as soon as possible.

- B. Time must be recorded consistent with the requirements of the documentation section of this rule and local policy.
- C. The covered entity may request assistance from parents at any time during the incident.
- D. If attempts to release the student from physical restraint have been unsuccessful and the student is still presenting behaviors that create a risk of injury or harm to self or others, the covered entity may request assistance from outside sources such as caregivers, case managers, crisis intervention teams, local emergency medical services, or other community resources.
- E. If physical restraint continues for more than 10 minutes, an administrator or designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every 10 minutes until the physical restraint is terminated.

5. Exclusions

Those restraints used by law enforcement officers or school resource officers employed by a police department in the course of their professional duties are not subject to this rule.

05-071 CMR 33.7. Notification of incident.

1. Reporting to an Administrator or Designee, others

After each incident of physical restraint or seclusion, a staff member involved shall:

- A. Report to the administrator or designee by oral notification as soon as possible after each incident, but in no event later than the end of the school day of its occurrence, and
- B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, report the incident to the entity responsible for the student's education within 24 hours or by the end of the next business day.

2. Notification to parents

A. An administrator or designee shall notify the parent that physical restraint or seclusion and any related first aid have occurred as soon as practical but within the school day in which the incident occurred, utilizing all available phone numbers and other appropriate means. If the parent is unavailable, a phone message must be left for the parent to contact the school as soon as possible. If a parent does not have access to a phone, the entity must use whatever contact information is available for emergencies. The parent must be informed that written documentation will be provided to them within 7 calendar days.

B. If a restraint or seclusion has occurred outside the school day, notification of the restraint or seclusion and any related first aid must occur as soon as possible in compliance with the entity's procedures for emergency situations

3. Reporting of Serious Bodily Injury or Death

If serious bodily injury or death of a student occurs during the implementation of restraint or seclusion:

- A. Oral notification of the incident must follow local health and safety procedures as outlined by the covered entity's policies and procedures; and
- B. The administrator or designee shall notify the Department of Education within 24 hours or the next business day.

05-071 CMR 33.8. Documentation; Incident report.

1. Incident Report

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator or designee as soon as practical after the incident, and in all cases within two school days. At a minimum, the incident report must include:

- A. Student name;
- B. Age, gender, grade;

- C. Location of the incident;
- D. Date of incident;
- E. Date of report;
- F. Person completing the report;
- G. Beginning and ending time of each physical restraint and seclusion;
- H. Total time of incident;
- I. Description of prior events and circumstances;
- J. Less restrictive interventions tried prior to the use of physical restraint or seclusion. If none used, explain why;
- K. The student behavior that justified the use of physical restraint or seclusion;
- L. A detailed description of the physical restraint or seclusion used;
- M. The staff person(s) involved, their role in the use of physical restraint or seclusion and their certification, if any, in an approved training program;
- N. Description of the incident, including the resolution and process of return to program, if appropriate;
- O. Whether the Student has an: a. IEP; b. 504 plan; c. behavior plan; d. IHP; or e. other plan;
- P. If a student or staff sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any;
- Q. Date, time, and method of parent notification; and
- R. Date, time of staff debriefing.

2. Incident Report Provided to Parents, others

A copy of the incident report must be provided, within 7 calendar days of the incident to:

- A. The parent; and
- B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, the entity responsible for the student's education.

3. Duration of Incident

For purposes of this Section and Section 9, an "incident" consists of all actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his or her regular programming.

05-071 CMR 33.9. Response to the use of physical restraint or seclusion.

1. Debriefing

A. Following each incident of physical restraint or seclusion, the covered entity shall ensure that, within two school days, an administrator or designee reviews the incident:

- (1) With all staff persons who implemented the use of physical restraint or seclusion to discuss:
 - (a) Whether the use of restraint or seclusion was implemented in compliance with this rule and local policies, and
 - (b) How to prevent or reduce the future need for physical restraint and/or seclusion; and
- (2) With the student who was restrained or secluded to discuss:
 - (a) What triggered the student's escalation; and
 - (b) What the student and staff can do to reduce the future need for restraint or seclusion.

B. When physical restraint or seclusion has resulted in serious bodily injury to a student or staff member requiring emergency medical treatment, the debriefing must take place as soon as possible but no later than the next school day.

C. Following the debriefing, staff must develop and implement a written plan for response and de-escalation for the student, or, if a plan already exists, staff must review and, if appropriate, revise it.

2. Multiple Incidents of Physical Restraint and Seclusion

A. Special Education/504 Students after Third Incident. After the third incident of physical restraint or seclusion in a school year of a student who has been found eligible for special education or has a Section 504 plan, the student's IEP or 504 team shall meet within 10 school days of the third incident to discuss the incident and consider the need to conduct an FBA and/or develop a BIP or amend an existing one.

B. For all other students after Third Incident. For students not described in Paragraph A, a team shall meet within ten school days of the third incident in a school year to discuss the incidents.

(1) The team shall consist of the parent, an administrator or designee, a teacher for the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members.

(2) The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is to be made, the need to conduct an FBA, and/or develop a BIP.

C. Nothing in this section is meant to prevent the completion of an FBA or BIP for any student who might benefit from these measures but who has had fewer than three restraints or seclusions.

3. Parent Participation

The covered entity shall make reasonable, documented efforts to encourage parent participation in the meetings required in subsection 2 of this section and to schedule them at times convenient for parents to attend.

A covered entity may not seek written permission from a parent to provide restraint and seclusion to a student.

4. Duration of Incident

For purposes of this Section, the time period described in Section 8 (3) constitutes a single incident.

05-071 CMR 33.10. Cumulative reporting.

1. Building-level reporting, analysis

A cumulative report by building must be made to the superintendent or chief administrator on a quarterly and annual basis to include:

- A. Aggregate number of uses of physical restraint;
- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students placed in seclusion;
- E. Aggregate number of serious bodily injuries to students related to the use of restraint and seclusions; and
- F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

The superintendent or chief administrator shall review cumulative reports received as set forth in this section and identify those areas that can be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.

2. Reporting Data to the Department of Education

Each covered entity shall submit to the Department of Education an annual report of the incidence of physical restraint and seclusion that must include:

- A. Aggregate number of uses of physical restraint;

- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students in placed in seclusion;
- E. Aggregate number of serious bodily injuries to students related to physical restraint and seclusion; and
- F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

05-071 CMR 33.11. Complaint process.

1. Local Complaint Process

Parent complaints related to restraint and seclusion must be submitted to the covered entity in accordance with local policy and procedure.

2. Department of Education Complaint Process

Any parent who is dissatisfied with the result of the local complaint process may file a complaint with the Department of Education, which complaint is not considered an appeal of that local process. The Department shall review the results of the local complaint process and may initiate its own investigation of the complaint, and shall issue to the complaining parent and the covered entity a written report with specific findings within 60 days of receiving the complaint. If a violation is found, the Department shall develop a corrective action plan by which the entity will achieve compliance.

05-071 CMR 33.12. Staff training; Approved programs.

The Department of Education shall maintain a directory of approved training programs on its website at <http://maine.gov/education/>. The list of approved training programs may include regional training programs and regional "train the trainer" model programs. These training programs must require participants to demonstrate competency to achieve certification, and must include instruction in at least the following core components:

1. The use of non-physical interventions for responding to potentially dangerous behaviors, including de-escalation and the use of positive alternatives;
2. Identification of dangerous behaviors that may indicate the need for physical restraint or seclusion and methods for evaluating the risk of harm to determine whether such interventions are warranted;
3. Instruction and simulated experience in administering safe physical restraint techniques across a range of increasingly restrictive interventions, including the safe movement of a student, and in recognizing and avoiding positions involving a high risk of restraint-related positional asphyxia (restricting a student's ability to breathe);
4. The effects of physical restraint and seclusion on a student, including monitoring physical and psychological signs of distress and when to obtain medical assistance in compliance with the covered entity's procedures for emergency interventions;
5. The risks and realities of physical restraint and seclusion; and
6. A review of the process of student and staff debriefing.

Each covered entity shall ensure that a sufficient number of administrators or designees, general and special education staff, maintain certification in an approved training program. A list of staff with the required approved training must be made available in each building office, as well as any central office, along with other school-wide emergency procedures and must be updated at least annually.

05-071 CMR 33.13. Department of Education non-regulatory guidance.

The Department shall annually ensure that teachers and administrators throughout the State are provided with consistent and accurate information regarding the requirements of this rule.

05-071 CMR 125.5. Other minimum requirements.

5.12 Restraint and Seclusion

School boards and school personnel shall recognize the proper use of physical restraint and seclusion as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others. Restraint and seclusion shall be administered in accordance with requirements adopted by the department. 20-A M.R.S. §4502(5)(M) ; Maine DOE Rule Chapter 33.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

9. Students expelled or suspended. Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

- A. Who is deliberately disobedient or deliberately disorderly;
- B. For infractions of violence;
- C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;
- D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; or
- E. Who possesses, furnishes or traffics in any scheduled drug as defined in Title 17-A, chapter 45.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

- A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify in writing the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

§6555. Dangerous behavior prevention and intervention.

2. Report of incident of dangerous behavior. Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the

reported incident must be conducted by an administrator and an assigned public school employee. If the report of the incident of dangerous behavior is substantiated, the school administrative unit shall, in consultation with the public school employee who was subjected to the dangerous behavior, if any, develop an individualized response plan to avoid future dangerous behavior, which may include but is not limited to:

- A. Minimizing suspension and expulsion of the student.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

8-A. Due process standards for expulsion proceedings. Following a proper investigation of a student's behavior and in accordance with the districtwide disciplinary policies adopted by the school board pursuant to subsection 15-A, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

- A. Before a hearing on the expulsion, the superintendent shall:

- (1) Provide written notice to the parents and the student of:

- (a) The date, time and location of the hearing;
- (b) A description of the incident or incidents that occasioned the expulsion hearing;
- (c) The student's and parents' right to review the school records prior to the hearing;
- (d) A description of the hearing process; and
- (e) An explanation of the consequences of an expulsion; and

- (2) Invite the parents and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing.

- B. At a hearing on the expulsion:

- (1) The student has the right to present and cross-examine witnesses;
- (2) The student has the right to an attorney or other representation; and
- (3) Witnesses must be sworn in and the chair of the hearing has the authority to swear in witnesses.

- C. After a hearing on the expulsion, the school board shall provide written notice of its decision to the parents and the student by certified mail. The notice of the school board's written decision may include a reentry plan developed in accordance with subsection 9-C.

§6554. Prohibition on bullying in public schools.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

- H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

9. Students expelled or suspended. [...]

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. The school board may authorize the superintendent or principal to modify, in writing, the requirement for expulsion of a student on a case-by-case basis. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance use or possession rules to participate in substance use disorder services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled. [...]

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. [...]

B. Nothing in this subsection prevents a school board from:

(2) Providing educational services in an alternative setting to a student who has been expelled. [...]

9-C. Reentry for students after expulsion. Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph.

(1) The reentry plan must be developed by the superintendent or the superintendent's designee in consultation with the student and the student's parents to provide guidance that helps the student understand what the student must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.

(2) The superintendent or the superintendent's designee shall send a certified letter, return receipt requested, or hand deliver a letter to the parents of the expelled student giving notice of the date, time and location of a meeting to develop a reentry plan for the student.

(3) If the student and the student's parents do not attend the meeting under subparagraph (2), the reentry plan must be developed by school staff.

(4) The reentry plan must be provided to the parents and the student in writing.

(5) The superintendent shall designate a school employee to review the student's progress with the reentry plan at intervals of one month, 3 months and 6 months after the meeting and at other times as determined necessary by the designated school employee.

(6) The reentry plan may require the student to take reasonable measures determined by the superintendent to be helpful to establish the student's readiness to return to school. Professional services determined to be necessary by the superintendent must be provided at the expense of the student and the student's parents.

(7) The superintendent may, as appropriate, notify an individualized education program team for a child with a disability who has been expelled by a school board.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§1. Definitions.

As used in this Title, unless the context indicates otherwise, the following terms have the following meanings.

1-B. Alternative education program. "Alternative education program" means a program in which the primary purpose is to provide at-risk students with curricula and assessment in a setting designed to effectively meet the student's academic, social and relational needs.

1-C. Alternative learning. "Alternative learning" means an educational option that a public school or publicly supported program offers at-risk students by offering some combination of the following: alternative education programs; small class size; flexible scheduling; relevant alternative curricula and assessment; mentoring adults; skilled teachers; a focus on social, emotional and relationship skills; collaboration among home, school and social service agencies; and any other measures designed to accommodate the needs of at-risk students.

§1001. Duties of school boards.

School boards shall perform the following duties.

9. Students expelled or suspended. [...]

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. The school board may authorize the superintendent or principal to modify, in writing, the requirement for expulsion of a student on a case-by-case basis. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance use or possession rules to participate in substance use disorder services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

§3271. Compulsory attendance at school.

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases when approved by the school principal. A person 5 years of age or older and under 6 years of age is not required to meet the requirements of this subsection.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction through alternative learning or in any other manner arranged or approved by the commissioner.

§3801. General provisions.

4. Duties of education service center. An education service center's functions, programs and services may include but are not limited to the following:

F. Alternative education programs and administration.

§4729. Alternative education programs.

A school administrative unit may establish one or more alternative education programs that are in alignment with the system of learning results established in section 6209 as alternatives to the regular course of study, including options allowed in sections 5104-A and 8605, to meet the needs of at-risk students.

1. Coordination. These programs shall operate as part of the elementary or secondary school program.
2. Alternative schedules. Alternative education programs may allow students to attend school part-time. Alternative education programs may be scheduled apart from the regular school day.

§5001-A. Compulsory attendance.

7. Purpose. Compulsory education is essential to the preservation of the rights and liberties of the people and the continued prosperity of our society and our nation. Maintaining regular student attendance is necessary to achieve the goal of an educated citizenry. Public schools should ensure the rights of access for all school-age persons to an appropriate educational opportunity and, when necessary, should develop alternatives to regular school curricula for those children and youth at risk of becoming dropouts and those who may have left school.

§5104-A. Alternative education programs outside the school administrative unit.

1. Alternative education programs. If the superintendents approve, a school administrative unit may enroll a student in an alternative education program in another school administrative unit or in an approved private alternative education program.

§5151. Technical assistance for truants, dropout prevention and reintegration and alternative education.

The commissioner shall provide technical assistance regarding truancy, dropouts and reintegration and alternative education programs. To do this, the commissioner shall employ at least one consultant whose responsibility is to cover the area of truancy, dropouts and alternative education.

1. Qualifications. Any consultant must be knowledgeable in the problems of truancy, dropouts and reintegration and policies and programs.
2. Duties. The consultant shall:
 - A. Provide technical assistance to school administrative units and private schools approved for tuition purposes to establish alternative education programs;
 - B. Develop screening tools for early identification of potential dropouts;
 - C. Act as a clearinghouse for information on alternative education programs in the State, on exemplary programs in other states and on research pertaining to the subject, and promote effective programs;
 - D. Function as a liaison among the commissioner, department staff, advisory committee and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education;
 - E. Develop model curricula and programs for alternative education schools and programs;
 - F. Assess and provide for the evaluation of alternative education programs consistent with the standards established by the commissioner;
 - G. Develop training programs for superintendents, principals and school attendance officers to improve effectiveness in performance of their duties as pertains to truants, dropouts and reintegration and alternative education programs;
 - H. Develop and submit a plan on behalf of the commissioner for the joint standing committee of the Legislature having jurisdiction over education and the state board on the prevalence of truancy and dropouts, assess alternative and adult education programs and prepare positive strategies to

prevent and remedy the problems identified, including reintegration planning for juvenile offenders who have been released from juvenile facilities and are enrolling in schools in the State;

I. Have the responsibility for preventive programs and alternative education programs;

J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;

K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State;

L. Provide staff services to the advisory committee; and

M. Plan and coordinate programs and grant writing to stimulate programs and research on the problem of dropouts, truants, alternative education, alternative learning and adult education.

§5152. Advisory committee.

1. Commissioner. The commissioner shall appoint an advisory committee on truancy, dropouts and alternative education.

2. Duties of the Advisory Committee, as Appointed by the Commissioner. The advisory committee shall advise the commissioner on the development and implementation of state and local policies and programs that are needed to deal effectively with the incidence of truancy and dropouts in state schools. The committee should consider its mandate in a broad context to assess the causes of truancy and dropouts, the effectiveness of alternative education and prevention programs and the social and educational programs or changes needed to encourage students to remain in school, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities in the State and have enrolled in schools in the State.

§9701. Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Drug treatment center. "Drug treatment center" means a facility as defined in Title 22, section 8001, which provides substance use disorder treatment.

2. Eligible student. "Eligible student" means any resident of the State between the ages of 5 and 20 years who is otherwise eligible for public schooling under this Title.

3. Long-term treatment. "Long-term treatment" means treatment in a drug treatment center designed to provide treatment for a period in excess of 60 days.

§9702. Program responsibility.

A school administrative unit in which a licensed drug treatment center is located or a nearby school administrative unit shall provide an educational program, as prescribed by the commissioner, for each eligible student residing in the center, notwithstanding the student's legal residence within the State. The selection of the school administrative unit to provide that program shall be made by the commissioner pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The rules shall take into account the educational needs of students, the ability of a school administrative unit to meet those needs, the proximity of school administrative units to the facility, the expressed wishes of officials representing school administrative units and other appropriate considerations. The decision of the commissioner may be appealed to the State Board of Education. The decision of the board shall be final.

§9703. Initial program approval.

Each such school unit shall submit a program plan for educational services to be approved by the commissioner. The program plan shall include the following components:

1. Planning; approved. Evidence of collaborative planning with officials and staff of the center and approval of the center's governing board;
2. Licensure. Proof that the facility is licensed by the Department of Health and Human Services and complies with the rules adopted by that department;
3. Educational activities. Educational activities and an evaluation component suitable to the age and educational needs of the eligible students;
4. Accounting. An accounting of all eligible students who will be provided educational services by the program and a plan for continued accurate accounting of the students; and
5. Line-item budget. A line-item budget submitted no later than 90 days prior to the fiscal year in which the program will operate. The proposed budget request may not exceed the number of students in the approved program plan, on a per student basis, based on the state average tuition rate as provided in sections 5804, 5805 and 15689.

The commissioner or a designee shall approve the program plan in a timely manner in order that appropriate budgeting may occur before the start of the school unit's fiscal year. Approval shall include a payment schedule for disbursement of program funds to the school unit in the fiscal year of the program's operation.

§9704. Appeal process.

A school unit required to offer an educational program or a drug treatment center which treats eligible students may appeal to the commissioner in the event agreement cannot be reached between them. The commissioner's decision on the program in such an appeal shall be rendered within 60 days and shall be final.

§9705. Renewal of program approval.

Each school unit operating an educational program for eligible students at drug treatment centers shall file an annual report, a proposed budget for the ensuing fiscal year and an application for renewal of program approval as prescribed by the commissioner.

§9706. Rule-making authority.

The commissioner shall adopt rules to implement this chapter and the funding scheme under the Essential Programs and Services Funding Act.

REGULATIONS

05-071 CMR 127.3. General requirements K-12.

Each school administrative unit shall provide programs and instructional approaches that support the variety of learning styles of the students in the schools of the unit. The school board shall adopt a policy that provides all students with equitable opportunities to access the content standards of the system of Learning Results.

3.04 Alternative Programs

A. Role of Alternative Programs

A school administrative unit may establish or participate in one or more programs as alternatives to the regular course of study to meet the needs of students at risk. Alternative programs shall support student social and behavioral development in addition to performance on the content standards of the system of Learning Results.

These programs shall have stated goals, objectives, and procedures for implementing and assessing their effectiveness. Such programs may include interventions such as programs outside the school

administrative unit, specialized instructional settings, extended or shortened school day, or extended school year, and may be scheduled outside of the regular school day, if appropriate.

B. Procedural Requirements

School administrative units shall develop a Personal Learning Plan, aligned with the system of Learning Results, for every K-12 student enrolled in an alternative program. Each Personal Learning Plan shall include, but not be limited to, the following components:

- 1). A description of the student's academic strengths and the observable or measurable areas in need of improvement.
- 2). A description of the annual educational goals, aligned with the content standards and performance indicators of the system of Learning Results, that the student may reasonably be expected to achieve during the school year.
- 3). A description of short-term instructional objectives leading to each annual educational goal.
- 4). A description of the social and behavioral needs that must be addressed for the student to achieve academic success, including strategies to keep the student in school.
- 5). A description of the multiple measures that will provide evidence that the student has achieved each goal.
- 6). For secondary school students, a description of the student's career goals and transitional steps to achieve them.

05-071 CMR 128.1. Intent.

Generally, the intent of L.D. 1851 is to require school officials to give increased attention to those pupils who are habitual truants and dropouts. Such attention will include record keeping relative to the actual numbers of pupils who are, by definition, habitual truants and dropouts; determining the reasons for each occurrence; providing appropriate alternative programs designed to promote these pupils' return to school; and providing appropriate alternative programs designed to prevent pupils from becoming habitual truants and dropouts.

05-071 CMR 128.13. Developing alternative programs.

The legislation encourages school units to establish alternative programs for dropouts and chronic (habitual) truants. Although the word "encouraged" is used, the primary intent of the legislation is to provide school units with the authority to establish programs for the identified pupils.

When developing alternative programs, local school officials should give consideration to the following questions:

- A. Do the programs provide for academic and non-academic pursuits in accordance with the needs of the individual student?
- B. Do the programs include that which is necessary for meeting curriculum and graduation requirements provided by statute or local board policy?
- C. Do the programs provide adequate instructional time equivalent to that required for regular school programs?
- D. Are adequate instructional materials provided?
- E. Can the programs be evaluated in terms of meeting stated objectives?

Alternative programs may be developed and conducted under the direction of local school officials and may become operative within present school facilities during the regular school day. Likewise, alternative programs may be operated under the direction of local school officials outside the regular school facilities and school day. Regardless of which approach is followed, criteria should be developed to determine pupil eligibility for participation in these programs. A description of locally developed alternative programs is to be filed with this Department and the reporting process can be accomplished by using the data collection form.

It is possible that alternative programs may already exist or could be developed completely apart from local school jurisdiction. These programs could be operated by private individuals, groups, or agencies. If programs operated outside the school by private individuals, groups, or agencies seem appropriate in meeting the needs of the pupil, criteria for the programs should be developed by the local school officials and they should serve as a guide for the local approval of these programs. Such criteria should include the following:

- A. The instruction is provided by qualified individuals. The qualifications might be evidenced by a valid teaching credential, a valid license (trade, etc.) in the area of content being presented, or expertise gained through long experience in the content of the specific program (adult education programs).
- B. The quality of instruction is equivalent to that provided in the regular public school.
- C. The facilities housing the program meet all fire safety, health, and sanitation standards.
- D. The program is designed to provide adequate instructional time to meet its stated objectives.
- E. There is provision for program evaluation.

Any alternative programs developed under this legislation shall be submitted to the local school board for approval.

05-071 CMR 128.14. Units unable to provide alternative programs.

In the legislation, provision is made for schools unable to provide an alternative program for chronic (habitual) truants and dropouts. In this instance, schools may tuition pupils to neighboring administrative units or to private schools; it is necessary that policies and procedures be developed to accommodate this practice. All receiving schools must be approved by this office under the basic school approval program.

Record keeping procedures should be locally developed for maintaining records of pupils enrolled in alternative programs on the basis of .1 pupil for each semester credit course or its equivalent leading toward a high school graduation. Such records will also be necessary for pupils tuitioned to neighboring units or private schools. Any pupil enrolled in an alternative program shall be counted on the rolls of the sending unit for subsidy purposes. No pupil shall be counted in the aggregate as more than 1.0.

05-071 CMR 128.16. Parental approval of alternative programs.

Regardless of what type of alternative program arrangement is determined for each individual pupil, local school officials should prepare a form for parents to sign to approve the alternative arrangement. Parents should be included in the total process and should provide evidence to the school officials that they understand what has taken place.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

9. Students expelled or suspended. Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury. [...]

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify in writing the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; or

(2) Providing educational services in an alternative setting to a student who has been expelled.

C. In accordance with the proper investigation and due process provisions required in subsection 9, a principal may suspend immediately for good cause a student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection.

§6552. Firearms.

1. Prohibition. A person may not possess a firearm on public school property or the property of an approved private school or discharge a firearm within 500 feet of public school property or the property of an approved private school.

2. Exceptions. The provisions under subsection 1 do not apply to the following.

A. The prohibition on the possession and discharge of a firearm does not apply to law enforcement officials.

B. The prohibition on the possession of a firearm does not apply to the following persons, if the possession is authorized by a written policy adopted by the school board:

- 1) A person who possesses an unloaded firearm for use in a supervised educational program approved and authorized by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; and
- 2) A person who possesses an unloaded firearm that is stored inside a locked vehicle in a closed container, a zipped case or a locked firearms rack while the person is attending a hunter's breakfast or similar event that:
 - (a) Is held during an open firearm season established under Title 12, Part 13 for any species of wild bird or wild animal;
 - (b) Takes place outside of regular school hours; and
 - (c) Is authorized by the school board.

C. The prohibition on possession and discharge of a firearm does not apply to a person possessing a firearm at a school-operated gun range or a person discharging a firearm as part of a school-sanctioned program at a school-operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body.

3. Penalty. A person who violates this section is guilty of a Class E crime.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§1. Definitions.

As used in this Title, unless the context indicates otherwise, the following terms have the following meanings.

- 2-A. At-risk student. "At-risk student" means a student who:
 - C. Is truant.

§3271. Compulsory attendance at school.

3. Exceptions. Attendance at school or an alternative education program is not required of:

- C. A person who has been adjudged a truant and has been excused from attendance pursuant to procedures established by the commissioner.

§3272. Truancy; excusable absences.

2. Truancy. A person is truant if:

- A. The person is required to attend school or alternative instruction and has completed grade 6 under this chapter and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year;

- B. The person is required to attend school or alternative instruction and is at least 6 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year; or
- C. The person is required to attend school pursuant to section 3271, subsection 1-A and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

§5051-A. Truancy.

1. Truant. A student is truant if the student is subject to section 5001-A and:

- A. Deleted. Laws 2007, c. 304, § 5.
- B. Has completed grade 6 and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year;
- C. Is at least 6 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year; or
- D. Is enrolled in a public day school, is at least 5 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

2. Procedures; written notice; referral. This subsection governs the procedure to be followed when a student is truant.

A. Deleted. Laws 2011, c. 614, § 13.

A-1. The principal, upon determining that a student is truant under subsection 1, shall notify the superintendent of the student's truancy within 5 school days of the last unexcused absence.

A-2. A student who is determined truant under subsection 1 must be referred to the school's student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 to determine the cause of the truancy and assess the effect of the student's absences, as well as any future absences for the student. If it is determined that a negative effect exists, the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 shall develop an intervention plan to address the student's absences and the negative effect of these absences. An intervention plan may include, but is not limited to:

- (1) Frequent communication between the teacher and the family;
- (2) Changes in the learning environment;
- (3) Mentoring;
- (4) Student counseling;
- (5) Tutoring, including peer tutoring;
- (6) Placement into different classes;
- (7) Consideration of multiple pathways as described under section 4703;
- (8) Attendance contracts;
- (9) Referral to other agencies for family services; and
- (10) Other interventions, including, but not limited to, referral to the school attendance coordinator, student assistance team or dropout prevention committee.

Failure of the student or the student's parents to appear at scheduled meetings does not preclude the school administrators from implementing an intervention plan to address the student's truancy.

B. Deleted. Laws 2011, c. 614, § 13.

B-1. The superintendent shall develop procedures to refer a student who is truant to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 in accordance with this section. These procedures may include, but are not limited to:

- (1) Identifying school personnel responsible for notifying the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system when a student is truant;
- (2) A process for referral of a student who is truant, including identifying school personnel responsible for inviting the parents and the student to participate in any meeting that results from this referral;
- (3) A timeline for setting up a meeting and developing an intervention plan under paragraph A-2;
- (4) A plan for dealing with future absences of a student who is truant; and
- (5) A plan for reporting of the results of the intervention plan developed pursuant to paragraph A-2.

C. If the intervention plan developed pursuant to paragraph A-2 is unable to correct the truancy of the child, the superintendent shall serve or cause to be served upon the parent in hand or by registered mail a written notice that attendance of the child at school is required by law. The notice must:

- (1) State that the student is required to attend school pursuant to section 5001-A;
- (2) Explain the parent's right to inspect the student's attendance records, attendance coordinator's reports and principal's reports;
- (3) Explain that the failure to send the student to school and maintain the student in regular attendance is a civil violation in accordance with section 5053-A and will jeopardize the student's status in the grade that the student is in;
- (4) State that the superintendent may notify the local law enforcement department of a violation of section 5053-A and the Department of Health and Human Services of a violation under subsection 1, paragraph C; and
- (5) Outline the plan developed to address the student's truancy and the steps that have been taken to implement that plan.

D. Prior to notifying the local law enforcement department under paragraph E, the superintendent shall schedule at least one meeting as required in paragraph B-1 and may invite a local prosecutor.

E. If, after 3 school days after service of the notice referred to in paragraph C, the student remains truant and the parent and student refuse to attend the meeting scheduled according to paragraph D, the superintendent shall report the facts of the unlawful absence to the local law enforcement department, which may proceed with an action to enforce section 5053-A against the parent unless the student is at once placed in an appropriate school or otherwise meets the requirements under section 5001-A.

F. When a student is determined to be truant and in violation of section 5001-A and the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 and the superintendent have made a good faith attempt to meet the requirements of paragraph B-1, the superintendent shall notify the school board of the student's truancy.

3. Reports. This subsection applies to reports of truancy.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report must:

- (1) Identify the number of truants in the school administrative unit in the preceding school year;
- (2) Describe the unit's efforts to deal with truancy;

- (3) Account for actions brought under this section including the number of truants reported to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710; and
- (4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

§5151. Technical assistance for truants, dropout prevention and reintegration and alternative education.

The commissioner shall provide technical assistance regarding truancy, dropouts and reintegration and alternative education programs. To do this, the commissioner shall employ at least one consultant whose responsibility is to cover the area of truancy, dropouts and alternative education.

1. Qualifications. Any consultant must be knowledgeable in the problems of truancy, dropouts and reintegration and policies and programs.
2. Duties. The consultant shall:
 - A. Provide technical assistance to school administrative units and private schools approved for tuition purposes to establish alternative education programs;
 - B. Develop screening tools for early identification of potential dropouts;
 - C. Act as a clearinghouse for information on alternative education programs in the State, on exemplary programs in other states and on research pertaining to the subject, and promote effective programs;
 - D. Function as a liaison among the commissioner, department staff, advisory committee and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education;
 - E. Develop model curricula and programs for alternative education schools and programs;
 - F. Assess and provide for the evaluation of alternative education programs consistent with the standards established by the commissioner;
 - G. Develop training programs for superintendents, principals and school attendance officers to improve effectiveness in performance of their duties as pertains to truants, dropouts and reintegration and alternative education programs;
 - H. Develop and submit a plan on behalf of the commissioner for the joint standing committee of the Legislature having jurisdiction over education and the state board on the prevalence of truancy and dropouts, assess alternative and adult education programs and prepare positive strategies to prevent and remedy the problems identified, including reintegration planning for juvenile offenders who have been released from juvenile facilities and are enrolling in schools in the State;
 - I. Have the responsibility for preventive programs and alternative education programs;
 - J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;
 - K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State;
 - L. Provide staff services to the advisory committee; and
 - M. Plan and coordinate programs and grant writing to stimulate programs and research on the problem of dropouts, truants, alternative education, alternative learning and adult education.

§5152. Advisory committee.

1. Commissioner. The commissioner shall appoint an advisory committee on truancy, dropouts and alternative education.
2. Duties of the Advisory Committee, as Appointed by the Commissioner. The advisory committee shall advise the commissioner on the development and implementation of state and local policies and programs that are needed to deal effectively with the incidence of truancy and dropouts in state schools. The committee should consider its mandate in a broad context to assess the causes of truancy and dropouts, the effectiveness of alternative education and prevention programs and the social and educational programs or changes needed to encourage students to remain in school, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities in the State and have enrolled in schools in the State.
3. Membership. The advisory committee must have a broad membership reflecting the range of individuals and public and private institutions that are involved or interested in the problem and its solution. It must include representation from each of the following:
 - A. Teachers;
 - B. Elementary school principals;
 - C. Secondary school principals;
 - D. Guidance counselors;
 - E. Adult education teachers with experience in high school completion education;
 - F. Superintendents;
 - G. Administrators from private schools involved in alternative education programs;
 - H. Department of Health and Human Services;
 - I. Repealed. Laws 2005, c. 397, § A-16, eff. June 17, 2005.
 - J. Department of Corrections;
 - K. Department of Labor;
 - L. A local positive action committee on truancy, dropout and alternative education programs;
 - M. Representatives from the business community; and
 - N. Other individuals who the commissioner feels will contribute to the development of effective policies and programs.Two of the representatives in paragraphs A to D must be directly involved in alternative education programs. There may be no more than 15 members on the committee.
4. Term of Office. The members of the advisory committee shall serve for 2 years and may be reappointed.
5. Expenses. Members of the advisory committee shall be reimbursed for expenses only for attending meetings or performing other functions authorized by the committee.
6. Annual Reports. The committee shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over education.

REGULATIONS

05-071 CMR 128.1. Intent.

Generally, the intent of L.D. 1851 is to require school officials to give increased attention to those pupils who are habitual truants and dropouts. Such attention will include record keeping relative to the actual numbers of pupils who are, by definition, habitual truants and dropouts; determining the reasons for each occurrence; providing appropriate alternative programs designed to promote these pupils' return to

school; and providing appropriate alternative programs designed to prevent pupils from becoming habitual truants and dropouts.

05-071 CMR 128.4. Recording unexcused absences.

It will be necessary to give attention to more specific documentation of pupils' unexcused absences. Pertinent items relative to this are as follows:

- A. The record keeping process must begin immediately following the first unexcused absence.
- B. The date of the unexcused absence is to be recorded.
- C. Information is to be documented indicating what steps were taken to determine the reason(s) for the unexcused absence.

All public and private schools shall obtain and maintain this information on all truants n1 whether they are educated at public or private expense.

05-071 CMR 128.5. Documentation relating to habitual truants.

Once a child has become habitually truant as defined in 20 MRSA 914, n2 the procedures adopted in 20 MRSA 911, sub-section 5, shall be adhered to. Attention must be given to regulations concerning confidentiality.

n1 A truant is a child who has an unexcused absence of one-half day or more.

n2 A child is determined to be an habitual truant if he is absent from school the equivalent of 10 full days or for one-half of a day on 7 consecutive school days within any 6-month period for other than an excusable absence as referred to in Section 911.

05-071 CMR 128.6. Tuition students.

Local school administrative units are responsible for providing education for all children of compulsory school age who legally reside within the geographical area of the units. If any child attends school outside the unit of legal residence and becomes truant in the receiving school, the superintendent or principal of the receiving school unit must notify the superintendent of the sending school unit and it becomes the responsibility of the sending unit to locate the truant child.

Once a child becomes an habitual truant, the principal of the public or private school of attendance shall forward to the superintendent of the sending unit all information relative to the unexcused absences of the habitual truant and which has been maintained on file. It then becomes the responsibility of the superintendent and school board to follow the procedures as outlined in the legislation.

05-071 CMR 128.12. School board policies required.

You will note on the first page of Section 911, sub-section 5, the statement requiring local boards to promulgate rules and regulations and to file a copy of these with the Commissioner. Such rules and regulations will be included in school board policies on the subjects identified in the legislation. It is expected that many of the needed policies are already in existence, but it may be necessary to adopt additional policies. Once all appropriate local policies have been adopted, these would become the rules and regulations required. The set of policies must then be submitted to the Commissioner prior to October 1, 1978. Any subsequent policy changes must be submitted upon adoption.

From a review of this legislation, it is apparent that policies are needed in the following areas:

- A. Excused absences - Although excused absences are specifically identified in the legislation, policies are needed to provide guidance to local administrators.
- B. Unexcused absences - All absences that are not included in # 1 above are unexcused absences.
- C. Information required to be maintained on truant pupils
 - 1. What to collect
 - 2. How to maintain

3. Adherence to confidentiality

- D. Procedures for referral of truancy matters from the principal to the superintendent.
- E. Procedures for referral of truancy matters from the superintendent to the school board.
- F. Procedures for notification of parents regarding hearing before the school board.
- G. Procedures for waiving of compulsory attendance and for parent appeal if attendance is waived.
- H. Procedures for bringing legal action against the parent under sub-section 8 of 20 MRSA 911.
- I. Procedures for pupil to obtain work permit.
- J. Procedures for excusing 14 year-old pupil for "suitable program of work, work study or training" and procedures for involving pupil in program selection.

It is possible that some policies addressing the preceding areas are already in effect through the Positive Action Committee Dropout Plan. You are, therefore, reminded to coordinate the development of the rules and regulations required under this legislation with the local plan for dealing with dropouts which is required by statute (20 MRSA 931-933).

05-071 CMR 128.13. Developing alternative programs.

The legislation encourages school units to establish alternative programs for dropouts and chronic (habitual) truants. Although the word "encouraged" is used, the primary intent of the legislation is to provide school units with the authority to establish programs for the identified pupils.

05-071 CMR 128.14. Units unable to provide alternative programs.

In the legislation, provision is made for schools unable to provide an alternative program for chronic (habitual) truants and dropouts. In this instance, schools may tuition pupils to neighboring administrative units or to private schools; it is necessary that policies and procedures be developed to accommodate this practice. All receiving schools must be approved by this office under the basic school approval program.

Record keeping procedures should be locally developed for maintaining records of pupils enrolled in alternative programs on the basis of .1 pupil for each semester credit course or its equivalent leading toward a high school graduation. Such records will also be necessary for pupils tuitioned to neighboring units or private schools. Any pupil enrolled in an alternative program shall be counted on the rolls of the sending unit for subsidy purposes. No pupil shall be counted in the aggregate as more than 1.0.

Substance Use

LAWS

§272. Tobacco prevention and control program.

1. Program established. The Tobacco Prevention and Control Program is established in the bureau. The purposes of the program are to prevent the State's youths from ever using tobacco products and to assist youths and adults who currently smoke cigarettes and use other tobacco products to discontinue that use. The program includes the following components:

- B. Grants for funding community-based programs aimed at tobacco prevention and control, including funding of tobacco prevention and control education for those school administrative units that choose to offer such programs to primary, middle and high school students; for community-based enforcement of state tobacco control laws, including sales to minors and for cessation services;
- C. Procedures for monitoring and evaluating the prevention and control program, including:
 - (1) Monitoring and maintaining the program's effectiveness through an evaluation of each component; and
 - (2) Assessing the prevalence of the use of tobacco products and knowledge about and attitudes towards such use on a statewide and community basis.

§1001. Duties of school boards.

School boards shall perform the following duties.

9. Students expelled or suspended. Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45.

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. The school board may authorize the superintendent or principal to modify, in writing, the requirement for expulsion of a student on a case-by-case basis. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance use or possession rules to participate in substance use disorder services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

§1578-B. Tobacco use in elementary and secondary schools prohibited.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Elementary or secondary school" means any public elementary or secondary school approved in accordance with Title 20-A, chapter 206, subchapter I.

B. "Principal" has the same meaning as defined in Title 20-A, section 1, subsection 21.

C. [2019, c. 61, § 1 (RP).]

D. "Tobacco use" means:

(1) Smoking as defined in section 1541, subsection 6; and

(2) Carrying or having in one's possession a tobacco product as defined in section 1551, subsection 3.

2. Prohibition. A person may not engage in tobacco use in the buildings or on the grounds of any elementary or secondary school, on a school bus or at any school-sponsored event at any time.

3. Exceptions. [2019, c. 61, § 4 (RP).]

4. Repealed. Laws 2007, c. 156, § 3.

5. Repealed. Laws 2007, c. 156, § 4.

6. Enforcement. The principal of the elementary or secondary school, or the principal's designee, shall enforce the law prohibiting and restricting tobacco use under this section.

§6604. Substance use disorder programs.

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

A. "Chemical health coordinator" means a person who serves as the coordinator of a local school administrative unit's chemical primary and secondary prevention and education program.

2. Local programs. School units may institute special programs to address health and related problems.

To further these objectives, school units may employ specialized personnel such as chemical health coordinators and others knowledgeable about substance use and may cooperate with public and private agencies in substance use disorder education, prevention, early intervention, rehabilitation referral and related programs.

§6605. Department role.

1. Personnel. The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable about substance use.
2. Technical assistance. The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the establishment and implementation of school-based substance use disorder programs and health education curricula.
3. Cooperation; coordination. The department shall carry out its planning activities related to alcohol and drug education and prevention.
4. Information collection and sharing. The Department of Education is authorized to gather information about substance use disorder prevention and intervention programs initiated by state or federal agencies whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

§6606. Participation in substance use disorder services.

In compliance with written school policy adopted by a school board, the school board may require that a student who has been determined to be in violation of school rules governing substance use or alcohol or drug possession participate in a substance use assessment, education or support group service offered by the school. The school board shall provide for notice to the parents or legal guardian of a student required to participate in such services. If the school board elects to do so, it may request a parent or legal guardian to participate in the services.

§6621. Performance - Enhancing substances.

1. List of Banned Substances. The Commissioner of Health and Human Services shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

- A. Ephedrine;
- B. Synephrine, also known as bitter orange;
- C. Dehydroepiandrosterone;
- D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and
- E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:
 - (1) A substance that is otherwise illegal in this State; or
 - (2) A substance the use of which by minors is illegal in this State.

2. Amendments to List. The Commissioner of Health and Human Services shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

3. Notification. The Commissioner of Health and Human Services shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the

availability of the list. The Commissioner of Health and Human Services shall post the list on the publicly accessible website of the Department of Health and Human Services.

§6622. Awareness.

The department shall request assistance from a statewide organization of principals in distributing information regarding the dangers associated with performance-enhancing substances. Each school administrative unit shall review its drug and alcohol policies and update such policies to address the use of performance-enhancing substances.

§6624. Prohibition on use.

A student participating in interscholastic sports may not use a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A student who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that student is enrolled.

§9701. Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Drug treatment center. "Drug treatment center" means a facility as defined in Title 22, section 8001, which provides substance use disorder treatment.
2. Eligible student. "Eligible student" means any resident of the State between the ages of 5 and 20 years who is otherwise eligible for public schooling under this Title.
3. Long-term treatment. "Long-term treatment" means treatment in a drug treatment center designed to provide treatment for a period in excess of 60 days.

§9702. Program responsibility.

A school administrative unit in which a licensed drug treatment center is located or a nearby school administrative unit shall provide an educational program, as prescribed by the commissioner, for each eligible student residing in the center, notwithstanding the student's legal residence within the State. The selection of the school administrative unit to provide that program shall be made by the commissioner pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The rules shall take into account the educational needs of students, the ability of a school administrative unit to meet those needs, the proximity of school administrative units to the facility, the expressed wishes of officials representing school administrative units and other appropriate considerations. The decision of the commissioner may be appealed to the State Board of Education. The decision of the board shall be final.

§9703. Initial program approval.

Each such school unit shall submit a program plan for educational services to be approved by the commissioner. The program plan shall include the following components:

1. Planning; approved. Evidence of collaborative planning with officials and staff of the center and approval of the center's governing board;
2. Licensure. Proof that the facility is licensed by the Department of Health and Human Services and complies with the rules adopted by that department;
3. Educational activities. Educational activities and an evaluation component suitable to the age and educational needs of the eligible students;
4. Accounting. An accounting of all eligible students who will be provided educational services by the program and a plan for continued accurate accounting of the students; and
5. Line-item budget. A line-item budget submitted no later than 90 days prior to the fiscal year in which the program will operate. The proposed budget request may not exceed the number of students in the

approved program plan, on a per student basis, based on the state average tuition rate as provided in sections 5804, 5805 and 15689.

The commissioner or a designee shall approve the program plan in a timely manner in order that appropriate budgeting may occur before the start of the school unit's fiscal year. Approval shall include a payment schedule for disbursement of program funds to the school unit in the fiscal year of the program's operation.

§9704. Appeal process.

A school unit required to offer an educational program or a drug treatment center which treats eligible students may appeal to the commissioner in the event agreement cannot be reached between them. The commissioner's decision on the program in such an appeal shall be rendered within 60 days and shall be final.

§9705. Renewal of program approval.

Each school unit operating an educational program for eligible students at drug treatment centers shall file an annual report, a proposed budget for the ensuing fiscal year and an application for renewal of program approval as prescribed by the commissioner.

§9706. Rule-making authority.

The commissioner shall adopt rules to implement this chapter and the funding scheme under the Essential Programs and Services Funding Act.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§254. Educational duties.

The commissioner shall have the following educational duties.

11-A. Model policy; reporting. By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department's website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

B. The commissioner may update or revise the model policy and shall post the update or revision on the publicly accessible portion of the department's website and send a copy of the update or revision to each school administrative unit.

§1001. Duties of school boards.

School boards shall perform the following duties.

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

H. Establish policies and procedures to address bullying, harassment and sexual harassment as set forth in section 6554.

22. Workplace bullying. A school board shall adopt and implement a policy to address the negative effects of bullying of school employees by administrators, school employees, parents, students or any other individuals associated with the public school and to ensure the safety of employees and an inclusive environment for all employees and students in the public school.

§6553. Prohibition of hazing.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Injurious hazing" means any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in school or any activity expected of a student as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses or endangers the student, regardless of the student's willingness to participate in the activity.

B. "Violator" means any person or any organization which engages in injurious hazing.

2. Adoption of policy. The school board shall adopt a policy which establishes that "injurious hazing," either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

3. Penalties. The school board shall establish penalties for violation of the rules established in subsection

2. The penalties shall include, but not be limited to, provisions for:

A. In the case of a person not associated with the public school, the ejection of the violator from school property;

B. In the case of a student, administrator or staff violator, the individual's suspension, expulsion or other appropriate disciplinary action; and

C. In the case of an organization affiliated with the public school which authorizes hazing, rescission of permission for that organization to operate on school property or receive any other benefit of affiliation with the public school.

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject.

4. Administrative responsibility. The school board shall assign responsibility for administering the policy to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent.

5. Dissemination. The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

§6554. Prohibition on bullying in public schools.

1. Findings. All students have the right to attend public schools that are safe, secure and peaceful environments. The Legislature finds that bullying and cyberbullying have a negative effect on the school

environment and student learning and well-being. These behaviors must be addressed to ensure student safety and an inclusive learning environment. Bullying may be motivated by a student's actual or perceived race; color; religion; national origin; ancestry or ethnicity; sexual orientation; socioeconomic status; age; physical, mental, emotional or learning disability; gender; gender identity and expression; physical appearance; weight; family status; or other distinguishing personal characteristics or may be based on association with another person identified with such a characteristic. Nothing in this section may be interpreted as inconsistent with the existing protection, in accordance with the First Amendment of the United States Constitution, for the expression of religious, political and philosophical views in a school setting.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- (1) Meeting with the student and the student's parents;
- (2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- (4) Counseling;
- (5) Anger management;
- (6) Health counseling or intervention;
- (7) Mental health counseling;
- (8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (9) Community service; and
- (10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends.

B. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

- (1) Has, or a reasonable person would expect it to have, the effect of:
 - (a) Physically harming a student or damaging a student's property; or
 - (b) Placing a student in reasonable fear of physical harm or damage to the student's property;
- (2) Interferes with the rights of a student by:
 - (a) Creating an intimidating or hostile educational environment for the student; or
 - (b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or
- (3) Is based on a student's actual or perceived characteristics identified in Title 5, section 4602 or 4684-A, or is based on a student's association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics and that has the effect described in subparagraph (1) or (2).

"Bullying" includes cyberbullying.

C. "Cyberbullying" means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant.

D. "Retaliation" means an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" also includes reporting that is not made in good faith on an act of bullying.

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles.

3. Prohibition. A person may not engage in bullying on school grounds. This section does not modify or eliminate a school's obligation to comply with state and federal constitutional protections and civil rights laws applicable to schools.

4. Scope. This section applies to bullying that:

A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or

B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

A. A provision identifying the responsibility of students and others on school grounds to comply with the policies;

B. A clear statement that bullying, harassment and sexual harassment and retaliation for reporting incidents of such behavior are prohibited;

C. A provision outlining the responsibility of a superintendent to implement and enforce the bullying policies required by this section, including:

(1) A requirement that the superintendent designate a school principal or other school personnel to administer the policies at the school level; and

(2) A procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level;

D. A requirement that school staff members, coaches and advisors for extracurricular and cocurricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C;

E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously;

F. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents and the outcome of the investigations;

G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline;

H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to

this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent;

I. A procedure to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services;

J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying; and

K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate.

School boards may combine the policies and procedures required by this subsection with nondiscrimination, harassment and sexual harassment policies and grievance procedures.

6. Dissemination of Policy. Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

7. Application. A superintendent or the superintendent's designee shall ensure that every substantiated incident of bullying is addressed.

A. The prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation.

B. Any contractor, visitor or volunteer who engages in bullying must be barred from school grounds until the superintendent is assured that the person will comply with this section and the policies of the school board.

C. Any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school.

8. Transparency and Monitoring. Each school administrative unit shall file its policies to address bullying and cyberbullying with the department.

9. Staff Training. A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§254. Educational duties.

The commissioner shall have the following educational duties.

11-A. Model policy; reporting. By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department's website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

B. The commissioner may update or revise the model policy and shall post the update or revision on the publicly accessible portion of the department's website and send a copy of the update or revision to each school administrative unit.

§262. Violence prevention and intervention.

The commissioner shall provide technical assistance to school administrative units that request assistance in the provision of violence prevention and intervention training programs for teachers, school staff and students. The assistance must emphasize conflict resolution education, peer mediation and early identification and response to signs of violence.

§5052-A. Attendance coordinators.

The following provisions apply to attendance coordinators.

4. Department Assistance. The department shall provide technical assistance to school attendance coordinators for carrying out these duties, through the Office of Truancy, Dropout Prevention and Alternative Education.

§5151. Technical assistance for truants, dropout prevention and reintegration and alternative education.

The commissioner shall provide technical assistance regarding truancy, dropouts and reintegration and alternative education programs. To do this, the commissioner shall employ at least one consultant whose responsibility is to cover the area of truancy, dropouts and alternative education.

1. Qualifications. Any consultant must be knowledgeable in the problems of truancy, dropouts and reintegration and policies and programs.

2. Duties. The consultant shall:

A. Provide technical assistance to school administrative units and private schools approved for tuition purposes to establish alternative education programs;

B. Develop screening tools for early identification of potential dropouts;

C. Act as a clearinghouse for information on alternative education programs in the State, on exemplary programs in other states and on research pertaining to the subject, and promote effective programs;

- D. Function as a liaison among the commissioner, department staff, advisory committee and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education;
- E. Develop model curricula and programs for alternative education schools and programs;
- F. Assess and provide for the evaluation of alternative education programs consistent with the standards established by the commissioner;
- G. Develop training programs for superintendents, principals and school attendance officers to improve effectiveness in performance of their duties as pertains to truants, dropouts and reintegration and alternative education programs;
- H. Develop and submit a plan on behalf of the commissioner for the joint standing committee of the Legislature having jurisdiction over education and the state board on the prevalence of truancy and dropouts, assess alternative and adult education programs and prepare positive strategies to prevent and remedy the problems identified, including reintegration planning for juvenile offenders who have been released from juvenile facilities and are enrolling in schools in the State;
- I. Have the responsibility for preventive programs and alternative education programs;
- J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;
- K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State;
- L. Provide staff services to the advisory committee; and
- M. Plan and coordinate programs and grant writing to stimulate programs and research on the problem of dropouts, truants, alternative education, alternative learning and adult education.

§6554. Prohibition on bullying in public schools.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A.

§6557. Maine School Safety Center.

The Maine School Safety Center, referred to in this section as "the center," is established within the department to assist schools in their efforts to provide for the overall safety of their school community. The primary role of the center is to provide training, guidance and technical support to schools in this State regarding their efforts to safely mitigate against, prepare for, respond to and recover from all hazards and threats.

1. Purposes. The purposes of the center are to:

- A. Serve as a central location for school safety and security information, training and technical assistance related to successful implementation of school safety and security programs in schools;
- B. Be a resource for the prevention of youth violence;
- C. Promote overall school safety by developing recommendations to support a positive school climate and multiple-hazard mitigation and response plans;
- D. Develop and provide school emergency management, training, guidance and technical support to include information provided by persons with expertise in the relevant subject matter in the development of the center's school safety specialist education program;
- E. Promote, develop and implement technical support and training for a behavioral threat assessment program;

- F. Facilitate and assist local schools and public safety stakeholders in preventing, preparing for and responding to threats and acts of violence, including self-harm, through a holistic, solution-based approach to improving school safety; and
 - G. Advise and make recommendations to the department on policies and legislation related to the overall safety of schools and school communities.
2. Collaboration. The center shall work collaboratively with all appropriate stakeholders in furtherance of its purposes as set out in subsection 1.
 3. Services to schools. The center is responsible for providing the following services to schools in the State:
 - A. Training, including school safety specialist training and credentialing in a school emergency management education program;
 - B. Mental health and behavioral threat assessment;
 - C. Site assessment and school climate assessment;
 - D. Planning and emergency operation plan review and exercises;
 - E. Training, procedures and best practices for school resource officers and officers that may have interactions with youth;
 - F. Best practices and policy recommendations and review;
 - G. Administrative assistance;
 - H. Restorative justice assistance and assistance regarding alternatives to traditional discipline; and
 - I. Contracted school safety services.

§6605. Department role.

1. Personnel. The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable about substance use.
2. Technical assistance. The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the establishment and implementation of school-based substance use disorder programs and health education curricula.
3. Cooperation; coordination. The department shall carry out its planning activities related to alcohol and drug education and prevention.
4. Information collection and sharing. The Department of Education is authorized to gather information about substance use disorder prevention and intervention programs initiated by state or federal agencies

whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

§6622. Awareness.

The department shall request assistance from a statewide organization of principals in distributing information regarding the dangers associated with performance-enhancing substances. Each school administrative unit shall review its drug and alcohol policies and update such policies to address the use of performance-enhancing substances.

REGULATIONS

05-071 CMR 33.12. Staff training; Approved programs.

The Department of Education shall maintain a directory of approved training programs on its website at <http://maine.gov/education/>. The list of approved training programs may include regional training programs and regional "train the trainer" model programs. These training programs must require participants to demonstrate competency to achieve certification, and must include instruction in at least the following core components:

1. The use of non-physical interventions for responding to potentially dangerous behaviors, including de-escalation and the use of positive alternatives;
2. Identification of dangerous behaviors that may indicate the need for physical restraint or seclusion and methods for evaluating the risk of harm to determine whether such interventions are warranted;
3. Instruction and simulated experience in administering safe physical restraint techniques across a range of increasingly restrictive interventions, including the safe movement of a student, and in recognizing and avoiding positions involving a high risk of restraint-related positional asphyxia (restricting a student's ability to breathe);
4. The effects of physical restraint and seclusion on a student, including monitoring physical and psychological signs of distress and when to obtain medical assistance in compliance with the covered entity's procedures for emergency interventions;
5. The risks and realities of physical restraint and seclusion; and
6. A review of the process of student and staff debriefing.

Each covered entity shall ensure that a sufficient number of administrators or designees, general and special education staff, maintain certification in an approved training program. A list of staff with the required approved training must be made available in each building office, as well as any central office, along with other school-wide emergency procedures and must be updated at least annually.

05-071 CMR 33.13. Department of Education non-regulatory guidance.

The Department shall annually ensure that teachers and administrators throughout the State are provided with consistent and accurate information regarding the requirements of this rule.

Multi-tiered Frameworks and Systems of Support

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;

B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships, improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior;

C. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

The school board shall ensure that administrators inform students, parents and school personnel of the districtwide school disciplinary policies.

§6555. Dangerous behavior prevention and intervention.

2. Report of incident of dangerous behavior. Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the reported incident must be conducted by an administrator and an assigned public school employee. If the report of the incident of dangerous behavior is substantiated, the school administrative unit shall, in consultation with the public school employee who was subjected to the dangerous behavior, if any, develop an individualized response plan to avoid future dangerous behavior, which may include but is not limited to:

C. Providing positive behavioral interventions and supports and supports designed to address the consequences of trauma in the individual and training for the student and educators.

REGULATIONS

05-071 CMR 125.5. Other minimum requirements.

5.18 Multi-tiered System of Support

All school administrative units are required to develop and implement a multi-tiered system of support, kindergarten to grade 12, that provides each child with differentiated learning experiences and/or assistance to achieve social and emotional development, meet the content standards of the system of Learning Results, and graduation requirements. These supports must be specific, timely, and based upon ongoing formative assessments that continuously monitor student progress. Public Law 2019, Chapter 219.

A multi-tiered system of support has three distinct levels of intervention available to general education students:

Tier I - Universal Supports. This tier begins with the implementation of core, curriculum, including strategies to assist student development and learning. Typically, these supports are differentiated based on student need and provided to all students within the classroom. Tier I supports continue when Tier II or Tier III interventions are added.

Tier II - Targeted Supports. Supplemental instruction or supports provided to students in addition to Tier

1. These may be provided by qualified staff, including, but not limited to, the classroom teacher, an intervention specialist, or an authorized Educational Technician. Targeted support may involve more intensive practice and/or monitoring of regular classroom activities.

Tier III - Intensive Supports. Intensive instruction or supports provided to students through small group or one-to-one interventions, within the classroom or through an individualized environment, with an increased focus on teaching specific skills.

While there may be variations in how school administrative units develop and implement a multi-tiered system of support, the systems must include:

- Assurance that every child is provided with evidence-based core (Tier 1) academic instruction and positive behavioral and social/emotional supports;
- A collection of evidence-based, academic, behavioral, and social/emotional Tier II and III interventions that are available for students who need them;
- A team-based process to review children's progress and evaluate whether students who are struggling in any academic, behavioral, or social/emotional area may need more intensive Tier II or III support;
- A consistent process of valid, reliable, and age appropriate screening and progress monitoring to evaluate student progress at all tiers;
- A method to determine whether a child's assessed challenges are likely the result of trauma, linguistic, and/or cultural experiences;
- A mechanism for including parents in decision-making about a child's potential participation in Tier II or III activities; and
- Provisions for supports to continue during any subsequent special education referral.

The parent may request that a full and individual evaluation for possible special education eligibility determination be conducted at any time during the multi-tiered system of support review process.

Prevention

LAWS

§262. Violence prevention and intervention.

The commissioner shall provide technical assistance to school administrative units that request assistance in the provision of violence prevention and intervention training programs for teachers, school staff and students. The assistance must emphasize conflict resolution education, peer mediation and early identification and response to signs of violence.

§1001. Duties of school boards.

School boards shall perform the following duties.

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

- A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;
- B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships,

improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

§6555. Dangerous behavior prevention and intervention.

2. Report of incident of dangerous behavior. Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the reported incident must be conducted by an administrator and an assigned public school employee. If the report of the incident of dangerous behavior is substantiated, the school administrative unit shall, in consultation with the public school employee who was subjected to the dangerous behavior, if any, develop an individualized response plan to avoid future dangerous behavior, which may include but is not limited to:

- C. Providing positive behavioral interventions and supports and supports designed to address the consequences of trauma in the individual and training for the student and educators.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§6671. Youth Mental Health First Aid training.

A school administrative unit shall establish a youth mental health first aid training program for health educators in secondary schools in the unit pursuant to this section.

1. Recipients of training. A school administrative unit shall schedule training for and ensure training is provided to health educators in secondary schools in the unit responsible for implementing health education pursuant to section 4723.
2. Providers of training. A school administrative unit shall ensure training is delivered by trainers who are properly certified by a national organization for behavioral health to provide training pursuant to subsection 3.
3. Content of training. The training provided pursuant to this section must be in compliance with a course of instruction in youth mental health first aid operated by the national organization for behavioral health under subsection 2 and include training on the skills, resources and knowledge necessary to assist students in crisis to connect with appropriate local mental health care services, training on

mental health resources, including the location of local community mental health centers, and training on action plans and protocols for referral to such resources. Recipients of the training must also receive training to:

- A. Safely de-escalate crisis situations;
- B. Recognize the signs and symptoms of mental illness, including such psychiatric conditions as schizophrenia, bipolar disorder, major clinical depression and anxiety disorders; and
- C. Timely refer students to mental health services in the early stages of their development of mental disorders to avoid subsequent behavioral health care and to enhance the effectiveness of mental health services.

4. Available funding. A school administrative unit is required to meet the requirements of this section only if it has received funding specifically for this purpose from federal funding, private funding or other funding sources.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§6554. Prohibition on bullying in public schools.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- (7) Mental health counseling.

§9921. Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Community partner. "Community partner" means a provider of one or more of the following services to students, families or community members:

- C. Mental health treatment and counseling services.

§9922. Establishment of a community school.

Beginning October 1, 2015, a school board may designate an existing school or establish a new school as a community school.

1. Community school plan goals. A community school shall collaborate with community partners to provide services to students, families and community members that promote student success while addressing the needs of the whole student. A school board may designate or establish a community school as long as the community school plan developed by the school board is consistent with the following goals:

- D. Ensuring that children have the physical, social and emotional well-being to come to school ready to engage in the learning process every day.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§6554. Prohibition on bullying in public schools.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

D. A requirement that school staff members, coaches and advisors for extracurricular and cocurricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C;

E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously.

§6555. Dangerous behavior prevention and intervention.

2. Report of incident of dangerous behavior. Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the reported incident must be conducted by an administrator and an assigned public school employee.

REGULATIONS

05-071 CMR 33.7. Notification of incident.

1. Reporting to an Administrator or Designee, others

After each incident of physical restraint or seclusion, a staff member involved shall:

A. Report to the administrator or designee by oral notification as soon as possible after each incident, but in no event later than the end of the school day of its occurrence, and

B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, report the incident to the entity responsible for the student's education within 24 hours or by the end of the next business day. [...]

3. Reporting of Serious Bodily Injury or Death

If serious bodily injury or death of a student occurs during the implementation of restraint or seclusion:

A. Oral notification of the incident must follow local health and safety procedures as outlined by the covered entity's policies and procedures; and

B. The administrator or designee shall notify the Department of Education within 24 hours or the next business day.

05-071 CMR 33.8. Documentation; Incident report.

1. Incident Report

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator or designee as soon as practical after the incident, and in all cases within two school days. At a minimum, the incident report must include:

A. Student name;

B. Age, gender, grade;

C. Location of the incident;

D. Date of incident;

E. Date of report;

F. Person completing the report;

- G. Beginning and ending time of each physical restraint and seclusion;
- H. Total time of incident;
- I. Description of prior events and circumstances;
- J. Less restrictive interventions tried prior to the use of physical restraint or seclusion. If none used, explain why;
- K. The student behavior that justified the use of physical restraint or seclusion;
- L. A detailed description of the physical restraint or seclusion used;
- M. The staff person(s) involved, their role in the use of physical restraint or seclusion and their certification, if any, in an approved training program;
- N. Description of the incident, including the resolution and process of return to program, if appropriate;
- O. Whether the Student has an: a. IEP; b. 504 plan; c. behavior plan; d. IHP; or e. other plan;
- P. If a student or staff sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any;
- Q. Date, time, and method of parent notification; and
- R. Date, time of staff debriefing.

Parental Notification

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

8-A. Due process standards for expulsion proceedings. Following a proper investigation of a student's behavior and in accordance with the districtwide disciplinary policies adopted by the school board pursuant to subsection 15-A, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

- (1) Provide written notice to the parents and the student of:
 - (a) The date, time and location of the hearing;
 - (b) A description of the incident or incidents that occasioned the expulsion hearing;
 - (c) The student's and parents' right to review the school records prior to the hearing;
 - (d) A description of the hearing process; and
 - (e) An explanation of the consequences of an expulsion; and
- (2) Invite the parents and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing. [...]

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

§5052-A. Attendance coordinators.

The following provisions apply to attendance coordinators.

- 3. Duties. The duties of an attendance coordinator include, but are not limited to, the following:
 - A. Interviewing a student whose attendance is irregular and meeting with the student and the parents to determine the cause of the irregular attendance and filing a written report with the principal.

§6554. Prohibition on bullying in public schools.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying.

§6606. Participation in substance use disorder services.

In compliance with written school policy adopted by a school board, the school board may require that a student who has been determined to be in violation of school rules governing substance use or alcohol or drug possession participate in a substance use assessment, education or support group service offered by the school. The school board shall provide for notice to the parents or legal guardian of a student required to participate in such services. If the school board elects to do so, it may request a parent or legal guardian to participate in the services.

REGULATIONS

05-071 CMR 33.7. Notification of incident.

2. Notification to parents

A. An administrator or designee shall notify the parent that physical restraint or seclusion and any related first aid have occurred as soon as practical but within the school day in which the incident occurred, utilizing all available phone numbers and other appropriate means. If the parent is unavailable, a phone message must be left for the parent to contact the school as soon as possible. If a parent does not have access to a phone, the entity must use whatever contact information is available for emergencies. The parent must be informed that written documentation will be provided to them within 7 calendar days.

B. If a restraint or seclusion has occurred outside the school day, notification of the restraint or seclusion and any related first aid must occur as soon as possible in compliance with the entity's procedures for emergency situations.

05-071 CMR 33.8. Documentation; Incident report.

2. Incident Report Provided to Parents, others

A copy of the incident report must be provided, within 7 calendar days of the incident to:

A. The parent; and

B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, the entity responsible for the student's education.

05-071 CMR 33.9. Response to the use of physical restraint or seclusion.

3. Parent Participation

The covered entity shall make reasonable, documented efforts to encourage parent participation in the meetings required in subsection 2 of this section and to schedule them at times convenient for parents to attend.

A covered entity may not seek written permission from a parent to provide restraint and seclusion to a student.

05-071 CMR 128.12. School board policies required.

From a review of this legislation, it is apparent that policies are needed in the following areas:

F. Procedures for notification of parents regarding hearing before the school board.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§254. Educational duties.

The commissioner shall have the following educational duties.

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting. [...]

11-A. Model policy; reporting. By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department's website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

§1001. Duties of school boards.

School boards shall perform the following duties.

9-C. Reentry for students after expulsion. Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

§5051-A. Truancy.

3. Reports. This subsection applies to reports of truancy.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report must:

- (1) Identify the number of truants in the school administrative unit in the preceding school year;
- (2) Describe the unit's efforts to deal with truancy;
- (3) Account for actions brought under this section including the number of truants reported to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710; and
- (4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

§5052-A. Attendance coordinators.

The following provisions apply to attendance coordinators.

3. Duties. The duties of an attendance coordinator include, but are not limited to, the following:

B. Filing an annual report with the superintendent summarizing school year activities, findings and recommendations regarding truants.

REGULATIONS

05-071 CMR 33.10. Cumulative reporting.

1. Building-level reporting, analysis

A cumulative report by building must be made to the superintendent or chief administrator on a quarterly and annual basis to include:

- A. Aggregate number of uses of physical restraint;
- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students placed in seclusion;
- E. Aggregate number of serious bodily injuries to students related to the use of restraint and seclusions; and
- F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

The superintendent or chief administrator shall review cumulative reports received as set forth in this section and identify those areas that can be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.

2. Reporting Data to the Department of Education

Each covered entity shall submit to the Department of Education an annual report of the incidence of physical restraint and seclusion that must include:

- A. Aggregate number of uses of physical restraint;
- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students in placed in seclusion;
- E. Aggregate number of serious bodily injuries to students related to physical restraint and seclusion; and
- F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

05-071 CMR 128.11. Annual report to commissioner.

L.D. 1851 requires superintendents to submit an annual report to the Commissioner prior to October 1 giving attention to the following:

- A. The number of habitual truants during the previous school year.
- B. A description of local efforts made on behalf of habitual truants.
- C. The number and disposition of action taken against parents under sub-section 8 on page 3 of the legislation.
- D. Other information the Commissioner may deem necessary.

Because current data collection forms are not designed to collect this information, a new form has been developed.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§1001. Duties of school boards.

School boards shall perform the following duties.

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

§5051-A. Truancy.

2. Procedures; written notice; referral.

D. Prior to notifying the local law enforcement department under paragraph E, the superintendent shall schedule at least one meeting as required in paragraph B-1 and may invite a local prosecutor.

E. If, after 3 school days after service of the notice referred to in paragraph C, the student remains truant and the parent and student refuse to attend the meeting scheduled according to paragraph D, the superintendent shall report the facts of the unlawful absence to the local law enforcement department, which may proceed with an action to enforce section 5053-A against the parent unless the student is at once placed in an appropriate school or otherwise meets the requirements under section 5001-A.

§5052-A. Attendance coordinators.

The following provisions apply to attendance coordinators.

3. Duties. The duties of an attendance coordinator include, but are not limited to, the following:

D. Serving as the liaison between the school and the local law enforcement agency in matters pertaining to student absenteeism under section 5001-A.

§6554. Prohibition on bullying in public schools.

5. Adoption of Policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§6556. School resource officers.

A school resource officer shall complete diversity, equity and inclusion training or implicit bias training at least once during that officer's first year of employment as a school resource officer. For purposes of this section, "school resource officer" means a law enforcement officer as defined in [Title 25, section 3701, subsection 3](#) who works in a public school.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Maine provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Attendance and Truancy Resources, Maine Department of Education (Maine DOE)	Addresses topics including attendance, truancy, alternative education, and dropout prevention.	https://www.maine.gov/doe/schools/safeschools/attendance
Bullying Prevention, Maine DOE	Addresses law, model policy, procedures, data, and resources for bullying prevention.	https://www.maine.gov/doe/schools/safeschools/bullying
Multi-Tiered Systems of Supports (MTSS), Main DOE	Provides a comprehensive overview of MTSS including definitions, MTSS framework, professional learning, and technical assistance.	https://www.maine.gov/doe/MTSS
School Climate, Maine DOE	Provides an overview of school climate and links to surveys, data, and resources related to the topic.	https://www.maine.gov/doe/schools/safeschools/schoolclimate
Social and Emotional Learning (SEL), Maine DOE	Provides a resource library for schools, educators, and families to learn about SEL. Includes a link to SEL training for educators.	https://www.maine.gov/doe/sel
Student Behavior, Maine DOE	Provides an overview of developing a student code of conduct and links to subtopics: behavior, bullying prevention, and restraint and seclusion.	https://www.maine.gov/doe/schools/safeschools/studentbehavior
Restraint and Seclusion, Maine DOE	Provides links to training programs, reporting, information, guidance, Frequently Asked Questions (FAQs), and contact information to Integrated Student Supports Team.	https://www.maine.gov/doe/schools/safeschools/restraint

Title	Description	Website address (if applicable)
<i>Documents</i>		
Model Policy for Bullying and Cyberbullying Prevention in Schools, Maine DOE	Model school board policy prohibiting bullying and cyberbullying, and outlining procedures for reporting, responding to, and remediating bullying incidents in schools.	https://www.maine.gov/doe/sites/mainline.gov.doe/files/inline-files/revised%20model%20bullying%20policy%20JICK.rtf
<i>Other Resources</i>		
Data Warehouse, Maine DOE	Database for assessment results and data on the following topics: chronic absenteeism, dropout, behavior, bullying, restraint and seclusion, and truancy.	https://www.maine.gov/doe/data-reporting/reporting/warehouse
State-wide Substantiated Incidents of Bullying, Maine DOE	Data for substantiated incidents of bullying submitted to the Maine DOE after an investigation has been conducted by school administration.	https://www.maine.gov/doe/schools/safeschools/bullying#data



Maryland Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Maryland Revised Laws

The State of Maryland contracts with LexisNexis to provide free public access to the Maryland Code. Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Courts and Judicial Proceedings

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Subtitle 8. Immunities and Prohibited Actions - Miscellaneous

§ 5-803. School employees

Criminal Law

Title 3. Other Crimes against the Person

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Education

Division II. Elementary and Secondary Education

Title 4. Local School Administration

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§ 4-124. Drug-free school zones

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§ 4-318. Baltimore City School Police Force

§ 4-319. Baltimore City Alternative Learning Center

Title 6. Teachers and Other Personnel

Subtitle 1. Personnel Matters

§ 6-122. Training for youth suicide risk and students in crisis.

Subtitle 7. Professional Standards and Teacher Education Board

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Title 8. Special Programs for Exceptional Children

Subtitle 4. Children with Disabilities

§ 8-405. Meetings to discuss and evaluate educational program; extended year services

Title 7. Public Schools

Subtitle 3. Attendance and Discipline of Students

- § 7-301. Compulsory attendance
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- § 7-302. Report of absences and maladjustment
- § 7-302.2. Truant students
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- § 7-304. Special programs for disruptive students
- § 7-304.1. Positive behavioral interventions and support program
- § 7-305. Suspension and expulsion [Amendment subject to contingent abrogation]
- § 7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions
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- § 7-427.1. Guidelines for trauma-informed approach
- § 7-430. Cultural competency model training curriculum
- § 7-438. Community-Partnered school behavioral health services programs
- § 7-440. Individualized or group behavioral counseling services

Subtitle 11. Student Behavior Intervention

- § 7-1101. Definitions
- § 7-1102. Use of seclusion as behavioral health intervention – Use of physical restraint as a behavioral health intervention – Use of seclusion by health care practitioner
- § 7-1103. Counting separate incidents of seclusion – notice to the department and local school system – Actions by local school system – Notice by public agency – Actions by department
- § 7-1104. Reports and guidance
- § 7-1105. Development of policies and procedures
- § 7-1106. Corrective action plan filed by school to department – Adoption of regulations
- § 7-1107. Consultation concerning training requirements

Subtitle 15. Maryland Safe to Learn Act

- § 7-1501. Definitions
- § 7-1502. Center established
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Division IV. Other Education Provisions

Title 26. Prohibitions and Penalties

Subtitle 1. School Security

- § 26-101 Disturbing activities at school or college; molesting or threatening students
- § 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education
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Subtitle 22A. Maryland Council on Advancement of School-Based Health Centers

- § 19-22A-05. Duties, other activities, reports

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Title 14. Independent Agencies

14.40. Maryland Center for School Safety

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- [14.40.04.03.](#) School resource officers and school security employees certification

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

7-306. Corporal punishment; State code of discipline.

- (a) "Restorative approaches" defined. -
- (1) In this section, "restorative approaches" means a relationship-focused student discipline model that:
 - (i) Is preventive and proactive;
 - (ii) Emphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community;
 - (iii) In response to behavior that violates the clear behavioral expectations that contribute to the well-being of the school community, focuses on accountability for any harm done by the problem behavior; and
 - (iv) Addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.
 - (2) "Restorative approaches" may include:
 - (i) Conflict resolution;
 - (ii) Mediation;
 - (iii) Peer mediation;
 - (iv) Circle processes;
 - (v) Restorative conferences;
 - (vi) Social emotional learning;
 - (vii) Trauma-informed care;
 - (viii) Positive behavioral intervention supports; and
 - (ix) Rehabilitation.
- (b) Corporal punishment prohibited. - Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.
- (c) Standards of conduct; implementation. - The State Board shall:
- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
 - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
 - (3) Assist each county board with the implementation of the guidelines.
- (d) Regulations. -
- (1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.
 - (2) The regulations adopted by a county board under this subsection:
 - (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

- (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
- (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

(e) Disaggregation of data. -

(1) On or before October 1 each year, the Department shall submit to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, a student discipline data report that includes a description of the uses of restorative approaches in the State and a review of disciplinary practices and policies in the State.

(2) The Department shall disaggregate the information in any student discipline data report prepared by the Department by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for:

- (i) The State;
- (ii) Each local school system; and
- (iii) Each public school.

(3) Special education-related data in any report prepared under this subsection shall be disaggregated by race, ethnicity, and gender.

(f) Collection of data on alternative school discipline practices. -

(1) In this subsection, "alternative school discipline practice" means a discipline practice used in a public school that is not an in-school suspension or an out-of-school suspension.

(2) The Department shall collect data on alternative school discipline practices in public schools for each local school system, including:

- (i) The types of alternative school discipline practices that are used in a local school system; and
- (ii) The type of misconduct for which an alternative discipline practice is used.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) "Bullying, harassment, or intimidation" defined. - In this section, "bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(b) In general. -

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

- (i) A statement prohibiting bullying, harassment, and intimidation in schools;
- (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for providing notice of an act of bullying, harassment, or intimidation to:
 - 1. A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and

2. A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
- (viii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (ix) Information about the types of support services available to the student bully, victim, and any bystanders;
- (x) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
- (xi) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.
- (3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.
- (c) Development of policy by county boards. -
- (1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.
- (2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.
- (3) A county board shall develop the policy in consultation with representatives of the following groups:
- (i) Parents or guardians of students;
 - (ii) School employees and administrators;
 - (iii) School volunteers;
 - (iv) Students; and
 - (v) Members of the community.
- (4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.
- (d) Publication of policy. - Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.
- (e) Reporting procedure. - Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:
- (1) A chain of command in the reporting process; and
 - (2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.
- (f) Submission of policy. -
- (1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.
 - (2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.
- (g) Educational programs. - Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:
- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
 - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy.
- (h) Limitation of liability. -

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.3. Bullying, harassment, and intimidation policy.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(3) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. - By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. - The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

(2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;

(4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:

(i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and

(ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;

(5) Standard consequences and remedial actions for persons found to have made false accusations;

(6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;

(7) Standard procedures for providing notice of an act of bullying, harassment, or intimidation to:

(i) A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and

(ii) A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;

(8) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;

(9) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and

(10) Information about the types of support services available to a student bully or victim and any bystanders.

(d) Consultation with groups. - A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:

(1) Parents or guardians of students;

(2) School employees and administrators;

(3) School volunteers; and

(4) Students.

(e) Publication. - A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.

(f) Educational programs. - A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.

(g) Civil liability. - An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.

(h) Construction of provisions. - The provisions of this section may not be construed to:

(1) Limit the legal rights of a victim of bullying, harassment, or intimidation; or

(2) Require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

7-1105. Development of policies and procedures.

Each public agency and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning. The policies and regulations at minimum shall:

(1) Reflect a discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;

(2) Be designed to keep students connected to school so that they may graduate college and career ready;

(3) Describe the conduct that may lead to in-school and out-of-school suspension or expulsion;

(4) Allow for discretion in imposing discipline;

(5) Address the ways the educational and counseling needs of suspended students will be met; and

(6) Explain why and how long-term suspensions or expulsions are last-resort options.

Scope

LAWS

7-424. Reporting incidents of harassment or intimidation against students.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
 2. Sexual in nature, including descriptions or depictions of a student with the student's intimate parts exposed or while engaged in an act of sexual contact; or
 3. Threatening or seriously intimidating; and
- (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
 2. Substantially disrupts the orderly operation of a school.
- (3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
- (4) "Intimate parts" means the naked genitals, pubic area, buttocks, or female nipple.
- (5) "Sexual contact" means sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex.
- (b) Report required. -
- (1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.
 - (2) An incident of bullying, harassment, or intimidation may be reported by:
 - (i) A student;
 - (ii) The parent, guardian, or close adult relative of a student; or
 - (iii) A school staff member.
- (c) Contents; distribution. -
- (1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.
 - (2) Each victim of bullying, harassment, or intimidation report form shall:
 - (i) Identify the victim and the alleged perpetrator, if known;
 - (ii) Indicate the age of the victim and alleged perpetrator;
 - (iii) Describe the incident, including alleged statements made by the alleged perpetrator;
 - (iv) Indicate the location of the incident;
 - (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
 - (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
 - (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
 - (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.
 - (3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.
- (d) Anonymous two-way electronic tip program. -
- (1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.
 - (2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system websites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

(i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and

(ii) Provide a transcript of the conversation to a designated person in the school.

(5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.

(e) County boards to provide annual summaries of reports to State Board; confidentiality. -

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(f) Confidentiality. - The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(g) Departmental reporting to General Assembly. -

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

7-424.3. Bullying, harassment, and intimidation policy.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(3) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. - By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. - The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

- (2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
 - (3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
 - (4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:
 - (i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and
 - (ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;
 - (5) Standard consequences and remedial actions for persons found to have made false accusations;
 - (6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;
 - (7) Standard procedures for providing notice of an act of bullying, harassment, or intimidation to:
 - (i) A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and
 - (ii) A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
 - (8) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;
 - (9) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and
 - (10) Information about the types of support services available to a student bully or victim and any bystanders.
- (d) Consultation with groups. - A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:
- (1) Parents or guardians of students;
 - (2) School employees and administrators;
 - (3) School volunteers; and
 - (4) Students.
- (e) Publication. - A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.
- (f) Educational programs. - A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:
- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
 - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.
- (g) Civil liability. - An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.
- (h) Construction of provisions. - The provisions of this section may not be construed to:
- (1) Limit the legal rights of a victim of bullying, harassment, or intimidation; or
 - (2) Require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

REGULATIONS

13A.02.04.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Official school day" means the regular school day with a designated starting time and ending time as defined by the local school system.
- (2) "School buildings" means local school system owned or leased buildings.
- (3) "School grounds" means local school system owned or leased land that surrounds a school building.
- (4) Tobacco.
 - (a) "Tobacco" means products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed.
 - (b) "Tobacco" does not include nicotine replacement therapy.

13A.08.01.12-1. Bringing or possessing a firearm on school property.

A. In this regulation, the following terms have the meanings indicated:

- (1) "Alternative educational setting" means an alternative education program that allows the student to continue the student's education within the public school system and, if in a secondary school, the opportunity to earn credit.
- (2) "Expulsion" means at a minimum the removal of a student from the student's regular school program.
- (3) "Firearm" means a weapon as defined in 18 U.S.C. § 921.
- (4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.
- (5) "Year" means a calendar year of 12 months.

B. General Provisions.

- (1) Except as provided in § B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity, the student shall be expelled for a minimum of 1 year.
- (2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity.
- (3) Nothing in this regulation applies to a firearm:
 - (a) That is lawfully stored inside a locked vehicle on school property; or
 - (b) For activities approved and authorized by the local school system, if the local school system adopts appropriate safeguards to ensure student safety.

C. Students with Disabilities. An identified student with disabilities who brings a firearm onto school property or to a school-sponsored activity or who possesses a firearm on school property or at a school-sponsored activity may be suspended or expelled in accordance with the procedures set out in Education Article, § 7-305, Annotated Code of Maryland, and COMAR 13A.08.03.

D. Administrative Procedures.

- (1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:

- (a) Written certification that the local school system is in compliance with the requirements of this regulation;
- (b) A description of the circumstances surrounding any expulsions imposed under State law as required by § B(1) of this regulation;
- (c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity;
- (d) The name of the school where each incident took place;
- (e) The type of firearm involved;
- (f) The disposition of each case, including the number of students:
 - (i) Expelled from each school, and
 - (ii) Placed in alternative educational settings; and
- (g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

13A.08.01.14. Searches.

A. Search of Student by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
 - (i) Any other State law; or
 - (ii) A rule or regulation of the local board.

(2) A search under § A(1) of this regulation shall be made in the presence of a third party.

B. Search of School by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances, including the lockers of students.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under § B(1) of this regulation shall be announced or published previously in the school.

C. Search of Student on School-Sponsored Trip by Teacher.

(1) A local board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
 - (i) Any other State law; or
 - (ii) A rule or regulation of the local board.

(2) To qualify to conduct a search under § C(1) of this regulation, a teacher shall:

- (a) Be designated in writing by a principal; and
- (b) Receive training to conduct a search commensurate with the training received by a principal.

(3) A search under § C(1) of this regulation shall be made in the presence of a third party.

D. Police officers shall conduct searches of students and the school premises in accordance with their established policies and procedures.

E. A school official may not conduct a search of the person of a student at the request of a police officer unless a search warrant has been issued authorizing the search.

F. Every effort shall be made to conduct searches in a manner which will minimize disruption of the normal school routine and minimize embarrassment to students affected.

Communication of Policy

LAWS

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) Development of policy by county boards. -

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students; and
- (v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

(b) Publication of policy. - Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.

7-424.2. Gangs and gang activity.

(d) Policy or regulations by local school system. -

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students;
- (v) Local law enforcement;
- (vi) Gang prevention and intervention programs;
- (vii) The Office of the Public Defender;
- (viii) The Maryland State's Attorneys Association; and

(ix) Members of the community.

(e) Policy or regulations by local school system - Submission to State Superintendent. - Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.

(f) Policy or regulations by local school system - Publication. - Each local school system shall publicize its policy or regulations in student handbooks, on school system websites, and at any other location or venue the local school system determines is necessary or appropriate.

REGULATIONS

13A.02.04.04. Notification of a tobacco-free environment.

Each local school system shall post notification to students, staff, and the general public that school buildings and grounds are tobacco-free.

13A.08.01.14. Searches.

A. Search of Student by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
 - (i) Any other State law; or
 - (ii) A rule or regulation of the local board.

(2) A search under § A(1) of this regulation shall be made in the presence of a third party.

B. Search of School by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances, including the lockers of students.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under § B(1) of this regulation shall be announced or published previously in the school.

C. Search of Student on School-Sponsored Trip by Teacher.

(1) A local board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
 - (i) Any other State law; or
 - (ii) A rule or regulation of the local board.

(2) To qualify to conduct a search under § C(1) of this regulation, a teacher shall:

- (a) Be designated in writing by a principal; and
- (b) Receive training to conduct a search commensurate with the training received by a principal.

(3) A search under § C(1) of this regulation shall be made in the presence of a third party.

D. Police officers shall conduct searches of students and the school premises in accordance with their established policies and procedures.

E. A school official may not conduct a search of the person of a student at the request of a police officer unless a search warrant has been issued authorizing the search.

F. Every effort shall be made to conduct searches in a manner which will minimize disruption of the normal school routine and minimize embarrassment to students affected.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning. The policies and regulations at minimum shall:

- (1) Reflect a discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;
- (2) Be designed to keep students connected to school so that they may graduate college and career ready;
- (3) Describe the conduct that may lead to in-school and out-of-school suspension or expulsion;
- (4) Allow for discretion in imposing discipline;
- (5) Address the ways the educational and counseling needs of suspended students will be met; and
- (6) Explain why and how long-term suspensions or expulsions are last-resort options.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(a) Suspension for not more than 10 school days. -

- (1) Except as provided in subsection (b) of this section and § 7-305.1 of this subtitle, in accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.
- (2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.
- (3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(b) Suspension and expulsion procedures for attendance-related offenses. -

- (1) Except as provided in paragraph (2) of this subsection, a student may not be suspended or expelled from school solely for attendance-related offenses.

(2) Paragraph (1) of this subsection does not apply to in-school suspensions for attendance-related offenses.

(c) Suspension for more than 10 school days or expulsion. - Except as provided in § 7-305.1 of this subtitle, at the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

(d) Procedure for more than 10-day suspension or expulsion. -

(1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

(e) Returning to school premises or classroom. -

(1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 100 for each violation.

(4)(i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

(f) Students with disabilities. -

(1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

(g) Restitution for damage to school property. -

(1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$ 2,500, or the student's assignment to a school work project, or both.

7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions.

(a)(1) Definitions. - In this section the following words have the meanings indicated.

(3) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

(i) Are conducted by trained staff;

(ii) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and

(iii) Help build a sense of belonging, safety, and social responsibility in the school community. [...]

(d) Remedying impact of behavior. - The school system shall remedy the impact of a student's behavior through appropriate intervention methods that may include restorative practices.

7-306. Corporal punishment; State code of discipline.

(a) "Restorative approaches" defined. -

(1) In this section, "restorative approaches" means a relationship-focused student discipline model that:

(i) Is preventive and proactive;

(ii) Emphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community;

(iii) In response to behavior that violates the clear behavioral expectations that contribute to the well-being of the school community, focuses on accountability for any harm done by the problem behavior; and

(iv) Addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.

(2) "Restorative approaches" may include:

(i) Conflict resolution;

- (ii) Mediation;
- (iii) Peer mediation;
- (iv) Circle processes;
- (v) Restorative conferences;
- (vi) Social emotional learning;
- (vii) Trauma-informed care;
- (viii) Positive behavioral intervention supports; and
- (ix) Rehabilitation. [...]

(c) Standards of conduct; implementation. - The State Board shall:

- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
- (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
- (3) Assist each county board with the implementation of the guidelines.

(d) Regulations. -

- (1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.
- (2) The regulations adopted by a county board under this subsection:
 - (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;
 - (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
 - (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

7-306. Corporal punishment; State code of discipline.

(b) Corporal punishment prohibited. - Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

E. Corporal Punishment. Corporal punishment may not be used to discipline a student in a public school in the State.

Search and Seizure

LAWS

7-308. Searches of students and schools.

(a) Authority to search student. - A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(b) Authority to search student - By teacher. -

(1) Subject to the provisions of paragraph (2) of this subsection, a county board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(2) To qualify to conduct a search under this subsection, a teacher shall be designated in writing by a principal and receive training to conduct a search commensurate with the training received by a principal.

(c) Presence of third party required. - A search under subsection (a) or (b) of this section shall be made in the presence of a third party.

(d) Authority to search school. -

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances including the lockers of students.

(2) The right of the school official to search the locker shall be announced or published previously in the school.

(e) Rules and regulations. - The Department shall adopt rules and regulations relating to the searches permitted under this section.

REGULATIONS

13A.08.01.14. Searches.

A. Search of Student by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

(a) A criminal offense under the laws of this State; or

(b) A violation of:

(i) Any other State law; or

(ii) A rule or regulation of the local board.

(2) A search under § A(1) of this regulation shall be made in the presence of a third party.

B. Search of School by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances, including the lockers of students.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under § B(1) of this regulation shall be announced or published previously in the school.

C. Search of Student on School-Sponsored Trip by Teacher.

(1) A local board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

(a) A criminal offense under the laws of this State; or

(b) A violation of:

(i) Any other State law; or

(ii) A rule or regulation of the local board.

(2) To qualify to conduct a search under § C(1) of this regulation, a teacher shall:

(a) Be designated in writing by a principal; and

(b) Receive training to conduct a search commensurate with the training received by a principal.

(3) A search under § C(1) of this regulation shall be made in the presence of a third party.

D. Police officers shall conduct searches of students and the school premises in accordance with their established policies and procedures.

E. A school official may not conduct a search of the person of a student at the request of a police officer unless a search warrant has been issued authorizing the search.

F. Every effort shall be made to conduct searches in a manner which will minimize disruption of the normal school routine and minimize embarrassment to students affected.

Restraint and Seclusion

LAWS

7-1101. Definitions.

(a) In this subtitle the following terms have the meanings indicated.

(b) Behavior intervention plan. - "Behavior intervention plan" means a proactive plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

(c) Nonpublic school. - "Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities.

(d) Physical restraint. -

(1) "Physical restraint" means A personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.

(2) "Physical restraint" does not include:

- (i) Briefly holding a student in order to calm or comfort the student;
- (ii) Holding a student's hand or arm to escort the student safely from one area to another;
- (iii) Moving a disruptive student who is unwilling to leave the area when other methods such as counseling have been unsuccessful; or
- (iv) Breaking up a fight in the school building or on school grounds.

(e) "Public agency" means the Department, a local school system, the Maryland School for the Deaf, the Maryland School for the Blind, or the Juvenile Services Education Program..

(f) (1) Seclusion. - "Seclusion" means the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving. During school hours.

(2) "seclusion" does not include a behavior intervention plan of separating a student by placing the student:

- (i) into a nonlocked room from which the student is allowed to leave; or
- (ii) within a separate location in a classroom from which the student is not physically prevented from leaving.

(g) "trauma-informed intervention" means an approach to behavior intervention that is informed by the recognition that the experience of trauma, including the experience of violence, abuse, neglect, disaster, terrorism, and war, may have a significant impact on an individual's physical and emotional health and ability to function.

7-1102. Use of seclusion as behavioral health intervention – Use of physical restraint as a behavioral health intervention – Use of seclusion by health care practitioner.

(a) This section does not apply to the Juvenile Services Education Program.

(b) A public agency may not use seclusion as a behavioral health intervention for a student.

(c) Neither a public agency nor a nonpublic school may use physical restraint on a student as a behavioral health intervention unless:

- (1) Physical restraint is necessary to protect the student or another individual from imminent serious physical harm; and
- (2) Other, less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student.

(d)(1) A nonpublic school may not use seclusion as a behavioral health intervention for a student unless:

- (i) Seclusion is necessary to protect the student or another individual from imminent serious physical harm;
- (ii) Other, less intrusive interventions have failed or been demonstrated to be inappropriate for the student;

(iii) A health care practitioner who qualifies under subsection (e) of this section is on site and is directly observing the student during the seclusion;

(iv) The health care practitioner concludes that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student;

(v) If the door to the room in which the student is being secluded has a locking mechanism, the locking mechanism is engaged only if held in place by an individual or, if operated electronically, automatically releases in the case of an active fire alarm; and

(vi) The period of seclusion lasts the lesser of:

1. 30 minutes; or

2. A point in time during which the student no longer poses a threat of imminent serious physical harm.

(2) (i) For a student who has an individualized education program and is placed in seclusion, the individualized education program team, in consultation with the health care practitioner who observed the seclusion, shall review the student's physical, psychological, and psychosocial health history to determine whether seclusion is contraindicated for the student.

(ii) A determination under this paragraph shall be made:

1. At each annual review of the student's individualized education program; and

2. Within 10 days of a student's placement being changed.

(3) (i) If a student's behavior is adversely affected after being placed in seclusion, the nonpublic school shall convene a pupil personnel meeting on an expedited basis or at the earliest opportunity to discuss alternative behavioral health treatments.

(ii) If the behavior of a student with an individualized education program is adversely affected after being placed in seclusion, the student's individualized education program team shall convene a meeting on an expedited basis or at the earliest opportunity to discuss alternative behavioral health treatments.

(e) Before a health care practitioner may use seclusion as a behavioral health intervention for a student in a nonpublic school, the health care practitioner shall:

(1) (i) Be a physician, licensed to practice under Title 14 of the Health Occupations Article;

(ii) Be a psychologist, licensed to practice under Title 18 of the Health Occupations Article;

(iii) Be a clinical social worker, licensed to practice under Title 19 of the Health Occupations Article;

(iv) Be a registered nurse, licensed to practice under Title 8 of the Health Occupations Article; or

(v) Be a clinical professional counselor, licensed to practice under Title 17 of the Health Occupations Article;

(2) Have received training in all topics required under COMAR 13A.08.04.06, in effect on June 30, 2022; and

(3) Be clinically familiar with a student.

7-1103. Counting separate incidents of seclusion — Notice to the department and local school system — Actions by local school system — Notice by public agency — Actions by department.

(a) In this section, each incident during a behavioral health intervention in which a student is enclosed in a room, enclosure, or other space and prevented from leaving, shall be counted as a separate incident of seclusion regardless of the duration of the incident.

(b) (1) If a student enrolled in a public school is physically restrained 10 times or more in a school year, the public school shall provide notice to the Department and the local school system at the earliest opportunity, but not longer than 4 business days after the student's 10th incident of physical restraint.

(2) If a student placed in a nonpublic school by the local school system is physically restrained or placed in seclusion 10 times or more in a school year, the nonpublic school shall provide notice to the Department and the local school system at the earliest opportunity, but not longer than 4 business days after the student's 10th incident of physical restraint or seclusion.

(c) On receipt of notice from a public school or nonpublic school under subsection (b) of this section, the local school system shall:

(1) Review the student's case, including the circumstances of each incident of physical restraint or seclusion;

(2) Assess the public school or nonpublic school's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and

(3) Share the local school system's recommendations with the Department and the public school or nonpublic school.

(d) If a student enrolled in a public agency that is not a public school is physically restrained 10 times or more in a school year, the public agency shall provide notice to the Department at the earliest opportunity, but not longer than 4 business days after the student's 10th incident of physical restraint.

(e) On receipt of notice from a public agency under subsection (d) of this section, the Department shall:

(1) Review the student's case, including the circumstances of each incident of physical restraint;

(2) Assess the public agency's pattern of behavioral health interventions to evaluate whether the public agency could use less restrictive behavioral health interventions; and

(3) Share the Department's recommendations with the public agency.

7-1104. Reports and guidance

(a)(1) On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report for the prior school year on:

(i) The number of physical restraint incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement;

(ii) The number of physical restraint incidents each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, age, and type of placement;

(iii) For nonpublic schools, the number of seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, and age; and

(iv) For nonpublic schools, the number of seclusion incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, and age.

(2) To determine the number of incidents for the report required under paragraph (1) of this subsection:

(i) A seclusion incident shall be considered ended if at any point during the incident the student is no longer prevented from leaving or is removed from a room, an enclosure, or other space; and

(ii) If after a seclusion incident has ended in accordance with item (i) of this paragraph, the public agency or nonpublic school determines that it is necessary to place the student in seclusion again, the subsequent confinement of the student in a room, enclosure, or other space shall be considered a separate seclusion incident.

(3)(i) The Department shall verify the accuracy of a report from any public agency or nonpublic school that reports no physical restraint or seclusion incidents under this subsection.

(ii) If the Department is unable to verify the accuracy of a report submitted by a public agency or nonpublic school, the Department shall make recommendations for improvements in data collection and positive behavioral interventions at the public agency or nonpublic school.

(b) On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report on steps taken to encourage positive behavioral interventions, including:

- (1) The professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions for the prior school year;
- (2) For nonpublic schools, the policy changes made to further reduce the use of seclusion incidents during the prior school year; and
- (3) The policy changes or new professional development opportunities designed to further increase positive behavioral interventions and reduce physical restraint or seclusion incidents in the upcoming school year.

(c) Each nonpublic school shall:

- (1) Personally observe and review seclusion rooms;
- (2) Review training plans for the use of seclusion; and
- (3) Report to the Department regarding findings made under items (1) and (2) of this subsection.

(d)

(1) The Department shall:

- (i) Provide guidance to nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion;
 - (ii) Develop an accountability system to measure compliance by public agencies and nonpublic schools with COMAR 13A.08.04 and any other regulations adopted to implement this subtitle;
 - (iii) Analyze the data and information collected under this section to determine trends and patterns in behavioral interventions; and
 - (iv) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.
- (2)(i) In the report required under paragraph (1)(iv) of this subsection, the Department shall provide data for public agencies and nonpublic schools by school, subject to State and federal privacy laws.
- (ii) The data provided under this paragraph shall be presented in a manner that accounts for variations in enrollment between schools.
- (3) Within 30 days of submitting the report required under paragraph (1)(iv) of this subsection, the Department shall publish the report on its website.

7-1105. Development of policies and procedures

Each public agency and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department

7-1106. Corrective action plan filed by school to department – Adoption of regulations

(a) A public agency and the local school system in which the public agency is located or a nonpublic school shall submit a systemic, evidence-based corrective action plan to the Department if the public agency or nonpublic school:

- (1) Fails to comply with any provision of this subtitle; or
- (2) Reports to the Department that a student has been physically restrained or placed in seclusion 10 times or more in a school year under § 7-1103 of this subtitle.

(b) The Department shall adopt regulations to implement the provisions of this section.

7-1107. Consultation concerning training requirements.

(a) Subject to the requirements of this section, the State Superintendent shall, in consultation with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article, adopt positive behavioral intervention training requirements for teachers, administrators, behavioral health specialists, paraprofessionals, aides, and any other employees who interact routinely with students.

(b) Before adopting the training requirements under subsection (a) of this section, the State Superintendent shall identify any gaps in behavioral interventions, strategies, and supports.

(c) The training requirements adopted under subsection (a) of this section shall include positive behavioral interventions, strategies, and supports that:

- (1) Are evidence-based;
- (2) Include trauma-informed interventions and strategies for de-escalation;
- (3) Remedy any gaps identified under subsection (b) of this section; and
- (4) Are consistent with professionally accepted practices and standards for persons entering the field of education.

(d) (1) The training requirements adopted under subsection (a) of this section shall be the basis of a program of professional development that the State Superintendent shall share with school employees from public agencies and nonpublic schools.

(2) The State Superintendent shall issue guidance on best practices in implementing positive behavior intervention plans that are the basis for the professional development program.

8-405. Meetings to discuss and evaluate educational program; extended year services.

(f) Written consent from parent for proposed enrollment of child in alternative programs or restraint or seclusion of child. -

(1) Except as provided in paragraph (2) of this subsection, an individualized education program team shall obtain written consent from a parent if the team proposes to:

- (i) Enroll the child in an alternative education program that does not issue or provide credits toward a Maryland high school diploma;
- (ii) Identify the child for the alternative education assessment aligned with the State's alternative curriculum; or
- (iii) Include restraint or seclusion in the individualized education program to address the child's behavior as described in COMAR 13A.08.04.05.

REGULATIONS

13A.08.04.01. Scope.

This chapter applies to student behavior interventions by public agencies and nonpublic schools.

13A.08.04.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Behavior intervention plan" means a proactive, data-based, structured plan that is developed as a result of a functional behavioral assessment which is consistently applied by trained staff to reduce or eliminate a students challenging behaviors and to support the development of appropriate behaviors and responses.

- (2) "Business day" has the meaning stated in COMAR 13A.08.03.
- (2-1) Communicate.
- (a) "Communicate" means to convey information verbally or nonverbally.
- (b) "Communicate" includes, but is not limited to:
- (i) Speech;
 - (ii) Gestures;
 - (iii) Symbols; and
 - (iv) American Sign Language.
- (3) "Department" means the Maryland State Department of Education.
- (4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.
- (5) Functional Behavior Assessment.
- (a) "Functional behavior assessment" means the systematic process of gathering information to guide the development of an effective and efficient behavior intervention plan for the problem behavior.
- (b) "Functional behavior assessment" includes the:
- (i) Identification of the functions of the problem behavior for the student;
 - (ii) Description of the problem behavior exhibited in the educational setting; and
 - (iii) Identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence, and maintenance of the behavior over time.
- (6) "IEP" means an individual education program as defined and developed in accordance with COMAR 13A.05.01.
- (7) "IEP team" has the meaning stated in COMAR 13A.05.01.
- (8) Mechanical Restraint.
- (a) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement.
- (b) "Mechanical restraint" does not include devices implemented by trained school personnel, or used by a student, that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, including:
- (i) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
 - (ii) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
 - (iii) Restraints for medical immobilization; or
 - (iv) Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.
- (9) "Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities in accordance with COMAR 13A.09.10.
- (10) "Parent" has the meaning stated in COMAR 13A.05.01.
- (11) Physical Restraint.

(a) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely.

(b) "Physical restraint" does not include:

- (i) Briefly holding a student to calm or comfort the student;
- (ii) A physical escort, which is the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purposes of inducing a student who is acting out to walk to a safe location;
- (iii) Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or
- (iv) Intervening in a fight in accordance with Education Article § 7-307, Annotated Code of Maryland.

(12) "Positive behavior interventions, strategies, and supports" means the school-wide and individual application of data-driven, trauma-informed actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.

(13) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body for the purpose of enhancing functional skills, preventing self-injurious behavior, or ensuring safe positioning of a person.

(b) "Protective or stabilizing device" includes:

- (i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;
- (ii) Seat belts; or
- (iii) Other safety equipment to secure students during transportation in accordance with the public agency or nonpublic school transportation plan.

(14) "Public agency" has the meaning stated in COMAR 13A.05.01.

(15) "Restraint" means the use of a physical or mechanical restraint.

(16) "School personnel" means an individual employed by a public agency or nonpublic school as defined in this chapter.

(17) Seclusion.

(a) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

(b) "Seclusion" does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

(18) "Student with a disability" has the meaning stated in COMAR 13A.05.01.

(19) "Trauma-informed intervention" means an approach that is informed by the recognition of the impact that trauma, including violence, abuse, neglect, disaster, terrorism, and war, may have on a student's physical and emotional health and ability to function effectively in an educational setting.

13A.08.04.03. Student behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

- (1) After less restrictive or alternative approaches have been considered, and:

- (a) Attempted; or
- (b) Determined to be inappropriate;
- (2) In a humane, safe, and effective manner;
- (3) Without intent to harm or create undue discomfort; and
- (4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

- (1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article § 7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or
- (2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

13A.08.04.04. Use of exclusion.

A. School personnel may use exclusion to address a student's behavior:

- (1) If the student's behavior unreasonably interferes with the student's learning or the learning of others;
- (2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
- (3) If exclusion is requested by the student; or
- (4) If supported by the student's behavior intervention plan.

B. A setting used for exclusion shall:

- (1) Provide school personnel with the ability to see the student at all times;
- (2) Provide adequate lighting, ventilation, and furnishings; and
- (3) Be unlocked and free of barriers to prevent egress.

C. School personnel shall monitor a student placed in exclusion and provide a student in exclusion with:

- (1) An explanation of the behavior that resulted in the removal; and
- (2) Instructions on the behavior required to return to the learning environment.

D. School personnel shall ensure that each period of exclusion:

- (1) Is appropriate to the developmental level of the student and the severity of the behavior; and
- (2) Does not exceed 30 minutes.

E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:

- (1) Conduct a functional behavioral assessment; and
- (2) Develop, review, or revise a student's behavioral intervention plan.

F. School personnel shall consider the need to initiate a referral to a pupil services or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of special education and related services, in accordance with COMAR 13A.05.01.

G. School personnel shall ensure the implementation of appropriate procedures, in accordance with COMAR 13A.08.03, if a student with a disability has experienced an excessive period of exclusion that may result in a change of placement.

13A.08.04.05. General requirements for the use of restraint or seclusion.

A. Use of Restraint.

(1) Physical Restraint.

(a) Except as provided in § A(1)(b) of this regulation, the use of physical restraint is prohibited in public agencies and nonpublic schools until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(b) Once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used consistent with § A(1)(a) of this regulation, physical restraint may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

- (i) Review available data to identify any contraindications to the use of physical restraint based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;
- (ii) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until physical restraint is used in an emergency situation; and
- (iii) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(c) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

(d) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.

(e) Physical restraint:

- (i) Shall be removed as soon as the student is calm; and
- (ii) May not exceed 30 minutes.

(f) In applying physical restraint, school personnel may not:

- (i) Place a student in a face down position;
- (ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or
- (iii) Straddle a student's torso.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is certified by and meets the requirements of the Joint Commission for the Accreditation of Health Care Organizations.

(b) Regulation .04 of this chapter does not prohibit school personnel from using a protective or stabilizing device:

- (i) As prescribed by a health professional; or
- (ii) For a student with a disability, in accordance with the student's IEP or behavior intervention plan.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;
- (iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and

(iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(1) Except as provided in § B(2) of this regulation, the use of seclusion is prohibited in public agencies and nonpublic schools until there is an emergency situation and seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(2) Once seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with § B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(a) Review available data to identify any contraindications to the use of seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(b) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until seclusion is used in an emergency situation; and

(c) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(3) Seclusion Room.

(a) At a minimum, a room used for seclusion shall:

(i) Be free of objects and fixtures with which a student could self-inflict bodily harm;

(ii) Provide school personnel an adequate view of the student from all angles; and

(iii) Provide adequate lighting and ventilation.

(b) The door of a seclusion room shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by school personnel on the outside of the door.

(4) School personnel shall:

(a) Remain in close proximity to the door of a seclusion room at all times;

(b) Actively observe a student placed in seclusion at all times; and

(c) Provide a student placed in seclusion with:

(i) An explanation of the behavior that resulted in the removal; and

(ii) Instructions on the behavior required to return to the learning environment.

Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

(5) A seclusion event:

- (a) Shall be appropriate to the student's developmental level and severity of the behavior;
- (b) May not restrict the student's ability to communicate distress; and
- (c) May not exceed 30 minutes.

(6) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel involved in the seclusion event shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;
- (iii) The behavior that prompted the use of seclusion; and
- (iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under § B(7) of this regulation shall include a description of the seclusion event, including:

- (i) Justification for initiating the use of seclusion;
- (ii) The length of time in seclusion;
- (iii) The student's behavior and reaction during the seclusion; and
- (iv) The name and signature of the administrator informed of the use of seclusion.

(7) The documentation described in § B(7) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(8) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

C. Referral to a Pupil Services or IEP Team.

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

(2) If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider:

- (a) The need for a functional behavioral assessment;
- (b) Developing appropriate behavioral interventions; and
- (c) Implementing a behavioral intervention plan.

(3) If restraint or seclusion is used for a student with a disability, and the IEP or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or behavior intervention plan, in accordance with COMAR 13A.05.01 and 13A.08.03.

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in § C(3) of this regulation, the IEP team shall consider:

- (a) Existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma;
- (b) Information provided by the parent;
- (c) Observations by teachers and related service providers;

(d) The student's current placement; and

(e) The frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

(5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion.

(6) Parental Consent.

(a) The IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan or IEP to address the student's behavior.

(b) If the parent does not provide written consent, the IEP team shall send the parent written notice within 5 business days of the IEP team meeting that states:

(i) The parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and

(ii) If the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion.

(c) If the parent provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, § 8-413, Annotated Code of Maryland, to resolve the matter.

13A.08.04.06. Administrative procedures.

A. Each public agency and nonpublic school shall develop policies and procedures to address:

(1) A continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion;

(2) The prevention of self-injurious behaviors;

(3) Methods for identifying and defusing potentially dangerous behavior;

(4) The use and documentation of exclusion consistent with Regulation .04 of this chapter;

(5) The use of restraint consistent with Regulation .05A of this chapter; and

(6) The use of seclusion consistent with Regulation .05B of this chapter.

B. Each public agency and nonpublic school shall annually review policies and procedures and provide them to school personnel and parents as described in COMAR 13A.08.01.

C. Professional Development.

(1) Each public agency and nonpublic school shall provide professional development to school personnel designated by a school administrator to use restraint or seclusion on this chapter and the appropriate implementation of policies and procedures developed in accordance with § A of this regulation.

(2) At the beginning of each school year, each public agency and nonpublic school shall identify school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of exclusion, restraint, and seclusion.

(3) The school personnel described in § C(1) and § C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) Positive behavior interventions strategies and supports, including methods for identifying and defusing potentially dangerous behavior;

(b) Trauma-informed intervention;

(c) Functional behavior assessment and behavior intervention planning;

(d) Exclusion;

(e) Restraint and alternatives to restraint;

- (f) Seclusion;
- (g) Symptoms of physical distress and positional asphyxia;
- (h) First aid and cardiopulmonary resuscitation (CPR); and
- (i) Individualized behavior interventions based on student characteristics, including disability, medical history, and past trauma.

(4) The professional development described in § C(3) of this regulation shall include a written examination and physical demonstration of proficiency in the described skills and competencies.

D. Monitoring and Compliance.

(1) Each public agency and nonpublic school shall develop policies and procedures on:

- (a) Monitoring the use of exclusion, restraint, and seclusion; and
- (b) Receiving and investigating complaints regarding exclusion, restraint, and seclusion practices.

(2) The Department may monitor and request any information regarding any matter related to exclusion, restraint, or seclusion implemented by a public agency or nonpublic school. The Department shall provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

No relevant laws found.

REGULATIONS

13A.08.01.12-1. Bringing or possessing a firearm on school property.

A. In this regulation, the following terms have the meanings indicated:

- (1) "Alternative educational setting" means an alternative education program that allows the student to continue the student's education within the public school system and, if in a secondary school, the opportunity to earn credit.
- (2) "Expulsion" means at a minimum the removal of a student from the student's regular school program.
- (3) "Firearm" means a weapon as defined in 18 U.S.C. § 921.
- (4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.
- (5) "Year" means a calendar year of 12 months.

B. General Provisions.

- (1) Except as provided in § B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity, the student shall be expelled for a minimum of 1 year.
- (2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity.
- (3) Nothing in this regulation applies to a firearm:
 - (a) That is lawfully stored inside a locked vehicle on school property; or
 - (b) For activities approved and authorized by the local school system, if the local school system adopts appropriate safeguards to ensure student safety.

C. Students with Disabilities. An identified student with disabilities who brings a firearm onto school property or to a school-sponsored activity or who possesses a firearm on school property or at a school-sponsored activity may be suspended or expelled in accordance with the procedures set out in Education Article, § 7-305, Annotated Code of Maryland, and COMAR 13A.08.03.

D. Administrative Procedures.

- (1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:
 - (a) Written certification that the local school system is in compliance with the requirements of this regulation;
 - (b) A description of the circumstances surrounding any expulsions imposed under State law as required by § B(1) of this regulation;

- (c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity;
- (d) The name of the school where each incident took place;
- (e) The type of firearm involved;
- (f) The disposition of each case, including the number of students:
 - (i) Expelled from each school, and
 - (ii) Placed in alternative educational settings; and
- (g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

Limitations or Conditions on Exclusionary Discipline

LAWS

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(b) Suspension and expulsion procedures for attendance-related offenses. -

(1) Except as provided in paragraph (2) of this subsection, a student may not be suspended or expelled from school solely for attendance-related offenses.

(2) Paragraph (1) of this subsection does not apply to in-school suspensions for attendance-related offenses.

7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions.

(a)(1) Definitions. - In this section the following words have the meanings indicated.

(2) "Prekindergarten program" means:

- (i) Any qualified vendor of prekindergarten services as defined in § 7-101.2(a)(7) of this title; or
- (ii) A prekindergarten program as defined in § 7-1A-01 of this title.

(3) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- (i) Are conducted by trained staff;
- (ii) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- (iii) Help build a sense of belonging, safety, and social responsibility in the school community.

(b)(1) In general. - Except as provided in paragraph (2) of this subsection, a student enrolled in a prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.

(2) A student described under paragraph (1) of this subsection may only be:

- (i) Expelled from school if required by federal law; or
- (ii) Suspended for not more than 5 school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(3) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under paragraph (2) of this subsection.

(c)(1) Intervention and support by school. - The school shall provide intervention and support to address the student's behavior if the student is:

- (i) Suspended under subsection (b) of this section; or
- (ii) Enrolled in prekindergarten, kindergarten, first grade, or second grade and:
 - 1. Is disruptive to the school environment; or
 - 2. Commits an act that would be considered an offense subject to suspension but for the student's grade.

(2) Intervention and support provided under paragraph (1) of this subsection includes:

- (i) Positive behavior interventions and supports;
- (ii) A behavior intervention plan;
- (iii) A referral to a student support team;
- (iv) A referral to an individualized education program team; and
- (v) A referral for appropriate community-based services.

(d) Remedying impact of behavior. - The school system shall remedy the impact of a student's behavior through appropriate intervention methods that may include restorative practices.

(e) Remedying impact of behavior. - On or before May 1, 2018, the Department shall adopt regulations to carry out the requirements of this section.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

C. Suspension and Expulsion.

(1) Prohibition.

(a) Except as provided in § C(1)(b) of this regulation, a student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.

(b) A student described under § C(1)(a) of this regulation may only be:

- (i) Expelled from school if required by federal law; or
- (ii) Suspended for not more than 5 school days per incident if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(c) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under § C(1)(b) of this regulation.

(2) In-School Suspension.

(a) An in-school removal is not considered a day of suspension as long as the student is afforded the opportunity to continue to:

- (i) Appropriately progress in the general curriculum;
- (ii) Receive the special education and related services specified on the student's IEP, if the student is a student with a disability in accordance with COMAR 13A.05.01;

(iii) Receive instruction commensurate with the program afforded to the student in the regular classroom; and

(iv) Participate with peers as they would in their current education program to the extent appropriate.

(b) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(c) The school principal shall provide the student's parents with written notification of the in-school suspension action taken by the school.

(d) After 10 days of cumulative in-school suspension, the student, the student's parents or guardian, and the principal shall confer.

(e) The student's school of current enrollment shall make provision for the student's education during the period of in-school suspension.

(f) Local school systems shall develop policies pertaining to a student's participation in extracurricular activities if the student receives an in-school suspension.

(g) Local school systems shall develop and implement a behavioral program of positive interventions to address the causes of misbehavior as part of the in-school suspension.

(3) Suspension for Not More Than 10 Days.

(a) In accordance with the rules and regulations of the local board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal, except as provided in § C(1) of this regulation.

(b) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(c) At or before the conference, the student shall receive oral or written notice of the charges against him or her. If the student denies the charges, the student has the right to an explanation of the evidence supporting the charges and an opportunity to present the student's side of the story.

(d) A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be removed immediately from school, if the notice and conference required by this subsection is provided as soon as possible.

(e) If the principal finds that an extended suspension or expulsion is warranted, the principal immediately shall report the matter in writing to the local superintendent.

(4) Suspension for More than 10 Days or Expulsion.

(a) At the request of a principal, a local superintendent or the designated representative may suspend a student for more than 10 school days or expel the student, except as provided in § C(1) of this regulation.

(b) Upon receipt of a written report from a principal requesting an extended suspension or expulsion, the local superintendent or designated representative promptly shall make a thorough investigation of the matter.

(c) If after the investigation the local superintendent or designated representative finds that an extended suspension or an expulsion is warranted, the superintendent or designated representative promptly shall arrange a conference with the student and the student's parent or guardian.

(d) The process described in § C(3)(a)-(c) of this regulation shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, either because of delays due to parent or guardian unavailability or due to the complexity of the investigation, the student shall be allowed to return to school, unless the local superintendent or designated

representative determines that the students return to school would pose an imminent threat of serious harm to other students or staff.

(e) If the student is not allowed to return to school after the 10th day, the superintendent or designee shall notify the student and the parent or guardian within 24 hours and provide the reasons for the delay in the process and the denial of reentry and send a copy of the notice to the State Superintendent of Schools;

(f) If after the conference the local superintendent or designated representative finds that an extended suspension or an expulsion is warranted, the student or the students parent or guardian may appeal to the local board within 10 days after the determination.

(g) If an appeal is filed, the local board or its designated committee or hearing officer shall have 45 days from the date the appeal was received to hear the appeal and issue a decision, as follows:

(i) This timeline period may be extended if the parent, guardian, or his/her representative requests additional time; and

(ii) This timeline shall also apply in the event that the local board elects to use a hearing examiner.

(h) If due to extraordinary circumstances or unusual complexity of a particular appeal, the local board determines that it will be unable to hear an appeal and issue a decision within 45 days, it may petition the State Superintendent for an extension of time.

(i) The student or the students parent or guardian or representative:

(i) Shall be provided the school systems witness list and a copy of the documents that the school system will present at the hearing 5 days before hearing; and

(ii) May bring counsel and witnesses to the hearing.

(j) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(k) The appeal to the local board does not stay the decision of the county superintendent.

(l) The decision of the local board is final.

(5) A student expelled or suspended from school shall remain away from the school premises during those hours each school day when the school the student attends is in session, and may not participate in school-sponsored activities. The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by the student's parent or guardian.

(6) A student suspended or expelled from school shall be allowed to return to school on the day that the terms and conditions of the suspension or expulsion are met whether or not the student, parent, or guardian has filed an appeal of the suspension.

(7) If a student has been suspended or expelled, the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(8) If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred the student to the principal before returning the student to that teacher's classroom. The principal may satisfy this requirement by consulting with the teacher before returning the student to the classroom.

(9) A local superintendent may deny attendance to a student who is currently expelled or on extended suspension from another school system for a length of time equal to that expulsion or extended suspension. A school system shall forward information to another school system relating to the discipline of a student, including information of an expulsion or extended suspension of the student, on receipt of the request for information.

13A.08.01.12-1. Bringing or possessing a firearm on school property.

A. In this regulation, the following terms have the meanings indicated:

- (1) "Alternative educational setting" means an alternative education program that allows the student to continue the student's education within the public school system and, if in a secondary school, the opportunity to earn credit.
- (2) "Expulsion" means at a minimum the removal of a student from the student's regular school program.
- (3) "Firearm" means a weapon as defined in 18 U.S.C. § 921.
- (4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.
- (5) "Year" means a calendar year of 12 months.

B. General Provisions.

- (1) Except as provided in § B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity, the student shall be expelled for a minimum of 1 year.
- (2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity.
- (3) Nothing in this regulation applies to a firearm:
 - (a) That is lawfully stored inside a locked vehicle on school property; or
 - (b) For activities approved and authorized by the local school system, if the local school system adopts appropriate safeguards to ensure student safety.

C. Students with Disabilities. An identified student with disabilities who brings a firearm onto school property or to a school-sponsored activity or who possesses a firearm on school property or at a school-sponsored activity may be suspended or expelled in accordance with the procedures set out in Education Article, § 7-305, Annotated Code of Maryland, and COMAR 13A.08.03.

D. Administrative Procedures.

- (1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:
 - (a) Written certification that the local school system is in compliance with the requirements of this regulation;
 - (b) A description of the circumstances surrounding any expulsions imposed under State law as required by § B(1) of this regulation;
 - (c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity;
 - (d) The name of the school where each incident took place;
 - (e) The type of firearm involved;
 - (f) The disposition of each case, including the number of students:
 - (i) Expelled from each school, and
 - (ii) Placed in alternative educational settings; and
 - (g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

13A.08.03.03. Authority of school personnel - removal of a student with a disability.

A. Removal of a Student with a Disability for not More than 10 Consecutive School Days.

(1) A student with a disability may be removed from the student's current placement for not more than 10 consecutive school days for any violation of school rules to the same extent that removal is applied to students without disabilities.

(2) Unless it is determined that the removal constitutes a change of placement as described in Regulation .05 of this chapter, a student with a disability may be removed:

- (a) To an alternative educational setting;
- (b) To another setting; or
- (c) By suspension.

(3) A public agency is not required to provide services to a student with a disability if services are not provided to students without disabilities.

B. Removal of a Student with a Disability for More than 10 School Days.

(1) A student with a disability may be removed from the student's current placement for up to 10 consecutive school days for each incident of misconduct in a school year if the cumulative effect of the removals does not constitute a change of placement in accordance with Regulation .05 of this chapter.

(2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement as described in Regulation .05 of this chapter is appropriate for a student with a disability who violates a code of student conduct, consistent with 20 U.S.C. § 1415(k)(1)(a) and 34 CFR § 300.530.

(3) For each period of removal after a student with a disability has been removed for the cumulative equivalent of 10 school days in a school year, school personnel shall consult with at least one of the student's teachers to determine what services to provide to enable the student to appropriately:

- (a) Progress in the general curriculum; and
- (b) Advance toward achieving the goals of the student's IEP.

(4) A student with a disability may be removed for more than 10 consecutive school days for a violation of school rules to the same extent removal is applied to students without disabilities if the student's IEP teams determines that the behavior subject to the removal is not a manifestation of the student's disability, in accordance with Regulation .08 of this chapter.

(5) A student with a disability removed consistent with § B(4) of this regulation shall:

- (a) Continue to receive educational services in another setting, so as to enable the student to continue to participate in the general education curriculum and progress toward meeting the goals set out in the student's IEP; and
- (b) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation to prevent its recurrence.

Due Process

LAWS

7-306. Corporal punishment; State code of discipline.

(a)"Restorative approaches" defined. -

- (1) In this section, "restorative approaches" means a relationship-focused student discipline model that:
 - (i) Is preventive and proactive;
 - (ii) Emphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community;
 - (iii) In response to behavior that violates the clear behavioral expectations that contribute to the well-being of the school community, focuses on accountability for any harm done by the problem behavior; and
 - (iv) Addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.
- (2) "Restorative approaches" may include:
 - (i) Conflict resolution;
 - (ii) Mediation;
 - (iii) Peer mediation;
 - (iv) Circle processes;
 - (v) Restorative conferences;
 - (vi) Social emotional learning;
 - (vii) Trauma-informed care;
 - (viii) Positive behavioral intervention supports; and
 - (ix) Rehabilitation.
- (b) Corporal punishment prohibited. - Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.
- (c) Standards of conduct; implementation. - The State Board shall:
 - (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
 - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
 - (3) Assist each county board with the implementation of the guidelines.
- (d) Regulations. -
 - (1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.
 - (2) The regulations adopted by a county board under this subsection:
 - (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;
 - (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
 - (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.
- (e) Disaggregation of data. -
 - (1) On or before October 1 each year, the Department shall submit to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, a student discipline data report that includes a description of the uses of restorative approaches in the State and a review of disciplinary practices and policies in the State.

(2) The Department shall disaggregate the information in any student discipline data report prepared by the Department by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for:

- (i) The State;
- (ii) Each local school system; and
- (iii) Each public school.

(3) Special education-related data in any report prepared under this subsection shall be disaggregated by race, ethnicity, and gender.

(f) Collection of data on alternative school discipline practices. -

(1) In this subsection, "alternative school discipline practice" means a discipline practice used in a public school that is not an in-school suspension or an out-of-school suspension.

(2) The Department shall collect data on alternative school discipline practices in public schools for each local school system, including:

- (i) The types of alternative school discipline practices that are used in a local school system; and
- (ii) The type of misconduct for which an alternative discipline practice is used.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

C. Suspension and Expulsion.

(3) Suspension for Not More Than 10 Days.

(a) In accordance with the rules and regulations of the local board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal, except as provided in § C(1) of this regulation.

(b) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(c) At or before the conference, the student shall receive oral or written notice of the charges against him or her. If the student denies the charges, the student has the right to an explanation of the evidence supporting the charges and an opportunity to present the student's side of the story.

(d) A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be removed immediately from school, if the notice and conference required by this subsection is provided as soon as possible.

(e) If the principal finds that an extended suspension or expulsion is warranted, the principal immediately shall report the matter in writing to the local superintendent.

(4) Suspension for More than 10 Days or Expulsion.

(a) At the request of a principal, a local superintendent or the designated representative may suspend a student for more than 10 school days or expel the student, except as provided in § C(1) of this regulation.

(b) Upon receipt of a written report from a principal requesting an extended suspension or expulsion, the local superintendent or designated representative promptly shall make a thorough investigation of the matter.

(c) If after the investigation the local superintendent or designated representative finds that an extended suspension or an expulsion is warranted, the superintendent or designated representative promptly shall arrange a conference with the student and the student's parent or guardian.

- (d) The process described in § C(3)(a)-(c) of this regulation shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, either because of delays due to parent or guardian unavailability or due to the complexity of the investigation, the student shall be allowed to return to school, unless the local superintendent or designated representative determines that the students return to school would pose an imminent threat of serious harm to other students or staff.
- (e) If the student is not allowed to return to school after the 10th day, the superintendent or designee shall notify the student and the parent or guardian within 24 hours and provide the reasons for the delay in the process and the denial of reentry and send a copy of the notice to the State Superintendent of Schools;
- (f) If after the conference the local superintendent or designated representative finds that an extended suspension or an expulsion is warranted, the student or the students parent or guardian may appeal to the local board within 10 days after the determination.
- (g) If an appeal is filed, the local board or its designated committee or hearing officer shall have 45 days from the date the appeal was received to hear the appeal and issue a decision, as follows:
- (i) This timeline period may be extended if the parent, guardian, or his/her representative requests additional time; and
 - (ii) This timeline shall also apply in the event that the local board elects to use a hearing examiner.
- (h) If due to extraordinary circumstances or unusual complexity of a particular appeal, the local board determines that it will be unable to hear an appeal and issue a decision within 45 days, it may petition the State Superintendent for an extension of time.
- (i) The student or the students parent or guardian or representative:
 - (i) Shall be provided the school systems witness list and a copy of the documents that the school system will present at the hearing 5 days before hearing; and
 - (ii) May bring counsel and witnesses to the hearing.
- (j) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.
- (k) The appeal to the local board does not stay the decision of the county superintendent.
- (l) The decision of the local board is final.
- (5) A student expelled or suspended from school shall remain away from the school premises during those hours each school day when the school the student attends is in session, and may not participate in school-sponsored activities. The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by the student's parent or guardian.
- (6) A student suspended or expelled from school shall be allowed to return to school on the day that the terms and conditions of the suspension or expulsion are met whether or not the student, parent, or guardian has filed an appeal of the suspension.
- (7) If a student has been suspended or expelled, the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.
- (8) If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred the student to the principal before returning the student to that teacher's classroom. The principal may satisfy this requirement by consulting with the teacher before returning the student to the classroom.

(9) A local superintendent may deny attendance to a student who is currently expelled or on extended suspension from another school system for a length of time equal to that expulsion or extended suspension. A school system shall forward information to another school system relating to the discipline of a student, including information of an expulsion or extended suspension of the student, on receipt of the request for information.

Return to School Following Removal

LAWS

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(e) Returning to school premises or classroom. -

(1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 100 for each violation.

(4)(i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

4-319. Baltimore City Alternative Learning Center.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Baltimore City School System" means the system of free public schools in Baltimore City.

(3) "Center" means the Baltimore City Alternative Learning Center.

(b) Established. - There is a Baltimore City Alternative Learning Center in the Baltimore City School System.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations

with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

F. Minimum Education Services. In order to establish accountability and keep suspended or expelled students on track with classroom work, as is reasonably possible, each local board shall institute education services that at a minimum provide that:

(1) Each student suspended or expelled out-of-school who is not placed in an alternative education program shall receive daily classwork and assignments from each teacher, which shall be reviewed and corrected by teachers on a weekly basis and returned to the student.

13A.08.01.12-1. Bringing or possessing a firearm on school property.

A. In this regulation, the following terms have the meanings indicated:

(1) "Alternative educational setting" means an alternative education program that allows the student to continue the student's education within the public school system and, if in a secondary school, the opportunity to earn credit. [...]

B. General Provisions.

(1) Except as provided in § B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity, the student shall be expelled for a minimum of 1 year.

(2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity. [...]

D. Administrative Procedures.

(1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:

(f) The disposition of each case, including the number of students:

- (i) Expelled from each school, and
- (ii) Placed in alternative educational settings; and

(g) A description of alternative educational settings used in compliance with this regulation.

13A.08.01.17. School use of reportable offenses.

A. Terms Defined. In this regulation the following terms have the meanings indicated:

(1) "Appropriate educational programming" means a regular or alternative education program that allows a student the opportunity to continue the student's education within the public school system and, if in secondary school, the opportunity to receive credit. [...]

B. Administrative Procedures.

(2) The school principal with appropriate staff members shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. The school principal shall request that the students parent or guardian:

- (a) Participate in the development of the plan; and
- (b) Submit information that is relevant to developing the plan. [...]

C. General Provisions.

(4) A fee may not be charged to the student or parent or guardian for the alternative educational programming or related services that are developed for the student.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

4-102. Deadly weapons on school property.

(a) Exceptions. - This section does not apply to:

- (1) a law enforcement officer in the regular course of the officer's duty;
- (2) an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that:
 - (i) the officer or retired officer is displaying the officer's or retired officer's badge or credential;
 - (ii) the weapon carried or possessed by the officer or retired officer is concealed; and
 - (iii) the officer or retired officer is authorized to carry a concealed handgun in the State;
- (3) a person hired by a county board of education specifically for the purpose of guarding public school property;
- (4) a person engaged in organized shooting activity for educational purposes; or
- (5) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

(b) Prohibited. - A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

(c) Penalty. -

- (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.
- (2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(f) Bringing a firearm onto school property. -

- (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.
- (2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.
- (3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.
- (4) The State Board shall adopt regulations to implement this subsection.

REGULATIONS

13A.08.01.12-1. Bringing or possessing a firearm on school property.

A. In this regulation, the following terms have the meanings indicated:

(1) "Alternative educational setting" means an alternative education program that allows the student to continue the student's education within the public school system and, if in a secondary school, the opportunity to earn credit.

(2) "Expulsion" means at a minimum the removal of a student from the student's regular school program.

(3) "Firearm" means a weapon as defined in 18 U.S.C. § 921.

(4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.

(5) "Year" means a calendar year of 12 months.

B. General Provisions.

(1) Except as provided in § B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity, the student shall be expelled for a minimum of 1 year.

(2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity.

(3) Nothing in this regulation applies to a firearm:

(a) That is lawfully stored inside a locked vehicle on school property; or

(b) For activities approved and authorized by the local school system, if the local school system adopts appropriate safeguards to ensure student safety.

C. Students with Disabilities. An identified student with disabilities who brings a firearm onto school property or to a school-sponsored activity or who possesses a firearm on school property or at a school-sponsored activity may be suspended or expelled in accordance with the procedures set out in Education Article, § 7-305, Annotated Code of Maryland, and COMAR 13A.08.03.

D. Administrative Procedures.

(1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:

(a) Written certification that the local school system is in compliance with the requirements of this regulation;

(b) A description of the circumstances surrounding any expulsions imposed under State law as required by § B(1) of this regulation;

(c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity;

(d) The name of the school where each incident took place;

(e) The type of firearm involved;

(f) The disposition of each case, including the number of students:

(i) Expelled from each school, and

(ii) Placed in alternative educational settings; and

(g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

13A.08.01.11. Disciplinary action.

A. Local Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

F. Minimum Education Services. In order to establish accountability and keep suspended or expelled students on track with classroom work, as is reasonably possible, each local board shall institute education services that at a minimum provide that:

- (1) Each student suspended or expelled out-of-school who is not placed in an alternative education program shall receive daily classwork and assignments from each teacher, which shall be reviewed and corrected by teachers on a weekly basis and returned to the student; and
- (2) Each principal shall assign a school staff person to be the liaison between the teachers and the various students on out-of-school suspension or expulsion and to communicate weekly about classwork assignments and school-related issues by phone or email with those out-of-school suspended/expelled students and their parents.

G. Education Services During Short-Term Suspensions.

- (1) For short-term suspensions, the local board of education shall inform all schools under their jurisdiction:
 - (a) To provide all students who receive short-term suspensions with the opportunity to complete the academic work they miss during the suspension period without penalty; and
 - (b) To provide all students who receive short-term suspensions, and their parents or guardians, with the contact information for a school employee who will be responsible for ensuring that the requirement described in § G(1)(a) is met.
- (2) All other aspects of the process for suspended students receiving missed assignments, completing missed assignments, and making up tests shall be identical with each schools established policy and practice for makeup work in the event of any other excused absence.

H. Intervention and Support.

- (1) School personnel shall provide intervention and support to address the students behavior if the student is:
 - (a) Suspended under § C(1)(b) of this regulation; or
 - (b) Enrolled in a public prekindergarten program, kindergarten, first grade, or second grade and:
 - (i) Is disruptive to the school environment; or
 - (ii) Commits an act that would be considered an offense subject to suspension but for the students grade.
- (2) Intervention and support provided under § H(1) of this regulation includes:
 - (a) Positive behavior interventions and supports;

- (b) A behavior intervention plan;
- (c) A referral to a student support team;
- (d) A referral to an individualized education program team; and
- (e) A referral for appropriate community-based services.

(3) The school system, to the best of its ability, shall remedy the impact of a student's behavior on school climate through appropriate intervention methods including restorative practices.

Chronic Absenteeism and Truancy

LAWS

7-301. Compulsory attendance.

(a) Applicability. - This section does not apply to a child under the age of 18 years who:

- (1) Has obtained a Maryland high school diploma, an equivalent out-of-state high school diploma, or a GED;
- (2) Is a student with disabilities and has completed the requirements for a Maryland high school certificate of completion;
- (3) Is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age;
- (4) Has completed an instruction program under item (3) of this subsection;
- (5) Is severely ill and requires home or hospital instruction;
- (6) Is married;
- (7) Is in military service;
- (8) Is committed by court order to an institution without an educational program;
- (9) Provides financial support to the child's family as documented by a local department of social services;
- (10) Subject to the approval of the county superintendent, has been expelled under § 7-305 of this subtitle;
- (11) Is pregnant or a parent and is enrolled in an alternative educational program;
- (12) Attends an alternative educational program;
- (13) Subject to written parental consent and written agreement with the county board, attends a public school on a part-time basis and attends a private career school as defined under § 10-101 of this article; or
- (14) Is waived from the provisions of this section by the State Superintendent.

(a-1) Who must attend. -

- (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under 18 shall attend a public school regularly during the entire school year.
- (2) In accordance with regulations of the State Board of Education, a child who resides in this State and is 5 years old may be exempted from mandatory school attendance for 1 year if the child's parent or guardian files a written request with the local school system asking that the child's attendance be delayed due to the child's level of maturity.
- (3) Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.

(b) Excused absences. - A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) Duty of parent or guardian. - Each person who has legal custody or care and control of a child who is 5 years old or older and under 16 shall see that the child attends school or receives instruction as required by this section.

(d) Application of section. -

(1) This section applies to any child who has a mental, emotional, or physical handicap.

(2) This section does not apply to a child:

(i) Whose mental, emotional, or physical condition makes the child's instruction detrimental to the child's progress; or

(ii) Whose presence in school presents a danger of serious physical harm to others.

(3) With the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher and with the written recommendation of a licensed physician or a State Department of Education certified or licensed psychologist, the county superintendent may:

(i) Make other appropriate provisions for the free education of any student excepted from attendance under paragraph (2) of this subsection; or

(ii) Permit the parents or guardians of that student to withdraw the child from public school, for as long as the attendance of the child in a public school would be detrimental to the child's progress or the child's presence in school would present a danger of serious physical harm to others.

(4) If a child is withdrawn from a public school under this subsection, the county board shall make other appropriate provisions for the education of the child.

(5) If an appropriate educational placement is not available immediately, the county board shall make interim provisions for the education of the child until an appropriate placement becomes available.

(e) Penalties. -

(1) Any person who induces or attempts to induce a child to be absent unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$ 500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$ 50 per day of unlawful absence or imprisonment not to exceed 3 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$ 100 per day of unlawful absence or imprisonment not to exceed 5 days, or both.

(3) In addition to the penalties provided under paragraph (2) of this subsection, the court may order a person convicted under paragraph (2) of this subsection to perform community service.

(4)(i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(5)(i) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions that would promote the child's attendance.

(ii) The suspension authority provided for under subparagraph (i) of this paragraph is in addition to and not in limitation of the suspension authority under § 6-221 of the Criminal Procedure Article.

(e-1) Applicability of subsection; charge filed in juvenile court. -

(1) This subsection applies only:

(i) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

(ii) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) The court may condition marking a charge under this section set on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

(f) Exemption from attending kindergarten. - A child may be exempted from attending kindergarten if a parent or guardian of the child files a written request with the local school system and verifies that the child is enrolled:

(1) Full time in a licensed child care center;

(2) Full time in a registered family child care home; or

(3) Part time in a Head Start 5 year old program.

(g) Return to school under certain conditions. - Subject to data being available through the Maryland Longitudinal Data System established under § 24-702 of this article and except as otherwise provided in this section, a child under the age of 18 years shall return to attendance at a public school regularly during the school year as required by this section, if the child:

(1) Is no longer participating in GED courses; and

(2) Has not obtained a passing score on the GED test that resulted in the issuance of a Maryland high school diploma.

7-301.1. Attendance policy for pregnant or parenting students.

(a) In general. - A student's absence due to a student's pregnancy or parenting needs is a lawful absence as provided under this section.

(b) County board to develop written attendance policy. - Each county board shall develop a written attendance policy for pregnant and parenting students that, at a minimum, meets the requirements of this section.

(c) Contents of policy; alternatives; publication. -

(1) The policy developed under subsection (b) of this section shall:

(i) Excuse all absences due to pregnancy- or parenting-related conditions, including absences for:

1. Labor;

2. Delivery;

3. Recovery; and

4. Prenatal and postnatal medical appointments;

(ii) Provide at least 10 days of excused absences for a parenting student after the birth of the student's child;

(iii) Excuse any parenting-related absences due to an illness or a medical appointment of the student's child, including up to 4 days of absences per school year for which the school may not require a note from a physician; and

(iv) Excuse any absence due to a legal appointment involving the pregnant or parenting student that is related to family law proceedings, including adoption, custody, and visitation.

(2) In addition to home and hospital services, the school may allow the student to:

(i) Make up the work that the student missed in a time period that equals at least as many days that the student was absent; and

(ii) Choose one of the following alternatives to make up work that the student missed:

1. Retake a semester;

2. Participate in an online course credit recovery program; or

3. Allow the student 6 weeks to continue at the same pace and finish at a later date.

(3) Each county board shall publish its written attendance policy for pregnant and parenting students on the county board's website.

7-302. Report of absences and maladjustment.

(a) Immediate report required. - The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b) Investigation; counseling; notice to Department of Juvenile Services. - On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1) Shall initiate an investigation into the cause of the child's truancy;

(2) May provide counseling regarding the availability of social, health, and educational services; and

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(6) of the Courts Article.

(c) Student information. - The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency information regarding the number of students identified as being habitually truant.

7-302.2. Truant students.

(a) "Truant student" defined. - In this section, "truant student" means a student:

(1) Who is unlawfully absent from school for more than:

(i) 8 days in any quarter;

(ii) 15 days in any semester; or

(iii) 20 days in a school year; and

(2) Whose absences for purposes of item (1) of this subsection are unlawful absences as defined by regulation.

(b) System of active intervention to be established. - Each county board shall develop a system of active intervention for truant students.

(c) Referrals; intervention. -

(1) Each truant student attending kindergarten through 12th grade shall immediately be referred to the county board's system of active intervention developed under this section.

(2) This section does not prohibit a county board from intervening in the case of a student who is frequently absent from school for both lawful and unlawful purposes, but is not a truant student.

7-304.1. Positive behavioral interventions and support program.

(a) "Positive Behavioral Interventions and Support Program" defined. - In this section, "Positive Behavioral Interventions and Support Program" means the research-based, systems approach method adopted by the State Board to build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn.

(b) Program established - Suspension. -

(1) Subject to paragraph (3) of this subsection, each county board shall require an elementary school that has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative behavior modification program in collaboration with the Department.

(2) An elementary school is subject to this subsection if it has a suspension rate that exceeds:

- (i) 18 percent of its enrollment for the 2005-2006 school year;
- (ii) 16 percent of its enrollment for the 2006-2007 school year;
- (iii) 14 percent of its enrollment for the 2007-2008 school year;
- (iv) 12 percent of its enrollment for the 2008-2009 school year; and
- (v) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.

(3) An elementary school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its existing program if it has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection.

(c) Program established - Truancy. -

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

- (i) 8 percent of its enrollment for the 2008-2009 school year;
- (ii) 6 percent of its enrollment for the 2009-2010 school year;
- (iii) 4 percent of its enrollment for the 2010-2011 school year;
- (iv) 2 percent of its enrollment for the 2011-2012 school year; and
- (v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

(d) Regulations. - The State Board shall adopt regulations to implement the provisions of this section.

REGULATIONS

13A.08.01.01. Attendance.

A. Who Shall Attend. Each child who resides in this State and is 5 years old or older and under 18 shall attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age, or the child is exempted under Regulation .02-2A of this chapter.

B. A child who resides in this State shall attend a public or nonpublic kindergarten program regularly during the school year before entering the first grade unless the child is enrolled in an alternative program as specified in Regulation .02-2B of this chapter or is receiving home instruction as provided in COMAR 13A.10.01.

C. A child who resides in this State and attends a nonpublic kindergarten program for part of the year may transfer to a public kindergarten if the child meets the minimum age requirement for admission to a public school kindergarten program, as set forth in Regulation .02B(2) of this chapter.

D. Students shall be considered in attendance at school when participating in school-sponsored activities during the school day, and when that participation is approved by the local superintendent of schools or the school principal, or their designees. Students shall be considered in attendance in an alternative program setting when participating in activities during the day sponsored by the alternative program, and when that participation is approved by the director of a licensed child care center, registered family day care home, or Head Start 5-year-old program.

E. Daily Attendance Record. A record of the daily attendance of each student shall be kept in accordance with regulations of the State Board of Education and the Maryland Student Records System Manual 2020, which is incorporated by reference in COMAR 13A.08.02.01.

13A.08.01.04. Unlawful absence.

A. An absence, including absence for any portion of the day, for any reason other than those cited as lawful are presumed to be unlawful and may constitute truancy. Local school systems may add specified criteria for unlawful absences to local board-approved attendance policies.

B. Truancy. A truant is a student who is absent without lawful cause as defined in Regulation .03, of this chapter, from the attendance for a school day or portion of it.

C. Habitual Truant. A student is an habitual truant if the student is unlawfully absent from school for a number of days or portion of days in excess of 20 percent of the school days within any marking period, semester, or year. A local school system has the prerogative of defining habitual truancy in a more but not less stringent manner (for example, unlawful absences in excess of 15 percent of the school days).

13A.08.01.05. Student attendance policy.

Each local school system shall develop a student attendance policy which includes:

A. A general statement dealing with the local school system's purpose and rationale for promoting regular school attendance.

B. Rules, Definitions, and Procedures for Policy Implementation.

(1) Reasons for lawful and unlawful absences and tardiness include lawful/unlawful absence as defined in Regulations .03 and .04, of this chapter. Clarification of special situations for unlawful absence may also be identified.

(2) Standards for regular attendance include minimal requirements for student attendance in order to foster continuity of the instructional program. The standards for school attendance may identify a specific number of excessive or unlawful absences allowed within a marking period, semester, or school year.

(3) Procedure to verify absences/tardiness includes responsible persons, time limits, and methods of absent/tardy verification.

- (4) Penalties for not meeting standards for regular attendance requirements include actions taken by school system staff when a student is unlawfully absent or accumulates an equivalent number of excessive or unlawful absences which exceeds the standard for regular school attendance. The penalties should be identified, and should reflect a continuum of excessive or unlawful absences.
- (5) Make-up work requirements include classroom teacher and student responsibility, time limits, and grading policy for make-up work. Make-up work requirements may also involve a procedure for completing class work in advance of an absence wherever possible.
- (6) Attendance-monitoring procedure includes:
 - (a) Record-keeping format to comply with State attendance reporting requirements;
 - (b) Intervention strategies and procedures for dealing with absenteeism at the beginning stages of the problem as well as chronic absenteeism; and
 - (c) A referral process to pupil services or other central office professionals for case management of chronic attendance cases.
- (7) Reward process includes an identified motivational program to reward regular school attendance.
- (8) Information dissemination includes methods for informing school staff, students, parents, and community members of attendance policy requirements.
- (9) Appeals process includes specific due process procedures for appealing attendance violation decisions at the school and central office level.
- (10) Legal foundation includes citations of legal authority for attendance policy development and implementation.

13A.08.06.03. Administrative procedures - Truancy rates.

A. Upon receipt of notification from the Department that a school's habitual truancy rate exceeds the standard specified in § B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

- (1) A PBIS; or
- (2) An alternative behavior modification program developed in collaboration with the Department.

B. A school is subject to this regulation if it has a truancy rate that exceeds:

- (1) 8 percent of its enrollment for the 2008-2009 school year;
- (2) 6 percent of its enrollment for the 2009-2010 school year;
- (3) 4 percent of its enrollment for the 2010-2011 school year;
- (4) 2 percent of its enrollment for the 2011-2012 school year; and
- (5) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

- (1) Develop a plan for implementing a program as set forth in § A of this regulation;
- (2) Attend PBIS or alternative behavior modification training program approved by the Department; and
- (3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. A school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

- (1) The school has already implemented a PBIS or an alternative behavior modification program; and
- (2) The school has a truancy rate that exceeds the standard specified in § B of this regulation.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

Substance Use

LAWS

4-124. Drug-free school zones.

(a) Regulations requiring the posting of signs. - A county board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of public and nonpublic elementary and secondary schools as "drug-free school zones".

(b) Notice of § 5-627 of the Criminal Law Article. - The signs shall be designed in order to provide notice of the provisions of § 5-627 of the Criminal Law Article.

(c) Hotline number in Anne Arundel County, Baltimore City, and Prince George's County. - In Anne Arundel County, Baltimore City, and Prince George's County, all new and replacement signs shall include a hotline number to report information concerning suspected illegal drug activity.

5-803. School employees.

(a) Making reports. -

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

- (i) Making a report required by law, if the individual acts on reasonable grounds;
- (ii) Participating in a judicial proceeding that results from the individual's report; and
- (iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:
 - 1. Under the influence of alcoholic beverages or a controlled dangerous substance;
 - 2. In possession of alcoholic beverages or a controlled dangerous substance; or
 - 3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

(2) Paragraph (1)(iii) of this subsection is effective only to the extent that its provisions do not conflict with federal or State confidentiality laws and regulations.

(b) Participation in disciplinary or other proceedings. - A county superintendent or any employee of a county school system who presents or enters findings of fact, recommendations, or reports or who participates in an employee dismissal, disciplinary, administrative, or judicial proceeding relating to a school system employee that results from these actions is immune from any civil liability if the action is:

- (1) In the performance of duties;
- (2) Within the scope of employment; and
- (3) Without malice.

7-412. Preservation of rights of student seeking to overcome drug abuse.

(a) Inadmissibility of statement of student. - If a student seeks information to overcome any form of drug abuse, as defined in § 8-101 of the Health - General Article, from a teacher, counselor, principal, or other professional educator employed by an educational institution that has received a certificate of approval under § 2-206 of this article, a statement, whether oral or written, made by the student or an observation or conclusion derived from the statement is not admissible against the student in any proceeding.

(b) Rules and regulations may not require disclosure. - A rule, regulation, or order may not require disclosure of any report, statement, observation, conclusion, or other information that has been assembled or obtained by an educator through this contact.

7-440. Individualized or group behavioral counseling services.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health counseling services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3) "Health care provider" has the meaning stated in § 20-104 of the Health - General Article.

(b) In general. -

(1) The Maryland Department of Health, in conjunction with the Department, shall recommend best practices for county boards of education to provide to students:

(i) Behavioral needs assessments; and

(ii) Individualized or group behavioral health counseling services with a health care provider through a school-based health center or through community partnered school-based behavioral health services.

(c) Construction of section. - This section may not be construed to require a county board to provide behavioral needs assessments or individualized or group behavioral health counseling services to students.

26-103. Drinking or possessing intoxicating beverages on school premises.

(a) Prohibited conduct. -

(1) Unless locally approved by the county board of education, a person may not drink or possess any alcoholic beverage on the premises of any public school.

(2) A person who drinks or possesses any alcoholic beverage and causes a public disturbance at any elementary or secondary school athletic contest may not refuse to comply with a request by a law enforcement officer to stop drinking and causing the public disturbance. If the person complies with the first request, he may not be charged under this paragraph.

(b) Penalty. -

(1) Any person under 18 years of age who violates the provisions of this section shall be issued a citation and be subject to the dispositions for a violation under Title 3, Subtitle 8A of the Courts Article.

(2) Any person 18 years old or older violating the provisions of this section shall be issued a citation and be subject to § 10-119 of the Criminal Law Article.

REGULATIONS 13A.02.04.01. Scope.

These regulations require each local school system to maintain a tobacco-free school environment.

13A.02.04.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Official school day" means the regular school day with a designated starting time and ending time as defined by the local school system.

(2) "School buildings" means local school system owned or leased buildings.

(3) "School grounds" means local school system owned or leased land that surrounds a school building.

(4) Tobacco.

(a) "Tobacco" means products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed.

(b) "Tobacco" does not include nicotine replacement therapy.

13A.02.04.03. Tobacco use.

The sale or use of tobacco in any form is prohibited in school buildings at all times. In addition, the sale or use of tobacco in any form is prohibited on school grounds during the official school day.

13A.02.04.04. Notification of a tobacco-free environment.

Each local school system shall post notification to students, staff, and the general public that school buildings and grounds are tobacco-free.

13A.02.04.05. Tobacco-Free guidelines.

The State Department of Education shall develop guidelines to assist the local school systems in implementing a tobacco-free environment.

13A.08.01.08. Substance use or distribution.

A. Alcohol and Other Drugs. Students are prohibited from possessing or using, or both, alcohol or other drugs without a physician's prescription, in any form on the school premises.

B. Tobacco. Students are prohibited from possessing or using tobacco in any form on the school premises.

C. Alcohol and Other Drugs Policy. Consistent with Regulations .11-.15 of this chapter, COMAR 13A.08.02, and other applicable law, a local board of education shall adopt a policy on alcohol and other drug use or possession, or both, by students, which shall address at least the following areas:

- (1) Purpose;
- (2) Definition of terms;
- (3) Rules for student behavior;
- (4) Student referral procedures;
- (5) Procedures for investigating policy violations;
- (6) Due process requirements;
- (7) Provision of emergency medical care;
- (8) Confidentiality of students' educational records;
- (9) Alcohol and other drugs policy dissemination;
- (10) Staff training; and
- (11) Drug education curriculum.

D. Coordination with Local Law Enforcement.

(1) The local board of education shall notify local law enforcement officials of the local board of education's alcohol and other drugs policy.

(2) The local board of education, to the extent possible and consistent with applicable law, shall coordinate efforts with local law enforcement officials to:

- (a) Prevent alcohol and other drug abuse by students;
- (b) Detect the possession of alcohol or illegal drugs by students on school premises;
- (c) Adopt standard operating procedures regarding the reporting of activity related to alcohol and other drug abuse on school premises;
- (d) Adopt standard operating procedures regarding the investigation of activity related to alcohol and other drug abuse on school premises; and
- (e) Adopt standard operating procedures regarding the seizure and storage of contraband.

Gang-related Activity

LAWS

7-424.2. Gangs and gang activity.

(a) "School security officer" defined. -

(1) In this section, "school security officer" includes a school principal, another school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(2) "School security officer" does not include a teacher.

(b) Model policy. - By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. - The model policy developed under subsection (b) of this section shall include:

(1) A statement prohibiting gang activity in schools;

(2) A statement prohibiting reprisal or retaliation against individuals who report suspected gang activity;

(3) A definition of gang and gang activity;

(4) Standard consequences and remedial actions for individuals engaged in gang activity or similar destructive or illegal group behavior;

(5) Standard consequences and remedial actions for individuals found to have made false accusations;

(6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;

(7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;

(8) Information about the types of support services, including family support services, for a student suspected of participating in gang activity; and

(9) Recommendations concerning gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

(d) Policy or regulations by local school system. -

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students;

(v) Local law enforcement;

(vi) Gang prevention and intervention programs;

(vii) The Office of the Public Defender;

(viii) The Maryland State's Attorneys Association; and

(ix) Members of the community.

(e) Policy or regulations by local school system - Submission to State Superintendent. - Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.

(f) Policy or regulations by local school system - Publication. - Each local school system shall publicize its policy or regulations in student handbooks, on school system websites, and at any other location or venue the local school system determines is necessary or appropriate.

(g) Policy or regulations by local school system - Education programs. - Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:

(1) An educational gang awareness program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.

(h) Reporting of gang activity. -

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(i) Meetings. -

(1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.

(2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:

(i) School principals;

(ii) School security officers;

(iii) Guidance counselors;

(iv) Local law enforcement officers;

(v) Representatives from the county State's Attorney's Office;

(vi) Representatives from the Office of the Public Defender;

(vii) Gang prevention and intervention program representatives; and

(viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. - Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

(k) Report. - On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

3-607. Hazing.

- (a) Prohibited. - A person may not recklessly or intentionally do an act or create a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university.
- (b) Penalty. - A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 500 or both.
- (c) Prohibited defense. - The implied or express consent of a student to hazing is not a defense under this section.

7-424. Reporting incidents of harassment or intimidation against students.

(a) Definitions. -

- (1) In this section the following words have the meanings indicated.
- (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
- (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
 - 1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
 - 2. Sexual in nature, including descriptions or depictions of a student with the student's intimate parts exposed or while engaged in an act of sexual contact; or
 - 3. Threatening or seriously intimidating; and
 - (ii)
 - 1. Occurs on school property, at a school activity or event, or on a school bus; or
 - 2. Substantially disrupts the orderly operation of a school.
- (3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
- (4) "Intimate parts" means the naked genitals, pubic area, buttocks, or female nipple.
- (5) "Sexual contact" means sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex.

(b) Report required. -

- (1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.
- (2) An incident of bullying, harassment, or intimidation may be reported by:
- (i) A student;
 - (ii) The parent, guardian, or close adult relative of a student; or
 - (iii) A school staff member.

(c) Contents; distribution. -

- (1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.
- (2) Each victim of bullying, harassment, or intimidation report form shall:
- (i) Identify the victim and the alleged perpetrator, if known;
 - (ii) Indicate the age of the victim and alleged perpetrator;
 - (iii) Describe the incident, including alleged statements made by the alleged perpetrator;

- (iv) Indicate the location of the incident;
- (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
- (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
- (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
- (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) Anonymous two-way electronic tip program. -

(1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.

(2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system websites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

- (i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and
- (ii) Provide a transcript of the conversation to a designated person in the school.

(5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.

(e) County boards to provide annual summaries of reports to State Board; confidentiality. -

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(f) Confidentiality. - The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:

- (1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and
- (2) May not be made a part of a student's permanent educational record.

(g) Departmental reporting to General Assembly. -

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

- (i) A description of the act constituting the bullying, harassment, or intimidation;
- (ii) The age of the victim and alleged perpetrator;

- (iii) The allegation of the alleged perpetrator's motive;
- (iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;
- (v) The number of days a student is absent from school, if any, as a result of the incident; and
- (vi) The number of false allegations reported.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) "Bullying, harassment, or intimidation" defined. - In this section, "bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(b) In general. -

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

- (i) A statement prohibiting bullying, harassment, and intimidation in schools;
- (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for providing notice of an act of bullying, harassment, or intimidation to:
 1. A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and
 2. A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
- (viii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (ix) Information about the types of support services available to the student bully, victim, and any bystanders;
- (x) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
- (xi) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.

(3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.

(c) Development of policy by county boards. -

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;

(iv) Students; and

(v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

(d) Publication of policy. - Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.

(e) Reporting procedure. - Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

(1) A chain of command in the reporting process; and

(2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

(f) Submission of policy. -

(1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.

(2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.

(g) Educational programs. - Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

(h) Limitation of liability. -

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.3. Bullying, harassment, and intimidation policy.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(3) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. - By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. - The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

(2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;

- (4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:
- (i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and
 - (ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;
- (5) Standard consequences and remedial actions for persons found to have made false accusations;
- (6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;
- (7) Standard procedures for providing notice of an act of bullying, harassment, or intimidation to:
- (i) A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and
 - (ii) A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
- (8) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;
- (9) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and
- (10) Information about the types of support services available to a student bully or victim and any bystanders.
- (d) Consultation with groups. - A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:
- (1) Parents or guardians of students;
 - (2) School employees and administrators;
 - (3) School volunteers; and
 - (4) Students.
- (e) Publication. - A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.
- (f) Educational programs. - A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:
- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
 - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.
- (g) Civil liability. - An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.
- (h) Construction of provisions. - The provisions of this section may not be construed to:
- (1) Limit the legal rights of a victim of bullying, harassment, or intimidation; or
 - (2) Require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

REGULATIONS

13A.01.04.03. School safety.

All students in Maryland's public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability, have the right to educational environments that are:

- A. Safe;
- B. Appropriate for academic achievement; and
- C. Free from any form of harassment.

Dating and Relationship Violence

LAWS

7-411.1. Dating violence and diabetes treatment and prevention lessons in health education curriculum.

(a) In general. - The State Board shall encourage the county boards to incorporate age-appropriate lessons on dating violence, diabetes and its treatment and prevention, oral disease prevention, and dental health promotion into the county boards' health education curriculum.

7-1502. Center established.

(g) Functions and duties. - The Center shall perform the following functions and duties:

(14) Assist local school systems to identify resources and implement training for students and parents about relationship violence, identifying the signs of unhealthy relationships, and preventing relationship violence.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

7-306. Corporal punishment; State code of discipline.

- (a) "Restorative approaches" defined. -
- (1) In this section, "restorative approaches" means a relationship-focused student discipline model that:
 - (i) Is preventive and proactive;
 - (ii) Emphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community;
 - (iii) In response to behavior that violates the clear behavioral expectations that contribute to the well-being of the school community, focuses on accountability for any harm done by the problem behavior; and
 - (iv) Addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.
 - (2) "Restorative approaches" may include:
 - (i) Conflict resolution;
 - (ii) Mediation;
 - (iii) Peer mediation;
 - (iv) Circle processes;
 - (v) Restorative conferences;
 - (vi) Social emotional learning;
 - (vii) Trauma-informed care;
 - (viii) Positive behavioral intervention supports; and
 - (ix) Rehabilitation.
- (b) Corporal punishment prohibited. - Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.
- (c) Standards of conduct; implementation. - The State Board shall:
- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
 - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
 - (3) Assist each county board with the implementation of the guidelines.
- (d) Regulations. -
- (1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.
 - (2) The regulations adopted by a county board under this subsection:
 - (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

- (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
- (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

(e) Disaggregation of data. -

(1) On or before October 1 each year, the Department shall submit to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, a student discipline data report that includes a description of the uses of restorative approaches in the State and a review of disciplinary practices and policies in the State.

(2) The Department shall disaggregate the information in any student discipline data report prepared by the Department by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for:

- (i) The State;
- (ii) Each local school system; and
- (iii) Each public school.

(3) Special education-related data in any report prepared under this subsection shall be disaggregated by race, ethnicity, and gender.

(f) Collection of data on alternative school discipline practices. -

(1) In this subsection, "alternative school discipline practice" means a discipline practice used in a public school that is not an in-school suspension or an out-of-school suspension.

(2) The Department shall collect data on alternative school discipline practices in public schools for each local school system, including:

- (i) The types of alternative school discipline practices that are used in a local school system; and
- (ii) The type of misconduct for which an alternative discipline practice is used.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) "Bullying, harassment, or intimidation" defined. - In this section, "bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(b) In general. -

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

- (i) A statement prohibiting bullying, harassment, and intimidation in schools;
- (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for providing notice of an act of bullying, harassment, or intimidation to:
 - 1. A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and

2. A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
 - (viii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
 - (ix) Information about the types of support services available to the student bully, victim, and any bystanders;
 - (x) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
 - (xi) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.
- (3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.
- (c) Development of policy by county boards. -
- (1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.
 - (2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.
 - (3) A county board shall develop the policy in consultation with representatives of the following groups:
 - (i) Parents or guardians of students;
 - (ii) School employees and administrators;
 - (iii) School volunteers;
 - (iv) Students; and
 - (v) Members of the community.
 - (4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.
- (d) Publication of policy. - Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.
- (e) Reporting procedure. - Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:
- (1) A chain of command in the reporting process; and
 - (2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.
- (f) Submission of policy. -
- (1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.
 - (2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.
- (g) Educational programs. - Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:
- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
 - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy.
- (h) Limitation of liability. -

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.2. Gangs and gang activity.

(a) "School security officer" defined. -

(1) In this section, "school security officer" includes a school principal, another school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(2) "School security officer" does not include a teacher.

(b) Model policy. - By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. - The model policy developed under subsection (b) of this section shall include:

(1) A statement prohibiting gang activity in schools;

(2) A statement prohibiting reprisal or retaliation against individuals who report suspected gang activity;

(3) A definition of gang and gang activity;

(4) Standard consequences and remedial actions for individuals engaged in gang activity or similar destructive or illegal group behavior;

(5) Standard consequences and remedial actions for individuals found to have made false accusations;

(6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;

(7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;

(8) Information about the types of support services, including family support services, for a student suspected of participating in gang activity; and

(9) Recommendations concerning gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

(d) Policy or regulations by local school system. -

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students;

- (v) Local law enforcement;
- (vi) Gang prevention and intervention programs;
- (vii) The Office of the Public Defender;
- (viii) The Maryland State's Attorneys Association; and
- (ix) Members of the community.

(e) Policy or regulations by local school system - Submission to State Superintendent. - Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.

(f) Policy or regulations by local school system - Publication. - Each local school system shall publicize its policy or regulations in student handbooks, on school system websites, and at any other location or venue the local school system determines is necessary or appropriate.

(g) Policy or regulations by local school system - Education programs. - Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:

- (1) An educational gang awareness program for students, staff, volunteers, and parents; and
- (2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.

(h) Reporting of gang activity. -

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(i) Meetings. -

(1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.

(2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:

- (i) School principals;
- (ii) School security officers;
- (iii) Guidance counselors;
- (iv) Local law enforcement officers;
- (v) Representatives from the county State's Attorney's Office;
- (vi) Representatives from the Office of the Public Defender;
- (vii) Gang prevention and intervention program representatives; and
- (viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. - Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

(k) Report. - On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

REGULATIONS

13A.02.04.05. Tobacco-Free guidelines.

The State Department of Education shall develop guidelines to assist the local school systems in implementing a tobacco-free environment.

Multi-tiered Frameworks and Systems of Support

LAWS

7-304.1. Positive behavioral interventions and support program.

(a) "Positive Behavioral Interventions and Support Program" defined. - In this section, "Positive Behavioral Interventions and Support Program" means the research-based, systems approach method adopted by the State Board to build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn.

(b) Program established - Suspension. -

(1) Subject to paragraph (3) of this subsection, each county board shall require an elementary school that has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative behavior modification program in collaboration with the Department.

(2) An elementary school is subject to this subsection if it has a suspension rate that exceeds:

- (i) 18 percent of its enrollment for the 2005-2006 school year;
- (ii) 16 percent of its enrollment for the 2006-2007 school year;
- (iii) 14 percent of its enrollment for the 2007-2008 school year;
- (iv) 12 percent of its enrollment for the 2008-2009 school year; and
- (v) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.

(3) An elementary school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its existing program if it has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection.

(c) Program established - Truancy. -

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

- (i) 8 percent of its enrollment for the 2008-2009 school year;
- (ii) 6 percent of its enrollment for the 2009-2010 school year;
- (iii) 4 percent of its enrollment for the 2010-2011 school year;
- (iv) 2 percent of its enrollment for the 2011-2012 school year; and
- (v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

(d) Regulations. - The State Board shall adopt regulations to implement the provisions of this section.

7-306. Corporal punishment; State code of discipline.

- (a) "Restorative approaches" defined. -
- (2) "Restorative approaches" may include:
 - (viii) Positive behavioral intervention supports. [...]
- (c) Standards of conduct; implementation. - The State Board shall:
 - (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
 - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
 - (3) Assist each county board with the implementation of the guidelines.

7-1101. Definitions.

- (b) Behavior intervention plan. - "Behavior intervention plan" means a proactive plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

REGULATIONS

13A.08.06.01. Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (5) "Positive behavioral interventions and support program (PBIS)" means the research-based, systems approach method adopted by the State Board to:
 - (a) Build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn; and
 - (b) Improve the link between research-validated practices and the environments in which teaching and learning occur.

13A.08.06.02. Administrative procedures - Suspension rates.

- A. Upon receipt of notification from the Department that an elementary school's out-of-school suspension rate exceeds the standard specified in § B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:
 - (1) A PBIS; or
 - (2) An alternative behavioral modification program developed in collaboration with the Department.
- B. An elementary school is subject to this regulation if it has an out-of-school suspension rate that exceeds:
 - (1) 18 percent of its enrollment for the 2005-2006 school year;
 - (2) 16 percent of its enrollment for the 2006-2007 school year;
 - (3) 14 percent of its enrollment for the 2007-2008 school year;
 - (4) 12 percent of its enrollment for the 2008-2009 school year; and
 - (5) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.
- C. The school principal or the principal's designee and appropriate staff members shall:
 - (1) Develop a plan for implementing a program as set forth in § A of this regulation;
 - (2) Attend PBIS or alternative behavior modification training program approved by the Department; and
 - (3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.
- D. The following apply to an elementary school that has at least one grade beyond grade 5:

(1) The suspension rates in § B of this regulation shall apply to students in prekindergarten through grade 5; and

(2) PBIS or the alternative behavioral modification program shall focus on students in prekindergarten through grade 5.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

F. An elementary school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) The elementary school has already implemented a PBIS or an alternative behavior modification program; and

(2) The elementary school has a suspension rate that exceeds the standard specified in § B of this regulation.

13A.08.06.03. Administrative procedures - Truancy rates.

A. Upon receipt of notification from the Department that a school's habitual truancy rate exceeds the standard specified in § B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

(1) A PBIS; or

(2) An alternative behavior modification program developed in collaboration with the Department.

B. A school is subject to this regulation if it has a truancy rate that exceeds:

(1) 8 percent of its enrollment for the 2008-2009 school year;

(2) 6 percent of its enrollment for the 2009-2010 school year;

(3) 4 percent of its enrollment for the 2010-2011 school year;

(4) 2 percent of its enrollment for the 2011-2012 school year; and

(5) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

(1) Develop a plan for implementing a program as set forth in § A of this regulation;

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. A school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) The school has already implemented a PBIS or an alternative behavior modification program; and

(2) The school has a truancy rate that exceeds the standard specified in § B of this regulation.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

Prevention

LAWS

7-304. Special programs for disruptive students.

(a) Purpose of section. - The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

(b) Authority to establish programs. - Each county board of education and the Board of School Commissioners of Baltimore City shall establish special programs in the county and Baltimore City for students in the public school system who exhibit disruptive classroom behavior.

(c) Joint use. - Two or more county boards may establish special programs for their joint use.

7-1502. Center established.

(a) Established. - There is a Maryland Center for School Safety.

(b) Status. - The Center is an independent unit within the Department.

(c) Location. - The Center shall be based at the Maryland Coordination and Analysis Center.

(d) Executive director. - The head of the Center is the executive director, who shall be appointed by the Subcabinet.

(e) Staff. - The Center may employ the additional staff necessary to carry out the Center's functions as provided in the State budget.

(f) Satellite offices. - The Center shall establish a satellite office at Bowie State University.

(g) Functions and duties. - The Center shall perform the following functions and duties:

(1) Provide technical assistance and consultation to local school systems, State and local government, and community organizations on best practices for safe schools and violence prevention;

(2) Develop a website containing a searchable database of definitive research, books, videos, white papers, speakers, websites, and other school safety resources;

(3) Develop criteria that may be applied consistently and uniformly in local school systems for coding unsafe incidents and serious or violent offenses;

(4) Research and recommend the use of common assessment tools to be used to identify specific problems and needs of schools and neighborhoods to facilitate intervention before assessed findings become problematic;

(5) Assist local school systems to conduct a thorough assessment of their school safety data, school building layouts, and use of human resources for monitoring purposes to determine the need for:

(i) Surveillance and other security technology; and

(ii) Innovations to maximize the use of human resources to monitor activity and influence positive relationship building;

(6) Maintain and maximize relationships with emergency responders, law enforcement personnel, parents, and other emergency preparedness stakeholders to ensure seamless execution in an emergency event, including:

(i) Consolidate resources among stakeholders to maximize support and secure necessary skills to ensure emergency plan implementation;

(ii) Conduct collaborative training and preparation exercises; and

(iii) Identify improvements and ensure nonduplication of effort in emergency response procedures;

(7) Provide safety information on traveling to and from school to parents and students twice a year that includes data related to bus and pedestrian safety, strategies for ensuring personal safety, efforts of the local school system or school to improve safety, and information on the available options for reporting incidents or concerns;

(8) Utilize and update an existing clearinghouse of law enforcement resources that are available to support school safety to ensure that it includes information regarding the purpose and process for accessing available funding;

(9) Assist local school systems to improve and monitor traffic control measures in the immediate vicinity of schools to reduce the potential for pedestrian and vehicle accidents;

- (10) Assist the Department to evaluate and update current data systems to ensure they are best suited for providing useful information on school safety issues;
- (11) Assist local school systems to monitor local school system and individual school behavior data to ensure fairness in the application of consequences for student misbehavior;
- (12) Assist the Department and local school systems:
 - (i) To prepare an annual report that combines multiple school safety data systems into one format for public review; and
 - (ii) To incorporate new data points into existing data collection systems;
- (13) Assist in the development of safety and security criteria for the design and operation of school facilities;
- (14) Assist local school systems to identify resources and implement training for students and parents about relationship violence, identifying the signs of unhealthy relationships, and preventing relationship violence;
- (15) Provide technical assistance to local school systems in the review of safety and security audits and the implementation of improvements in school facilities;
- (16) Analyze data on school resource officers and develop guidelines and training for local school systems as required under § 7-1508 of this subtitle;
- (17) Certify school safety coordinators as required under § 7-1508 of this subtitle;
- (18) Submit to the General Assembly and the Governor a summary of reports on school resource officer and local law enforcement agency coverage in public schools as required under § 7-1508 of this subtitle;
- (19) Consult with local school systems on safety evaluations developed under § 7-1510 of this subtitle;
- (20) Review and comment on school emergency plans developed under § 7-1510 of this subtitle; and
- (21) Report to the General Assembly and the Governor on life-threatening incidents as required under § 7-1510 of this subtitle.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

7-306. Corporal punishment; State code of discipline.

- (a) "Restorative approaches" defined. -
- (2) "Restorative approaches" may include:
 - (vi) Social emotional learning. [...]
- (c) Standards of conduct; implementation. - The State Board shall:
 - (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
 - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
 - (3) Assist each county board with the implementation of the guidelines. [...]
- (d) Regulations. -
 - (2) The regulations adopted by a county board under this subsection:

- (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;
- (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
- (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

6-122. Training for youth suicide risk and students in crisis.

(a) In general. - Except as provided in § 6-704.1 of this title and beginning on or before July 1, 2018, the State Board shall require all certificated school personnel who have direct contact with students on a regular basis to complete training on or before December 1 each year, by a method determined by each county board, in the skills required to:

- (1) Understand and respond to youth suicide risk;
- (2) Identify professional resources to help students in crisis;
- (3) Recognize student behavioral health issues;
- (4) Recognize students experiencing trauma or violence out of school and refer students to behavioral health services; and
- (5) If the school is a community school, support any students needing the services at a community school.

6-704.1. Certification renewal requirement for school counselors.

(a) In general. - On or before July 1, 2016, the Board shall require a certificate holder applying for renewal of a certificate as a school counselor to have obtained training in, by a method determined by the Board, the knowledge and skills required to understand and respond to the social, emotional, and personal development of students, including knowledge and skills relating to:

- (1) The recognition of indicators of mental illness and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; and
- (2) The identification of professional resources to help students in crisis.

(b) Training may exceed training required of other personnel. - The training required under subsection (a) of this section shall be commensurate with the duties of a school counselor and may exceed the training required of other school personnel under § 6-122 of this title.

(c) Regulations. - The Board shall adopt regulations to implement the provisions of this section.

7-306. Corporal punishment; State code of discipline.

(a) "Restorative approaches" defined. -

(2) "Restorative approaches" may include:

- (vii) Trauma-informed care; [...]

(c) Standards of conduct; implementation. - The State Board shall:

- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;

(2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and

(3) Assist each county board with the implementation of the guidelines.

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and

(iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

7-427.1 Guidelines for trauma-informed approach. .

(a)(1) In this section the following words have the meanings indicated.

(2) "Trauma-informed approach" means a method for understanding and responding to an individual with symptoms of chronic interpersonal trauma or traumatic stress.

(3) "Trauma-informed school" means a school that:

(i) Acknowledges the widespread impact of trauma and understands the potential paths for recovery;

(ii) Recognizes the signs and symptoms of trauma in students, teachers, and staff;

(iii) Integrates information about trauma into policies, procedures, and practices; and

(iv) Actively resists retraumatizing a student, teacher, or staff member who has experienced trauma.

(b)(1) The Department, in consultation with the Maryland Department of Health and the Department of Human Services, shall develop guidelines on a trauma-informed approach that will assist schools with:

(i) Implementing a comprehensive trauma-informed policy at the school;

(ii) The identification of a student, teacher, or staff member who has experienced trauma;

(iii) The appropriate manner for responding to a student, teacher, or staff member who has experienced trauma;

(iv) For schools participating in the Handle With Care program, the appropriate manner for responding to a student who is identified as a "handle with care" student; and

(v) Becoming a trauma-informed school.

(2) The Department shall:

(i) Distribute the guidelines developed under this subsection to each local school system; and

(ii) Publish the guidelines on the trauma-informed approach on the Department's website.

7-1107. Consultation concerning training requirements.

(a) Subject to the requirements of this section, the State Superintendent shall, in consultation with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article, adopt positive behavioral intervention training requirements for teachers, administrators, behavioral health specialists, paraprofessionals, aides, and any other employees who interact routinely with students.

(b) Before adopting the training requirements under subsection (a) of this section, the State Superintendent shall identify any gaps in behavioral interventions, strategies, and supports.

(c) The training requirements adopted under subsection (a) of this section shall include positive behavioral interventions, strategies, and supports that:

- (1) Are evidence-based;
- (2) Include trauma-informed interventions and strategies for de-escalation;
- (3) Remedy any gaps identified under subsection (b) of this section; and
- (4) Are consistent with professionally accepted practices and standards for persons entering the field of education.

(d) (1) The training requirements adopted under subsection (a) of this section shall be the basis of a program of professional development that the State Superintendent shall share with school employees from public agencies and nonpublic schools.

(2) The State Superintendent shall issue guidance on best practices in implementing positive behavior intervention plans that are the basis for the professional development program.

REGULATIONS

13A.07.11.03. Required training.

A. All certificated school personnel who have direct contact with students on a regular basis shall complete training on or before December 1 of each year, by a method determined by each county board, in the skills required to:

- (1) Understand and respond to youth suicide risk;
- (2) Understand and respond to student mental health, student trauma, student safety and other topics related to student social and emotional well-being;
- (3) Identify professional resources to help students in crisis; and
- (4) Recognize student behavioral health issues;
- (5) Recognize a student experiencing trauma or violence out of school and refer the student to behavioral health services, which includes, but is not limited to, the school counselor, school psychologist, school nurse, school social worker, and student support team; and
- (6) If the school is a community school, support any students needing the services at a community school.

B. The training required by § A of this regulation shall be:

- (1) Provided to certificated school personnel during an in-service program; or
- (2) A professional development requirement that may be met during time designated for professional development.

Mental Health Literacy Training

LAWS

6-122. Training for youth suicide risk and students in crisis.

(a) In general. - Except as provided in § 6-704.1 of this title and beginning on or before July 1, 2018, the State Board shall require all certificated school personnel who have direct contact with students on a regular basis to complete training on or before December 1 each year, by a method determined by each county board, in the skills required to:

- (1) Understand and respond to youth suicide risk;
- (2) Identify professional resources to help students in crisis;
- (3) Recognize student behavioral health issues;
- (4) Recognize students experiencing trauma or violence out of school and refer students to behavioral health services; and
- (5) If the school is a community school, support any students needing the services at a community school.

6-704.1. Certification renewal requirement for school counselors.

(a) In general. - On or before July 1, 2016, the Board shall require a certificate holder applying for renewal of a certificate as a school counselor to have obtained training in, by a method determined by the Board, the knowledge and skills required to understand and respond to the social, emotional, and personal development of students, including knowledge and skills relating to:

- (1) The recognition of indicators of mental illness and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; and
- (2) The identification of professional resources to help students in crisis.

(b) Training may exceed training required of other personnel. - The training required under subsection (a) of this section shall be commensurate with the duties of a school counselor and may exceed the training required of other school personnel under § 6-122 of this title.

(c) Regulations. - The Board shall adopt regulations to implement the provisions of this section.

REGULATIONS

13A.07.11.03. Required training.

A. All certificated school personnel who have direct contact with students on a regular basis shall complete training on or before December 1 of each year, by a method determined by each county board, in the skills required to:

- (1) Understand and respond to youth suicide risk;
- (2) Understand and respond to student mental health, student trauma, student safety and other topics related to student social and emotional well-being; and
- (3) Identify professional resources to help students in crisis.

B. The training required by § A of this regulation shall be:

- (1) Provided to certificated school personnel during an in-service program; or
- (2) A professional development requirement that may be met during time designated for professional development.

School-based Behavioral Health Programs

LAWS

7-438. Community-Partnered school behavioral health services programs.

(a) Definitions. -

- (1) In this section the following words have the meanings indicated.
- (2) "Behavioral health services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3)(i) "Community-partnered school behavioral health services program" means a program that provides behavioral health services to students by community behavioral health providers in partnership with public schools and families that augment the behavioral health services and supports provided by public schools.

- (ii) "Community-partnered school behavioral health services program" does not include school-based health centers.

(b) Standardized reporting system. -

- (1) The Department, in consultation with the Maryland Department of Health, county boards, and other interested stakeholders, as determined by the Department, shall develop and implement a standardized

reporting system to determine the effectiveness of community-partnered school behavioral health services programs.

(2) The standardized reporting system developed under paragraph (1) of this subsection shall use measures that collect data on the outcomes of students who receive behavioral health services from community-partnered school behavioral health services programs, including a student's academic, behavioral, social, and emotional functioning and progress.

(c) Report to Governor and General Assembly. - On or before December 1, 2017, and every 2 years thereafter, the Department shall submit a report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly that provides an analysis of the effectiveness of community-partnered school behavioral health services programs.

7-440. Individualized or group behavioral counseling services.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health counseling services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3) "Health care provider" has the meaning stated in § 20-104 of the Health - General Article.

(b) In general. -

(1) The Maryland Department of Health, in conjunction with the Department, shall recommend best practices for county boards of education to provide to students:

(i) Behavioral needs assessments; and

(ii) Individualized or group behavioral health counseling services with a health care provider through a school-based health center or through community partnered school-based behavioral health services.

(c) Construction of section. - This section may not be construed to require a county board to provide behavioral needs assessments or individualized or group behavioral health counseling services to students.

7-1511. Appointment of mental health services coordinator.

(a) In general. - Each behavioral health services coordinator under § 7-446.1 of this title shall develop plans for delivering behavioral health and wraparound services to students who exhibit behaviors of concern.

(b)(1) Grants. - The Subcabinet may provide grants from the Fund to local school systems to develop plans for delivering behavioral health and wraparound services to students who exhibit behaviors of concern.

(2) In applying for a grant under this subsection, a local school system shall provide evidence of how external funding will be maximized to provide students with behavioral health and wraparound services, including through the submission of claims to health insurance plans, if applicable, for any covered health services.

(c) Regulations. - The Subcabinet shall adopt regulations to carry out this section.

7-1512. Safe schools fund.

(a) Fund established. - There is a Safe Schools Fund. [...]

(f) Use. - Except as provided in subsection (g) of this section, the Fund may be used only to provide grants to local school systems to enhance school safety, including:

(1) Conducting training for students and school personnel on de-escalation of situations and identifying and reporting behaviors of concern;

(2) Conducting training of assessment teams;

- (3) Conducting school safety evaluations;
 - (4) Establishing formal and anonymous mechanisms for reporting safety concerns;
 - (5) Reimbursing local law enforcement agencies for school resource officer training provided by the Center;
 - (6) Enrolling school security employees in training provided by the Center;
 - (7) Developing plans to deliver school-based behavioral health and other wraparound services to students who exhibit behaviors of concern, including establishing systems to maximize external funding for services;
 - (8) Outreach to the broader school community to improve school safety, including to heighten awareness of existing mental health services and other services;
 - (9) Providing information to students and parents on traveling safely to and from school, including data related to bus and pedestrian safety, strategies for ensuring personal safety, efforts of the local school system to improve safety, and information on available options for reporting incidents and concerns; and
 - (10) Assisting local school systems to improve and monitor traffic control measures in the immediate vicinity of schools to reduce the potential for pedestrian and vehicle accidents.
- (g) Grants. - Beginning in fiscal year 2020 and each fiscal year thereafter, at least \$ 10,000,000 of the money in the Fund shall be used to provide grants to local school systems and local law enforcement agencies as provided under § 7-1508 of this subtitle.

19-22A-05. Duties, other activities, reports.

(a) Duties - Development of policy recommendations. - The Council shall develop policy recommendations to improve the health and educational outcomes of students who receive services from school-based health centers by:

- (1) Supporting local community efforts to establish or expand school-based health center capacity in primary care, behavioral health, and oral health;
- (2) Integrating school-based health centers into existing and emerging patient-centered models of care;
- (3) Promoting the inclusion of school-based health centers in networks of managed care organizations and commercial health insurance carriers;
- (4) Advancing the public health goals of State and local health officials;
- (5) Promoting the inclusion of school-based health centers into networks of school health services and coordinated student service models for the range of services offered in school settings;
- (6) Supporting State and local initiatives to promote student success;
- (7) Reviewing and revising best practice guidelines; and
- (8) Supporting the long-term sustainability of school-based health centers.

REGULATIONS

13A.05.05.02. School counseling program.

A. The School Counseling Program is a coordinated data driven program of counseling, consulting, and informational services for students in grades K-12 that:

- (2) Enhances awareness of mental health and promotes positive, healthy behaviors;
- (3) Provides school-based prevention and universal and targeted interventions for students with mental health and behavioral health concerns.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

5-803. School employees.

(a) Making reports. -

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

- (i) Making a report required by law, if the individual acts on reasonable grounds;
- (ii) Participating in a judicial proceeding that results from the individual's report; and
- (iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:
 1. Under the influence of alcoholic beverages or a controlled dangerous substance;
 2. In possession of alcoholic beverages or a controlled dangerous substance; or
 3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

(2) Paragraph (1)(iii) of this subsection is effective only to the extent that its provisions do not conflict with federal or State confidentiality laws and regulations.

(b) Participation in disciplinary or other proceedings. - A county superintendent or any employee of a county school system who presents or enters findings of fact, recommendations, or reports or who participates in an employee dismissal, disciplinary, administrative, or judicial proceeding relating to a school system employee that results from these actions is immune from any civil liability if the action is:

- (1) In the performance of duties;
- (2) Within the scope of employment; and
- (3) Without malice.

7-302. Report of absences and maladjustment.

(a) Immediate report required. - The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b) Investigation; counseling; notice to Department of Juvenile Services. - On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

- (1) Shall initiate an investigation into the cause of the child's truancy;
- (2) May provide counseling regarding the availability of social, health, and educational services; and
- (3) Following the investigation or intervention:
 - (i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

- (ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and
- (iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(6) of the Courts Article.

(c) Student information. - The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency information regarding the number of students identified as being habitually truant.

7-424. Reporting incidents of harassment or intimidation against students.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
2. Sexual in nature, including descriptions or depictions of a student with the student's intimate parts exposed or while engaged in an act of sexual contact; or
3. Threatening or seriously intimidating; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(4) "Intimate parts" means the naked genitals, pubic area, buttocks, or female nipple.

(5) "Sexual contact" means sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex.

(b) Report required. -

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

- (i) A student;
- (ii) The parent, guardian, or close adult relative of a student; or
- (iii) A school staff member.

(c) Contents; distribution. -

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

- (i) Identify the victim and the alleged perpetrator, if known;
- (ii) Indicate the age of the victim and alleged perpetrator;
- (iii) Describe the incident, including alleged statements made by the alleged perpetrator;
- (iv) Indicate the location of the incident;
- (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

- (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
- (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
- (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) Anonymous two-way electronic tip program. -

(1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.

(2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system websites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

(i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and

(ii) Provide a transcript of the conversation to a designated person in the school.

(5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.

(e) County boards to provide annual summaries of reports to State Board; confidentiality. -

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(f) Confidentiality. - The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(g) Departmental reporting to General Assembly. -

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

- (v) The number of days a student is absent from school, if any, as a result of the incident; and
- (vi) The number of false allegations reported.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) "Bullying, harassment, or intimidation" defined. - In this section, "bullying, harassment, or intimidation" has the meaning stated in § 7-424 of this subtitle.

(b) In general. -

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

- (i) A statement prohibiting bullying, harassment, and intimidation in schools;
- (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for providing notice of an act of bullying, harassment, or intimidation to:
 - 1. A parent or guardian of the alleged victim, within 3 business days after the date the act is reported; and
 - 2. A parent or guardian of the alleged perpetrator, within 5 business days after the date the act is reported;
- (viii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (ix) Information about the types of support services available to the student bully, victim, and any bystanders;
- (x) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
- (xi) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.

(3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.

(c) Development of policy by county boards. -

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students; and
- (v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

(d) Publication of policy. - Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.

(e) Reporting procedure. - Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

(1) A chain of command in the reporting process; and

(2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

(f) Submission of policy. -

(1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.

(2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.

(g) Educational programs. - Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

(h) Limitation of liability. -

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.2. Gangs and gang activity.

(b) Model policy. - By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. - The model policy developed under subsection (b) of this section shall include:

(6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;

[...] (h) Reporting of gang activity. -

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer. [...]

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(k) Report. - On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the

implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

REGULATIONS

13A.08.04.05. General requirements for the use of restraint or seclusion.

A. Use of Restraint.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;
- (iii) The behavior that prompted the use of a restraint;
- (iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and
- (v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:

- (i) The type of restraint;
- (ii) The length of time in restraint;
- (iii) The student's behavior and reaction during the restraint; and
- (iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

Parental Notification

LAWS

No relevant laws found.

REGULATIONS

13A.08.01.12. Arrests on school premises.

A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.

D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.

E. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.

F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in a manner and format developed by the Department, in consultation with local school systems, and approved by the State Board.

13A.08.01.13. Questioning on school premises.

A. Police investigations involving the questioning of students may not be permitted on school premises unless in connection with a crime committed on the premises or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the students or other persons, provided, however, that a school official should be present throughout that questioning.

B. A local school system shall permit personnel from a local department of social services or a police officer to question a student on school premises during the school day in an investigation involving suspected child neglect or suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland. The following apply:

(1) The local superintendent or the superintendent's designee shall determine, after consultation with the individual from the local department of social services or the police officer, whether a school official shall be present during the questioning of a student pursuant to this section.

(2) Records and reports concerning child abuse or neglect are confidential, and unauthorized disclosure is a criminal offense under Article 88A, § 6(b), Annotated Code of Maryland.

C. Except as provided in § D of this regulation, whenever investigative questioning of students is permitted on the premises, the school official shall promptly advise the parent or guardians and the local superintendent's office of the nature of the investigation and such other details as may be required.

D. School officials are not required to notify parents or guardians of investigations on school premises involving suspected child neglect and suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland.

E. In the absence of an arrest, school officials may not authorize the removal of a student from school for the purpose of investigative questioning without the consent of the parent or guardians, except as provided below:

(1) A student may be removed from school premises if that student is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child;

(2) The Superintendent or the Superintendent's designee shall ensure that prompt notification of a student's removal from school under this section is made to the student's parent or guardians.

13A.08.04.05. General requirements for the use of restraint or seclusion.

A. Use of Restraint.

(2) Mechanical Restraint.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP. [...]

B. Use of Seclusion.

(9) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

7-302. Report of absences and maladjustment.

(a) Immediate report required. - The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b) Investigation; counseling; notice to Department of Juvenile Services. - On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

- (1) Shall initiate an investigation into the cause of the child's truancy;
- (2) May provide counseling regarding the availability of social, health, and educational services; and
- (3) Following the investigation or intervention:
 - (i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;
 - (ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and
 - (iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(6) of the Courts Article.

(c) Student information. - The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency information regarding the number of students identified as being habitually truant.

7-306. Corporal punishment; State code of discipline.

(e) Disaggregation of data. -

(1) On or before October 1 each year, the Department shall submit to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, a student discipline data report that includes a description of the uses of restorative approaches in the State and a review of disciplinary practices and policies in the State.

(2) The Department shall disaggregate the information in any student discipline data report prepared by the Department by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for:

- (i) The State;
- (ii) Each local school system; and
- (iii) Each public school.

(3) Special education-related data in any report prepared under this subsection shall be disaggregated by race, ethnicity, and gender.

(f) Collection of data on alternative school discipline practices. -

(1) In this subsection, "alternative school discipline practice" means a discipline practice used in a public school that is not an in-school suspension or an out-of-school suspension.

(2) The Department shall collect data on alternative school discipline practices in public schools for each local school system, including:

- (i) The types of alternative school discipline practices that are used in a local school system; and
- (ii) The type of misconduct for which an alternative discipline practice is used.

7-424. Reporting incidents of harassment or intimidation against students.

(b) Report required. -

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

- (i) A student;
- (ii) The parent, guardian, or close adult relative of a student; or
- (iii) A school staff member.

(c) Contents; distribution. -

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

- (i) Identify the victim and the alleged perpetrator, if known;
- (ii) Indicate the age of the victim and alleged perpetrator;
- (iii) Describe the incident, including alleged statements made by the alleged perpetrator;
- (iv) Indicate the location of the incident;
- (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
- (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
- (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
- (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) Anonymous two-way electronic tip program. -

(1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.

(2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system websites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

- (i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and
- (ii) Provide a transcript of the conversation to a designated person in the school.

(5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.

(e) County boards to provide annual summaries of reports to State Board; confidentiality. -

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(f) Confidentiality. - The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(g) Departmental reporting to General Assembly. -

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

7-424.2. Gangs and gang activity.

(h) Reporting of gang activity. -

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(k) Report. - On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

7-438. Community-Partnered school behavioral health services programs.

(a) Definitions. -

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3)(i) "Community-partnered school behavioral health services program" means a program that provides behavioral health services to students by community behavioral health providers in partnership with public schools and families that augment the behavioral health services and supports provided by public schools.

(ii) "Community-partnered school behavioral health services program" does not include school-based health centers.

(b) Standardized reporting system. -

(1) The Department, in consultation with the Maryland Department of Health, county boards, and other interested stakeholders, as determined by the Department, shall develop and implement a standardized reporting system to determine the effectiveness of community-partnered school behavioral health services programs.

(2) The standardized reporting system developed under paragraph (1) of this subsection shall use measures that collect data on the outcomes of students who receive behavioral health services from community-partnered school behavioral health services programs, including a student's academic, behavioral, social, and emotional functioning and progress.

(c) Report to Governor and General Assembly. - On or before December 1, 2017, and every 2 years thereafter, the Department shall submit a report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly that provides an analysis of the effectiveness of community-partnered school behavioral health services programs.

7-1104. Reports and guidance

(a)(1) On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report for the prior school year on:

(i) The number of physical restraint incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement;

(ii) The number of physical restraint incidents each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, age, and type of placement;

(iii) For nonpublic schools, the number of seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, and age; and

(iv) For nonpublic schools, the number of seclusion incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, and age.

(2) To determine the number of incidents for the report required under paragraph (1) of this subsection:

(i) A seclusion incident shall be considered ended if at any point during the incident the student is no longer prevented from leaving or is removed from a room, an enclosure, or other space; and

(ii) If after a seclusion incident has ended in accordance with item (i) of this paragraph, the public agency or nonpublic school determines that it is necessary to place the student in seclusion again, the subsequent confinement of the student in a room, enclosure, or other space shall be considered a separate seclusion incident.

(3)(i) The Department shall verify the accuracy of a report from any public agency or nonpublic school that reports no physical restraint or seclusion incidents under this subsection.

(ii) If the Department is unable to verify the accuracy of a report submitted by a public agency or nonpublic school, the Department shall make recommendations for improvements in data collection and positive behavioral interventions at the public agency or nonpublic school.

(b) On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report on steps taken to encourage positive behavioral interventions, including:

(1) The professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions for the prior school year;

(2) For nonpublic schools, the policy changes made to further reduce the use of seclusion incidents during the prior school year; and

(3) The policy changes or new professional development opportunities designed to further increase positive behavioral interventions and reduce physical restraint or seclusion incidents in the upcoming school year.

(c) Each nonpublic school shall:

(1) Personally observe and review seclusion rooms;

(2) Review training plans for the use of seclusion; and

(3) Report to the Department regarding findings made under items (1) and (2) of this subsection.

(d)

(1) The Department shall:

(i) Provide guidance to nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion;

(ii) Develop an accountability system to measure compliance by public agencies and nonpublic schools with COMAR 13A.08.04 and any other regulations adopted to implement this subtitle;

(iii) Analyze the data and information collected under this section to determine trends and patterns in behavioral interventions; and

(iv) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.

(2)(i) In the report required under paragraph (1)(iv) of this subsection, the Department shall provide data for public agencies and nonpublic schools by school, subject to State and federal privacy laws.

(ii) The data provided under this paragraph shall be presented in a manner that accounts for variations in enrollment between schools.

(3) Within 30 days of submitting the report required under paragraph (1)(iv) of this subsection, the Department shall publish the report on its website.

26-101. Disturbing activities at school or college; molesting or threatening students.

(f) (1) On or before December 1, 2022, and each December 1 thereafter, each county board of education, including the Baltimore City Board of School Commissioners, shall report to the Department on the number of school disruptions in the county in violation of this section for the immediately preceding school year.

(2) A county board shall report the information required under paragraph (1) of this subsection in the following manner:

(i) The disruptions shall be sorted into the following categories:

1. Attendance;

2. Arson, fire, or explosives;

3. Dangerous substances;

4. Sex offenses; and

5. Attack with a weapon, threats, or fighting; and

(ii) Each incident of disruption shall be disaggregated by:

1. The race, ethnicity, disability status, and gender of the individual;

2. The actions taken against an individual by the local school or county board resulting from a violation, including suspensions of fewer than 10 days, suspensions of 10 days or more, and expulsions; and

3. Referrals for prosecution.

(3) On or before February 1, 2023, and each February 1 thereafter, the Department shall submit to the Maryland Center for School Safety and, in accordance with § 2-1257 of the State Government Article, the General Assembly a report on incidents of school disruptions in public schools in the State from a compilation of the reports submitted to the Department under paragraph (1) of this subsection and disaggregated in the manner required under paragraph (2) of this subsection.

(4) Each county board shall include information on school disruptions from the 2018-2019 and 2019-2020 school years in its report to the Department for the report due on December 1, 2022.

REGULATIONS

13A.08.01.12. Arrests on school premises.

A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.

D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.

E. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.

F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in a manner and format developed by the Department, in consultation with local school systems, and approved by the State Board.

13A.08.01.12-1. Bringing or possessing a firearm on school property.

D. Administrative Procedures.

(1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:

(a) Written certification that the local school system is in compliance with the requirements of this regulation;

(b) A description of the circumstances surrounding any expulsions imposed under State law as required by § B(1) of this regulation;

(c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity;

(d) The name of the school where each incident took place;

(e) The type of firearm involved;

(f) The disposition of each case, including the number of students:

(i) Expelled from each school, and

(ii) Placed in alternative educational settings; and

(g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

13A.08.01.15. Reporting delinquent acts.

A. Delinquent acts are offenses committed by a person who is under 18 years old which would be crimes if committed by an adult. School officials shall promptly report to the responsible law enforcement agencies all delinquent acts coming to their attention whether occurring on or away from the school premises which involve students attending the particular school.

B. Delinquent acts do not include conduct which has been traditionally treated as a matter of discipline to be handled administratively by the particular school, except that all conduct of a serious nature should be promptly reported to the parent or guardians concerned.

C. Beginning in the 2015-2016 school year, the local school systems shall report data to the Department on school arrests and referrals to law enforcement agencies or to the juvenile justice system in a form and manner developed by the Department, in consultation with local school systems, and approved by the State Board.

13A.08.01.21. Reducing and eliminating disproportionate/discrepant impact.

A. The Department shall develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students.

B. The Department may use the discrepancy model to assess the impact of discipline on special education students.

C. If the Department identifies a schools discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system shall prepare and present to the State Board a plan to reduce the impact within 1 year and eliminate it within 3 years.

D. The local school system will report its progress annually to the State Board.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

7-303.1. School principal to report student criminal activity.

(b) In general. - A school principal may make a report to any relevant law enforcement agency if, after an investigation is completed, the school principal has reason to believe that a student has engaged in conduct that constitutes an offense under:

- (1) § 3-201 of the Criminal Law Article (assault in the first degree);
- (2) § 3-202 of the Criminal Law Article (assault in the second degree);
- (3) § 3-805 of the Criminal Law Article (misuse of electronic communication or interactive computer service); or
- (4) § 3-809 of the Criminal Law Article (revenge porn).

REGULATIONS

13A.08.01.12. Arrests on school premises.

A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.

D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.

E. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.

F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in a manner and format developed by the Department, in consultation with local school systems, and approved by the State Board.

13A.08.01.12-1. Bringing or possessing a firearm on school property.

D. Administrative Procedures.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

4-318. Baltimore City School Police Force.

- (a) "Baltimore City school police officer" defined. - In this section, "Baltimore City school police officer" means any person who, when acting in an official capacity, is authorized by law to make arrests and who is a member of the Baltimore City School Police Force.
- (b) Established. - There is a Baltimore City School Police Force.
- (c) Members. - The members of the Baltimore City School Police Force shall be employees of and be appointed by the Baltimore City Board of School Commissioners.
- (d) Powers; limitations; carrying a weapon. -
- (1) Except as provided in paragraph (3) of this subsection, a Baltimore City school police officer has all the powers of a law enforcement officer in the State.
 - (2)(i) A Baltimore City school police officer may act in an official capacity only on the premises of schools and any other property used for educational purposes owned, leased, or operated by, or under the control of the Baltimore City Board of School Commissioners.
 - (ii) A Baltimore City school police officer may not act in an official capacity on any other property unless:
 1. Engaged in fresh pursuit of a suspected offender;
 2. Requested or authorized to do so by the Police Commissioner of Baltimore City;
 3. The exercise of power is necessary to facilitate the orderly flow of traffic to and from property owned, leased, operated by, or under the control of the Baltimore City School System; or
 4. Ordered to do so by the Mayor of Baltimore City.
 - (3)(i) Notwithstanding any other provision of law, a Baltimore City school police officer whose permanent or temporary assignment is at a school or on school property may carry a firearm on the premises of the school to which the officer is assigned before or after regular school hours on school days and on days other than school days.
 - (ii) The Baltimore City Board of School Commissioners shall establish policies to implement the provisions of subparagraph (i) of this paragraph.
- (e) Requirements; standards for performance. -
- (1) In consultation with the Maryland Police Training and Standards Commission, the Civil Service Commission of Baltimore City shall adopt:
 - (i) Requirements for education, training, human and public relations skills, and moral character that an applicant must meet to qualify for employment as a Baltimore City school police officer; and
 - (ii) Standards for the performance of duties.
 - (2) Any requirements adopted by the Civil Service Commission on or after July 1, 1991 may not affect the status of any individual who is a qualified Baltimore City school police officer on that date.
- (f) Regulations. - The Baltimore City Board of School Commissioners shall adopt regulations governing the:
- (1) Operation of the Baltimore City School Police Force; and
 - (2) Conduct of each Baltimore City school police officer.
- (g) Construction. - This section does not:
- (1) Make a Baltimore City school police officer a member of the Baltimore City Police Department; or

(2) Affect the salary, benefits, or retirement program of an employee of Baltimore City or the Baltimore City Board of School Commissioners.

(h) Report. - Beginning July 1, 2017, and every 2 years thereafter, the Baltimore City School Police Force shall submit a report to the members of the Baltimore City Delegation to the General Assembly, in accordance with § 2-1257 of the State Government Article, on:

- (1) The condition of vehicles and firearms of the Baltimore City School Police Force; and
- (2) The anticipated needs of the Baltimore City School Police Force for vehicles and firearms for the following 2 years.

7-430. Cultural competency model training curriculum.

(a) Development. - The Maryland Police Training and Standards Commission, in consultation with the Department, shall develop a cultural competency model training curriculum for law enforcement officers assigned to public schools.

(b) Contents. -

(1) The cultural competency model training curriculum shall teach behaviors, attitudes, and policies that enable law enforcement officers to understand, communicate with, and effectively interact with the individuals, organizations, and institutions in the community in which the public school to which a law enforcement officer is assigned is located.

(2) The cultural competency model training curriculum shall include:

- (i) Personal exposure to the individuals, organizations, and institutions within the assigned community; and
- (ii) Knowledge of government and community services available to help prevent juvenile arrests.

(c) Officer assigned to patrol school. - A law enforcement officer who is assigned to patrol a school building or school grounds is encouraged to complete the cultural competency model training curriculum established under subsection (b) of this section before the law enforcement officer begins an assignment in a public school.

7-1508. School safety coordinator, school resource officers, and school security employees.

(b) Development and use of training curriculum; school resource officer and school security employee training. -

(1)(i) On or before September 1, 2018, the Center, in consultation with local school systems, shall:

1. Develop a specialized curriculum for use in training of school resource officers and school security employees; and
2. Submit the curriculum to the Maryland Police Training and Standards Commission for approval.

(ii) The specialized curriculum developed under this subsection shall include training in:

1. De-escalation;
2. Disability awareness;
3. Maintaining a positive school climate;
4. Constructive interactions with students; and
5. Implicit bias and disability and diversity awareness with specific attention to racial and ethnic disparities.

(iii) 1. The specialized curriculum developed under this subsection may not go into effect until it is approved by the Maryland Police Training and Standards Commission.

2. If the Maryland Police Training and Standards Commission does not initially approve the specialized curriculum, the Center shall amend the curriculum until it meets with the Commission's approval.

(2) On or before March 1, 2019, the Center shall develop and submit to the Maryland Police Training and Standards Commission for approval a model training program that meets the requirements of the curriculum approved under paragraph (1) of this subsection.

(3) Each local law enforcement agency shall:

(i) Enroll individuals assigned to be school resource officers in the model training program developed by the Center under paragraph (2) of this subsection; or

(ii) 1. Submit to the Maryland Police Training and Standards Commission for approval a training program that is consistent with the curriculum developed under paragraph (1) of this subsection; and

2. Enroll individuals assigned to be school resource officers in the training program developed under item 1 of this item.

(4) Beginning September 1, 2019, to be assigned as a school resource officer an individual shall:

(i) Complete:

1. The model training program developed by the Center under paragraph (2) of this subsection through instruction provided by the Center in collaboration with the Maryland Police Training and Standards Commission; or

2. A local law enforcement agency's training program developed under paragraph (3)(ii) of this subsection; and

(ii) Be certified by the Maryland Police Training and Standards Commission.

(5) Beginning September 1, 2019, to be employed as a school security employee at a public school, an individual shall complete:

(i) The model training program developed by the Center under paragraph (2) of this subsection through instruction provided by the Center in collaboration with the Maryland Police Training and Standards Commission; or

(ii) A local law enforcement agency's training program developed under paragraph (3)(ii) of this subsection.

REGULATIONS

14.40.04.03. School Resource Officers and School Security Employees Certification.

A. A school resource officer working in a Maryland public school shall complete the Centers 40-hour model curriculum or an approved local training by September 1, 2019.

B. A school security employee working in a Maryland public school shall complete the Centers 40-hour model curriculum or an approved local training by September 1, 2019.

C. A school resource officer or school security employee working in a Maryland public school who provides documentation to the Center demonstrating that the individual received the 40-hour training course offered by the National Association of School Resource Officers on or after September 1, 2017, shall complete the Centers 16-hour comparative compliance curriculum prior to September 1, 2019.

D. A school resource officer or school security employee who is hired to work in a Maryland public school on or after September 1, 2019, or on or after September 1 annually thereafter, shall have until the beginning of the next academic year to complete the required training set forth in this subsection.

E. A school resource officer or school security employee who is hired to work in a Maryland public school on or after September 1, 2019, or on or after September 1 annually thereafter, who provides documentation to the Center demonstrating that the individual received the 40-hour training course offered by the National Association of School Resource Officers on or after September 1, 2017, shall complete the Centers 16-hour comparative compliance curriculum prior to the beginning of the next academic year to complete the required training set forth in this subsection.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

7-1501. Definitions.

- (a) In general. - In this subtitle the following words have the meanings indicated.
- (b) Advisory Board. - "Advisory Board" means the School Safety Subcabinet Advisory Board.
- (c) Behaviors of concern. -
- (1) "Behaviors of concern" means behaviors or threats that indicate a student may pose a risk of self-harm or harm to others.
 - (2) "Behaviors of concern" includes:
 - (i) Expressions of hopelessness;
 - (ii) Known drug use;
 - (iii) Suicidal gestures or statements; and
 - (iv) Known gang activity.
- (d) Center. - "Center" means the Maryland Center for School Safety.
- (e) Drill. - "Drill" means a formalized exercise by which school system personnel, staff, or students rehearse a school emergency plan.
- (f) Fund. - "Fund" means the Safe Schools Fund.
- (g) Local law enforcement agency. - "Local law enforcement agency" means:
 - (1) A police department of a county or municipal corporation in the State; or
 - (2) A sheriff's office that provides a law enforcement function in a county or municipal corporation in the State.
- (h) Safety evaluation. - "Safety evaluation" means a written assessment of the safety conditions in each public school, including ingress, egress, and access to areas of refuge for all students.
- (i) School emergency plan. - "School emergency plan" means a plan for each local school system and each public school within the school system that addresses mitigation of, preparedness for, response to, and recovery from emergencies, including:
 - (1) Violent or traumatic events on school grounds during regular school hours or during school-sponsored activities; and
 - (2) Events in the community that affect school operations.
- (j) School resource officer. - "School resource officer" means:
 - (1) A law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency; or
 - (2) A Baltimore City school police officer, as defined in § 4-318 of this article.
- (k) School security employee. - "School security employee" means an individual, as defined in regulations adopted by the Subcabinet, who:
 - (1) Is not a school resource officer; and
 - (2) Is employed by a local school system to provide safety and security-related services at a public school.
- (l) Subcabinet. - "Subcabinet" means the School Safety Subcabinet.
- (m) Wraparound services. - "Wraparound services" means services provided to students, and their families as appropriate, including:

- (1) Mentoring;
- (2) Tutoring;
- (3) Child care services;
- (4) Housing referrals;
- (5) Transportation;
- (6) Crisis intervention;
- (7) Substance abuse prevention and treatment;
- (8) Legal aid;
- (9) Academic counseling; and
- (10) Career counseling.

7-1503. School Safety Subcabinet.

(a) Subcabinet established. - There is a School Safety Subcabinet.

(g) Duties. - The Subcabinet shall:

- (1) Collaborate with local school systems in the State, law enforcement agencies, State and local government agencies, community organizations, parents, and other stakeholders to provide a comprehensive, coordinated approach to school safety;
- (2) In partnership with the Advisory Board and other stakeholders:
 - (i) Disseminate information on best practices, programs, and resources;
 - (ii) Provide technical assistance and training to local jurisdictions and local school systems;
 - (iii) Collaborate on collection, analysis, and integration of statewide data; and
 - (iv) Promote interagency efforts that support safe schools for all students, school staff, parents, and community members;
- (3) Establish a Safe School Information and Best Practices Clearinghouse of up-to-date, research-based, and data-driven information on effective strategies for creating and maintaining safe schools;
- (4) Identify safe school professional staff development best practices;
- (5) Initiate collaborative partnerships and facilitate coordination among local school systems, law enforcement agencies, State and local government, and community organizations to leverage existing resources to deliver school safety services uniformly to local school systems;
- (6) Foster coordination among all entities responsible for ensuring the safety and security of school facilities in the State;
- (7) Distribute grants from the Fund in accordance with § 7-1512 of this subtitle;
- (8) Collaborate with the Department on the model policy for an assessment team under § 7-1507 of this subtitle;
- (9) Adopt regulations to define a school security employee for the purpose of the training and report required for school security employees under § 7-1508 of this subtitle;
- (10) Provide general oversight and direction to the Center;
- (11) Approve the annual budget for the Center;
- (12) Adopt any regulations necessary to carry out the Subcabinet's duties under this subtitle; and
- (13) Perform other duties assigned by the Governor.

(h) Reports. -

- (1) The Subcabinet shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly on or before December 15 each year.
- (2) The report shall include:

- (i) A list of all the activities of the Center, including aggregate data on the information collected from each local school system under § 7-1510 of this subtitle;
- (ii) An update on the current status and effectiveness of the Center;
- (iii) Data collected on school resource officers under § 7-1508 of this subtitle; and
Recommendations made by the Subcabinet for improving school and student safety.

26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

- (a) "School resource officer" defined. - In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.
- (b) Denial of access to school grounds. - The governing board, president, superintendent, principal, or school resource officer of any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access to the buildings or grounds of the institution to any other person who:
 - (1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution;
 - (2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or
 - (3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.
- (c) Staff may demand identification. - Administrative personnel, authorized employees of any public institution of elementary, secondary, or higher education, and persons designated in subsection (b) of this section may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.
- (d) Agreement with law enforcement agencies. - The governing board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:
 - (1) The institution is closed; or
 - (2) None of the persons designated in subsection (b) of this section are present in the buildings or on the grounds of the institution. [...]

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

7-1507. Model policy for assessment teams.

- (a) Development of model policy. - On or before September 1, 2018, the Subcabinet shall develop a model policy for the establishment of an assessment team or teams in each local school system.
- (b) Contents. - The model policy developed under subsection (a) of this section shall include:
 - (1) Mechanisms for identifying individuals whose behavior may pose a threat to the safety of an individual attending or working in a public school;
 - (2) Mechanisms for the assessment of student behavior and interventions if student behavior poses a threat to the safety of an individual attending or working in a public school;

(3) Mechanisms for the assessment of the behavior of an individual who is not a student at a public school but who may pose a threat to the safety of an individual attending or working in the public school;

(4) Best practices for promoting communication and appropriate responses within a school community, including measures for:

(i) Training faculty, administrators, and staff to identify, properly respond to, and report threats or behaviors of concern that may pose a threat to the safety of an individual attending or working in a public school;

(ii) Teaching students to identify, and encouraging students to report, behaviors of concern exhibited by their peers or others that may pose a threat to the safety of an individual attending or working in a public school, including sharing thoughts about or plans for engaging in violence at the school; and

(iii) Increasing outreach to and the awareness of parents and guardians concerning the emotional and social health and well-being of students;

(5) Procedures for members of the school community or others to report behaviors of concern that may pose a threat to the safety of an individual attending or working in a public school;

(6) Policies regarding anonymous reporting by members of the school community or others of behaviors of concern that may pose a threat to the safety of an individual attending or working in a public school;

(7) Guidance for establishing an appropriate number of assessment teams within a local school system that:

(i) Shall coordinate among school officials and law enforcement, mental health, and other appropriate entities to monitor and respond to information about behavior, statements, or plans that may pose a threat of violence at a school; and

(ii) Shall include individuals with expertise in student counseling, education instruction, school administration, and law enforcement; and

(8) Policies for training assessment teams, including training on implicit bias and disability and diversity awareness with specific attention to racial and ethnic disparities.

(c) Local school systems to adopt policies consistent with models; contents. - On or before September 1, 2019, each local school system shall adopt a policy for the establishment of assessment teams that is consistent with the model policy developed by the Subcabinet and includes:

(1) A process for regular assessment and intervention, including diversion and de-escalation, if an individual exhibits behavior that may pose a threat to the safety of another individual attending or working in a public school;

(2) Standards for timely response and procedures for coordination among the members of an assessment team, including referral to appropriate local law enforcement officials, the local school system, and the county superintendent of information indicating that an individual may pose a threat of violence to the school; and

(3) Standards and procedures for referral of an individual for evaluation, services, or treatment when appropriate.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Maryland provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Websites		
Bullying Prevention, Maryland Department of Education (MSDE)	Provides an overview on bullying and links to reports, webinars, forms, and resources for educators on cyberbullying.	http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/Bullying/index.aspx
Disproportionate Discipline, The Maryland Initiative, MSDE	Provides technical assistance to Local School Systems related to Disproportionate Discipline.	http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/DisproportionateDiscipline/index.aspx
Student Discipline and Long-Term Suspension	Provides links to information about student discipline.	https://marylandpublicschools.org/stateboard/Pages/StudentDisciplineLongTermSuspension.aspx
Student Services and Strategic Planning (SSSP), MSDE	Provides technical assistance, emergency planning, and student services resources related to bullying, discipline, suicide prevention, teen pregnancy, mental health, and other related programs/services.	http://www.marylandpublicschools.org/about/Pages/DSFSS/SSSP/index.aspx
Documents		
Maryland's Tiered Instructional and Positive Behavioral Interventions and Supports (PBIS) Framework), MSDE	Framework for integrating tiered academic and behavioral supports into the learning environment.	https://marylandpublicschools.org/about/Documents/DSFSS/PBIS/PBISFramework.pdf
Maryland's Model Policy to Address Bullying, Harassment, or Intimidation (December, 2021), MSDE	Model policy regarding bullying developed by Maryland State Department of Education.	https://marylandpublicschools.org/about/Documents/DSFSS/SSSP/Bullying/MarylandsModelPolicyBullyingHarassmentIntimidation.pdf
Student Behavior Interventions: Physical Restraint and Seclusion Supplement on Students with Disabilities, MSDE	Technical assistance for schools on the use of restraint and seclusion for special education students.	https://www.aacps.org/cms/lib/MD02215556/Centricity/Domain/238/StudentBehaviorSupplementSWD.pdf

Title	Description	Website address (if applicable)
Student Behavior Interventions: Restraint and Seclusion, MSDE	Guidance and definitions regarding restraint and seclusion practices in schools.	http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/TA/GuidanceStudentBehaviorInterventionsRestraintSeclusion.pdf
<i>Other Resources</i>		
Reducing and Eliminating Disproportionate Discipline PowerPoint (September 2020), MSDE	PowerPoint presentation for Local School Systems (LSS) and schools in Maryland around disproportionality data delivered by the Maryland State Department of Education (MSDE).	http://marylandpublicschools.org/stateboard/Documents/2020/0922/Tab-I-Reducing-Eliminating-Disproportionate-Discipline.pdf



Massachusetts Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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- 53.01. Purpose and scope
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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of a student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(d)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The plan shall apply to students and members of a school staff, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to an extracurricular activity and paraprofessionals. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

(2) Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation, including procedures for collecting, maintaining and reporting bullying incident data required under subsection (k); (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law.

REGULATIONS

603 CMR 53.01. Purpose and scope.

- (1) The purpose of 603 CMR 53.00 is:
- (a) for those discipline offenses subject to M.G.L. 71, § 37H 3/4, as set forth in 603 CMR 53.01(2)(a), to limit the use of long-term suspension as a consequence for student misconduct until other consequences have been considered and tried as appropriate;
 - (b) to promote engagement of a student's parent in discussion of the student's misconduct, and options for responding to it;
 - (c) to assure that every student who is expelled or suspended, regardless of the reason for suspension or expulsion, has the opportunity to receive education services to make academic progress during the period of suspension or expulsion; and
 - (d) to keep schools safe and supportive for all students while ensuring fair and effective disciplinary practices.
- (2) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:
- (a) at 603 CMR 53.03 through 53.11, the minimum procedural requirements applicable to the suspension of a student for a disciplinary offense other than:
 - 1. possession of a dangerous weapon;
 - 2. possession of a controlled substance;
 - 3. assault on a member of the educational staff; or
 - 4. a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H 1/2;
 - (b) the minimum requirements and procedures necessary to ensure that all students who have been suspended, in-school or out-of-school, or expelled, regardless of the type of offense, have an opportunity to make academic progress during their period of suspension, expulsion, or removal from regular classroom activities; and
 - (c) requirements pertaining to school discipline data reporting and analysis.

603 CMR 53.03. Policies and procedures.

Each school committee and board of trustees shall ensure that policies and procedures are in place in public preschool, elementary, and secondary schools and programs under its jurisdiction that meet, at a minimum, the requirements of M.G.L. c. 71, § 37H 3/4, M.G.L. c. 76, § 21, and 603 CMR 53.00.

603 CMR 53.12. Disciplinary offenses under M.G.L. c. 71, § 37H or 37H¹/₂.

- (1) School districts shall adopt disciplinary policies and procedures applicable to a student who is accused of a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2. Such policies and procedures shall be consistent with the applicable statute and provide due process of law.
- (2) The principal may remove a student who has committed a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 from school for more than 90 days in a school year.
- (3) Any student who is removed from school for a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

Scope

LAWS

ALM GL ch. 71, § 2A. Use of tobacco products within school buildings or facilities or on school grounds.

No person shall use a tobacco product, as defined in section 6 of chapter 270, within the school buildings or facilities or on the grounds or school buses of a public or private primary or secondary school or at a school-sponsored event.

Each school committee or board of trustees shall establish a policy regarding violations of this section. The policy may include, but shall not be limited to, mandatory education classes on the hazards of using tobacco products.

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department. The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(b) Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

ALM GL ch. 74, § 58. Use of tobacco products within school buildings or facilities or on school grounds.

No person shall use a tobacco product, as defined in section 6 of chapter 270, within the school buildings or facilities or on the grounds or school buses of a public or private vocational school or at a vocational school-sponsored event.

Each school committee or board of trustees shall establish a policy regarding violations of this section. The policy may include, but shall not be limited to, mandatory education classes on the hazards of using tobacco products.

REGULATIONS

603 CMR 49.03. Bullying and retaliation prohibited.

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or

through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

- (a) creates a hostile environment at school for the target;
- (b) infringes on the rights of the target at school; or
- (c) materially and substantially disrupts the education process or the orderly operation of a school.

Communication of Policy

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department. The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district. [...]

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules pertaining to the conduct of students. The student handbook shall include an age-appropriate summary of the student-related sections of the bullying prevention and intervention plan required by section 37O. The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(e)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to students and parents or guardians, in age-appropriate terms and in the languages which are most prevalent among the students, parents or guardians, annual written notice of the relevant student-related sections of the plan.

(2) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to all school staff annual written notice of the plan. The faculty and staff at each school shall be trained annually on the plan applicable to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be included in a school district or school employee handbook.

(3) The plan shall be posted on the website of each school district, charter school, non-public school, approved private day or residential school and collaborative school.

ALM GL ch. 71, § 96. Substance use prevention and abuse education policies for public schools.

Each public school shall have a policy regarding substance use prevention and the education of its students about the dangers of substance abuse. The school shall notify the parents or guardians of all students attending the school of the policy and shall post the policy on the school's website. The policy,

and any standards and rules enforcing the policy, shall be prescribed by the school committee in conjunction with the superintendent or the board of trustees of a charter school.

The department of elementary and secondary education, in consultation with the department of public health, shall provide guidance and recommendations to assist schools with developing and implementing effective substance use prevention and abuse education policies and shall make such guidance and recommendations publicly available on the department's website. Guidance and recommendations may include educating parents or guardians on recognizing warning signs of substance abuse and providing available resources. Guidance and recommendations shall be reviewed and regularly updated to reflect applicable research and best practices.

Each school district and charter school shall file its substance use prevention and abuse education policies with the department of elementary and secondary education in a manner and form prescribed by the department.

ALM GL ch. 269, § 19. Copy of Secs. 17 to 19; issuance to students and student groups, teams and organizations; report.

Each institution of secondary education and each public or private institution of post secondary education shall file, at least annually, a report with the board of higher education and in the case of secondary institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing, and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communicating the institution's policies to its students. The board of higher education and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

REGULATIONS

603 CMR 18.05. Required policies and procedures.

(1) Admissions.

(b) Prior to admission, the school shall provide to the parents and the local school district a written copy of the school's policies and procedures, including:

7. Methods of behavior support, violence prevention, discipline, management of harmful behavior by a student to himself or herself or others, and proper use of restraints as described in 603 CMR 18.05(5).
[...]

(5) Behavior Support.

(c) Prior to admission, the school shall provide students and parents with a written copy of its behavior support policy.

(6) Suspension.

(a) Upon admission of a student, the school shall provide a written policy on suspensions to the parents, and the school district or human service agency that placed the student. Such policy shall conform to the federal requirements on discipline pursuant to 34 CFR § 300.

603 CMR 26.08. Notification and complaint procedure.

(1) The superintendent shall be responsible for ensuring that all school handbooks and codes of conduct reference M.G.L. c. 76, § 5 and affirmatively state and explain the school's obligations under M.G.L. c. 76, § 5. In order to ensure that such obligations are fulfilled, all school handbooks and codes of conduct shall also contain the following:

- (a) A nondiscrimination policy that is consistent with M.G.L. c. 76, § 5 and affirms the school's non-tolerance for harassment or discrimination, including that based upon race, color, sex, gender identity, religion, national origin or sexual orientation; and
- (b) The school's procedure for accepting, investigating and resolving complaints alleging discrimination or harassment; and
- (c) The disciplinary measures that the school may impose if it determines that harassment or discrimination has occurred.

(2) The principal shall ensure that the applicable school handbook and district code of conduct are annually distributed to students, parents and school personnel and, when requested, ensure that such school handbook and district code of conduct are available in the primary language of a parent or student whose primary language is not English.

603 CMR 33.02. Scope and purpose.

603 CMR 33.00 governs the content and frequency of reports secondary schools must file with the Board of Education regarding the distribution of copies of the law against hazing and the adoption of a disciplinary policy concerning the organizers of and participants in hazing activities.

603 CMR 46.04. Policy and procedures; Training.

(1) Procedures. Public education programs shall develop and implement written restraint prevention and behavior support policy and procedures consistent with 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention. Such policy and procedures shall be annually reviewed and provided to program staff and made available to parents of enrolled students.

In-School Discipline

Discipline Frameworks

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department. The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of a student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only.

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules pertaining to the conduct of students. The student handbook shall include an age-appropriate summary of the student-related sections of the bullying prevention and intervention plan required by section 37O. The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

(b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal.

(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal.

After said hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (a) or (b).

(d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

(e) Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student in an education service plan, under section 21 of chapter 76.

(f) Districts shall report to the department of elementary and secondary education the specific reasons for all suspensions and expulsions, regardless of duration or type, in a manner and form established by the commissioner. The department of elementary and secondary education shall use its existing data collection tools to obtain this information from districts and shall modify those tools, as necessary, to obtain the information. On an annual basis, the department of elementary and secondary education shall make district level de-identified data and analysis, including the total number of days each student is excluded during the school year, available to the public online in a machine readable format. This report shall include district level data disaggregated by student status and categories established by the commissioner.

(g) Under the regulations promulgated by the department, for each school that suspends or expels a significant number of students for more than 10 cumulative days in a school year, the commissioner shall investigate and, as appropriate, shall recommend models that incorporate intermediary steps prior to the use of suspension or expulsion. The results of the analysis shall be publicly reported at the school district level.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

ALM GL ch. 71, § 37H3/4. Suspension or expulsion on grounds other than those set forth in Sections 37H or 37H1/2.

(b) Any principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall exercise discretion; consider ways to re-engage the student in the learning process; and avoid using expulsion as a consequence until other remedies and consequences have been employed.

REGULATIONS

603 CMR 53.02. Definitions.

In-school Suspension means removal of a student from regular classroom activities, but not from the school premises, for no more than ten consecutive school days, or no more than ten school days

cumulatively for multiple infractions during the school year. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days. In-school suspension for ten days or less, consecutively or cumulatively during a school year, shall not be considered a short-term suspension under these regulations. If a student is placed in in-school suspension for more than ten days, consecutively or cumulatively during a school year, such suspension shall be deemed a long-term suspension for due process, appeal, and reporting purposes.

603 CMR 53.05. Alternatives to suspension under M.G.L. c. 71, § 37H^{3/4}.

In every case of student misconduct for which suspension may be imposed, a principal shall exercise discretion in deciding the consequence for the offense; consider ways to reengage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive interventions and supports.

603 CMR 53.10. In-school suspension under M.G.L. c. 71, § 37H^{3/4}.

- (1) The principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.
- (2) The principal may impose an in-school suspension for a disciplinary offense under 603 CMR 53.10, provided that the principal follows the process set forth in 603 CMR 53.10(3) through (5) and the student has the opportunity to make academic progress as set forth in 603 CMR 53.13(1).

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

ALM GL ch. 71, § 37G. Corporal punishment of pupils prohibited; use of physical restraint; regulations.

(a) The power of the school committee or of any teacher or any other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil.

(b) The provisions of this section shall not preclude any member of the school committee or any teacher or any employee or agent of the school committee from using such reasonable force as is necessary to protect pupils, other persons, and themselves from an assault by a pupil. When such an assault has occurred, the principal shall file a detailed report of such with the school committee.

REGULATIONS

603 CMR 18.05. Required policies and procedures.

(5) Behavior Support.

(e) No student shall be subjected to abuse or neglect, cruel, unusual, severe or corporal punishment, including the following practices:

1. Any type of physical hitting or pain inflicted in any manner upon the body;
2. Requiring or forcing the student to take an uncomfortable position such as squatting or bending or requiring or forcing the student to repeat physical movements when used as punishment;
3. Punishments which subject the student to verbal abuse, ridicule or humiliation;
4. Denial of visitation or communication privileges with family;
5. Denial of sufficient sleep;
6. Denial of shelter, bedding, food or bathroom facilities.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

ALM GL ch. 71, § 37G. Corporal punishment of pupils prohibited; use of physical restraint; regulations.

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

REGULATIONS

603 CMR 18.05. Required policies and procedures.

(1) Admissions.

(b) Prior to admission, the school shall provide to the parents and the local school district a written copy of the school's policies and procedures, including:

1. Methods of behavior support, violence prevention, discipline, management of harmful behavior by a student to himself or herself or others, and proper use of restraints as described in 603 CMR 18.05(5).
[...]

(5) Behavior Support.

(a) Each school shall provide a written statement of the rules, policies and procedures for the behavior support of students. The statement shall contain a description of the safeguards for the emotional, physical and psychological well-being of the population served; measures for positive responses to appropriate behavior; and definition and explanation of behavior management procedures used in the facility including, where applicable:

1. Methods of assessing and monitoring students' progress in the program;
2. The type and range of restrictions a staff member can impose for behavior which is unacceptable;
3. The type of restraint used in an emergency situation of last resort; the array of interventions used as alternatives to restraint; and the controls on the misuse and abuse of restraint;
4. The use of the behavioral support strategy of time-out;
5. Any denial or restrictions of on-grounds program services.

(b) Students shall participate in the establishment of such rules, policies and procedures whenever feasible and appropriate.

(c) Prior to admission, the school shall provide students and parents with a written copy of its behavior support policy.

(d) The school shall inform parents and students of any significant changes in the behavior management procedures.

(e) No student shall be subjected to abuse or neglect, cruel, unusual, severe or corporal punishment, including the following practices:

1. Any type of physical hitting or pain inflicted in any manner upon the body;
2. Requiring or forcing the student to take an uncomfortable position such as squatting or bending or requiring or forcing the student to repeat physical movements when used as punishment;
3. Punishments which subject the student to verbal abuse, ridicule or humiliation;
4. Denial of visitation or communication privileges with family;
5. Denial of sufficient sleep;
6. Denial of shelter, bedding, food or bathroom facilities.

(f) The goal of behavior support shall be to maximize the growth and development of the student and to protect the group and the individuals in it.

(g) The school shall directly relate consequences to the specific misbehavior and shall apply such consequences without prolonged delay.

(h) Day educational programs approved under 603 CMR 28.09: Approval of Public or Private Day and Residential Special Education School Programs shall develop a policy on the use of physical restraint and administer physical restraint in accordance with the requirements of 603 CMR 46.00: Physical Restraint. Residential educational programs approved under 603 CMR 28.09: Approval of Public or Private Day and Residential Special Education School Programs shall comply with the requirements contained in 102 CMR 3.00: Standards for the Licensure or Approval of Residential Programs Serving

Children and Teen Parents except for the school day, during which the requirements of 603 CMR 46.00: Physical Restraint shall apply for students enrolled in such programs. Educational programs within a program or facility subject to M.G.L. c. 123 or Department of Mental Health Regulations shall comply with the restraint requirements of M.G.L. c. 123, 104 CMR 27.12: Prevention of Restraint and Seclusion and Requirements When Used or 104 CMR 28.05: Physical Restraint, as applicable.

(i) Any behavior support policy which results in a student being separated in a room apart from the group or program activities shall include, but not be limited to, the following:

1. Guidelines for staff in the utilization of such an area;
2. Persons responsible for implementing such procedures;
3. The duration of the procedures including procedures for approval by the chief administrative person or his or her designee for any period longer than 30 minutes, except that during the school day in a residential educational program, and in a day educational program approved under 603 CMR 28.09: Approval of Public or Private Day and Residential Special Education School Programs, the duration of the procedures shall be governed by 603 CMR 46.00: Physical Restraint;
4. Requirement that students shall be observable at all times and in all parts of the room, and that the staff shall be in close proximity at all times;
5. A procedure for staff to directly observe the student at least every 15 minutes;
6. A means of documenting the use of such area including, at a minimum, length of time, reasons for this intervention, who approved the procedure, and who directly observed the student at least every 15 minutes.
 - a. Time out rooms shall not be locked.
 - b. Any room or space used for the practice of separation must be physically safe and appropriate to the population served by the facility.

603 CMR 46.01. Scope, purpose and construction.

(1) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, virtual schools, collaborative education programs, and the school day of special education schools approved under 603 CMR 28.09: Approval of Public or Private Day and Residential Special Education School Programs, as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services, the Department of Mental Health, the Department of Public Health, or County Houses of Correction shall be governed by the restraint, seclusion, and time-out requirements of such agencies.

(2) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the use of physical restraint that is inconsistent with 603 CMR 46.00. Physical restraint shall be used only in emergency situations of last resort, after other lawful and less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

- (a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from assault or imminent, serious, physical harm; and
- (b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(3) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

603 CMR 46.02. Definitions.

As used in 603 CMR 46.00, the following terms shall have the following meanings:

Mechanical Restraint shall mean the use of any physical device or equipment to restrict a student's freedom of the movement. Mechanical Restraint does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional, and are used for the specific and approved positioning or protective purposes for which such devices were designed. Examples of such devices include: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Medication Restraint shall mean the administration of medication for the purpose of temporarily controlling behavior. Medication prescribed by a licensed physician and authorized by the parent for administration in the school setting is not medication restraint.

Physical Restraint shall mean direct physical contact that prevents or significantly restricts a student's freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.

Prone Restraint shall mean a physical restraint in which a student is placed face down on the floor or another surface, and physical pressure is applied to the student's body to keep the student in the face-down position.

Seclusion shall mean the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined in 603 CMR 46.02.

Time-out shall mean a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

603 CMR 46.03. Use of restraint.

(1) Prohibition.

(a) Mechanical restraint, medication restraint, and seclusion shall be prohibited in public education programs.

(b) Prone restraint shall be prohibited in public education programs except on an individual student basis, and only under the following circumstances:

1. The student has a documented history of repeatedly causing serious self-injuries and/or injuries to other students or staff;
2. All other forms of physical restraints have failed to ensure the safety of the student and/or the safety of others;
3. There are no medical contraindications as documented by a licensed physician;
4. There is psychological or behavioral justification for the use of prone restraint and there are no psychological or behavioral contraindications, as documented by a licensed mental health professional;

5. The program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and such use has been approved in writing by the principal; and,

6. The program has documented 603 CMR 46.03(1)(b)1. through 5. in advance of the use of prone restraint and maintains the documentation.

(c) Physical restraint, including prone restraint where permitted, shall be considered an emergency procedure of last resort and shall be prohibited in public education programs except when a student's behavior poses a threat of assault, or imminent, serious, physical harm to self or others and the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances.

(d) All physical restraints, including prone restraint where permitted, shall be administered in compliance with 603 CMR 46.05.

(2) Physical restraint shall not be used:

(a) As a means of discipline or punishment;

(b) When the student cannot be safely restrained because it is medically contraindicated for reasons including but not limited to asthma, seizures, cardiac condition, obesity, bronchitis, communication-related disabilities, or risk of vomiting;

(c) As a response to property destruction, disruption of school order, a student's refusal to comply with a public education program rule or staff directive, or verbal threats when those actions do not constitute a threat of assault, or imminent, serious, physical harm; or

(d) As a standard response for any individual student. No written individual behavior plan or individualized education program (IEP) may include use of physical restraint as a standard response to any behavior. Physical restraint is an emergency procedure of last resort.

(3) Limitations on Use of Restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(4) Referral to Law Enforcement or Other State Agencies. Nothing in 603 CMR 46.00 prohibits:

(a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detention of a student or other person alleged to have committed a crime or posing a security risk; or

(c) The exercise of an individual's responsibilities as a mandated reporter pursuant to M.G.L. c. 119, § 51A. 603 CMR 46.00 shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

603 CMR 46.04. Policy and procedures; Training.

(1) Procedures. Public education programs shall develop and implement written restraint prevention and behavior support policy and procedures consistent with 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention. Such policy and procedures shall be annually reviewed and provided to program staff and made available to parents of enrolled students. Such policy and procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including individual crisis planning and de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) Methods for engaging parents and youth in discussions about restraint prevention and the use of restraint solely as an emergency procedure;

- (c) A description and explanation of the program's alternatives to physical restraint and method of physical restraint in emergency situations;
- (d) A statement prohibiting: medication restraint, mechanical restraint, prone restraint unless permitted pursuant to 603 CMR 46.03(1)(b), seclusion, and the use of physical restraint in a manner inconsistent with 603 CMR 46.00;
- (e) A description of the program's training requirements, reporting requirements, and follow-up procedures;
- (f) A procedure for receiving and investigating complaints regarding restraint practices;
- (g) A procedure for conducting periodic review of data and documentation on the use of physical restraints as described in 603 CMR 46.06(5) and (6);
- (h) A procedure for implementing the reporting requirements as described in 603 CMR 46.06;
- (i) A procedure for making reasonable efforts to orally notify a parent of the use of restraint on a student within 24 hours of the restraint, and for sending written notification to the parent within three school working days following the use of restraint to an email address provided by the parent for the purpose of communicating about the student, or by regular mail to the parent postmarked within three school working days of the restraint; and
- (j) If the program uses time-out as a behavioral support strategy, a procedure for the use of time-out that includes a process for obtaining principal approval of time-out for more than 30 minutes based on the individual student's continuing agitation.

(2) Required Training for All Staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the program's restraint prevention and behavior support policy and requirements when restraint is used. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

- (a) The role of the student, family, and staff in preventing restraint;
- (b) The program's restraint prevention and behavior support policy and procedures, including use of time-out as a behavior support strategy distinct from seclusion;
- (c) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors and other alternatives to restraint in emergency circumstances;
- (d) When behavior presents an emergency that requires physical restraint, the types of permitted physical restraints and related safety considerations, including information regarding the increased risk of injury to a student when any restraint is used, in particular a restraint of extended duration;
- (e) Administering physical restraint in accordance with medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans applicable to an individual student; and
- (f) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.04(3) in the use of physical restraint.

(3) In-depth Staff Training in the Use of Physical Restraint. At the beginning of each school year, the principal of each public education program or his or her designee shall identify program staff who are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department recommends that such training be competency-based and be at least 16 hours in length with refresher training occurring annually thereafter.

(4) Content of In-depth Training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

- (a) Appropriate procedures for preventing the use of physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;

- (b) A description and identification of specific dangerous behaviors on the part of students that may lead to the use of physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
- (c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints;
- (e) Demonstration by participants of proficiency in administering physical restraint; and
- (f) Instruction regarding the impact of physical restraint on the student and family, recognizing the act of restraint has impact, including but not limited to psychological, physiological, and social-emotional effects.

603 CMR 46.05. Proper administration of physical restraint.

- (1) Trained Personnel. Only public education program personnel who have received training pursuant to 603 CMR 46.03(2) or (3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.
- (2) Use of Force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.
- (3) Safest Method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor restraints, including prone restraints otherwise permitted under 603 CMR 46.03(1)(b), shall be prohibited unless the staff members administering the restraint have received in-depth training according to the requirements of 603 CMR 46.04(3) and, in the judgment of the trained staff members, such method is required to provide safety for the student or others present.
- (4) Duration of Restraint. All physical restraint must be terminated as soon as the student is no longer an immediate danger to himself or others, or the student indicates that he or she cannot breathe, or if the student is observed to be in severe distress, such as having difficulty breathing, or sustained or prolonged crying or coughing.
- (5) Safety Requirements. Additional requirements for the use of physical restraint:
 - (a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin temperature and color, and respiration.
 - (b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student expresses or demonstrates significant physical distress including, but not limited to, difficulty breathing, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.
 - (c) If a student is restrained for a period longer than 20 minutes, program staff shall obtain the approval of the principal. The approval shall be based upon the student's continued agitation during the restraint justifying the need for continued restraint.
 - (d) Program staff shall review and consider any known medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans regarding the use of physical restraint on an individual student.
 - (e) After the release of a student from a restraint, the public education program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the

behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

603 CMR 46.06. Reporting requirements.

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of any physical restraint as specified in 603 CMR 46.06(2).

(2) Informing the Principal. The program staff member who administered the restraint shall verbally inform the principal of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal for review of the use of the restraint. If the principal has administered the restraint, the principal shall prepare the report and submit it to an individual or team designated by the superintendent or board of trustees for review. The principal shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department or the student's parent, upon request.

(3) Informing Parents. The principal shall make reasonable efforts to verbally inform the student's parent of the restraint within 24 hours of the event, and shall notify the parent by written report sent either within three school working days of the restraint to an email address provided by the parent for communications about the student, or by regular mail postmarked no later than three school working days of the restraint. If the program customarily provides a parent of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent in that language. The principal shall provide the student and the parent an opportunity to comment orally and in writing on the use of the restraint and on information in the written report.

(4) Contents of Report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The name of the student; the names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; the name of the principal or designee who was verbally informed following the restraint; and, as applicable, the name of the principal or designee who approved continuation of a restraint beyond 20 minutes pursuant to 603 CMR 46.05(5)(c).

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to prevent escalation of behavior, including the specific de-escalation strategies used; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) Information regarding any further action(s) that the school has taken or may take, including any consequences that may be imposed on the student.

(e) Information regarding opportunities for the student's parents to discuss with school officials the administration of the restraint, any consequences that may be imposed on the student, and any other related matter.

(5) Individual Student Review. The principal shall conduct a weekly review of restraint data to identify students who have been restrained multiple times during the week. If such students are identified, the principal shall convene one or more review teams as the principal deems appropriate to assess each student's progress and needs. The assessment shall include at least the following:

(a) review and discussion of the written reports submitted in accordance with 603 CMR 46.06 and any comments provided by the student and parent about such reports and the use of the restraints;

(b) an analysis of the circumstances leading up to each restraint, including factors such as time of day, day of the week, antecedent events, and individuals involved;

(c) consideration of factors that may have contributed to escalation of behaviors, consideration of alternatives to restraint, including de-escalation techniques and possible interventions, and such other strategies and decisions as appropriate, with the goal of reducing or eliminating the use of restraint in the future;

(d) an agreement on a written plan of action by the program.

If the principal directly participated in the restraint, a duly qualified individual designated by the superintendent or board of trustees shall lead the review team's discussion. The principal shall ensure that a record of each individual student review is maintained and made available for review by the Department or the parent, upon request.

(6) Administrative Review. The principal shall conduct a monthly review of school-wide restraint data. This review shall consider patterns of use of restraints by similarities in the time of day, day of the week, or individuals involved; the number and duration of physical restraints school-wide and for individual students; the duration of restraints; and the number and type of injuries, if any, resulting from the use of restraint. The principal shall determine whether it is necessary or appropriate to modify the school's restraint prevention and management policy, conduct additional staff training on restraint reduction or prevention strategies, such as training on positive behavioral interventions and supports, or take such other action as necessary or appropriate to reduce or eliminate restraints.

(7) Report All Restraint-related Injuries to the Department. When a physical restraint has resulted in an injury to a student or program staff member, the program shall send a copy of the written report required by 603 CMR 46.06(4) to the Department postmarked no later than three school working days of the administration of the restraint. The program shall also send the Department a copy of the record of physical restraints maintained by the principal pursuant to 603 CMR 46.06(2) for the 30-day period prior to the date of the reported restraint. The Department shall determine if additional action by the program is warranted and, if so, shall notify the program of any required actions within 30 calendar days of receipt of the required written report(s).

(8) Report All Physical Restraints to the Department. Every program shall collect and annually report data to the Department regarding the use of physical restraints. Such data shall be reported in a manner and form directed by the Department.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

- (a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

REGULATIONS

603 CMR 53.02. Definitions.

Expulsion means the removal of a student from the school premises, regular classroom activities, and school activities for more than 90 school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H 1/2 for:

- (a) possession of a dangerous weapon;
- (b) possession of a controlled substance;
- (c) assault on a member of the educational staff; or
- (d) a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H 1/2.

603 CMR 53.07. Emergency removal under M.G.L. c. 71, § 37H^{3/4}.

(1) Nothing in 603 CMR 53.00 shall prevent a principal from removing a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school and, in the principal's judgment, there is no alternative available to alleviate the danger or disruption. The temporary removal shall not exceed two school days following the day of the emergency removal, during which time the principal shall:

- (a) Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters set forth in 603 CMR 53.06(2);
- (b) Provide written notice to the student and parent as provided in 603 CMR 53.06(2);
- (c) Provide the student an opportunity for a hearing with the principal that complies with 603 CMR 53.08(2) or (3), as applicable, and the parent an opportunity to attend the hearing, before the expiration of the two school days, unless an extension of time for hearing is otherwise agreed to by the principal, student, and parent.
- (d) Render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of 603 CMR 53.08(2)(c) and (d) or (3)(c) and (d), as applicable.

(2) A principal may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

603 CMR 53.12. Disciplinary offenses under M.G.L. c. 71, § 37H or 37H^{1/2}.

(1) School districts shall adopt disciplinary policies and procedures applicable to a student who is accused of a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2. Such policies and procedures shall be consistent with the applicable statute and provide due process of law.

(2) The principal may remove a student who has committed a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 from school for more than 90 days in a school year.

(3) Any student who is removed from school for a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

Limitations or Conditions on Exclusionary Discipline

LAWS

ALM GL ch. 71, § 37H3/4. Suspension or expulsion on grounds other than those set forth in Sections 37H or 37H1/2.

(b) Any principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall exercise discretion; consider ways to re-engage the student in the learning process; and avoid using expulsion as a consequence until other remedies and consequences have been employed.

ALM GL ch. 76, § 17. Hearing prerequisite to exclusion.

A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him and his parent or guardian an opportunity to be heard.

REGULATIONS

603 CMR 18.05. Required policies and procedures.

(6) Suspension.

(c) No student may be suspended and sent home unless a responsible adult is available to receive the student.

(d) Once a student has been suspended for three consecutive school days or five non-consecutive school days in a school year, the school, parents, and public school district, consistent with federal requirements, shall explore together all possible program modifications within the school in an attempt to prevent total suspension of the student from the program.

603 CMR 53.01. Purpose and scope.

(1) The purpose of 603 CMR 53.00 is:

(a) for those discipline offenses subject to M.G.L. 71, § 37H 3/4, as set forth in 603 CMR 53.01(2)(a), to limit the use of long-term suspension as a consequence for student misconduct until other consequences have been considered and tried as appropriate.

603 CMR 53.05. Alternatives to suspension under M.G.L. c. 71, § 37H^{3/4}.

In every case of student misconduct for which suspension may be imposed, a principal shall exercise discretion in deciding the consequence for the offense; consider ways to reengage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive interventions and supports.

Due Process

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of a student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only. [...]

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

(b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal.

(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal.

After said hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (a) or (b).

(d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

ALM GL ch. 71, § 37H1/2. Felony complaint or conviction of student; suspension; expulsion; right to appeal.

Notwithstanding the provisions of section eighty-four and sections sixteen and seventeen of chapter seventy-six:

(1) Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the principal or headmaster of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said principal or headmaster if said principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension; provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the suspension to the superintendent. The student shall notify the superintendent in writing of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent shall hold a hearing with the student and the

student's parent or guardian within three calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension.

(2) Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school in which the student is enrolled may expel said student if such principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and reasons for such expulsion prior to such expulsion taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the expulsion to the superintendent. The student shall notify the superintendent, in writing, of his request for an appeal no later than five calendar days following the effective date of the expulsion. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the expulsion.

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student under an education service plan, under section 21 of chapter 76.

ALM GL ch. 71, § 37H3/4. Suspension or expulsion on grounds other than those set forth in Sections 37H or 37H1/2.

(a) This section shall govern the suspension and expulsion of students enrolled in a public school in the commonwealth who are not charged with a violation of subsections (a) or (b) of section 37H or with a felony under section 37H½.

(b) Any principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall exercise discretion; consider ways to re-engage the student in the learning process; and avoid using expulsion as a consequence until other remedies and consequences have been employed.

(c) For any suspension or expulsion under this section, the principal or headmaster of a school in which the student is enrolled, or a designee, shall provide, to the student and to the parent or guardian of the student, notice of the charges and the reason for the suspension or expulsion in English and in the primary language spoken in the home of the student. The student shall receive the written notification and shall have the opportunity to meet with the principal or headmaster, or a designee, to discuss the charges and reasons for the suspension or expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or a designee, shall ensure that the parent or guardian of the student is included in the meeting, provided that such meeting may take place without the parent or guardian only if the principal or headmaster, or a designee, can document reasonable efforts to include the parent or guardian in that meeting. The department shall promulgate rules and regulations that address a principal's

duties under this subsection and procedures for including parents in student exclusion meetings, hearings or interviews under this subsection.

(d) If a decision is made to suspend or expel the student after the meeting, the principal or headmaster, or a designee, shall update the notification for the suspension or expulsion to reflect the meeting with the student. If a student has been suspended or expelled for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year, the student and the parent or guardian of the student shall also receive, at the time of the suspension or expulsion decision, written notification of a right to appeal and the process for appealing the suspension or expulsion in English and in the primary language spoken in the home of the student; provided, however, that the suspension or expulsion shall remain in effect prior to any appeal hearing. The principal or headmaster or a designee shall notify the superintendent in writing, including, but not limited to, by electronic means, of any out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to such suspension taking effect. That notification shall describe the student's alleged misconduct and the reasons for suspending the student out-of-school. For the purposes of this section, the term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to remove a student from participation in school activities for 1 day or more.

(e) A student who has been suspended or expelled from school for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year shall have the right to appeal the suspension or expulsion to the superintendent. The student or a parent or guardian of the student shall notify the superintendent in writing of a request for an appeal not later than 5 calendar days following the effective date of the suspension or expulsion; provided, that a student and a parent or guardian of the student may request, and if so requested, shall be granted an extension of up to 7 calendar days. The superintendent or a designee shall hold a hearing with the student and the parent or guardian of the student within 3 school days of the student's request for an appeal; provided that a student or a parent or guardian of the student may request and, if so requested, shall be granted an extension of up to 7 calendar days; provided further, that the superintendent, or a designee, may proceed with a hearing without a parent or guardian of the student if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. At the hearing, the student shall have the right to present oral and written testimony, cross-examine witnesses and shall have the right to counsel. The superintendent shall render a decision on the appeal in writing within 5 calendar days of the hearing. That decision shall be the final decision of the school district with regard to the suspension or expulsion.

(f) No student shall be suspended or expelled from a school or school district for a time period that exceeds 90 school days, beginning the first day the student is removed from an assigned school building.

ALM GL ch. 76, § 16. Children excluded from school; remedies.

Any pupil who has attained age eighteen, or the parent, guardian or custodian of a pupil who has not attained said age of eighteen, who has been refused admission to or excluded from the public schools or from the advantages, privileges and courses of study of such public schools shall on application be furnished by the school committee with a written statement of the reasons therefor, and thereafter, if the refusal to admit or exclusion was unlawful, such pupil may recover from the town or, in the case of such refusal or exclusion by a regional school district from the district, in tort and may examine any member of the school committee or any other officer of the town or regional school district upon interrogatories.

ALM GL ch. 76, § 17. Hearing prerequisite to exclusion.

A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him and his parent or guardian an opportunity to be heard.

REGULATIONS

603 CMR 53.06. Notice of suspension and hearing under M.G.L. c. 71, § 37H¾.

(1) Except as provided in 603 CMR 53.07 and 603 CMR 53.10, a principal may not impose a suspension as a consequence for a disciplinary offense without first providing the student and the parent oral and written notice, and providing the student an opportunity for a hearing on the charge and the parent an opportunity to participate in such hearing.

(2) The principal shall provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language:

- (a) the disciplinary offense;
- (b) the basis for the charge;
- (c) the potential consequences, including the potential length of the student's suspension;
- (d) the opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident, and for the parent to attend the hearing;
- (e) the date, time, and location of the hearing;
- (f) the right of the student and the student's parent to interpreter services at the hearing if needed to participate;
- (g) if the student may be placed on long-term suspension following the hearing with the principal:
 - 1. the rights set forth in 603 CMR 53.08(3)(b); and
 - 2. the right to appeal the principal's decision to the superintendent.

(3) The principal shall make reasonable efforts to notify the parent orally of the opportunity to attend the hearing. To conduct a hearing without the parent present, the principal must be able to document reasonable efforts to include the parent. The principal is presumed to have made reasonable efforts if the principal has sent written notice and has documented at least two attempts to contact the parent in the manner specified by the parent for emergency notification.

(4) Written notice to the parent may be made by hand delivery, first-class mail, certified mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and parent.

603 CMR 53.07. Emergency removal under M.G.L. c. 71, § 37H¾.

(1) Nothing in 603 CMR 53.00 shall prevent a principal from removing a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school and, in the principal's judgment, there is no alternative available to alleviate the danger or disruption. The temporary removal shall not exceed two school days following the day of the emergency removal, during which time the principal shall:

- (a) Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters set forth in 603 CMR 53.06(2);
- (b) Provide written notice to the student and parent as provided in 603 CMR 53.06(2);
- (c) Provide the student an opportunity for a hearing with the principal that complies with 603 CMR 53.08(2) or (3), as applicable, and the parent an opportunity to attend the hearing, before the expiration of the two school days, unless an extension of time for hearing is otherwise agreed to by the principal, student, and parent.

(d) Render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of 603 CMR 53.08(2)(c) and (d) or (3)(c) and (d), as applicable.

(2) A principal may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

603 CMR 53.08. Principal's hearing under M.G.L. c. 71, § 37H^{3/4}.

(1) The principal shall determine the extent of the rights to be afforded the student at a disciplinary hearing based on the anticipated consequences for the disciplinary offense. If the consequence may be long-term suspension from school, the principal shall afford the student, at a minimum, all the rights set forth in 603 CMR 53.08(3) in addition to those rights afforded to students who may face a short-term suspension from school.

(2) Principal Hearing - Short-term Suspension.

(a) The purpose of the hearing with the principal is to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction. At a minimum, the principal shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information. The student also shall have an opportunity to present information, including mitigating facts, that the principal should consider in determining whether other remedies and consequences may be appropriate as set forth in 603 CMR 53.05. The principal shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the principal should consider in determining consequences for the student.

(b) Based on the available information, including mitigating circumstances, the principal shall determine whether the student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.

(c) The principal shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other school work as needed to make academic progress during the period of removal, as provided in 603 CMR 53.13(1). The determination shall be in writing and may be in the form of an update to the original written notice.

(d) If the student is in a preschool program or in grades K through 3, the principal shall send a copy of the written determination to the superintendent and explain the reasons for imposing an out-of-school suspension, before the short-term suspension takes effect.

(3) Principal Hearing - Long-term Suspension.

(a) The purpose of the hearing is the same as the purpose of a short-term suspension hearing.

(b) At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have the following rights:

1. In advance of the hearing, the opportunity to review the student's record and the documents upon which the principal may rely in making a determination to suspend the student or not;
2. the right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense;
3. the right to produce witnesses on his or her behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; and
4. the right to cross-examine witnesses presented by the school district; and
5. the right to request that the hearing be recorded by the principal, and to receive a copy of the audio recording provided to the student or parent upon request. If the student or parent requests an audio

recording, the principal shall inform all participants before the hearing that an audio record will be made and a copy will be provided to the student and parent upon request.

(c) The principal shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the principal should consider in determining consequences for the student.

(d) Based on the evidence, the principal shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as set forth in 603 CMR 53.05, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. The principal shall send the written determination to the student and parent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent. If the principal decides to suspend the student, the written determination shall:

1. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
2. Set out the key facts and conclusions reached by the principal;
3. Identify the length and effective date of the suspension, as well as a date of return to school;
4. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in 603 CMR 53.13(4)(a);
5. Inform the student of the right to appeal the principal's decision to the superintendent or designee, but only if the principal has imposed a long-term suspension. Notice of the right of appeal shall be in English and the primary language of the home if other than English, or other means of communication, where appropriate, and shall include the following stated in plain language:
 - a. the process for appealing the decision, including that the student or parent must file a written notice of appeal with the superintendent within five calendar days of the effective date of the long-term suspension; provided that within the five calendar days, the student or parent may request and receive from the superintendent an extension of time for filing the written notice for up to seven additional calendar days; and that,
 - b. the long-term suspension will remain in effect unless and until the superintendent decides to reverse the principal's determination on appeal.

(e) If the student is in a public preschool program or in grades K through 3, the principal shall send a copy of the written determination to the superintendent and explain the reasons for imposing an out-of-school suspension, whether short-term or long-term, before the suspension takes effect.

603 CMR 53.09. Superintendent's hearing under M.G.L. c. 71, § 37H^{3/4}.

- (1) A student who is placed on long-term suspension following a hearing with the principal shall have the right to appeal the principal's decision to the superintendent.
- (2) The student or parent shall file a notice of appeal with the superintendent within the time period set forth 603 CMR 53.08(3)(d)5.a. If the appeal is not timely filed, the superintendent may deny the appeal, or may allow the appeal in his or her discretion, for good cause.
- (3) The superintendent shall hold the hearing within three school days of the student's request, unless the student or parent requests an extension of up to seven additional calendar days, in which case the superintendent shall grant the extension.
- (4) The superintendent shall make a good faith effort to include the parent in the hearing. The superintendent shall be presumed to have made a good faith effort if he or she has made efforts to find a day and time for the hearing that would allow the parent and superintendent to participate. The superintendent shall send written notice to the parent of the date, time, and location of the hearing.
- (5) The superintendent shall conduct a hearing to determine whether the student committed the disciplinary offense of which the student is accused, and if so, what the consequence shall be. The

superintendent shall arrange for an audio recording of the hearing, a copy of which shall be provided to the student or parent upon request. The superintendent shall inform all participants before the hearing that an audio record will be made of the hearing and a copy will be provided to the student and parent upon request.

(6) The student shall have all the rights afforded the student at the principal's hearing for long-term suspension under 603 CMR 53.08(3)(b).

(7) The superintendent shall issue a written decision within five calendar days of the hearing which meets the requirements of 603 CMR 53.08(3)(d)1. through 4. If the superintendent determines that the student committed the disciplinary offense, the superintendent may impose the same or a lesser consequence than the principal, but shall not impose a suspension greater than that imposed by the principal's decision.

(8) The decision of the superintendent shall be the final decision of the school district, charter school, or virtual school, with regard to the suspension.

603 CMR 53.10. In-school suspension under M.G.L. c. 71, § 37H^{3/4}.

(1) The principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.

(2) The principal may impose an in-school suspension for a disciplinary offense under 603 CMR 53.10, provided that the principal follows the process set forth in 603 CMR 53.10(3) through (5) and the student has the opportunity to make academic progress as set forth in 603 CMR 53.13(1).

(3) The principal shall inform the student of the disciplinary offense charged and the basis for the charge, and provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident. If the principal determines that the student committed the disciplinary offense, the principal shall inform the student of the length of the student's in-school suspension, which shall not exceed ten days, cumulatively or consecutively in a school year.

(4) On the same day as the in-school suspension decision, the principal shall make reasonable efforts to notify the parent orally as soon as possible of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The principal shall also invite the parent to a meeting to discuss the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meeting shall be scheduled on the day of the suspension if possible, and if not, as soon thereafter as possible. If the principal is unable to reach the parent after making and documenting at least two attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.

(5) The principal shall send written notice to the student and parent about the in-school suspension, including the reason and the length of the in-school suspension, and inviting the parent to a meeting with the principal for the purpose set forth in 603 CMR 53.10(4), if such meeting has not already occurred. The principal shall deliver such notice on the day of the suspension by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent.

603 CMR 53.12. Disciplinary offenses under M.G.L. c. 71, § 37H or 37H^{1/2}.

(1) School districts shall adopt disciplinary policies and procedures applicable to a student who is accused of a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2. Such policies and procedures shall be consistent with the applicable statute and provide due process of law.

(2) The principal may remove a student who has committed a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 from school for more than 90 days in a school year.

(3) Any student who is removed from school for a disciplinary offense under M.G.L. c. 71, § 37H or 37H 1/2 shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

ALM GL ch. 69, § 1A. Department of elementary and secondary education; commissioner; duties.

The commissioner shall assess current programs of alternative education and shall develop a statewide action plan to expand and improve the delivery of alternative education programs.

ALM GL ch. 69, § 1N. Alternative education grant program.

(2) The department of education, hereinafter referred to as the department, shall establish a grant program, subject to appropriation, to be known as the alternative education grant program for the purpose of providing grants to assist school districts and Horace Mann and commonwealth charter schools with the development and establishment of alternative education programs and services to students suspended or expelled from school. The grants shall support the development of alternative education programs which would: (1) allow school districts to coordinate efforts to establish interdistrict regional alternative education collaboratives to provide educational services to suspended or expelled students; or establish a district based alternative education program for those students. The grants may also be used to encourage the use of technology in alternative education programs. The grants shall also encourage voluntary expansion of existing alternative education programs in the commonwealth, and shall be used to provide alternative education programs for students who are at risk of educational failure due to truancy, or dropping out of school. Grants may also be used to assist in developing programs that provide a range of approaches to address behavior issues, such as behavior specialists, in-school suspension rooms and crisis centers, in addition to out-of-school alternative settings.

Programs designed under the grants shall be developed at the middle and high school levels and shall afford students the opportunity to earn a high school diploma in accordance with section 1D, and to be taught to the same academic standards and curriculum frameworks established for all students in accordance with sections 1D and 1E. The programs shall make use of existing resources in school districts, educational collaboratives, community colleges, and other agencies, service providers, and organizations. Programs shall be designed as placements that, at a minimum, educate students to the same academic standards and curriculum frameworks as taught to all students, address behavioral problems, utilize small class size, address individual needs and learning styles, provide engaging instruction and a supportive environment, and, where appropriate, utilize flexible scheduling. The programs shall also provide a comprehensive array of social services to support a student's remediation of issues that cause school failure, excessive absenteeism, truancy and school dropout. Grant recipients shall develop remediation plans for students that address both academic and behavioral issues. Grants may also be made available for in-school regular education programs that include self-improvement, behavior management and life skills training to help provide students with tools to better manage their lives and attitudes, to support programs that use family-based approaches, and to assist students and teachers during the transition of students back into regular education classrooms.

A grant awarded pursuant to this subsection, shall require that recipients undertake ongoing program evaluations that document the effectiveness of the program in helping students to achieve academically to the same academic standards and curriculum frameworks required for all students, to develop self-

management skills, and to reintegrate and remain in regular education classrooms. In awarding grants, priority shall be given to programs that employ interventions that have been empirically validated.

The department shall establish guidelines governing the alternative education grant program. The guidelines shall include, but not be limited to, a requirement that when a student is transferred to an alternative education program a representative of the school district shall meet with the student and the student's parents or legal guardian to develop an agreement that specifies the responsibilities of the school, the student and the student's parents or legal guardian. The agreement shall, at a minimum, include:

- (1) a remediation plan to address both academic and behavioral issues;
- (2) a plan for frequent evaluations and assessments of the student's adjustment, and academic achievement and progress;
- (3) a requirement that the parents or legal guardian of the student attend specified meetings or conferences with teachers, or utilize such other means of communication as determined necessary to facilitate communication, to review and assist in the student's progress;
- (4) a timetable for reintegrating the student into a regular education classroom;
- (5) the student's and the parents' or legal guardian's acknowledgement that they understand and accept the responsibilities imposed by the agreement.

(a) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields of trauma and family and community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms and trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and where necessary be referred quickly and confidentially to appropriate services.

Grants may also be awarded to assist school districts in developing comprehensive programs to help prevent violence in schools, from whatever causes, and to promote school safety. The programs shall be designed to meet the following objectives: creating a school environment where students feel safe and that prevents problems from starting; helping students to take the lead in keeping the school safe; ensuring that school personnel have the skills and resources to identify and intervene with at-risk students; equipping students and teachers with the skills needed to avoid conflict and violence; and helping schools and individuals to reconnect with the community and share resources.

The department shall develop guidelines governing the implementation of the grant program authorized by this subsection. A grant awarded pursuant to this subsection shall require that recipients undertake ongoing evaluations of the effectiveness of the program. In awarding grants, priority shall be given to programs that are based on empirically validated interventions.

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms or classroom behavior that interferes with learning. Members of the advisory committee shall include but not be limited to: 3 educators, 1 of whom shall serve as the chair, appointed

by the commissioner of the department of education; 2 leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health; 2 leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health; 1 leader in battered women's services appointed by the commissioner of public health; 1 leader in the area of homelessness and its impact on children appointed by commissioner of mental health; and 3 parents, 1 each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

(b) The commissioner shall evaluate annually the effectiveness of programs established under this section including the potential for replicating such programs throughout the commonwealth. The annual evaluation shall also examine whether students in alternative education programs funded under this section are being taught to the same academic standards required for all students, how much time students are spending in the programs, the racial profile of expelled or suspended students and the percentages of the students who are in special education or bilingual education. The commissioner shall also provide technical assistance to school districts seeking to replicate programs funded under this section, and shall provide training for teachers in the development of effective remediation plans for students in alternative education, and in the development of skills, techniques, and innovative strategies to assist the students. In evaluating programs funded under subsection (b), the commissioner shall consult with the department of public health, the department of mental health, and the advisory committee established pursuant to said subsection (b).

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(e) Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student in an education service plan, under section 21 of chapter 76.

ALM GL ch. 71, § 37H1/2. Felony complaint or conviction of student; suspension; expulsion; right to appeal.

Notwithstanding the provisions of section eighty-four and sections sixteen and seventeen of chapter seventy-six:

The student shall have the right to appeal the suspension to the superintendent. The student shall notify the superintendent in writing of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension.

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student under an education service plan, under section 21 of chapter 76.

ALM GL ch. 76, § 21. Opportunity for academic progress for suspended students; education service plans; alternative educational services.

Principals and headmasters shall ensure that students who are suspended from school for 10 or fewer consecutive days, whether in or out of school, shall have an opportunity to make academic progress during the period of suspension, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers and projects missed. Principals shall develop a school-wide education service plan for all students who are expelled or suspended from school for more than 10 consecutive school days, whether in or out of school. Principals shall ensure these students have an opportunity to make academic progress during the period of suspension or expulsion, to make up assignments and earn credits missed, including, but not limited to, homework, quizzes, exams, papers and projects missed. Education service plans may include, but are not limited to, tutoring, alternative placement, Saturday school, and online or distance learning. In developing the education service plan, principals may seek the cooperation or input of relevant health and human service, housing and nonprofit agencies education collaboratives, and other service providers. Any school or school district that expels a student or suspends a student for more than 10 consecutive school days shall provide the student and the parent or guardian of the student with a list of alternative educational services. Upon selection of an alternative educational service by the student and the student's parent or guardian, the school or school district shall facilitate and verify enrollment in the service. Students exempt from attending school under section 1 of chapter 76 shall not be subject to this section.

Instructional costs associated with providing alternative educational services under this section shall be eligible for reimbursement under section 5A of chapter 71B, subject to appropriation. The reimbursements shall be in addition to amounts distributed under chapter 70 and shall not be included in the calculation of base aid, as defined in section 2 of said chapter 70, for any subsequent fiscal year. Instructional costs eligible for reimbursement shall include only those costs directly attributable to providing alternative educational services under this section, such as salary of educational personnel, salary of related services personnel, costs for specialized books, materials or equipment, tuition costs, if the student is receiving services from other than the local public school, consultant costs if directly attributable to the student's instructional program and instructional costs of extended day or year services if such services are a part of the education service plan. Such costs shall be prorated as appropriate to reflect group activities or costs for part-time services. Instructional costs shall not include transportation costs, administrative or overhead costs, the costs of adapting classrooms or materials that are used by more than 1 student, the costs of fringe benefits of personnel employed by the school district, nor the costs associated with the development of the education service plan or service coordination for the student.

Instructional costs associated with an education service plan shall be reported to and approved by the department and shall be reimbursed according to the formula and procedures in said section 5A of said chapter 71B.

REGULATIONS

603 CMR 53.01. Purpose and scope.

(1) The purpose of 603 CMR 53.00 is:

- (c) to assure that every student who is expelled or suspended, regardless of the reason for suspension or expulsion, has the opportunity to receive education services to make academic progress during the period of suspension or expulsion.

603 CMR 53.02. Definitions.

School-wide Education Service Plan means the document developed by a principal, in accordance with M.G.L. c. 76, § 21, that includes a list of education services available to students who are expelled or suspended from school for more than ten consecutive days.

603 CMR 53.08. Principal's hearing under M.G.L. c. 71, § 37H³/₄.

(3) Principal Hearing - Long-term Suspension.

(d) Based on the evidence, the principal shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as set forth in 603 CMR 53.05, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. The principal shall send the written determination to the student and parent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent. If the principal decides to suspend the student, the written determination shall:

4. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in 603 CMR 53.13(4)(a).

603 CMR 53.12. Disciplinary offenses under M.G.L. c. 71, § 37H or 37H¹/₂.

(3) Any student who is removed from school for a disciplinary offense under M.G.L. c. 71, § 37H or 37H¹/₂ shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

603 CMR 53.13. Education services and academic progress under M.G.L. c. 71, §§ 37H, 37H¹/₂, 37H³/₄.

(1) Any student who is serving an in-school suspension, short-term suspension, or long-term suspension, or expulsion shall have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school. The principal shall inform the student and parent of this opportunity in writing when the suspension or expulsion is imposed.

(2) Any student who is expelled or suspended from school for more than ten consecutive days, whether in school or out of school, shall have an opportunity to receive education services and to make academic progress toward meeting state and local requirements, through the school-wide education service plan.

(3) The principal shall develop a school-wide education service plan describing the education services that the school district will make available to students who are expelled or suspended from school for more than ten consecutive days. The plan shall include the process for notifying such students and their parents of the services and arranging such services. Education services shall be based on, and be provided in a manner consistent with, the academic standards and curriculum frameworks established for all students under M.G.L. c. 69, §§ 1D and 1F.

(4) Notice of Education Services for Students in Long-term Suspension and Expulsion; Enrollment Reporting.

(a) The principal shall notify the parent and student of the opportunity to receive education services at the time the student is expelled or placed on long-term suspension. Notice shall be provided in English and in the primary language spoken in the student's home if other than English, or other means of communication as appropriate. The notice shall include a list of the specific education services that are available to the student and contact information for a school district staff member who can provide more detailed information.

(b) For each student expelled or suspended from school for more than ten consecutive days, whether in school or out of school, the school district shall document the student's enrollment in education services. For data reporting purposes, the school shall track and report attendance, academic progress, and such other data as directed by the Department.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of a student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only.

ALM GL ch. 71, § 37L. Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records.

In addition, any school department personnel shall report in writing to their immediate supervisor an incident involving a student's possession or use of a dangerous weapon on school premises at any time.

Supervisors who receive such a weapon report shall file it with the superintendent of said school, who shall file copies of said weapon report with the local chief of police, the department of children and families, the office of student services or its equivalent in any school district, and the local school committee. Said superintendent, police chief, and representative from the department of children and families, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

REGULATIONS

603 CMR 53.01. Purpose and scope.

(2) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:

(a) at 603 CMR 53.03 through 53.11, the minimum procedural requirements applicable to the suspension of a student for a disciplinary offense other than:

1. possession of a dangerous weapon.

603 CMR 53.02. Definitions.

Disciplinary Offense means any alleged or determined disciplinary infraction by a student, except for:

(a) possession of a dangerous weapon; [...]

Disciplinary Offense under M.G.L. c. 71, § 37 H or 37H 1/2 means one or more of the following alleged or determined disciplinary infractions:

(a) possession of a dangerous weapon; [...]

Expulsion means the removal of a student from the school premises, regular classroom activities, and school activities for more than 90 school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H 1/2 for:

(a) possession of a dangerous weapon.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

ALM GL ch. 69, § 1N. Alternative education grant program.

(a) The department of education, hereinafter referred to as the department, shall establish a grant program, subject to appropriation, to be known as the alternative education grant program for the purpose of providing grants to assist school districts and Horace Mann and commonwealth charter schools with the development and establishment of alternative education programs and services to students suspended or expelled from school. The grants shall support the development of alternative education programs which would: (1) allow school districts to coordinate efforts to establish interdistrict regional alternative education collaboratives to provide educational services to suspended or expelled students; or (2) establish a district based alternative education program for those students. The grants may also be used to encourage the use of technology in alternative education programs. The grants shall also encourage voluntary expansion of existing alternative education programs in the commonwealth, and shall be used to provide alternative education programs for students who are at risk of educational failure due to truancy, or dropping out of school. Grants may also be used to assist in developing programs that provide a range of approaches to address behavior issues, such as behavior specialists, in-school suspension rooms and crisis centers, in addition to out-of-school alternative settings.

Programs designed under the grants shall be developed at the middle and high school levels and shall afford students the opportunity to earn a high school diploma in accordance with section 1D, and to be taught to the same academic standards and curriculum frameworks established for all students in accordance with sections 1D and 1E. The programs shall make use of existing resources in school districts, educational collaboratives, community colleges, and other agencies, service providers, and organizations. Programs shall be designed as placements that, at a minimum, educate students to the same academic standards and curriculum frameworks as taught to all students, address behavioral problems, utilize small class size, address individual needs and learning styles, provide engaging instruction and a supportive environment, and, where appropriate, utilize flexible scheduling. The programs shall also provide a comprehensive array of social services to support a student's remediation of issues that cause school failure, excessive absenteeism, truancy and school dropout. Grant recipients shall develop remediation plans for students that address both academic and behavioral issues. Grants may also be made available for in-school regular education programs that include self-improvement, behavior management and life skills training to help provide students with tools to better manage their lives and attitudes, to support programs that use family-based approaches, and to assist students and teachers during the transition of students back into regular education classrooms. [...]

(b) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields

of trauma and family and community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms and trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and where necessary be referred quickly and confidentially to appropriate services. [...]

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms or classroom behavior that interferes with learning. Members of the advisory committee shall include but not be limited to: 3 educators, 1 of whom shall serve as the chair, appointed by the commissioner of the department of education; 2 leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health; 2 leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health; 1 leader in battered women's services appointed by the commissioner of public health; 1 leader in the area of homelessness and its impact on children appointed by commissioner of mental health; and 3 parents, 1 each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

ALM GL ch. 69, § 10. Truancy prevention program certification process.

The department of elementary and secondary education shall adopt regulations establishing a truancy prevention program certification process, consistent with the behavioral health and public schools framework developed pursuant to section 19 of chapter 321 of the acts of 2008, and shall require that the truancy prevention program evaluate the level of out-of-school support for students and families and address conditions that make students more likely to become truant including, but not limited to, previously unidentified or inadequately addressed special needs, bullying and harassment. Any truancy prevention program established under this section by a school district shall meet the requirements for certification adopted by the department.

ALM GL ch. 76, § 1A. Pupil absence notification programs.

Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. The parents or guardians of each pupil shall, annually, at the commencement of each school year, be sent a notice instructing them to call a designated telephone number at a designated time to inform the school of the absence of a pupil and the reason therefor. Said notice shall also require such parent or guardian to furnish the school with a home, work or other emergency telephone number where they can be contacted during the school day. If a pupil is absent and the school has not been notified by the designated time, the school shall call the telephone number or numbers furnished to inquire about said absence.

ALM GL ch. 76, § 1B. Pupil absence notification program.

The school committee of each city, town or regional school district shall have a pupil absence notification program in each of its schools. The program shall be designed to ensure that each school notifies a parent or guardian of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence.

Each school committee shall have a policy of notifying the parent or guardian of a student who has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or who has missed 5 or more school days unexcused in a school year. The notification policy shall require that the school principal or headmaster, or a designee, make a reasonable effort to meet with the parent or guardian of a student who has 5 or more unexcused absences to develop action steps for student attendance. The action steps shall be developed jointly and agreed upon by the school principal or headmaster, or a designee, the student and the student's parent or guardian and with input from other relevant school personnel and officials from relevant public safety, health and human service, housing and nonprofit agencies.

ALM GL ch. 76, § 16. Children excluded from school; remedies.

Any pupil who has attained age eighteen, or the parent, guardian or custodian of a pupil who has not attained said age of eighteen, who has been refused admission to or excluded from the public schools or from the advantages, privileges and courses of study of such public schools shall on application be furnished by the school committee with a written statement of the reasons therefor, and thereafter, if the refusal to admit or exclusion was unlawful, such pupil may recover from the town or, in the case of such refusal or exclusion by a regional school district from the district, in tort and may examine any member of the school committee or any other officer of the town or regional school district upon interrogatories.

ALM GL ch. 76, § 18. Notice to parent or guardian and meeting with school committee prerequisite to student permanently leaving school; annual report; application of section.

No student who has not graduated from high school shall be considered to have permanently left public school unless an administrator of the school which the student last attended has sent notice within a period of 5 days from the student's tenth consecutive absence to the student and the parent or guardian of that student in both the primary language of the parent or guardian, to the extent practicable, and English. The notice shall initially offer at least 2 dates and times for an exit interview between the superintendent, or a designee, and the student and the parent or guardian of the student to occur prior to the student permanently leaving school and shall include contact information for scheduling the exit interview. The notice shall indicate that the parties shall agree upon a date and time for the exit interview, and that interview shall occur within 10 days after the sending of the notice. The time for the exit interview may be extended at the request of the parent or guardian and no extension shall be for longer than 14 days. The superintendent, or a designee, may proceed with any such interview without a parent or guardian if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. The exit interview shall be for the purpose of discussing the reasons for the student permanently leaving school and to consider alternative education or other placements.

The superintendent or a designee shall convene a team of school personnel, such as the principal, guidance counselor, teachers, attendance officer and other relevant school staff, to participate in the exit interview with the student and the parent or guardian of the student. During the exit interview, the student shall be given information about the detrimental effects of early withdrawal from school, the benefits of earning a high school diploma and the alternative education programs and services available to the student.

The department of elementary and secondary education shall: (i) publish a model protocol for conducting exit interviews with students; and (ii) compile and maintain a list of research and information relative to the consequences of dropping out, the benefits of earning a high school diploma and a list of alternative education resources and programs available to the student, in addition to those that the district may provide, that schools shall present at the exit interview.

The superintendent of every city, town or regional school district shall annually report to the department of education the number of students sixteen years of age or older who have permanently left school, the reasons for such leaving and any alternative educational or other placement which each such student has taken.

The provisions of this section shall not apply to a student who has completed the regular course of education, or apply to a student whose absences have been excused, nor shall this section be construed to permanently exclude a student who wishes to resume his education.

ALM GL ch. 76, § 19. Supervisors of attendance; employment.

Every school committee shall appoint, make regulations governing and fix the compensation of one or more supervisors of attendance, who may be either male or female, and who shall meet such standards of qualifications for such work as shall be established by the department of education; provided, that such supervisors shall have attained the age of twenty-one years. The committees of two or more towns may employ the same supervisors of attendance.

ALM GL ch. 76, § 20. Powers and duties of supervisors of attendance.

Supervisors of attendance shall inquire into all cases arising under sections two and eight of chapter seventy-two, sections one, two, four to eleven, inclusive, and fifteen of chapter seventy-six, and sections ninety, ninety-two, ninety-three, and ninety-five of chapter one hundred and forty-nine, and may apply for petitions under the provisions of section thirty-nine E of chapter one hundred and nineteen. They shall, if the court so orders, have oversight of children placed on probation; of minors licensed by the school committee under section nineteen of chapter one hundred and one; and of children admitted to or attending shows or entertainments in violation of section one hundred and ninety-seven of chapter one hundred and forty. They may apprehend and take to school without a warrant any truant or absentee found wandering in the streets or public places.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

ALM GL ch. 69, § 1I. Performance of public-school districts and individual public schools; evaluation system; assessment instruments; report.

Each school district shall file a description of the following instructional procedures and programs with the department every year:

- (i) drug, tobacco and alcohol abuse programs.

ALM GL ch. 71, § 2A. Use of tobacco products within school buildings or facilities or on school grounds.

No person shall use a tobacco product, as defined in section 6 of chapter 270, within the school buildings or facilities or on the grounds or school buses of a public or private primary or secondary school or at a school-sponsored event.

Each school committee or board of trustees shall establish a policy regarding violations of this section. The policy may include, but shall not be limited to, mandatory education classes on the hazards of using tobacco products.

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department. The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O.

Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district. [...]

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

ALM GL ch. 71, § 96. Substance use prevention and abuse education policies for public schools.

Each public school shall have a policy regarding substance use prevention and the education of its students about the dangers of substance abuse. The school shall notify the parents or guardians of all students attending the school of the policy and shall post the policy on the school's website. The policy, and any standards and rules enforcing the policy, shall be prescribed by the school committee in conjunction with the superintendent or the board of trustees of a charter school.

The department of elementary and secondary education, in consultation with the department of public health, shall provide guidance and recommendations to assist schools with developing and implementing effective substance use prevention and abuse education policies and shall make such guidance and recommendations publicly available on the department's website. Guidance and recommendations may include educating parents or guardians on recognizing warning signs of substance abuse and providing available resources. Guidance and recommendations shall be reviewed and regularly updated to reflect applicable research and best practices.

Each school district and charter school shall file its substance use prevention and abuse education policies with the department of elementary and secondary education in a manner and form prescribed by the department.

ALM GL ch. 71, § 97. Verbal screening tool for substance abuse disorders.

(a) Subject to appropriation, each city, town, regional school district, charter school or vocational school district shall utilize a verbal screening tool to screen pupils for substance use disorders. Screenings shall occur on an annual basis and occur at 2 different grade levels as recommended by the department of elementary and secondary education, in consultation with the department of public health. Parents or guardians of a pupil to be screened pursuant to this section shall be notified prior to the start of the school year. Verbal screening tools shall be approved by the department of elementary and secondary education, in conjunction with the department of public health. De-identified screening results shall be reported to the department of public health, in a manner to be determined by the department of public health, not later than 90 days after completion of the screening.

(b) A pupil or the pupil's parent or guardian may opt out of the screening by written notification at any time prior to or during the screening. A city, town, regional school district, charter school or vocational school district utilizing a verbal screening tool shall comply with the department of elementary and secondary education's regulations relative to consent.

(c) Any statement, response or disclosure made by a pupil during a verbal substance use disorder screening shall be considered confidential information and shall not be disclosed by a person receiving the statement, response or disclosure to any other person without the prior written consent of the pupil, parent or guardian, except in cases of immediate medical emergency or a disclosure is otherwise required by state law; provided, however, that the screening required under this section shall be implemented in accordance with applicable state and federal laws and regulations pertaining to student confidentiality, including rules and regulations promulgated pursuant to section 34D. Such consent shall be documented on a form approved by the department of public health and shall not be subject to discovery or subpoena in any civil, criminal, legislative or administrative proceeding. No record of any

statement, response or disclosure shall be made in any form, written, electronic or otherwise, that includes information identifying the pupil.

(d) The department of elementary and secondary education shall notify each school district in writing of the requirement to screen students for substance use disorders pursuant to this section. School districts with alternative substance use screening policies may, on a form provided by the department, opt out of the required verbal screening tool. The form shall be signed by the school superintendent and provide a detailed description of the alternative substance use program the district has implemented and the reasons why the required verbal screening tool is not appropriate for the district.

(e) No person shall have a cause of action for loss or damage caused by an act or omission resulting from the implementation of this section.

ALM GL ch. 74, § 58. Use of tobacco products within school buildings or facilities or on school grounds.

No person shall use a tobacco product, as defined in section 6 of chapter 270, within the school buildings or facilities or on the grounds or school buses of a public or private vocational school or at a vocational school-sponsored event.

Each school committee or board of trustees shall establish a policy regarding violations of this section. The policy may include, but shall not be limited to, mandatory education classes on the hazards of using tobacco products.

REGULATIONS

603 CMR 53.01. Purpose and scope.

(2) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:

(a) at 603 CMR 53.03 through 53.11, the minimum procedural requirements applicable to the suspension of a student for a disciplinary offense other than:

2. possession of a controlled substance.

603 CMR 53.02. Definitions.

Disciplinary Offense means any alleged or determined disciplinary infraction by a student, except for:

(b) possession of a controlled substance; [...]

Disciplinary Offense under M.G.L. c. 71, § 37 H or 37H 1/2 means one or more of the following alleged or determined disciplinary infractions:

(b) possession of a controlled substance; [...]

Expulsion means the removal of a student from the school premises, regular classroom activities, and school activities for more than 90 school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H 1/2 for:

(b) possession of a controlled substance.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

ALM GL ch. 3, § 67. Commission on lesbian, gay, bisexual, transgender, queer and questioning youth; membership; terms; powers and duties.

(c) The commission shall investigate the use of resources from both the public and private sectors to enhance and improve the ability of state agencies to provide services to gay and lesbian youth. In furtherance of that responsibility, the commission shall: (1) work in partnership with the department of education and the department of public health to create school-based and community-based programs focusing on suicide prevention, violence intervention, and the promotion of zero-tolerance policies regarding harassment and discrimination against gay and lesbian youth; and (2) make recommendations about policies and programs supporting gay and lesbian youth on an ongoing basis to the department of education, the department of public health and the executive office of health and human services. The commission shall annually, on or before June 2, report the results of its findings and activities of the preceding year and make recommendations relating to the concerns of gay and lesbian youth to the governor and to the clerks of the senate and house of representatives.

ALM GL ch. 69, § 1D. Statewide educational goals; academic standards; vocational training; grant program.

The board shall establish a set of statewide educational goals for all public elementary and secondary schools in the commonwealth. [...]

The standards shall provide for instruction in at least the major principles of the Declaration of Independence, the United States Constitution, and the Federalist Papers. They shall be designed to inculcate respect for the cultural, ethnic and racial diversity of the commonwealth and for the contributions made by diverse cultural, ethnic and racial groups to the life of the commonwealth. The standards may provide for instruction in the fundamentals of the history of the commonwealth as well as the history of working people and the labor movement in the United States. The standards shall provide for instruction in the issues of nutrition and exercise. The standards may provide for instruction in the issues of physical education, human immunodeficiency virus and acquired immune deficiency syndrome education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention. The board may also include the teaching of family life skills, financial literacy and consumer skills, and basic career exploration and employability skills. The board may also include in the standards a fundamental knowledge of technology education and computer science and keyboarding skills; the major principles of environmental science and environmental protection; and an awareness of global education and geography. The board may set standards for student community service-learning activities and programs. The board may also institute a process for drawing up additional standards in other areas of education.

ALM GL ch. 69, § 1O. Truancy prevention program certification process.

The department of elementary and secondary education shall adopt regulations establishing a truancy prevention program certification process, consistent with the behavioral health and public schools framework developed pursuant to section 19 of chapter 321 of the acts of 2008, and shall require that the truancy prevention program evaluate the level of out-of-school support for students and families and address conditions that make students more likely to become truant including, but not limited to, previously unidentified or inadequately addressed special needs, bullying and harassment. Any truancy prevention program established under this section by a school district shall meet the requirements for certification adopted by the department.

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school

buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department. The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district. [...]

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules pertaining to the conduct of students. The student handbook shall include an age-appropriate summary of the student-related sections of the bullying prevention and intervention plan required by section 37O. The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:-

"Approved private day or residential school", a school that accepts, through agreement with a school committee, a child requiring special education pursuant to section 10 of chapter 71B.

"Bullying", the repeated use by one or more students or by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.

"Charter school", commonwealth charter schools and Horace Mann charter schools established pursuant to section 89 of chapter 71.

"Cyber-bullying", bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

"Collaborative school", a school operated by an educational collaborative established pursuant to section 4E of chapter 40.

"Department", the department of elementary and secondary education.

"Hostile environment", a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

"Plan", a bullying prevention and intervention plan established pursuant to subsection (d).

"Perpetrator", a student or a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional who engages in bullying or retaliation.

"School district", the school department of a city or town, a regional school district or a county agricultural school.

"School grounds", property on which a school building or facility is located or property that is owned, leased or used by a school district, charter school, non-public school, approved private day or residential school, or collaborative school for a school-sponsored activity, function, program, instruction or training.

"Victim", a student against whom bullying or retaliation has been perpetrated.

(b) Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying shall be prohibited.

(c) Each school district, charter school, approved private day or residential school and collaborative school shall provide age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum of the school district or school. The curriculum shall be evidence-based.

(d)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The plan shall apply to students and members of a school staff, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to an extracurricular activity and paraprofessionals. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

(2) Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation, including procedures for collecting, maintaining and reporting bullying incident data required under subsection (k); (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information

during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law.

(3) Each plan shall recognize that certain students may be more vulnerable to becoming a target of bullying or harassment based on actual or perceived differentiating characteristics, including race, color, religion, ancestry, national origin, sex, socioeconomic status, homelessness, academic status, gender identity or expression, physical appearance, pregnant or parenting status, sexual orientation, mental, physical, developmental or sensory disability or by association with a person who has or is perceived to have 1 or more of these characteristics. The plan shall include the specific steps that each school district, charter school, non-public school, approved private day or residential school and collaborative school shall take to support vulnerable students and to provide all students with the skills, knowledge and strategies needed to prevent or respond to bullying or harassment. A school district, charter school, non-public school, approved private day or residential school or collaborative school may establish separate discrimination or harassment policies that include additional categories of students. Nothing in this section shall alter the obligations of a school district, charter school, non-public school, approved private day or residential school or collaborative school to remediate any discrimination or harassment based on a person's membership in a legally protected category under local, state or federal law.

(4) The plan for a school district, charter school, approved private day or residential school and collaborative school shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying. The content of such professional development shall include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying, including information about students who have been shown to be particularly at risk for bullying in the school environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying. The department shall identify and offer information on alternative methods for fulfilling the professional development requirements of this section, at least 1 of these alternative methods shall be available at no cost to school districts, charter schools, approved private day or residential schools and collaborative schools.

(5) The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district or school and shall include, but not be limited to: (i) how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

(6) The department shall promulgate rules and regulations on the requirements related to a principal's duties under clause (viii) of the second paragraph of this subsection; provided, however, that school districts, charter schools, approved private day or residential schools and collaborative schools shall be subject to the regulations. A non-public school shall develop procedures for immediate notification by

the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator.

(e)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to students and parents or guardians, in age-appropriate terms and in the languages which are most prevalent among the students, parents or guardians, annual written notice of the relevant student-related sections of the plan.

(2) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to all school staff annual written notice of the plan. The faculty and staff at each school shall be trained annually on the plan applicable to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be included in a school district or school employee handbook.

(3) The plan shall be posted on the website of each school district, charter school, non-public school, approved private day or residential school and collaborative school.

(f) Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his school.

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation; and (v) inform the parents or guardians of the victim about the department's problem resolution system and the process for seeking assistance or filing a claim through the problem resolution system.

(h) If an incident of bullying or retaliation involves students from more than one school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take appropriate action. If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

(i) Nothing in this section shall supersede or replace existing rights or remedies under any other general or special law, nor shall this section create a private right of action.

(j) The department, after consultation with the department of public health, the department of mental health, the attorney general, the Massachusetts District Attorneys Association and experts on bullying shall: (i) publish a model plan for school districts and schools to consider when creating their plans; and (ii) compile a list of bullying prevention and intervention resources, evidence-based curricula, best practices and academic-based research that shall be made available to schools. The model plan shall be consistent with the behavioral health and public schools framework developed by the department in accordance with section 19 of chapter 321 of the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or digital media; subscription based online services; and on-site or technology-enabled professional development and training sessions. The department shall biennially

update the model plan and the list of the resources, curricula, best practices and research and shall post them on its website.

(k) Each school district, charter school, approved private day or residential school and collaborative school shall annually report bullying incident data to the department. The data shall include, but not be limited to: (i) the number of reported allegations of bullying or retaliation; (ii) the number and nature of substantiated incidents of bullying or retaliation; (iii) the number of students disciplined for engaging in bullying or retaliation; and (iv) any other information required by the department. Said incident data shall be reported in the form and manner established by the department, in consultation with the attorney general; provided, that the department shall minimize the costs and resources needed to comply with said reporting requirements; and provided further, that the department may use existing data collection and reporting mechanisms to collect the information from school districts. The department shall analyze the bullying incident data and shall publish an annual report containing aggregate statewide information on the frequency and nature of bullying in schools. The department shall file the annual report with the attorney general and with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on education, the joint committee on the judiciary and the house and senate committees on ways and means.

(l) The department shall develop a student survey to assess school climate and the prevalence, nature and severity of bullying in schools. The survey shall be administered by each school district, charter school, approved private day or residential school and collaborative school at least once every 4 years. The survey shall be designed to protect student privacy and allow for anonymous participation by students.

The school official identified in the plan as responsible for receiving reports of bullying or retaliation shall verify the completion of the student surveys. All completed surveys shall be forwarded to the department. The department shall use the survey results to help assess the effectiveness of bullying prevention curricula and instruction developed and administered under subsection (c). The department shall collect and analyze the student survey data in order to: compare the survey results with the bullying incident data reported under subsection (k); identify long-term trends and areas of improvement; and monitor bullying prevention efforts in schools over time. The department shall make its findings available to the school official.

(m) Each school district, charter school, approved private day or residential school or collaborative school may adopt an anti-bullying seal to represent the district or school's commitment to bullying prevention and intervention.

(n) The department may investigate certain alleged incidents of bullying. If, upon completion of investigation by the department, a school district, charter school, approved private day or residential school or collaborative school is found to not have properly implemented its prevention plan as outlined in subsection (d), the department may require that school district, charter school, approved private day or residential school or collaborative school to properly implement the plan or take other actions to address the findings of the investigation.

ALM GL ch. 269, § 17. Hazing; organizing or participating; hazing defined.

Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment.

The term "hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which wilfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other

person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

ALM GL ch. 269, § 18. Failure to report hazing.

Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.

ALM GL ch. 269, § 19. Copy of Secs. 17 to 19; issuance to students and student groups, teams and organizations; report.

Each institution of secondary education and each public or private institution of post secondary education shall file, at least annually, a report with the board of higher education and in the case of secondary institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing, and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communicating the institution's policies to its students. The board of higher education and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

REGULATIONS

603 CMR 26.07. Active efforts.

(2) All public schools shall strive to prevent harassment or discrimination based upon students' race, color, sex, gender identity, religion, national origin or sexual orientation, and all public schools shall respond promptly to such discrimination or harassment when they have knowledge of its occurrence.

(3) The school committee and the superintendent shall provide in-service training for all school personnel at least annually regarding the prevention of discrimination and harassment based upon race, color, sex, gender identity, religion, national origin and sexual orientation, and the appropriate methods for responding to such discrimination and harassment in a school setting.

603 CMR 26.08. Notification and complaint procedure.

(1) The superintendent shall be responsible for ensuring that all school handbooks and codes of conduct reference M.G.L. c. 76, § 5 and affirmatively state and explain the school's obligations under M.G.L. c. 76, § 5. In order to ensure that such obligations are fulfilled, all school handbooks and codes of conduct shall also contain the following:

- (a) A nondiscrimination policy that is consistent with M.G.L. c. 76, § 5 and affirms the school's non-tolerance for harassment or discrimination, including that based upon race, color, sex, gender identity, religion, national origin or sexual orientation; and
- (b) The school's procedure for accepting, investigating and resolving complaints alleging discrimination or harassment; and
- (c) The disciplinary measures that the school may impose if it determines that harassment or discrimination has occurred.

603 CMR 33.01. Authority.

603 CMR 33.00 is promulgated by the Board of Education pursuant to M.G.L. c. 269, § 19.

603 CMR 33.02. Scope and purpose.

603 CMR 33.00 governs the content and frequency of reports secondary schools must file with the Board of Education regarding the distribution of copies of the law against hazing and the adoption of a disciplinary policy concerning the organizers of and participants in hazing activities.

603 CMR 33.03. Definitions.

Hazing shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

603 CMR 33.04. Filing of reports.

(1) On or before October 1 of each year, the principal or headmaster of every secondary school shall file a report as required by M.G.L. c. 269, § 19 with the Bureau of Student Services.

(2) Such reports as required by 603 CMR 33.04(1) shall include the following certifications:

(a) that the school has issued a copy of M.G.L. c. 269, §§ 17 through 19 to every group or organization under its authority and to every member, plebe, pledgee or applicant for membership in such group or organization;

(b) that the school has issued a copy of M.G.L. c. 269, §§ 17 through 19, to every non-school affiliated organization;

(c) that the school has obtained an acknowledgment of receipt from an officer of every group or organization under its authority, and every individual which has received a copy of M.G.L. c. 269, §§ 17 through 19;

(d) that the school has obtained an acknowledgment from a contact person for each non-school affiliated organization that such organization has distributed a copy of M.G.L. c. 269, §§ 17 through 19, to every member, plebe, pledgee or applicant for membership in such group or organization;

(e) that the school has adopted a disciplinary policy with regard to the organizers of and participants in hazing which has been approved by the school committee, is available to anyone upon request and has been filed with the Bureau of Student Services as required by M.G.L. c. 71, § 37H.

603 CMR 33.05. Notifying the Attorney General.

(1) On November 1 of each year, the Commissioner of Education shall notify the Attorney General of any failure by a secondary school to file a report as required by M.G.L. c. 269, § 19.

603 CMR 49.01. Scope and purpose.

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor (when the aggressor is a student) when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also addresses confidentiality of student record information related to notification of bullying and retaliation.

603 CMR 49.02. Definitions and terms.

Aggressor means perpetrator of bullying or retaliation as defined in M.G.L. c. 71, § 37O.

Approved Private Day or Residential School means a school that accepts, through agreement with a school committee, a student requiring special education pursuant to M.G.L. c. 71B, § 10 and 603 CMR 28.09.

Bullying, pursuant to M.G.L. c. 71, § 37O, means the repeated use by one or more students or by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

- (a) causes physical or emotional harm to the target or damage to the target's property;
 - (b) places the target in reasonable fear of harm to himself or herself or damage to his or her property;
 - (c) creates a hostile environment at school for the target;
 - (d) infringes on the rights of the target at school; or
 - (e) materially and substantially disrupts the education process or the orderly operation of a school.
- Bullying shall include cyberbullying.

Charter School, pursuant to M.G.L. c. 71, § 37O, means a Commonwealth charter school or Horace Mann charter school established pursuant to M.G.L. c. 71, § 89.

Collaborative School, pursuant to M.G.L. c. 71, § 37O, means a school operated by an educational collaborative established pursuant to M.G.L. c. 40, § 4E.

Cyberbullying, pursuant to M.G.L. c. 71, § 37O, means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include:

- (a) the creation of a web page or blog in which the creator assumes the identity of another person; or
 - (b) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions in 603 CMR 49.02: Bullying(a) through (e).
- Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions in 603 CMR 49.02: Bullying(a) through (e).

Hostile Environment, pursuant to M.G.L. c. 71, § 37O, means a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Local Law Enforcement Agency means a local police department.

Local Plan means the bullying prevention and intervention plan required to be developed under M.G.L. c. 71, § 37O.

Parent means a student's father or mother, or guardian.

Principal means the administrative leader of a public school, charter school, collaborative school, or approved private day or residential school, or his or her designee for the purposes of implementing the school's bullying prevention and intervention plan.

Retaliation means any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation about bullying, or witnesses or has reliable information about bullying.

School means an approved private day or residential school, collaborative school, or charter school.

School District, pursuant to M.G.L. c. 71, § 37O, means the school department of a city or town, a regional school district or a county agricultural school.

Student Record has the meaning set forth in the Massachusetts Student Records Regulations, 603 CMR 23.02.

Target means a student victim of bullying or retaliation as defined in M.G.L. c. 71, § 37O.

603 CMR 49.03. Bullying and retaliation prohibited.

(1) Bullying of a student is prohibited as provided in M.G.L. c. 71, § 37O. Retaliation is also prohibited.

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

(a) creates a hostile environment at school for the target;

(b) infringes on the rights of the target at school; or

(c) materially and substantially disrupts the education process or the orderly operation of a school.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.04 and 49.05.

603 CMR 49.04. Notice to parents.

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor (when the aggressor is a student) of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR 49.04 prohibits the principal from contacting a parent of a target or aggressor (when the aggressor is a student) about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR 49.04 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor (when the aggressor is a student) and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR 49.06.

603 CMR 49.05. Notice to law enforcement agency.

(1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR 49.05. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR 49.05.

(2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR 49.05 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.

(a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.

(b) Nothing in 603 CMR 49.05 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.

(c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR 49.05.

(3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school informed of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

603 CMR 49.06. Confidentiality of records.

(1) A principal may not disclose information from a student record of a target or aggressor to a parent unless the information is about the parent's own child.

(2) A principal may disclose a determination of bullying or retaliation to a local law enforcement agency under 603 CMR 49.05 without the consent of a student or his or her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of targets, student witnesses, and aggressors to the extent practicable under the circumstances.

(3) A principal may disclose student record information about a target or aggressor to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals as provided in 603 CMR 23.07(4)(e) and 34 CFR 99.31(a)(10) and 99.36. 603 CMR 49.06(3) is limited to instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of student record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

Dating and Relationship Violence

LAWS

ALM GL ch. 71, § 1. Maintenance; double sessions; subjects; twelve-month school year.

Every town shall maintain, for at least the number of days required by the board of education in each school year unless specifically exempted as to any one year by said board, a sufficient number of schools for the instruction of all children who may legally attend a public school therein. No town shall hold double sessions in any public school, if in any other public school of comparable grade levels in such town there are vacant spaces for more than thirty-five children, the number of such vacant spaces to be computed without exceeding a maximum of thirty-five children to a classroom. The board of education may suspend the application of the preceding sentence in a particular town for a limited period. Such schools shall be taught by teachers of competent ability and good morals, and shall give instruction and training in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, music, the history and constitution of the United States, the duties of citizenship, health education, physical education and good behavior. Instruction in health education shall include, but shall not be limited to: consumer health, ecology, community health, body structure and function, safety, nutrition, fitness and body dynamics, dental health, emotional development safe and healthy relationships with a focus on preventing sexual and domestic violence, and training in the administration of first aid, including cardiopulmonary resuscitation.

ALM GL ch. 71, § 2C. Implementation of policy and discipline code addressing teen dating violence in public schools.

Each school district in the commonwealth, subject to appropriation, shall implement a specific policy and discipline code to address teen dating violence in public schools. The policy shall clearly state that dating violence will not be tolerated and shall include guidelines for addressing alleged incidents of dating violence. The policy may include a teen dating violence prevention task force comprised of staff, students and parents to provide awareness training and education for the school community. Topics to be covered in the policy include, without limitation, defining the issue of teen dating violence, recognizing warning signs, identifying issues of confidentiality, safety and appropriate legal school-based interventions.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

ALM GL ch. 3, § 67. Commission on lesbian, gay, bisexual, transgender, queer and questioning youth; membership; terms; powers and duties.

(c) The commission shall investigate the use of resources from both the public and private sectors to enhance and improve the ability of state agencies to provide services to gay and lesbian youth. In furtherance of that responsibility, the commission shall: (1) work in partnership with the department of education and the department of public health to create school-based and community-based programs focusing on suicide prevention, violence intervention, and the promotion of zero-tolerance policies regarding harassment and discrimination against gay and lesbian youth; and (2) make recommendations about policies and programs supporting gay and lesbian youth on an ongoing basis to the department of education, the department of public health and the executive office of health and human services. The commission shall annually, on or before June 2, report the results of its findings and activities of the preceding year and make recommendations relating to the concerns of gay and lesbian youth to the governor and to the clerks of the senate and house of representatives.

ALM GL ch. 69, § 1N. Alternative education grant program.

(c) The commissioner shall evaluate annually the effectiveness of programs established under this section including the potential for replicating such programs throughout the commonwealth. The annual evaluation shall also examine whether students in alternative education programs funded under this section are being taught to the same academic standards required for all students, how much time students are spending in the programs, the racial profile of expelled or suspended students and the percentages of the students who are in special education or bilingual education. The commissioner shall also provide technical assistance to school districts seeking to replicate programs funded under this section, and shall provide training for teachers in the development of effective remediation plans for students in alternative education, and in the development of skills, techniques, and innovative strategies to assist the students. In evaluating programs funded under subsection (b), the commissioner shall consult with the department of public health, the department of mental health, and the advisory committee established pursuant to said subsection (b).

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(b) Consistent with the framework recommended by the behavioral health and public schools task force created under section 19 of chapter 321 of the acts of 2008, the department of elementary and secondary education shall develop a safe and supportive schools framework. The framework shall provide guidance and support to schools to assist with the creation of safe and supportive schools that improve education outcomes for students.

(c) Subject to appropriation, any city, town or school district, by vote of its school committee, may implement the safe and supportive schools framework developed under subsection (b) in order to organize, integrate and sustain school and district-wide efforts to create safe and supportive school environments and coordinate and align student support initiatives. [...]

(f) Subject to appropriation, the department shall facilitate and oversee the implementation of the safe and supportive schools framework in schools that vote to develop and implement the framework. The department shall, subject to appropriation: (i) provide technical assistance to schools on using the self-assessment tool and developing school action plans and to districts on coordinating with community service providers and developing strategies to facilitate the district-wide implementation of the framework;

(ii) develop and disseminate model protocols and practices identified in the framework; (iii) establish a safe and supportive schools grant program, through which grantees shall pilot and share with other schools an effective process for developing and implementing school action plans; (iv) update its website to include the framework, the self-assessment tool, best practices and other information related to the implementation of the framework; (v) host regional trainings for schools and districts; and (vi) provide administrative support to the safe and supportive schools commission established under subsection (e). Nothing in this section shall be construed as limiting the ability of the department to contract with individuals, external partners or other entities to support the functions established under this section; provided, however, that the department shall consider opportunities for education collaboratives or other regional service organizations to coordinate and disseminate training, technical assistance and information to school districts on the implementation of the framework. [...]

The commission shall: (i) investigate and make recommendations to the board on updating, improving and refining the framework and the self-assessment tool as appropriate; (ii) identify strategies for increasing schools' capacity to carry out the administrative functions identified by the behavioral health and public schools task force; (iii) propose steps for improving schools' access to clinically, culturally and linguistically appropriate services; (iv) identify and recommend evidenced-based training programs and professional development for school staff on addressing students' behavioral health and creating safe and supportive learning environments; (v) identify federal funding sources that can be leveraged to support statewide implementation of the framework; (vi) develop recommendations on best practices for collaboration with families, including families of children with behavioral health needs; and (vii) examine and recommend model approaches for integrating school action plans, required under subsection (e), with school improvement plans and for using the framework to organize other school and district improvement processes.

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(g) Under the regulations promulgated by the department, for each school that suspends or expels a significant number of students for more than 10 cumulative days in a school year, the commissioner shall investigate and, as appropriate, shall recommend models that incorporate intermediary steps prior to the use of suspension or expulsion. The results of the analysis shall be publicly reported at the school district level.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(j) The department, after consultation with the department of public health, the department of mental health, the attorney general, the Massachusetts District Attorneys Association and experts on bullying shall: (i) publish a model plan for school districts and schools to consider when creating their plans; and (ii) compile a list of bullying prevention and intervention resources, evidence-based curricula, best practices and academic-based research that shall be made available to schools. The model plan shall be consistent with the behavioral health and public schools framework developed by the department in accordance with section 19 of chapter 321 of the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or digital media; subscription based online services; and on-site or technology-enabled professional development and training sessions. The department shall biennially update the model plan and the list of the resources, curricula, best practices and research and shall post them on its website.

ALM GL ch. 71, § 37P. School resource officers.

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Chief of police", the chief of police or the board or officer having control of the police department in a city or town.

"Commission", the model school resource officer memorandum of understanding review commission established in subsection (b).

"Model memorandum of understanding", the model school resource officer memorandum of understanding developed by the commission.

"School resource officer", a duly sworn municipal police officer with all necessary training, up-to-date certificates, including special school resource officer certification as required by subsection (b) of section 3 of chapter 6E or a special officer appointed by the chief of police charged with: (i) providing law enforcement; (ii) promoting school safety and security services to elementary and secondary public schools; and (iii) maintaining a positive school climate for all students, families and staff. For the purpose of this section, a school resource officer shall be exempt pursuant to subsection (j) of section 10 of chapter 269, while serving in the officer's official capacity.

(b) There shall be a model school resource officer memorandum of understanding review commission to develop and review the model memorandum of understanding and make recommendations for changes to the model memorandum of understanding as the commission deems appropriate.

The commission shall include: the commissioner of elementary and secondary education and the secretary of the executive office of public safety and security, who shall serve as co-chairs; the attorney general or a designee; the child advocate or a designee; the chief justice of the juvenile court or a designee; the secretary of health and human services or a designee; the executive director of the Massachusetts Association of School Superintendents, Inc. or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the president of the Massachusetts Major City Chiefs, Inc. or a designee; the executive director of the municipal police training committee established in section 116 of chapter 6 or a designee; the certification director of the division of police certification established in section 4 of chapter 6E or a designee; the executive director of the mental health legal advisors committee established in section 34E of chapter 221 or a designee; the executive director of Citizens for Juvenile Justice, Inc. or a designee; the executive director of the Children's League of Massachusetts, Inc. or a designee; a Massachusetts public school superintendent, to be appointed by the senate president; a Massachusetts public school teacher, to be appointed by the speaker of the house of representatives; a Massachusetts public school social worker, to be appointed by the minority leader of the senate; a parent or guardian of a child in a Massachusetts public school, to be appointed by the minority leader of the house of representatives; and 4 members to be appointed by the governor: 1 of whom shall be a representative of the Massachusetts Association of School Committees, Inc., 1 of whom shall be a representative of Massachusetts School Counselors Association, Inc. and 2 of whom shall be representatives from Massachusetts youth organizations with proven records of supporting services and programs for high numbers of youths in order to ensure healthy development and social responsibility.

The model memorandum of understanding shall be developed for schools and police departments as the minimum requirement for schools to formalize and clarify implementation of the partnership between the school and the school resource officer. In conducting such development and review, the commission shall determine the necessary provisions to achieve the district's educational and school safety goals and to help maintain a positive school environment for all students.

The model memorandum of understanding shall, at minimum, describe: (i) the mission statement, goals and objectives of the school resource officer program; (ii) the roles and responsibilities of the school resource officer, the police department and the school; (iii) the process for selecting school resource officers; (iv) the mechanisms to incorporate school resource officers into the school environment, including school safety meetings; (v) information sharing between school resource officers, school staff and other partners; (vi) the organizational structure of the school resource officer program, including supervision of school resource officers and the lines of communication between the school district and

police department; (vii) training for school resource officers, including, but not limited to, continuing professional development in child and adolescent development, conflict resolution and diversion strategies, de-escalation tactics and any other training required by the municipal police training committee established in section 116 of chapter 6; and (viii) the manner and division of responsibility for collecting and reporting the school-based arrests, citations and court referrals of students to the department of elementary and secondary education in accordance with regulations promulgated by the department.

The model memorandum of understanding shall expressly state that school resource officers shall not: (i) serve as school disciplinarians, enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors; and (ii) use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

In carrying out its duties under this section, the commissioner of elementary and secondary education shall work with the executive office of public safety and security to provide the commission with any data and information they consider relevant to the commission's duties.

The commission shall meet every 5 years for the purpose of developing and reviewing the model memorandum of understanding. The model memorandum of understanding shall be subject to final approval by the co-chairs of the commission and shall be made publicly available by the department of elementary and secondary education, distributed to school districts and filed with the clerks of the house of representatives and senate.

Members shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The commissioner of elementary and secondary education shall furnish reasonable staff and other support for the work of the commission. Prior to issuing its recommendations, the commission shall provide the opportunity to seek public input across regions of the commonwealth. It shall not constitute a violation of chapter 268A for a person employed by a school district to serve on the commission or to participate in commission deliberations that may have a financial impact on the district or municipality employing that person. The commission may establish procedures to ensure that no such person participates in commission deliberations that may directly affect the school districts employing those persons.

(c) The executive office of public safety and security, in consultation with the department of elementary and secondary education, shall make available to all communities the model memorandum of understanding, statements of operating procedures and advisories on how to establish said documents.

(d) For the purpose of fostering a safe and healthy environment for all students through strategic and appropriate use of law enforcement resources and to achieve positive outcomes for youth and public safety, a chief of police, at the request of the superintendent and subject to appropriation, shall assign at least 1 school resource officer to serve the city, town, commonwealth charter school, regional school district or county agricultural school. In the case of a regional school district, commonwealth charter school or county agriculture school, the chief of police of the city or town in which the school is located shall, at the request of the superintendent, assign the school resource officer who may be the same officer for all schools in the city or town. Annually, not later than August 1, the superintendent shall report to the department of elementary and secondary education and publicly present to the relevant school committee: (i) the cost to the school district of assigning a school resource officer; (ii) a description of the proposed budget for mental, social or emotional health support personnel for the school; and (iii) the number of school-based arrests, citations and court referrals made in the previous year disaggregated as required by the department of elementary and secondary education.

In assigning a school resource officer, the chief of police shall assign an officer that the chief believes would strive to foster an optimal learning environment and educational community that promotes a strong partnership between school and police personnel. The chief of police shall give preference to candidates who demonstrate the requisite personality and character to work effectively with children, youth and educators in a school environment with a demonstrated ability to work successfully with a population that

has a similar racial and ethnic background as those prevalent in the student body, and who have received specialized training relating to working with adolescents and children, including cognitive development, de-escalation tactics, as defined in section 1 of chapter 6E and alternatives to arrest and diversion strategies. The appointment shall not be based solely on seniority. The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police.

The superintendent and the chief of police shall adopt, at minimum, the model memorandum of understanding developed by the commission pursuant to subsection (b) and may add further provisions as they mutually deem fit; provided, however, that no further provision included in the memorandum of understanding adopted by said superintendent and said chief of police shall conflict with or omit any provisions of this section. The final memorandum of understanding adopted by the superintendent and the chief of police shall be made public and placed on file annually with the department of elementary and secondary education and in the offices of the school superintendent and the chief of police.

The chief of police, in consultation with the school superintendent, shall establish operating procedures to provide guidance to school resource officers about daily operations, policies and procedures. At a minimum, the operating procedures as established by the chief of police, shall describe the following for the school resource officer:

- (i) the school resource officer uniform;
- (ii) use of police force, arrest, citation and court referral on school property;
- (iii) a statement and description of students' legal rights, including the process for searching and questioning students and circumstances requiring notification to and presence of parents and administrators;
- (iv) chain of command, including delineating to whom the school resource officer reports and how school administrators and the school resource officer work together;
- (v) performance evaluation standards, which shall incorporate monitoring compliance with the memorandum of understanding and use of arrest, citation and police force in school;
- (vi) protocols for diverting and referring at-risk students to school and community-based supports and providers; and
- (vii) information sharing between the school resource officer, school staff and parents or guardians.

(e) Each school shall annually file its final memorandum of understanding and operating procedures with the department of elementary and secondary education. The department of elementary and secondary education shall collect data on the number of mental and social emotional health support personnel and the number of school resource officers employed by each local education agency and shall publish a report of the data on its website. The department shall promulgate rules or regulations necessary to carry out this section.

(f) Notwithstanding subsection (d), if the chief of police, in consultation with the superintendent, determines that there are not sufficient resources to assign a school resource officer to serve the city, town, regional school district or county agricultural school, the chief of police shall consult with the department of state police to ensure that a school resource officer is assigned, subject to appropriation, pursuant to the requirements of this section; provided, further, that if a state police officer is assigned to a city, town, regional school district or county agricultural school, said assignment shall not be based solely on seniority and a candidate shall be considered who would strive to foster an optimal learning environment and educational community; provided, further, that there shall be placed on file in the office of the superintendent and the department of state police the final memorandum of understanding clearly defining the roles and duties of the school resource officer.

(g) No public employer shall be liable for injury, loss of property, personal injury or death caused by an act or omission of a public employee while acting in the scope of the public employee's employment and arising out of the implementation of this section. This section shall not be construed as creating or imposing a specific duty of care.

The department of elementary and secondary education shall collect and publish disaggregated data regarding school-based arrests, citations and court referrals of students to the department and shall make such report available for public review.

ALM GL ch. 71, § 96. Substance use prevention and abuse education policies for public schools.

The department of elementary and secondary education, in consultation with the department of public health, shall provide guidance and recommendations to assist schools with developing and implementing effective substance use prevention and abuse education policies and shall make such guidance and recommendations publicly available on the department's website. Guidance and recommendations may include educating parents or guardians on recognizing warning signs of substance abuse and providing available resources. Guidance and recommendations shall be reviewed and regularly updated to reflect applicable research and best practices.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(a) As used in this section the term "safe and supportive schools" shall mean schools that foster a safe, positive, healthy and inclusive whole-school learning environment that: (i) enables students to develop positive relationships with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students' behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children's mental health, foster care and homeless youth education, inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives.

REGULATIONS

603 CMR 53.05. Alternatives to suspension under M.G.L. c. 71, § 37H^{3/4}.

In every case of student misconduct for which suspension may be imposed, a principal shall exercise discretion in deciding the consequence for the offense; consider ways to reengage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive interventions and supports.

Prevention

LAWS

ALM GL ch. 15, § 1G. Advisory councils to board; membership; duties.

There shall be established advisory councils to the board in the following areas: school and district accountability and assistance; life management skills; home economics; educational personnel; fine arts education; gifted and talented education; math and science education; racial imbalance; parent and community education and involvement; special education; bilingual education; digital learning; vocational- technical education; violence prevention; adult basic education; global education and comprehensive health education and human service programs. [...]

The advisory council on violence prevention shall consist of twelve members, who shall include one assistant district attorney, one assistant attorney general, two teachers of public schools in the commonwealth, one duly elected member of a school committee in the commonwealth, one school

district superintendent in the commonwealth, one principal of a public school in the commonwealth, one police chief and two students enrolled in secondary public schools in the commonwealth. Of the student members, at least one shall have experience with a youth violence prevention program.

ALM GL ch. 69, § 1N. Alternative education grant program.

Grants may also be awarded to assist school districts in developing comprehensive programs to help prevent violence in schools, from whatever causes, and to promote school safety. The programs shall be designed to meet the following objectives: creating a school environment where students feel safe and that prevents problems from starting; helping students to take the lead in keeping the school safe; ensuring that school personnel have the skills and resources to identify and intervene with at-risk students; equipping students and teachers with the skills needed to avoid conflict and violence; and helping schools and individuals to reconnect with the community and share resources.

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(a) As used in this section the term "safe and supportive schools" shall mean schools that foster a safe, positive, healthy and inclusive whole-school learning environment that: (i) enables students to develop positive relationships with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students' behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children's mental health, foster care and homeless youth education, inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

ALM GL ch. 69, § 1L. Comprehensive interdisciplinary health education and human service discretionary grant program; proposals; rejection; funds.

Instruction in health education shall include, but shall not be limited to, consumer health, ecology, community health, body structure and function safety, nutrition, fitness and body dynamics, dental health, emotional and character development, promotion of self-esteem skills, AIDS/HIV prevention education in accordance with policies or regulations of the board, and training in the administration of first aid, including cardiopulmonary resuscitation.

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(a) As used in this section the term "safe and supportive schools" shall mean schools that foster a safe, positive, healthy and inclusive whole-school learning environment that:

(i) enables students to develop positive relationships with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students' behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children's mental health, foster care and homeless youth education, inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

ALM GL ch. 69, § 1N. Alternative education grant program.

(b) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields of trauma and family and community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms and trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and where necessary be referred quickly and confidentially to appropriate services. [...]

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms or classroom behavior that interferes with learning. Members of the advisory committee shall include but not be limited to: 3 educators, 1 of whom shall serve as the chair, appointed by the commissioner of the department of education; 2 leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health; 2 leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health; 1 leader in battered women's services appointed by the commissioner of public health; 1 leader in the area of homelessness and its impact on children appointed by commissioner of mental health; and 3 parents, 1 each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(a) As used in this section the term "safe and supportive schools" shall mean schools that foster a safe, positive, healthy and inclusive whole-school learning environment that: (i) enables students to develop positive relationships with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students' behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children's mental health, foster care and homeless youth education, inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(g) The commission shall: (i) investigate and make recommendations to the board on updating, improving and refining the framework and the self-assessment tool as appropriate; (ii) identify strategies for increasing schools' capacity to carry out the administrative functions identified by the behavioral health and public schools task force; (iii) propose steps for improving schools' access to clinically, culturally and linguistically appropriate services; (iv) identify and recommend evidenced-based training programs and professional development for school staff on addressing students' behavioral health and creating safe and supportive learning environments; (v) identify federal funding sources that can be leveraged to support statewide implementation of the framework; (vi) develop recommendations on best practices for collaboration with families, including families of children with behavioral health needs; and (vii) examine and recommend model approaches for integrating school action plans, required under subsection (e), with school improvement plans and for using the framework to organize other school and district improvement processes.

ALM GL ch. 71, § 95. Reimbursement aid to municipalities for costs incurred for federal military reservation students.

(b) The department shall, in consultation with the department of public health and suicide prevention experts, develop a list of approved training materials to fulfill the requirements of this section. Approved materials shall include training on how to identify appropriate mental health services both within the school and the larger community, and when and how to refer students and their families to those services.

ALM GL ch. 111, § 223. Nutritional standards for sale or provision of foods or beverages in public schools; school wellness advisory committees; food safety inspections at public schools.

(b) The department, in consultation with the department of elementary and secondary education and the department of mental health, shall establish, and periodically review, guidelines for:

- (i) the training of all public school nurses in behavioral health and appropriate screening and resources for the treatment of childhood obesity and behavioral health disorders, including eating disorders.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

ALM GL ch. 69, § 1A. Department of elementary and secondary education; commissioner; duties.

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the commissioner and the secretary of health and human services under section 16S of chapter 6A.

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

(a) As used in this section the term "safe and supportive schools" shall mean schools that foster a safe, positive, healthy and inclusive whole-school learning environment that: (i) enables students to develop positive relationships with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students' behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children's mental health, foster care and homeless youth education,

inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives. [...]

(g) The commission shall: (i) investigate and make recommendations to the board on updating, improving and refining the framework and the self-assessment tool as appropriate; (ii) identify strategies for increasing schools' capacity to carry out the administrative functions identified by the behavioral health and public schools task force; (iii) propose steps for improving schools' access to clinically, culturally and linguistically appropriate services; (iv) identify and recommend evidenced-based training programs and professional development for school staff on addressing students' behavioral health and creating safe and supportive learning environments; (v) identify federal funding sources that can be leveraged to support statewide implementation of the framework; (vi) develop recommendations on best practices for collaboration with families, including families of children with behavioral health needs; and (vii) examine and recommend model approaches for integrating school action plans, required under subsection (e), with school improvement plans and for using the framework to organize other school and district improvement processes. [...]

The commission shall: (i) investigate and make recommendations to the board on updating, improving and refining the framework and the self-assessment tool as appropriate; (ii) identify strategies for increasing schools' capacity to carry out the administrative functions identified by the behavioral health and public schools task force; (iii) propose steps for improving schools' access to clinically, culturally and linguistically appropriate services; (iv) identify and recommend evidenced-based training programs and professional development for school staff on addressing students' behavioral health and creating safe and supportive learning environments; (v) identify federal funding sources that can be leveraged to support statewide implementation of the framework; (vi) develop recommendations on best practices for collaboration with families, including families of children with behavioral health needs; and (vii) examine and recommend model approaches for integrating school action plans, required under subsection (e), with school improvement plans and for using the framework to organize other school and district improvement processes.

ALM GL ch. 71, § 37Q. Mental health support plans.

(a) As used in this section the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Approved private day or residential school", a school that accepts, through agreement with a school committee, a child requiring special education pursuant to section 10 of chapter 71B.

"Charter school", commonwealth charter schools and Horace Mann charter schools established pursuant to section 89.

"Collaborative school", a school operated by an educational collaborative established pursuant to section 4E of chapter 40.

"Plan", a mental health support plan established pursuant to subsection (b).

"School district", the school department of a city or town, a regional school district or a county agricultural school.

(b) Each school district, charter school, approved private day or residential school and collaborative school shall develop and adhere to a plan to address the general mental health needs of its students, including the students' families, teachers and school administrators. Each plan shall also address the potential need for emergency and acute treatment for students, including the students' families, teachers and school administrators as a result of a tragedy or crisis within the district or school. Before September 1 of each year, each school district, charter school, approved private day or residential school and collaborative school shall review and update its plan to achieve best practices.

(c) The department of elementary and secondary education shall promulgate rules or regulations necessary to carry out this section.

(d) No public employer shall be liable for injury, loss of property, personal injury or death caused by an act or omission of a public employee while acting in the scope of the public employee's employment and arising out of the implementation of this section. This section shall not be construed as creating or imposing a specific duty of care.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

ALM GL ch. 71, § 37L. Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records.

In addition, any school department personnel shall report in writing to their immediate supervisor an incident involving a student's possession or use of a dangerous weapon on school premises at any time.

Supervisors who receive such a weapon report shall file it with the superintendent of said school, who shall file copies of said weapon report with the local chief of police, the department of children and families, the office of student services or its equivalent in any school district, and the local school committee. Said superintendent, police chief, and representative from the department of children and families, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(d)(2) Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation, including procedures for collecting, maintaining and reporting bullying incident data required under subsection (k); (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law. [...]

(h) If an incident of bullying or retaliation involves students from more than one school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take

appropriate action. If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

REGULATIONS

603 CMR 46.06. Reporting requirements.

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of any physical restraint as specified in 603 CMR 46.06(2).

(2) Informing the Principal. The program staff member who administered the restraint shall verbally inform the principal of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal for review of the use of the restraint. If the principal has administered the restraint, the principal shall prepare the report and submit it to an individual or team designated by the superintendent or board of trustees for review. The principal shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department or the student's parent, upon request. [...]

(4) Contents of Report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The name of the student; the names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; the name of the principal or designee who was verbally informed following the restraint; and, as applicable, the name of the principal or designee who approved continuation of a restraint beyond 20 minutes pursuant to 603 CMR 46.05(5)(c).

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to prevent escalation of behavior, including the specific de-escalation strategies used; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) Information regarding any further action(s) that the school has taken or may take, including any consequences that may be imposed on the student.

(e) Information regarding opportunities for the student's parents to discuss with school officials the administration of the restraint, any consequences that may be imposed on the student, and any other related matter. [...]

(7) Report All Restraint-related Injuries to the Department. When a physical restraint has resulted in an injury to a student or program staff member, the program shall send a copy of the written report required by 603 CMR 46.06(4) to the Department postmarked no later than three school working days of the administration of the restraint. The program shall also send the Department a copy of the record of physical restraints maintained by the principal pursuant to 603 CMR 46.06(2) for the 30-day period prior to the date of the reported restraint. The Department shall determine if additional action by the program is warranted and, if so, shall notify the program of any required actions within 30 calendar days of receipt of the required written report(s).

(8) Report All Physical Restraints to the Department. Every program shall collect and annually report data to the Department regarding the use of physical restraints. Such data shall be reported in a manner and form directed by the Department.

603 CMR 49.03. Bullying and retaliation prohibited.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.04 and 49.05.

Parental Notification

LAWS

ALM GL ch. 71, § 37H3/4. Suspension or expulsion on grounds other than those set forth in Sections 37H or 37H1/2.

(c) For any suspension or expulsion under this section, the principal or headmaster of a school in which the student is enrolled, or a designee, shall provide, to the student and to the parent or guardian of the student, notice of the charges and the reason for the suspension or expulsion in English and in the primary language spoken in the home of the student. The student shall receive the written notification and shall have the opportunity to meet with the principal or headmaster, or a designee, to discuss the charges and reasons for the suspension or expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or a designee, shall ensure that the parent or guardian of the student is included in the meeting, provided that such meeting may take place without the parent or guardian only if the principal or headmaster, or a designee, can document reasonable efforts to include the parent or guardian in that meeting. The department shall promulgate rules and regulations that address a principal's duties under this subsection and procedures for including parents in student exclusion meetings, hearings or interviews under this subsection.

(d) If a decision is made to suspend or expel the student after the meeting, the principal or headmaster, or a designee, shall update the notification for the suspension or expulsion to reflect the meeting with the student. If a student has been suspended or expelled for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year, the student and the parent or guardian of the student shall also receive, at the time of the suspension or expulsion decision, written notification of a right to appeal and the process for appealing the suspension or expulsion in English and in the primary language spoken in the home of the student; provided, however, that the suspension or expulsion shall remain in effect prior to any appeal hearing. The principal or headmaster or a designee shall notify the superintendent in writing, including, but not limited to, by electronic means, of any out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to such suspension taking effect. That notification shall describe the student's alleged misconduct and the reasons for suspending the student out-of-school. For the purposes of this section, the term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to remove a student from participation in school activities for 1 day or more.

(e) A student who has been suspended or expelled from school for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year shall have the right to appeal the suspension or expulsion to the superintendent. The student or a parent or guardian of the student shall notify the superintendent in writing of a request for an appeal not later than 5 calendar days following the effective date of the suspension or expulsion; provided, that a student and a parent or guardian of the student may request, and if so requested, shall be granted an extension of up to 7 calendar days. The superintendent or a designee shall hold a hearing with the student and the parent or guardian of the student within 3 school days of the student's request for an appeal; provided that a student or a parent or guardian of the student may request and, if so requested, shall be granted an extension of up to 7 calendar days; provided further, that the superintendent, or a designee, may proceed with a hearing without a parent or guardian of the student if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. At the hearing, the student shall have the right to present oral and written testimony, cross-examine witnesses and shall have the right to counsel.

The superintendent shall render a decision on the appeal in writing within 5 calendar days of the hearing. That decision shall be the final decision of the school district with regard to the suspension or expulsion.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(d)(2) Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation, including procedures for collecting, maintaining and reporting bullying incident data required under subsection (k); (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law. [...]

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation; and (v) inform the parents or guardians of the victim about the department's problem resolution system and the process for seeking assistance or filing a claim through the problem resolution system.

ALM GL ch. 76, § 1A. Pupil absence notification programs.

Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. The parents or guardians of each pupil shall, annually, at the commencement of each school year, be sent a notice instructing them to call a designated telephone number at a designated time to inform the school of the absence of a pupil and the reason therefor. Said notice shall also require such parent or guardian to furnish the school with a home, work or other emergency telephone number where they can be contacted

during the school day. If a pupil is absent and the school has not been notified by the designated time, the school shall call the telephone number or numbers furnished to inquire about said absence.

ALM GL ch. 76, § 1B. Pupil absence notification program.

The school committee of each city, town or regional school district shall have a pupil absence notification program in each of its schools. The program shall be designed to ensure that each school notifies a parent or guardian of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence.

Each school committee shall have a policy of notifying the parent or guardian of a student who has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or who has missed 5 or more school days unexcused in a school year. The notification policy shall require that the school principal or headmaster, or a designee, make a reasonable effort to meet with the parent or guardian of a student who has 5 or more unexcused absences to develop action steps for student attendance. The action steps shall be developed jointly and agreed upon by the school principal or headmaster, or a designee, the student and the student's parent or guardian and with input from other relevant school personnel and officials from relevant public safety, health and human service, housing and nonprofit agencies.

ALM GL ch. 76, § 18. Notice to parent or guardian and meeting with school committee prerequisite to student permanently leaving school; annual report; application of section.

No student who has not graduated from high school shall be considered to have permanently left public school unless an administrator of the school which the student last attended has sent notice within a period of 5 days from the student's tenth consecutive absence to the student and the parent or guardian of that student in both the primary language of the parent or guardian, to the extent practicable, and English. The notice shall initially offer at least 2 dates and times for an exit interview between the superintendent, or a designee, and the student and the parent or guardian of the student to occur prior to the student permanently leaving school and shall include contact information for scheduling the exit interview. The notice shall indicate that the parties shall agree upon a date and time for the exit interview, and that interview shall occur within 10 days after the sending of the notice. The time for the exit interview may be extended at the request of the parent or guardian and no extension shall be for longer than 14 days. The superintendent, or a designee, may proceed with any such interview without a parent or guardian if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. The exit interview shall be for the purpose of discussing the reasons for the student permanently leaving school and to consider alternative education or other placements.

REGULATIONS

603 CMR 18.05. Required policies and procedures.

(6) Suspension.

(b) Whenever a student is suspended, the school shall immediately notify the parents or the Department of Social Services as appropriate, and the public school or human service agency responsible for the placement. Within 24 hours, the school shall send a written statement explaining the reasons for suspension to the parents or the Department of Social Services as appropriate and the public school district and human service agency responsible for the placement.

603 CMR 46.04. Policy and procedures; Training.

(1) Procedures. Public education programs shall develop and implement written restraint prevention and behavior support policy and procedures consistent with 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention. Such policy and procedures shall be annually reviewed and provided to program staff and made available to parents of enrolled students. Such policy and procedures shall include, but not be limited to:

(i) A procedure for making reasonable efforts to orally notify a parent of the use of restraint on a student within 24 hours of the restraint, and for sending written notification to the parent within three school working days following the use of restraint to an email address provided by the parent for the purpose of communicating about the student, or by regular mail to the parent postmarked within three school working days of the restraint.

603 CMR 46.06. Reporting requirements.

(3) Informing Parents. The principal shall make reasonable efforts to verbally inform the student's parent of the restraint within 24 hours of the event, and shall notify the parent by written report sent either within three school working days of the restraint to an email address provided by the parent for communications about the student, or by regular mail postmarked no later than three school working days of the restraint. If the program customarily provides a parent of a student with report cards and other necessary school- related information in a language other than English, the written restraint report shall be provided to the parent in that language. The principal shall provide the student and the parent an opportunity to comment orally and in writing on the use of the restraint and on information in the written report.

603 CMR 49.01. Scope and purpose.

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor (when the aggressor is a student) when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also addresses confidentiality of student record information related to notification of bullying and retaliation.

603 CMR 49.04. Notice to parents.

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor (when the aggressor is a student) of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR 49.04 prohibits the principal from contacting a parent of a target or aggressor (when the aggressor is a student) about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR 49.04 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor (when the aggressor is a student) and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR 49.06.

603 CMR 53.01. Purpose and scope.

(1) The purpose of 603 CMR 53.00 is:

(b) to promote engagement of a student's parent in discussion of the student's misconduct, and options for responding to it.

603 CMR 53.06. Notice of suspension and hearing under M.G.L. c. 71, § 37H¾.

(1) Except as provided in 603 CMR 53.07 and 603 CMR 53.10, a principal may not impose a suspension as a consequence for a disciplinary offense without first providing the student and the parent oral and

written notice, and providing the student an opportunity for a hearing on the charge and the parent an opportunity to participate in such hearing.

(2) The principal shall provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language:

- (a) the disciplinary offense;
- (b) the basis for the charge;
- (c) the potential consequences, including the potential length of the student's suspension;
- (d) the opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident, and for the parent to attend the hearing;
- (e) the date, time, and location of the hearing;
- (f) the right of the student and the student's parent to interpreter services at the hearing if needed to participate;
- (g) if the student may be placed on long-term suspension following the hearing with the principal:
 - 1. the rights set forth in 603 CMR 53.08(3)(b); and
 - 2. the right to appeal the principal's decision to the superintendent.

(3) The principal shall make reasonable efforts to notify the parent orally of the opportunity to attend the hearing. To conduct a hearing without the parent present, the principal must be able to document reasonable efforts to include the parent. The principal is presumed to have made reasonable efforts if the principal has sent written notice and has documented at least two attempts to contact the parent in the manner specified by the parent for emergency notification.

(4) Written notice to the parent may be made by hand delivery, first-class mail, certified mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and parent.

603 CMR 53.07. Emergency removal under M.G.L. c. 71, § 37H¾.

(1) Nothing in 603 CMR 53.00 shall prevent a principal from removing a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school and, in the principal's judgment, there is no alternative available to alleviate the danger or disruption. The temporary removal shall not exceed two school days following the day of the emergency removal, during which time the principal shall:

- (a) Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters set forth in 603 CMR 53.06(2);
- (b) Provide written notice to the student and parent as provided in 603 CMR 53.06(2);
- (c) Provide the student an opportunity for a hearing with the principal that complies with 603 CMR 53.08(2) or (3), as applicable, and the parent an opportunity to attend the hearing, before the expiration of the two school days, unless an extension of time for hearing is otherwise agreed to by the principal, student, and parent.
- (d) Render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of 603 CMR 53.08(2)(c) and (d) or (3)(c) and (d), as applicable.

(2) A principal may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

603 CMR 53.08. Principal's hearing under M.G.L. c. 71, § 37H¾.

(2) Principal Hearing - Short-term Suspension.

(c) The principal shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other school work as needed to make academic progress during the period of removal, as provided in 603 CMR 53.13(1). The determination shall be in writing and may be in the form of an update to the original written notice. [...]

(3) Principal Hearing - Long-term Suspension.

(d) Based on the evidence, the principal shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as set forth in 603 CMR 53.05, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. The principal shall send the written determination to the student and parent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent. If the principal decides to suspend the student, the written determination shall:

1. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
2. Set out the key facts and conclusions reached by the principal;
3. Identify the length and effective date of the suspension, as well as a date of return to school;
4. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in 603 CMR 53.13(4)(a);
5. Inform the student of the right to appeal the principal's decision to the superintendent or designee, but only if the principal has imposed a long-term suspension. Notice of the right of appeal shall be in English and the primary language of the home if other than English, or other means of communication, where appropriate, and shall include the following stated in plain language:
 - a. the process for appealing the decision, including that the student or parent must file a written notice of appeal with the superintendent within five calendar days of the effective date of the long-term suspension; provided that within the five calendar days, the student or parent may request and receive from the superintendent an extension of time for filing the written notice for up to seven additional calendar days; and that, the long-term suspension will remain in effect unless and until the superintendent decides to reverse the principal's determination on appeal.

603 CMR 53.09. Superintendent's hearing under M.G.L. c. 71, § 37H¾.

(4) The superintendent shall make a good faith effort to include the parent in the hearing. The superintendent shall be presumed to have made a good faith effort if he or she has made efforts to find a day and time for the hearing that would allow the parent and superintendent to participate. The superintendent shall send written notice to the parent of the date, time, and location of the hearing.

603 CMR 53.10. In-school suspension under M.G.L. c. 71, § 37H¾.

(4) On the same day as the in-school suspension decision, the principal shall make reasonable efforts to notify the parent orally as soon as possible of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The principal shall also invite the parent to a meeting to discuss the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meeting shall be scheduled on the day of the suspension if possible, and if not, as soon thereafter as possible. If the principal is unable to reach the parent after making and documenting at least two attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.

(5) The principal shall send written notice to the student and parent about the in-school suspension, including the reason and the length of the in-school suspension, and inviting the parent to a meeting with the principal for the purpose set forth in 603 CMR 53.10(4), if such meeting has not already occurred. The principal shall deliver such notice on the day of the suspension by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

ALM GL ch. 69, § 1I. Performance of public-school districts and individual public schools; evaluation system; assessment instruments; report.

Each school district shall file a report with the department every year by a date and in a format determined by the board. Said report shall include, but not be limited to, the following:

- (a) an outline of the curriculum and graduation requirements of the district;
- (b) pupil/teacher ratios and class size policy and practice;
- (c) teacher and administrator evaluation procedures;
- (d) statistics, policies, and procedures relative to truancy and dropouts;
- (e) statistics, policies, and procedures relative to expulsions and in-school and out-of-school suspensions;
- (f) percent of school-age children attending public schools;
- (g) racial composition of teaching and administrative staff;
- (h) enrollment and average daily attendance;
- (i) the annual budgets and expenditures for both the district and the individual schools in the district.

ALM GL ch. 69, § 1P. Safe and supportive schools framework.

School action plans shall be designed to address the areas of need identified through the use of the self-assessment tool described in subsection (d) and shall include the following: (i) strategies and initiatives for addressing the areas of need identified by the assessment; (ii) a timeline for implementing the strategies and initiatives; (iii) outcome goals and indicators for evaluating the effectiveness of the strategies and initiatives set forth in the plan, which may include attendance and graduation rates, bullying incidences, number of student suspensions, expulsions and office referrals, truancy and tardiness rates, time spent on learning and other measures of school success; and (iv) a process and schedule for reviewing the plan annually and updating it at least once every 3 years. School action plans shall be published on the school district's website.

ALM GL ch. 71, § 37H. Policies relative to conduct of teachers or students; student handbooks.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

- (f) Districts shall report to the department of elementary and secondary education the specific reasons for all suspensions and expulsions, regardless of duration or type, in a manner and form established by the commissioner. The department of elementary and secondary education shall use its existing data collection tools to obtain this information from districts and shall modify those tools, as necessary, to obtain the information. On an annual basis, the department of elementary and secondary education shall make district level de-identified data and analysis, including the total number of days each student is excluded during the school year, available to the public online in a machine readable format. This report shall include district level data disaggregated by student status and categories established by the commissioner.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident data.

(d)(2) Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation, including procedures for collecting, maintaining and reporting bullying incident data required under subsection (k). [...]

(k) Each school district, charter school, approved private day or residential school and collaborative school shall annually report bullying incident data to the department. The data shall include, but not be limited to: (i) the number of reported allegations of bullying or retaliation; (ii) the number and nature of substantiated incidents of bullying or retaliation; (iii) the number of students disciplined for engaging in bullying or retaliation; and (iv) any other information required by the department. Said incident data shall be reported in the form and manner established by the department, in consultation with the attorney general; provided, that the department shall minimize the costs and resources needed to comply with said reporting requirements; and provided further, that the department may use existing data collection and reporting mechanisms to collect the information from school districts. The department shall analyze the bullying incident data and shall publish an annual report containing aggregate statewide information on the frequency and nature of bullying in schools. The department shall file the annual report with the attorney general and with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on education, the joint committee on the judiciary and the house and senate committees on ways and means. [...]

The school official identified in the plan as responsible for receiving reports of bullying or retaliation shall verify the completion of the student surveys. All completed surveys shall be forwarded to the department. The department shall use the survey results to help assess the effectiveness of bullying prevention curricula and instruction developed and administered under subsection (c). The department shall collect and analyze the student survey data in order to: compare the survey results with the bullying incident data reported under subsection (k); identify long-term trends and areas of improvement; and monitor bullying prevention efforts in schools over time. The department shall make its findings available to the school official.

ALM GL ch. 71, § 37P. School resource officers.

The department of elementary and secondary education shall collect and publish disaggregated data regarding school-based arrests, citations and court referrals of students to the department and shall make such report available for public review.

REGULATIONS

603 CMR 53.01. Purpose and scope.

(2) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:

(c) requirements pertaining to school discipline data reporting and analysis.

603 CMR 53.14. Student suspension and expulsion data collection and reporting.

(1) Every school district, charter school, and virtual school shall collect and annually report data to the Department regarding in-school suspensions, short- and long-term suspensions, expulsions, emergency removals under 603 CMR 53.07, access to education services under 603 CMR 53.13, and such other information as may be required by the Department. Such data shall be reported in a manner and form directed by the Department.

(2) The principal of each school shall periodically review discipline data by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. In reviewing the data, the principal shall assess the extent of in-school suspensions, short- and long-term suspensions, expulsions, and emergency removals under 603 CMR 53.07, and the impact of such disciplinary action on selected student populations. The principal

shall further determine whether it is necessary or appropriate to modify disciplinary practices due to over-reliance on expulsion, or in-school school or out-of-school suspension, or emergency removals, or the impact of such suspensions, removals, and expulsions on selected student populations compared with other students.

(3) In the fall of each year, the Department shall publish an analysis and report of student discipline data disaggregated by district and school, and by selected student populations, included but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. The data shall be reported in a manner that protects the identity of each student and shall be made available to the public online in a machine readable format.

(4) The Department shall annually determine the schools with the highest percentage of students expelled or placed on long-term suspension for more than ten cumulative days in a school year. After review of the discipline data described in 603 CMR 53.14(3) and other relevant school and district information, including but not limited to student demographics, student performance, promotion, attendance, attrition, graduation, and dropout rates, the Commissioner shall identify schools that need assistance to reduce over-reliance on long-term suspension or expulsion as a consequence for student misconduct. The Department shall identify models that such schools may use to incorporate intermediate steps before long-term suspension and expulsion and to foster positive school climate.

Through use of statistical analysis, the Commissioner shall identify schools and districts with data that reflect significant disparities in the rate of suspension and expulsion by race and ethnicity, or disability. Such schools and districts shall develop and implement a plan approved by the Department to address such significant disparities.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

ALM GL ch. 71, § 37L. Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records.

In addition, any school department personnel shall report in writing to their immediate supervisor an incident involving a student's possession or use of a dangerous weapon on school premises at any time.

Supervisors who receive such a weapon report shall file it with the superintendent of said school, who shall file copies of said weapon report with the local chief of police, the department of children and families, the office of student services or its equivalent in any school district, and the local school committee. Said superintendent, police chief, and representative from the department of children and families, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

ALM GL ch. 71, § 37O. School bullying prohibited; bullying prevention and intervention plans; reporting of bullying incident date.

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation; and (v) inform the parents or guardians of the victim about the department's problem resolution system and the process for seeking assistance or filing a claim through the problem resolution system. [...]

(h) If an incident of bullying or retaliation involves students from more than one school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take appropriate action. If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

ALM GL ch. 269, § 18. Failure to report hazing.

Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.

REGULATIONS

603 CMR 46.03. Use of restraint.

- (4) Referral to Law Enforcement or Other State Agencies. Nothing in 603 CMR 46.00 prohibits:
- (a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;
 - (b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or
 - (c) The exercise of an individual's responsibilities as a mandated reporter pursuant to M.G.L. c. 119, § 51A. 603 CMR 46.00 shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

603 CMR 49.01. Scope and purpose.

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor (when the aggressor is a student) when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also addresses confidentiality of student record information related to notification of bullying and retaliation.

603 CMR 49.03. Bullying and retaliation prohibited.

- (3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.04 and 49.05.

603 CMR 49.05. Notice to law enforcement agency.

- (1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR 49.05. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR 49.05.
- (2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR 49.05 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.
- (a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.
 - (b) Nothing in 603 CMR 49.05 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.
 - (c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR 49.05.
- (3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school informed

of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

ALM GL ch. 71, § 37P. School resource officers.

In assigning a school resource officer, the chief of police shall assign an officer that the chief believes would strive to foster an optimal learning environment and educational community that promotes a strong partnership between school and police personnel. The chief of police shall give preference to candidates who demonstrate the requisite personality and character to work effectively with children, youth and educators in a school environment with a demonstrated ability to work successfully with a population that has a similar racial and ethnic background as those prevalent in the student body, and who have received specialized training relating to working with adolescents and children, including cognitive development, de-escalation tactics, as defined in section 1 of chapter 6E and alternatives to arrest and diversion strategies. The appointment shall not be based solely on seniority. The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

ALM GL ch. 71, § 37P. School resource officers.

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Chief of police", the chief of police or the board or officer having control of the police department in a city or town.

"Commission", the model school resource officer memorandum of understanding review commission established in subsection (b).

"Model memorandum of understanding", the model school resource officer memorandum of understanding developed by the commission.

"School resource officer", a duly sworn municipal police officer with all necessary training, up-to-date certificates, including special school resource officer certification as required by subsection (b) of section 3 of chapter 6E or a special officer appointed by the chief of police charged with: (i) providing law enforcement; (ii) promoting school safety and security services to elementary and secondary public schools; and (iii) maintaining a positive school climate for all students, families and staff. For the purpose of this section, a school resource officer shall be exempt pursuant to subsection (j) of section 10 of chapter 269, while serving in the officer's official capacity.

(b) There shall be a model school resource officer memorandum of understanding review commission to develop and review the model memorandum of understanding and make recommendations for changes to the model memorandum of understanding as the commission deems appropriate.

The commission shall include: the commissioner of elementary and secondary education and the secretary of the executive office of public safety and security, who shall serve as co-chairs; the attorney general or a designee; the child advocate or a designee; the chief justice of the juvenile court or a designee; the secretary of health and human services or a designee; the executive director of the Massachusetts Association of School Superintendents, Inc. or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the president of the Massachusetts Major City Chiefs, Inc. or a designee; the executive director of the municipal police training committee established in section 116 of chapter 6 or a designee; the certification director of the division of police certification established in section 4 of chapter 6E or a designee; the executive director of the mental health legal advisors committee established in section 34E of chapter 221 or a designee; the executive director of Citizens for Juvenile Justice, Inc. or a designee; the executive director of the Children's League of Massachusetts, Inc. or a designee; a Massachusetts public school superintendent, to be appointed by the senate president; a Massachusetts public school teacher, to be appointed by the speaker of the house of representatives; a Massachusetts public school social worker, to be appointed by the minority leader of the senate; a parent or guardian of a child in a Massachusetts public school, to be appointed by the minority leader of the house of representatives; and 4 members to be appointed by the governor: 1 of whom shall be a representative of the Massachusetts Association of School Committees, Inc., 1 of whom shall be a representative of Massachusetts School Counselors Association, Inc. and 2 of whom shall be representatives from Massachusetts youth organizations with proven records of supporting services and programs for high numbers of youths in order to ensure healthy development and social responsibility.

The model memorandum of understanding shall be developed for schools and police departments as the minimum requirement for schools to formalize and clarify implementation of the partnership between the school and the school resource officer. In conducting such development and review, the commission shall determine the necessary provisions to achieve the district's educational and school safety goals and to help maintain a positive school environment for all students.

The model memorandum of understanding shall, at minimum, describe: (i) the mission statement, goals and objectives of the school resource officer program; (ii) the roles and responsibilities of the school resource officer, the police department and the school; (iii) the process for selecting school resource officers; (iv) the mechanisms to incorporate school resource officers into the school environment, including school safety meetings; (v) information sharing between school resource officers, school staff and other partners; (vi) the organizational structure of the school resource officer program, including supervision of school resource officers and the lines of communication between the school district and police department; (vii) training for school resource officers, including, but not limited to, continuing professional development in child and adolescent development, conflict resolution and diversion strategies, de-escalation tactics and any other training required by the municipal police training committee established in section 116 of chapter 6; and (viii) the manner and division of responsibility for collecting and reporting the school-based arrests, citations and court referrals of students to the department of elementary and secondary education in accordance with regulations promulgated by the department.

The model memorandum of understanding shall expressly state that school resource officers shall not: (i) serve as school disciplinarians, enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors; and (ii) use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

In carrying out its duties under this section, the commissioner of elementary and secondary education shall work with the executive office of public safety and security to provide the commission with any data and information they consider relevant to the commission's duties.

The commission shall meet every 5 years for the purpose of developing and reviewing the model memorandum of understanding. The model memorandum of understanding shall be subject to final

approval by the co-chairs of the commission and shall be made publicly available by the department of elementary and secondary education, distributed to school districts and filed with the clerks of the house of representatives and senate.

Members shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The commissioner of elementary and secondary education shall furnish reasonable staff and other support for the work of the commission. Prior to issuing its recommendations, the commission shall provide the opportunity to seek public input across regions of the commonwealth. It shall not constitute a violation of chapter 268A for a person employed by a school district to serve on the commission or to participate in commission deliberations that may have a financial impact on the district or municipality employing that person. The commission may establish procedures to ensure that no such person participates in commission deliberations that may directly affect the school districts employing those persons.

(c) The executive office of public safety and security, in consultation with the department of elementary and secondary education, shall make available to all communities the model memorandum of understanding, statements of operating procedures and advisories on how to establish said documents.

(d) For the purpose of fostering a safe and healthy environment for all students through strategic and appropriate use of law enforcement resources and to achieve positive outcomes for youth and public safety, a chief of police, at the request of the superintendent and subject to appropriation, shall assign at least 1 school resource officer to serve the city, town, commonwealth charter school, regional school district or county agricultural school. In the case of a regional school district, commonwealth charter school or county agriculture school, the chief of police of the city or town in which the school is located shall, at the request of the superintendent, assign the school resource officer who may be the same officer for all schools in the city or town. Annually, not later than August 1, the superintendent shall report to the department of elementary and secondary education and publicly present to the relevant school committee: (i) the cost to the school district of assigning a school resource officer; (ii) a description of the proposed budget for mental, social or emotional health support personnel for the school; and (iii) the number of school-based arrests, citations and court referrals made in the previous year disaggregated as required by the department of elementary and secondary education.

In assigning a school resource officer, the chief of police shall assign an officer that the chief believes would strive to foster an optimal learning environment and educational community that promotes a strong partnership between school and police personnel. The chief of police shall give preference to candidates who demonstrate the requisite personality and character to work effectively with children, youth and educators in a school environment with a demonstrated ability to work successfully with a population that has a similar racial and ethnic background as those prevalent in the student body, and who have received specialized training relating to working with adolescents and children, including cognitive development, de-escalation tactics, as defined in section 1 of chapter 6E and alternatives to arrest and diversion strategies. The appointment shall not be based solely on seniority. The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police.

The superintendent and the chief of police shall adopt, at minimum, the model memorandum of understanding developed by the commission pursuant to subsection (b) and may add further provisions as they mutually deem fit; provided, however, that no further provision included in the memorandum of understanding adopted by said superintendent and said chief of police shall conflict with or omit any provisions of this section. The final memorandum of understanding adopted by the superintendent and the chief of police shall be made public and placed on file annually with the department of elementary and secondary education and in the offices of the school superintendent and the chief of police.

The chief of police, in consultation with the school superintendent, shall establish operating procedures to provide guidance to school resource officers about daily operations, policies and procedures. At a minimum, the operating procedures as established by the chief of police, shall describe the following for the school resource officer:

- (i) the school resource officer uniform;
- (ii) use of police force, arrest, citation and court referral on school property;
- (iii) a statement and description of students' legal rights, including the process for searching and questioning students and circumstances requiring notification to and presence of parents and administrators;
- (iv) chain of command, including delineating to whom the school resource officer reports and how school administrators and the school resource officer work together;
- (v) performance evaluation standards, which shall incorporate monitoring compliance with the memorandum of understanding and use of arrest, citation and police force in school;
- (vi) protocols for diverting and referring at-risk students to school and community-based supports and providers; and
- (vii) information sharing between the school resource officer, school staff and parents or guardians.

(e) Each school shall annually file its final memorandum of understanding and operating procedures with the department of elementary and secondary education. The department of elementary and secondary education shall collect data on the number of mental and social emotional health support personnel and the number of school resource officers employed by each local education agency and shall publish a report of the data on its website. The department shall promulgate rules or regulations necessary to carry out this section.

(f) Notwithstanding subsection (d), if the chief of police, in consultation with the superintendent, determines that there are not sufficient resources to assign a school resource officer to serve the city, town, regional school district or county agricultural school, the chief of police shall consult with the department of state police to ensure that a school resource officer is assigned, subject to appropriation, pursuant to the requirements of this section; provided, further, that if a state police officer is assigned to a city, town, regional school district or county agricultural school, said assignment shall not be based solely on seniority and a candidate shall be considered who would strive to foster an optimal learning environment and educational community; provided, further, that there shall be placed on file in the office of the superintendent and the department of state police the final memorandum of understanding clearly defining the roles and duties of the school resource officer.

(g) No public employer shall be liable for injury, loss of property, personal injury or death caused by an act or omission of a public employee while acting in the scope of the public employee's employment and arising out of the implementation of this section. This section shall not be construed as creating or imposing a specific duty of care.

The department of elementary and secondary education shall collect and publish disaggregated data regarding school-based arrests, citations and court referrals of students to the department and shall make such report available for public review.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Massachusetts provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention and Intervention Resources, Massachusetts Department of Elementary and Secondary Education	Presents information on bullying prevention and intervention resources and includes links to the model bullying prevention and intervention plan, laws and regulations, social emotional learning, and resources from state agencies.	http://www.doe.mass.edu/sfs/bullying/
Legal Office, Massachusetts Department of Elementary and Secondary Education	Provides links to laws and regulations relating to education and schools.	http://www.doe.mass.edu/lawsregs/
Rethinking Discipline Initiative, Massachusetts Department of Elementary and Secondary Education	Provides brief overview and information on the Rethinking Discipline Initiative including yearly updated resources for school leaders and educators about student discipline and alternative approaches to addressing school climate.	https://www.doe.mass.edu/sfs/discipline/?section=massachusetts
Safe & Supportive Schools, Massachusetts Department of Elementary and Secondary Education	Provides an overview on safe and supportive schools and links to related resources that can help school districts and communities build safe and supportive learning environments.	http://www.doe.mass.edu/sfs/safety/
Social and Emotional Learning in Massachusetts (SEL), Massachusetts Department of Elementary and Secondary Education	Introduces SEL and provides additional resources for learning and implementation for school leaders and educators.	https://www.doe.mass.edu/sfs/sel/
Student Attendance and Chronic Absenteeism, Massachusetts Department of Elementary and Secondary Education	Provides an overview on initiatives to encourage attendance and prevent chronic absenteeism including definitions, description of initiatives, and additional resources.	https://www.doe.mass.edu/sfs/attendance/

Title	Description	Website address (if applicable)
Documents		
Advisory on Student Discipline under Chapter 222 of the Acts of 2012 An Act Relative to Student Access to Educational Services and Exclusion from School, Massachusetts Department of Elementary and Secondary Education	Provides basic information on the state laws and regulations pertaining to student discipline to support district implementation. See also: Guidance on Updated Expectations Related to Student Discipline, Feb. 2023	https://www.doe.mass.edu/lawsregs/advisory/discipline/StudentDiscipline.html and https://www.doe.mass.edu/sfs/discipline/default.html?section=additional
Checklist - Required Content of Bullying Prevention and Intervention Plans under G.L. c. 71 § 37O, Massachusetts Department of Elementary and Secondary Education	Checklist for optional use when schools and districts create or update their bullying prevention and intervention plans per G.L. c. 71 § 37O.	https://www.doe.mass.edu/sfs/bullying/LocalPlan.docx
Model Bullying Prevention and Intervention Plan (June 2014), Massachusetts Department of Elementary and Secondary Education	Model plan addressing bullying prevention and intervention in Massachusetts schools.	http://www.doe.mass.edu/sfs/bullying/#1
Other Resources		
Questions and Answers; Student Discipline Laws and Regulations, Massachusetts Department of Elementary and Secondary Education	Guidance document on school discipline laws and regulations in Massachusetts schools. See also: Guidance on Updated Expectations Related to Student Discipline, Feb. 2023	http://www.doe.mass.edu/lawsregs/advisory/discipline/QA.html and https://www.doe.mass.edu/sfs/discipline/default.html?section=additional
Student Discipline Data Report (2021-2022), Massachusetts Department of Elementary and Secondary Education	Summarizes disciplinary actions taken in response to offenses committed by students, as reported by school districts in the School Safety Discipline Report (SSDR).	https://profiles.doe.mass.edu/state-report/ssdr.aspx
Views of Climate and Learning (VOCAL) Survey Project, 2022	VOCAL is a survey sponsored by the Massachusetts Department of Elementary and Secondary Education, designed to provide information on student perceptions of three dimensions of school climate: engagement, safety, and environment. .	Views of Climate and Learning (VOCAL) Survey Project - Office of Planning and Research (mass.edu)



Michigan Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Department of Education

Superintendent of Public Instruction

School Social Worker

R 340.1011. Role of school social worker

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(1) A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

380.1307a. Use of seclusion and restraint in public schools; adoption and implementation of local policy; noncompliance as violation of act.

Not later than December 1, 2016, the department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h, along with guidelines as the department considers appropriate. Not later than the beginning of the 2017-2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act.

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(2) Subject to subsection (3), before adopting the policy required under subsection (1) or any modification to the policy, the board or board of directors shall hold at least 1 public hearing on the proposed policy or modification. This public hearing may be held as part of a regular board meeting. Subject to subsection (3), not later than 30 days after adopting or modifying the policy under subsection (1), the board or board of directors shall submit a copy of its policy to the department.

(3) If, as of March 31, 2015, a school district, intermediate school district, or public school academy has already adopted and implemented an existing policy prohibiting bullying at school and that policy is in compliance with subsections (1) and (5), the board of the school district or intermediate school district or board of directors of the public school academy is not required to adopt and implement a modified policy under subsection (1). However, this subsection applies to a school district, intermediate school district, or public school academy described in this subsection only if the board or board of directors submits a copy of its policy to the department not later than May 31, 2015.

(4) Not later than 1 year after the deadline under subsection (2) for districts and public school academies to submit copies of their modified policies to the department, the department shall submit a report to the senate and house standing committees on education summarizing the status of the implementation of the modifications to policies required under 2014 PA 478.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

REGULATIONS

No relevant regulations found.

Scope

LAWS

380.1308. Statewide school safety information policy.

(1) Not later than October 6, 1999, the superintendent of public instruction, attorney general, and director of the department of state police shall adopt, publish, and distribute to school boards, county prosecutors, and local law enforcement agencies the statewide school safety information policy described in subsection (2). Not later than January 6, 2000, each school board, county prosecutor, and local law enforcement agency shall do both of the following:

(a) Meet and confer as appropriate on the implementation of the statewide school safety information policy for each school district and on any related issues that are unique to the affected locality. The appropriate local law enforcement agency or agencies to be involved must be determined locally, consistent with the statewide school safety information policy.

(b) Begin compliance with the statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) must identify the types of incidents occurring at school that must be reported to law enforcement agencies and must establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy shall address at least all of the following:

(a) Law enforcement protocols and priorities for the reporting process. The law enforcement protocols must be developed with the cooperation of the appropriate state or local law enforcement agency. The law enforcement priorities must include at least investigation of reported incidents, identification of those involved in a reported incident, assistance in prevention of these types of incidents, and, when appropriate, assistance from a child protection agency.

(b) Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident.

(c) Protocols for responding to reportable incidents, addressing at least all of the following:

(i) Initial notification and reporting by school officials.

(ii) The information to be provided by school officials.

(iii) Initial response by law enforcement agencies, that must be specifically tailored for incidents in progress, incidents not in progress, and incidents involving delayed reporting. School officials shall be consulted to determine the extent of law enforcement involvement required by the situation.

(iv) Custody of actors.

(d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision requires school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.

(e) Any other matters that will facilitate reporting of incidents affecting school safety and the exchange of other information affecting school safety.

(3) A school board or its designee shall report to the appropriate state or local law enforcement agencies and prosecutors all information that is required to be reported to those officials under the statewide school safety information policy.

(4) If school officials of a school district determine that an incident has occurred at school that is required to be reported to law enforcement agencies according to the statewide school safety information policy under this section or under subsection (3), the superintendent of the school district, or his or her designee, immediately shall report that finding to the appropriate state or local law enforcement agency in the manner prescribed in the statewide school safety information policy.

(5) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(6) If provided in the statewide school safety information policy under this section, the prosecuting attorney of a county shall notify a school district located in whole or in part in that county of any criminal or juvenile court action initiated or taken against a pupil of the school district, including, but not limited to, convictions, adjudications, and dispositions. This notification must be made to either the school district superintendent or to the intermediate superintendent of the intermediate school district in which the county

is located, as provided in the policy or by local agreement. If the notification is made to the intermediate superintendent, the intermediate superintendent shall forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receipt of information under this subsection, a school district superintendent shall share the information with appropriate school building personnel. The prosecuting attorney may inquire of each school age individual involved in a court action described in this subsection whether the individual is a pupil in a school district and, if so, in which school district.

(7) If provided for in the statewide school safety information policy under this section, the appropriate court shall inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

(8) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

(9) A school board shall cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints, or critical incident mapping data, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency. Critical incident mapping data provided pursuant to this subsection must meet all of the following requirements:

- (a) Be compatible with software platforms used by a local, state, or federal public safety agency that provide emergency services.
- (b) Be provided in a printable format.
- (c) Be verified for accuracy through a walkthrough of a school building and school grounds.
- (d) Be oriented true north.

(10) Reporting of information by a school district or school personnel under this section is subject to 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(11) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(b) "Critical incident mapping data" means information provided in an electronic or digital format to assist law enforcement or emergency first responders in an emergency. The information provided must include, but is not limited to, all of the following:

- (i) Accurate floor plans overlaid on or current aerial imagery of a school building or school plan.
- (ii) Site specific labeling that matches the structure of the school building, including room labels, hallways names, external door or stairwell numbers, locations of hazards, key utility locations, key boxes, automated external defibrillators, and trauma kits.
- (iii) Site specific labeling that matches the school grounds, including parking areas athletic fields, surrounding roads, and neighboring properties.
- (iv) Gridded overlay with x/y coordinates.

(c) "School board" and "school district" mean those terms as defined in section 1311.

380.1310. Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

(1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion. [...]

(3) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section. [...]

(10) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(1) A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section. [...]

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(e) A statement describing how the policy is to be publicized.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(d) Provisions for considering the use of restorative practices in the correction of bullying behavior, as described in section 1310c.

380.1310c. Restorative practices as alternative or in addition to suspension or expulsion; definitions.

(1) A school board or its designee shall consider using restorative practices as an alternative or in addition to suspension or expulsion under this act. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members of the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

(3) As used in this section:

(a) "Bullying" and "cyberbullying" mean those terms as defined in section 1310b.

(b) "Restorative practices" means practices that emphasize repairing the harm to the victim and the school community caused by a pupil's misconduct.

(c) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(d) "School district" means a school district, an intermediate school district, or a public school academy.

380.1310d. Suspension or expulsion of pupil; factors; exercise of discretion; rebuttable presumption; section inapplicable for possession of firearm in weapon free school zone; consideration of factors mandatory; definitions.

(1) Before suspending or expelling a pupil under section 1310, 1311(1), 1311(2), or 1311a, the board of a school district or intermediate school district or board of directors of a public school academy, or a superintendent, school principal, or other designee under section 1311(1), shall consider each of the following factors:

(a) The pupil's age.

(b) The pupil's disciplinary history.

(c) Whether the pupil is a student with a disability.

(d) The seriousness of the violation or behavior committed by the pupil.

(e) Whether the violation or behavior committed by the pupil threatened the safety of any pupil or staff member.

(f) Whether restorative practices will be used to address the violation or behavior committed by the pupil.

(g) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

(2) Except as provided in subsection (3), this section applies to give the board of a school district or intermediate school district or board of directors of a public school academy, or its designee, discretion over whether or not to suspend or expel a pupil under section 1310, 1311(1), 1311(2), or 1311a. In exercising this discretion with regard to a suspension of more than 10 days or an expulsion, there is a

rebuttable presumption that a suspension or expulsion is not justified unless the board or board of directors, or its designee, can demonstrate that it considered each of the factors listed under subsection (1). For a suspension of 10 or fewer days, there is no rebuttable presumption, but the board or board of directors, or its designee, shall consider each of the factors listed under subsection (1).

(3) This section does not apply to a pupil being expelled under section 1311(2) for possessing a firearm in a weapon free school zone.

(4) Except as provided in subsection (3), consideration of the factors listed in subsection (1) is mandatory before suspending or expelling a student under section 1310, 1311(1), 1311(2), or 1311a. The method used for consideration of the factors is at the sole discretion of the board of a school district or intermediate school district or board of directors of a public school academy, or its designee.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

380.1307b. Statement of prohibited practices.

The state policy under section 1307a shall include a clear statement that all of the following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:

- (a) Corporal punishment, as defined in section 1312.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(1) As used in this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

(3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

- (a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.
- (b) For self-defense or the defense of another.
- (c) To prevent a pupil from inflicting harm on himself or herself.
- (d) To quell a disturbance that threatens physical injury to any person.
- (e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.
- (f) To protect property.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

(6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

(7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

(10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

388.994. Transfer of administrative powers and duties of state board of education to superintendent of public instruction by type II transfer; retention of statutory policy making powers and duties by state board of education.

3. In addition to, or consistent with all of the statutory policy making powers, duties, functions, and responsibilities reserved to the State Board of Education in paragraphs one (1) and two (2) above, all the statutory policy making powers, duties, functions, and responsibilities set forth in the following provisions of the Michigan Compiled Laws:

p. 380.1312(9) regarding the creation of a list of alternatives to the use of corporal punishment.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(1) A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

(3) A public school principal or his or her designee may search a pupil's locker and the locker's contents at any time in accordance with the policy under subsection (2).

(4) A law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search of a pupil's locker and the locker's contents if that assistance is at the request of the school principal or his or her designee and the search is conducted in accordance with the policy under subsection (2).

(5) Not later than 90 days after the effective date of this section, the superintendent of public instruction shall develop and make available a model policy on searches of pupils' lockers and locker contents that may be adopted for the purposes of this section.

(6) Any evidence obtained as a result of a search of a pupil's locker or locker's contents shall not be inadmissible in any court or administrative proceedings because the search violated this section, violated the policy under subsection (2), or because no policy was adopted.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

380.1307. Use of seclusion and restraint in public schools; uniform policy; objectives; right or remedy under state or federal law.

(1) It is the intent of the legislature that sections 1307 to 1307h shall provide for a uniform policy regarding the use of seclusion and restraint in the public schools that accomplishes the following objectives:

(a) Promotes the care, safety, welfare, and security of the school community and the dignity of each pupil.

(b) Encourages the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils.

(c) Ensures that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained personnel.

(d) Clearly defines the terms "seclusion", "restraint", "emergency seclusion", and "emergency physical restraint" and clearly states the procedures for the use of emergency seclusion and emergency physical restraint.

(2) Sections 1307 to 1307h do not limit any right or remedy of an individual under state or federal law.

380.1307a. Use of seclusion and restraint in public schools; adoption and implementation of local policy; noncompliance as violation of act.

Not later than December 1, 2016, the department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h, along with guidelines as the department considers appropriate. Not later than the beginning of the 2017-2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act.

380.1307b. Statement of prohibited practices.

The state policy under section 1307a shall include a clear statement that all of the following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:

(a) Corporal punishment, as defined in section 1312.

- (b) The deprivation of basic needs.
- (c) Child abuse.
- (d) Seclusion, other than emergency seclusion.
- (e) The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.
- (f) Mechanical restraint.
- (g) Chemical restraint.
- (h) Any restraint that negatively impacts breathing.
- (i) Prone restraint.
- (j) Physical restraint, other than emergency physical restraint.
- (k) Any other type of restraint.

380.1307c. Emergency seclusion and emergency physical restraint; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning use of emergency seclusion and emergency physical restraint:

- (a) Emergency seclusion and emergency physical restraint may be used only under emergency situations and only if essential to providing for the safety of the pupil or safety of another.
- (b) Emergency seclusion and emergency physical restraint may not be used in place of appropriate less restrictive interventions.
- (c) Emergency seclusion and emergency physical restraint shall be performed in a manner that, based on research and evidence, is safe, appropriate, and proportionate to and sensitive to the pupil's severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse or other trauma.
- (d) A requirement that school personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.
- (e) A requirement that the school district, intermediate school district, or public school academy must ensure that substitute teachers are informed of and understand the procedures regarding use of emergency seclusion and emergency physical restraint. This requirement may be satisfied using online training and an online acknowledgment of understanding developed or approved by the department and completed by the substitute teacher.
- (f) Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil. If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:
 - (i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.
 - (ii) Documentation to explain the extension beyond the time limit.
- (g) Emergency physical restraint should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency

situation necessitating the use of emergency physical restraint is ended and generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:

- (i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.
 - (ii) Documentation to explain the extension beyond the time limit.
- (h) While using emergency seclusion or emergency physical restraint, school personnel must do all of the following:
- (i) Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.
 - (ii) Continually observe the pupil in emergency seclusion or emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern.
 - (iii) Document observations.
 - (iv) Ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication.
 - (v) Ensure that at all times during the use of emergency seclusion or emergency physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

380.1307d. Documentation and reporting of seclusion and restraint; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning documentation and reporting of seclusion and restraint:

- (a) Each use of seclusion or restraint and the reason for each use shall be documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately and documented in a written report for each use of seclusion or restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.
- (b) After any use of seclusion or restraint, school personnel must make reasonable efforts to debrief and consult with the parent or guardian, or with the parent or guardian and the pupil, as appropriate, regarding the determination of future actions. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.
- (c) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel are encouraged to do all of the following:
 - (i) Conduct a functional behavioral assessment.
 - (ii) Develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion and restraint.
 - (iii) Develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least the parent or guardian; the pupil, if appropriate; the individuals responsible for implementation of the positive behavioral intervention and support plan; and individuals knowledgeable in positive behavioral intervention and support.

380.1307e. Development and implementation of emergency intervention plan; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning development and implementation of an emergency intervention plan:

(a) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion and emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint. The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

- (i) Describe in detail the emergency intervention procedures.
- (ii) Describe in detail the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.
- (iii) Make inquiry to the pupil's medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency seclusion or emergency physical restraint.
- (iv) Conduct a peer review by knowledgeable school personnel.
- (v) Provide the parent or guardian with all of the following, in writing and orally:
 - (A) A detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation.
 - (B) An explanation of what constitutes an emergency situation as defined in section 1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition.
 - (C) A detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion and emergency physical restraint.
 - (D) A detailed explanation of the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.
 - (E) A description of possible discomforts or risks.
 - (F) Answers to any questions.

(b) A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency seclusion or emergency physical restraint could be used.

(c) Emergency seclusion or emergency physical restraint must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency seclusion or emergency physical restraint.

380.1307f. Data collection; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning data collection:

(a) A school district or public school academy, or an intermediate school district program in which pupils are enrolled, in accordance with department guidelines, shall collect and report data on and related to the use of restraint and seclusion in the school district, public school academy, or intermediate school district program. In collecting and reporting this data, a school district, public school academy, or intermediate school district program shall use existing data collection and reporting systems whenever possible. Incidents of use shall, at a minimum, be reported by race, age, grade, gender, disability status,

medical condition, identity of the school personnel initiating the use of the restraint or seclusion, and identity of the school or program where the use occurred.

(b) All of the following should occur with respect to the data collected under subdivision (a):

- (i) The data should be analyzed by the school and school district, public school academy, or intermediate school district in which the pupil is enrolled to determine the efficacy of the school's schoolwide system of behavioral support.
- (ii) The data should be analyzed by the school and school district, public school academy, or intermediate school district in the context of attendance, suspension, expulsion, and dropout data.
- (iii) The data should be analyzed by the school and school district, public school academy, or intermediate school district for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion and restraint.
- (iv) The data should be analyzed by the school and school district, public school academy, or intermediate school district on a schedule determined by the department.
- (v) The data should be reported electronically to the department in accordance with department guidelines by the school district, public school academy, or intermediate school district.

(c) The department shall make available redacted, aggregate data on the reported use of seclusion and restraint, compiled by school district, public school academy, and intermediate school district on a quarterly basis.

380.1307g. Training; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning training, which may include online training that is developed or approved by the department:

(a) In accordance with department guidelines, a school district, intermediate school district, or public school academy shall implement a comprehensive training framework that includes awareness training for all school personnel who have regular contact with pupils and comprehensive training for key identified personnel as described in subdivision (b).

(b) A school district, intermediate school district, or public school academy shall identify sufficient key personnel to ensure that trained personnel are generally available for an emergency situation. Before using emergency seclusion or emergency physical restraint with pupils, key identified personnel who may have to respond to an emergency situation shall be trained in all of subparagraphs (i) to (xvi) as follows and should be trained in all of subparagraphs (xvii) to (xx) as follows:

- (i) Proactive practices and strategies that ensure the dignity of pupils.
- (ii) De-escalation techniques.
- (iii) Techniques to identify pupil behaviors that may trigger emergency situations.
- (iv) Related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used.
- (v) Instruction in the use of emergency seclusion and emergency physical restraint.
- (vi) Identification of events and environmental factors that may trigger emergency situations.
- (vii) Instruction on the state policy on the use of seclusion and restraint.
- (viii) Description and identification of dangerous behaviors.
- (ix) Methods for evaluating the risk of harm to determine whether the use of emergency seclusion or emergency physical restraint is warranted.
- (x) Types of seclusion.
- (xi) Types of restraint.

- (xii) The risk of using seclusion or restraint in consideration of a pupil's known and unknown physical or mental health conditions or psychological limitations.
- (xiii) The effects of seclusion and restraint on all pupils.
- (xiv) How to monitor for and identify the physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations.
- (xv) How to obtain appropriate medical assistance.
- (xvi) Cardiopulmonary resuscitation and first aid.
- (xvii) Conflict resolution.
- (xviii) Mediation.
- (xix) Social skills training.
- (xx) Positive behavioral intervention and support strategies.

380.1307h. Definitions.

As used in sections 1307 to 1307h:

- (a) "Chemical restraint" means the administration of medication for the purpose of restraint.
- (b) "De-escalation techniques" means evidence- and research-based strategically employed verbal or nonverbal interventions used to reduce the intensity of threatening behavior before, during, and after a crisis situation occurs.
- (c) "Documentation" means documentation developed by the department that is uniform across the state.
- (d) "Emergency physical restraint" means a last resort emergency safety intervention involving physical restraint that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. Emergency physical restraint does not include physical restraint that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support. Emergency physical restraint does not include a practice prohibited under section 1307b. Emergency physical restraint does not include physical restraint when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.
- (e) "Emergency seclusion" means a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. To qualify as emergency seclusion, there must be continuous observation by school personnel of the pupil in seclusion, and the room or area used for confinement must comply with state and local fire and building codes; must not be locked; must not prevent the pupil from exiting the area if school personnel become incapacitated or leave that area; and must provide for adequate space, lighting, ventilation, viewing, and the safety and dignity of the pupil and others, in accordance with department guidelines. Emergency seclusion does not include the confinement of preschool children or of pupils who are severely self-injurious or suicidal; seclusion that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support; or a practice prohibited under section 1307b. Emergency seclusion does not include seclusion when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

(f) "Emergency situation" means a situation in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others. An emergency situation requires an immediate intervention.

(g) "Functional behavioral assessment" means an evidence- and research-based systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A functional behavioral assessment shall describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time.

(h) "Key identified personnel" means those individuals who have received the mandatory training described in section 1307g(b)(i) to (xvi).

(i) "Law enforcement officer" means an individual licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(j) "Mechanical restraint" means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.

(k) "Physical restraint" means restraint involving direct physical contact.

(l) "Positive behavioral intervention and support" means a framework to assist school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum of intensifying supports based on pupil need that unites examination of the function of the problem behavior and the teaching of alternative skill repertoires to enhance academic and social behavior outcomes for all pupils.

(m) "Positive behavioral intervention and support plan" means a pupil-specific support plan composed of individualized, functional behavioral assessment-based intervention strategies, including, as appropriate to the pupil, guidance or instruction for the pupil to use new skills as a replacement for problem behaviors, some rearrangement of the antecedent environment so that problems can be prevented and desirable behaviors can be encouraged, and procedures for monitoring, evaluating, and modifying the plan as necessary.

(n) "Prone restraint" means the restraint of an individual facedown.

(o) "Regularly and continuously work under contract" means that term as defined in section 1230.

(p) "Restraint" means an action that prevents or significantly restricts a pupil's movement. Restraint does not include the brief holding of a pupil in order to calm or comfort, the minimum contact necessary to physically escort a pupil from 1 area to another, the minimum contact necessary to assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration, or the holding of a pupil for a brief time in order to prevent an impulsive behavior that threatens the pupil's immediate safety, such as running in front of a car. Restraint does not include the administration of medication prescribed by and administered in accordance with the directions of a physician, an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation. Restraint does not include necessary actions taken to break up a fight, to stop a physical assault, as defined in section 1310, or to take a weapon from a pupil. Restraint does not include actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.

(q) "Restraint that negatively impacts breathing" means any restraint that inhibits breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.

(r) "School personnel" includes all individuals employed in a public school or assigned to regularly and continuously work under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school. Except for sections 1307d and 1307f, school personnel does not include a law enforcement officer assigned to regularly and continuously work under contract or under agreement in a public school.

(s) "Seclusion" means the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire prevention code, 1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupils.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

- (a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.
- (b) For self-defense or the defense of another.
- (c) To prevent a pupil from inflicting harm on himself or herself.
- (d) To quell a disturbance that threatens physical injury to any person.
- (e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.
- (f) To protect property.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

380.1310. Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

(1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion.

380.1311. Suspension or expulsion of pupil.

(1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil who commits criminal sexual conduct against another pupil enrolled in the same school district or a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a student with a disability, and the school district has not evaluated the pupil in accordance with rules of the superintendent of public instruction to determine if the pupil is a student with a disability, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) Subject to subsection (3) and section 1310d, if a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, commits criminal sexual conduct in a school building or on school grounds, or pleads to, is convicted of, or is adjudicated for criminal sexual conduct against another pupil enrolled in the same school district, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (6). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

- (a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another individual for use as a weapon.
- (b) The weapon was not knowingly possessed by the pupil.
- (c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.
- (d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(3) There is a rebuttable presumption that expulsion under subsection (2) for possession of a weapon is not justified if both of the following are met:

- (a) The school board or its designee determines in writing that at least 1 of the factors listed in subsection (2)(a) to (d) has been established in a clear and convincing manner.
- (b) The pupil has no history of suspension or expulsion.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the school board and the physical assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the assault, by another person on the victim's behalf, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board.

(2) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a verbal assault, as defined by school board policy, at school against a person employed by or engaged as a volunteer or contractor by the school board and the verbal assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the verbal assault, by another person on the victim's behalf, or if a pupil enrolled in grade 6 or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall suspend or expel the pupil from the school district for a period of time as determined in the discretion of the school board or its designee. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this subsection to attend school in the school district during the expulsion.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

380.1310c. Restorative practices as alternative or in addition to suspension or expulsion; definitions.

(1) A school board or its designee shall consider using restorative practices as an alternative or in addition to suspension or expulsion under this act. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members of the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices

should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

380.1310d. Suspension or expulsion of pupil; factors; exercise of discretion; rebuttable presumption; section inapplicable for possession of firearm in weapon free school zone; consideration of factors mandatory; definitions.

(1) Before suspending or expelling a pupil under section 1310, 1311(1), 1311(2), or 1311a, the board of a school district or intermediate school district or board of directors of a public school academy, or a superintendent, school principal, or other designee under section 1311(1), shall consider each of the following factors:

- (a) The pupil's age.
- (b) The pupil's disciplinary history.
- (c) Whether the pupil is a student with a disability.
- (d) The seriousness of the violation or behavior committed by the pupil.
- (e) Whether the violation or behavior committed by the pupil threatened the safety of any pupil or staff member.
- (f) Whether restorative practices will be used to address the violation or behavior committed by the pupil.
- (g) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

(2) Except as provided in subsection (3), this section applies to give the board of a school district or intermediate school district or board of directors of a public school academy, or its designee, discretion over whether or not to suspend or expel a pupil under section 1310, 1311(1), 1311(2), or 1311a. In exercising this discretion with regard to a suspension of more than 10 days or an expulsion, there is a rebuttable presumption that a suspension or expulsion is not justified unless the board or board of directors, or its designee, can demonstrate that it considered each of the factors listed under subsection (1). For a suspension of 10 or fewer days, there is no rebuttable presumption, but the board or board of directors, or its designee, shall consider each of the factors listed under subsection (1).

(3) This section does not apply to a pupil being expelled under section 1311(2) for possessing a firearm in a weapon free school zone.

(4) Except as provided in subsection (3), consideration of the factors listed in subsection (1) is mandatory before suspending or expelling a student under section 1310, 1311(1), 1311(2), or 1311a. The method used for consideration of the factors is at the sole discretion of the board of a school district or intermediate school district or board of directors of a public school academy, or its designee.

380.1311. Suspension or expulsion of pupil.

(2) Subject to subsection (3) and section 1310d, if a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, commits criminal sexual conduct in a school building or on school grounds, or pleads to, is convicted of, or is adjudicated for criminal sexual conduct against another pupil enrolled in the same school district, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (6). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

- (a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another individual for use as a weapon.
- (b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

- (i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.
- (ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.
- (iii) The age and maturity of the individual.
- (iv) The individual's school record before the incident that caused the expulsion.
- (v) The individual's attitude concerning the incident that caused the expulsion.
- (vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.
- (vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the

continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

380.1310c. Restorative practices as alternative or in addition to suspension or expulsion; definitions.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members or the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

380.1310d. Suspension or expulsion of pupil; factors; exercise of discretion; rebuttable presumption; section inapplicable for possession of firearm in weapon free school zone; consideration of factors mandatory; definitions.

(2) Except as provided in subsection (3), this section applies to give the board of a school district or intermediate school district or board of directors of a public school academy, or its designee, discretion over whether or not to suspend or expel a pupil under section 1310, 1311(1), 1311(2), or 1311a. In exercising this discretion with regard to a suspension of more than 10 days or an expulsion, there is a rebuttable presumption that a suspension or expulsion is not justified unless the board or board of directors, or its designee, can demonstrate that it considered each of the factors listed under subsection (1). For a suspension of 10 or fewer days, there is no rebuttable presumption, but the board or board of directors, or its designee, shall consider each of the factors listed under subsection (1).

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) The individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) The individual shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.

(iii) The age and maturity of the individual.

(iv) The individual's school record before the incident that caused the expulsion.

(v) The individual's attitude concerning the incident that caused the expulsion.

(vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor,

the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with this section is not liable for damages for suspending or expelling a pupil pursuant to this section, and the authorizing body of a public school academy is not liable for damages for suspension or expulsion of a pupil by the public school academy pursuant to this section.

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5). The department may designate the form used for a petition for reinstatement under section 1311 as a form that may be used under this section.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

380.1311. Suspension or expulsion of pupil.

(6) The parent or legal guardian of an individual expelled under subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled under subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled under subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted

by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

- (i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.
- (ii) The extent to which reinstatement of the individual would create a risk of school district liability or individual liability for the school board or school district personnel.
- (iii) The age and maturity of the individual.
- (iv) The individual's school record before the incident that caused the expulsion.
- (v) The individual's attitude concerning the incident that caused the expulsion.
- (vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.
- (vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the school board and the physical assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the assault, by another person on the victim's behalf, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. [...]

(3) If an individual is permanently expelled pursuant to this section, the expelling school district shall enter on the individual's permanent record that he or she has been permanently expelled pursuant to this section. Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to this section and section 1311(2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311m, an individual permanently expelled pursuant to this section is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to this section and section 1311(2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual permanently expelled from a school district pursuant to this section is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil permanently expelled pursuant to this section than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620. [...]

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) The individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) The individual shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and

of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

- (i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.
- (ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.
- (iii) The age and maturity of the individual.
- (iv) The individual's school record before the incident that caused the expulsion.
- (v) The individual's attitude concerning the incident that caused the expulsion.
- (vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.
- (vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with this section is not liable for damages for suspending or expelling a pupil pursuant to this section, and the authorizing body of a public school academy is not liable for damages for suspension or expulsion of a pupil by the public school academy pursuant to this section.

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5). The department may designate the form used for a petition for reinstatement under section 1311 as a form that may be used under this section.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

380.472. School for confinement, discipline, instruction, and maintenance of children.

A first class school district may establish, maintain, and conduct a school for the purpose of affording a place of confinement, discipline, instruction, and maintenance of children of the city of compulsory school age who may be committed to the school by a court of competent jurisdiction, or admitted on the recommendation of the judge with the consent of their parents or guardian. A child who has been convicted of an offense punishable by confinement in a penal institution shall not be committed or admitted to the school.

380.1310. Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

(2) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under this section and pursuant to section 1311(2) or 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office for safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1311. Suspension or expulsion of pupil.

(4) If an individual is expelled under subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled under subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled under subsection (2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311m or a cyber school as defined in section 551, an individual expelled under subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (6). Except as otherwise provided by law, a program operated for individuals expelled under subsection (2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual expelled from a school district under subsection (2) is not placed in an alternative education program, strict discipline academy, or cyber school, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil expelled under subsection (2) than the amount of the foundation allowance the school district receives for the pupil as calculated under section 20 of the state school aid act of 1979, MCL 388.1620. [...]

(11) If an individual is expelled under subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under subsection (2) and under section 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office of safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(3) If an individual is permanently expelled pursuant to this section, the expelling school district shall enter on the individual's permanent record that he or she has been permanently expelled pursuant to this section. Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to this section and section 1311(2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311m, an individual permanently expelled pursuant to this section is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to this section and section 1311(2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual permanently expelled from a school district pursuant to this section is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil permanently expelled pursuant to this section than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620. [...]

(11) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled pursuant to this section and pursuant to section 1311(2), and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1311g. Strict discipline academy; location; tuition; admission policies or practices; enrollment; types of pupils; special education pupil; pupils committed to high-security or medium-security juvenile facility, mental health facility, or child caring institution; pupil ceasing to meet requirements under subsections (3) to (5); custody of or jurisdiction over child by department of corrections; residence requirements; grades.

(1) A strict discipline academy may be located in all or part of an existing public school building. Except for a strict discipline academy that includes pupils who are the responsibility of a county juvenile agency, a strict discipline academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 1311d and in the contract.

(2) A strict discipline academy shall not charge tuition. Except as otherwise provided in subsection (6), a strict discipline academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a strict discipline academy may

limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district.

(3) A strict discipline academy shall be established under sections 1311b to 1311m specifically for enrolling 1 or more of the following types of pupils:

(a) Pupils placed in the strict discipline academy by a court or by the department of health and human services or a county juvenile agency under the direction of a court.

(b) Pupils who have been expelled under section 1311(2).

(c) Pupils who have been expelled under section 1311a or another provision of this act.

(d) Other pupils who have been expelled from school, or pupils who have been suspended from school for a suspension that is for a period in excess of 10 school days, and who are referred to the strict discipline academy by that pupil's school or placed in the strict discipline academy by the pupil's parent or legal guardian.

(4) In addition to the types of pupils specified in subsection (3), a strict discipline academy shall be open for enrollment of a special education pupil who does not meet the requirements of subsection (3) if the special education pupil's individualized education program team recommends that the special education pupil be placed in the strict discipline academy. As used in this subsection, "individualized education program team" means that term as defined in section 614 of the individuals with disabilities education act, 20 USC 1414.

(5) In addition to the types of pupils specified in subsections (3) and (4), a strict discipline academy may enroll a pupil who is placed in a high-security or medium-security juvenile facility, mental health facility, or child caring institution that is operated by a private agency or a pupil who became a resident of this state as an unaccompanied or resettled minor under the care of the department of health and human services and who is less than 22 years of age as of September 1 of the current school year.

(6) A strict discipline academy shall enroll only 1 or more of the types of pupils described in subsections (3) to (5). A pupil who is enrolled in a strict discipline academy under subsections (3) to (5) may, at the option of his or her parent or legal guardian, continue to remain enrolled in the strict discipline academy after he or she ceases to meet the requirements for enrollment under subsections (3) to (5) as long as he or she meets the other applicable requirements for enrollment.

(7) A strict discipline academy is not required to keep any group of pupils described in subsections (3) to (5) physically separated from another group of those pupils, as might otherwise be required under section 1311, section 1311a, or another provision of this act.

(8) Strict discipline academies are not intended to enroll or otherwise be used to educate individuals who are committed to a high-security or medium-security juvenile facility operated by the department of health and human services or another state department or agency. Further, if the department of corrections or another state department or agency other than the department of health and human services has custody of or jurisdiction over a child, that state department or agency has the financial responsibility for educating the child.

(9) Except for a foreign exchange student who is not a United States citizen, a strict discipline academy shall not enroll a pupil who is not a resident of this state. Enrollment in the strict discipline academy may be open to all individuals who reside in this state who meet the admission policy under subsections (3) to (5) and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 1311d who meet the admission policy under subsections (3) to (5), except that admission to a strict discipline academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 1311d, shall be open to all pupils who reside in the county in which the federal military installation is located who meet the admission policy under subsections (3) to (5). For a strict discipline academy authorized by a state public university, enrollment shall be open to all pupils who

reside in this state who meet the admission policy under subsections (3) to (5). If there are more applications to enroll in the strict discipline academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a strict discipline academy may give enrollment priority to a sibling of a pupil enrolled in the strict discipline academy. A strict discipline academy shall allow any pupil who was enrolled in the strict discipline academy in the immediately preceding school year to enroll in the strict discipline academy in the appropriate grade unless the appropriate grade is not offered at that strict discipline academy.

(10) A strict discipline academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) must identify the types of incidents occurring at school that must be reported to law enforcement agencies and must establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313.

380.1311. Suspension or expulsion of pupil.

(2) Subject to subsection (3) and section 1310d, if a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, commits criminal sexual conduct in a school building or on school grounds, or pleads to, is convicted of, or is adjudicated for criminal sexual conduct against another pupil enrolled in the same school district, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (6). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

- (a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another individual for use as a weapon.
- (b) The weapon was not knowingly possessed by the pupil.
- (c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.
- (d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(3) There is a rebuttable presumption that expulsion under subsection (2) for possession of a weapon is not justified if both of the following are met:

- (a) The school board or its designee determines in writing that at least 1 of the factors listed in subsection (2)(a) to (d) has been established in a clear and convincing manner.
- (b) The pupil has no history of suspension or expulsion.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(3) A law enforcement agency that takes possession of a dangerous weapon under subsection (2) shall check all available local and state stolen weapon and stolen property files and the national crime information center stolen gun and property files to determine the legal owner of the dangerous weapon. If the dangerous weapon is a pistol, the law enforcement agency also shall check the state pistol registration records to determine the legal owner. If the law enforcement agency is able to determine the legal owner of the dangerous weapon, and if the legal owner did not knowingly provide the dangerous weapon to the pupil or lawfully provided the dangerous weapon to the pupil but did not know or have reason to know that the pupil would possess the dangerous weapon while in attendance at school or a school activity or while en route to or from school on a school bus, the law enforcement agency shall send by certified mail to the legal owner a notice that the agency is in possession of the dangerous weapon and that the legal owner has 90 days from receipt of the notice to claim the dangerous weapon.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

Include 2nd

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

380.1310a. Report.

(2) In order to obtain an accurate local picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall post on its website, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

- (a) Help policymakers and program designers develop appropriate prevention and intervention programs.
- (b) Provide the continuous assessment tools needed for revising and refining school safety programs.
- (c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.
- (d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

380.1318. Use of performance-enhancing substances in interscholastic athletics; eligibility policy; list of drugs to be provided by department of community health.

(1) The board of a school district or board of directors of a public school academy shall ensure that its policies concerning a pupil's eligibility for participation in interscholastic athletics include use of a performance-enhancing substance by the pupil as a violation that will affect a pupil's eligibility, as determined by the board or board of directors. The governing body of a nonpublic school is encouraged to adopt an eligibility policy that meets the requirements of this section.

(2) For the purposes of this section, the department of community health shall develop, periodically update, and make available to school districts, public school academies, and nonpublic schools a list of performance-enhancing substances. The department of community health shall base the list on the list of banned drugs contained in bylaw 31.2.3.1 of the bylaws of the national collegiate athletic association.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

380.1310a. Report.

(1) At least annually, each school board shall prepare and submit to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, a report stating

the number of pupils expelled from the school district during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

(2) In order to obtain an accurate local picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall post on its website, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

- (a) Help policymakers and program designers develop appropriate prevention and intervention programs.
- (b) Provide the continuous assessment tools needed for revising and refining school safety programs.
- (c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.
- (d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(2) Subject to subsection (3), before adopting the policy required under subsection (1) or any modification to the policy, the board or board of directors shall hold at least 1 public hearing on the proposed policy or modification. This public hearing may be held as part of a regular board meeting. Subject to subsection (3), not later than 30 days after adopting or modifying the policy under subsection (1), the board or board of directors shall submit a copy of its policy to the department.

(3) If, as of March 31, 2015, a school district, intermediate school district, or public school academy has already adopted and implemented an existing policy prohibiting bullying at school and that policy is in compliance with subsections (1) and (5), the board of the school district or intermediate school district or board of directors of the public school academy is not required to adopt and implement a modified policy under subsection (1). However, this subsection applies to a school district, intermediate school district, or public school academy described in this subsection only if the board or board of directors submits a copy of its policy to the department not later than May 31, 2015.

(4) Not later than 1 year after the deadline under subsection (2) for districts and public school academies to submit copies of their modified policies to the department, the department shall submit a report to the

senate and house standing committees on education summarizing the status of the implementation of the modifications to policies required under 2014 PA 478.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(a) A statement prohibiting bullying of a pupil. Not later than October 1, 2015, this statement shall be modified as necessary to comply with 2014 PA 478 including, but not limited to, the inclusion of cyberbullying as a form of bullying.

(b) A statement prohibiting retaliation or false accusation against a target of bullying, a witness, or another person with reliable information about an act of bullying.

(c) A provision indicating that all pupils are protected under the policy and that bullying is equally prohibited without regard to its subject matter or motivating animus.

(d) The identification by job title of school officials responsible for ensuring that the policy is implemented.

(e) A statement describing how the policy is to be publicized.

(f) A procedure for providing notification to the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying.

(g) A procedure for reporting an act of bullying.

(h) A procedure for prompt investigation of a report of violation of the policy or a related complaint, identifying either the principal or the principal's designee as the person responsible for the investigation.

(i) A procedure for each public school to document any prohibited incident that is reported and a procedure to report all verified incidents of bullying and the resulting consequences, including discipline and referrals, to the board of the school district or intermediate school district or board of directors of the public school academy on an annual basis.

(j) An assurance of confidentiality for an individual who reports an act of bullying and procedures to safeguard that confidentiality.

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(a) Provisions to form bullying prevention task forces, programs, teen courts, and other initiatives involving school staff, pupils, school clubs or other student groups, administrators, volunteers, parents, law enforcement, community members, and other stakeholders.

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

(c) A requirement for educational programs for pupils and parents on preventing, identifying, responding to, and reporting incidents of bullying and cyberbullying.

(d) Provisions for considering the use of restorative practices in the correction of bullying behavior, as described in section 1310c.

(7) The department shall establish a form and procedure for school districts and public school academies to report incidents of bullying to the department on an annual basis and shall make this information readily available to the public. A school district or public school academy shall report incidents of bullying to the department according to the form and procedures established by the department. The department shall ensure that the information collected and made available under this subsection does not include personally identifiable information about any individual who reports or is involved in a specific incident of bullying.

(8) A school employee, school volunteer, pupil, or parent or guardian who promptly reports in good faith an act of bullying to the appropriate school official designated in the school district's or public school academy's policy and who makes this report in compliance with the procedures set forth in the policy is

immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. However, this immunity does not apply to a school official who is designated under subsection (5)(d), or who is responsible for remedying the bullying, when acting in that capacity.

(9) If the board of a school district or intermediate school district or board of directors of a public school academy amends or otherwise modifies its policy required under this subsection at any time after a copy of the policy was initially submitted to the department under subsection (2) or (3), the board or board of directors shall submit a copy of the modified policy to the department not later than 30 days after adopting the modification.

(10) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

(b) "Bullying" means any written, verbal, or physical act, or any electronic communication, including, but not limited to, cyberbullying, that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly by doing any of the following:

(i) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.

(ii) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

(iii) Having an actual and substantial detrimental effect on a pupil's physical or mental health.

(iv) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(c) "Cyberbullying" means any electronic communication that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly by doing any of the following:

(i) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.

(ii) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

(iii) Having an actual and substantial detrimental effect on a pupil's physical or mental health.

(iv) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(d) "Restorative practices" means that term as defined in section 1310c.

(e) "Telecommunications access device" and "telecommunications service provider" mean those terms as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(11) This section shall be known as "The Matt Epling Safe School Law".

380.1310c. Restorative practices as alternative or in addition to suspension or expulsion; definitions.

(1) A school board or its designee shall consider using restorative practices as an alternative or in addition to suspension or expulsion under this act. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members or the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

388.1631a. Allocations to eligible districts and eligible public school academies; proficiencies; funding eligibility; early literacy and numeracy; multi-tiered system of supports; weighted foundation per-pupil payment for economically disadvantaged pupils; school breakfast program; primary health care services; hearing and vision screenings; report; audit; implementation of schoolwide reform in schools with at-risk pupils; research-based professional development; instructional or behavioral coaches; prorated payments; dissolved district; anti-bullying or crisis intervention program; assignment of Pathways to Potential Success coaches; definitions.

(17) A district or public school academy that receives funds under this section may use funds received under this section to provide an anti-bullying or crisis intervention program.

750.411t. Hazing prohibited; violation; penalty; exceptions; certain defenses barred; definitions; section title.

(1) Except as provided in subsection (4), a person who attends, is employed by, or is a volunteer of an educational institution shall not engage in or participate in the hazing of an individual.

(2) A person who violates subsection (1) is guilty of a crime punishable as follows:

(a) If the violation results in physical injury, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) If the violation results in serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(c) If the violation results in death, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(4) This section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself or herself to be hazed.

(5) This section does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

(6) It is not a defense to a prosecution for a crime under this section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

(7) As used in this section:

(a) "Educational institution" means a public or private school that is a middle school, junior high school, high school, vocational school, college, or university located in this state.

(b) "Hazing" means an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization. Subject to subsection (5), hazing includes any of the following that is done for such a purpose:

(i) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iii) Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

(d) "Pledge" means an individual who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.

(e) "Pledging" means any action or activity related to becoming a member of an organization.

(f) "Serious impairment of a body function" means that term as defined in section 479a.

(8) This section shall be known and may be cited as "Garret's law".

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(5) Not later than 90 days after the effective date of this section, the superintendent of public instruction shall develop and make available a model policy on searches of pupils' lockers and locker contents that may be adopted for the purposes of this section.

380.1307a. Use of seclusion and restraint in public schools; adoption and implementation of local policy; noncompliance as violation of act.

Not later than December 1, 2016, the department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h, along with guidelines as the department considers appropriate. Not later than the beginning of the 2017-2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act.

380.1310. Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

(2) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under this section and pursuant to section 1311(2) or 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office for safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school

academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(7) The department shall develop a source of information on available community mental health resources and contacts, including mental health services. The department shall notify schools and law enforcement of this information source. The notice must include the departmental recommendation that schools and law enforcement, on investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

380.1307d. Documentation and reporting of seclusion and restraint; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning documentation and reporting of seclusion and restraint:

(c) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel are encouraged to do all of the following:

(ii) Develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion and restraint.

380.1307e. Development and implementation of emergency intervention plan; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning development and implementation of an emergency intervention plan:

(a) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion and emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint. The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

(v) Provide the parent or guardian with all of the following, in writing and orally:

(A) A detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation.

380.1307h. Definitions.

As used in sections 1307 to 1307h:

(l) "Positive behavioral intervention and support" means a framework to assist school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum of intensifying supports based on pupil need that unites examination of the function of the problem behavior and the teaching of alternative skill repertoires to enhance academic and social behavior outcomes for all pupils.

(m) "Positive behavioral intervention and support plan" means a pupil-specific support plan composed of individualized, functional behavioral assessment-based intervention strategies, including, as appropriate to the pupil, guidance or instruction for the pupil to use new skills as a replacement for problem behaviors, some rearrangement of the antecedent environment so that problems can be prevented and desirable behaviors can be encouraged, and procedures for monitoring, evaluating, and modifying the plan as necessary.

388.1621h. District assigned to partnership or a community engagement advisory committee to improve student achievement and district financial stability; eligibility for funding; approval of an academic and financial operating or intervention plan; allocation and use of funds; funds for data analytics tool; report.

(2) A district described in subsection (1) is eligible for funding under this section if the district includes at least 1 school that has been identified as low performing under the approved federal accountability system or the state accountability system. A district described in this subsection must do all of the following to be eligible for funding under this section:

(a) For a partnership district under this section, within 90 days of assignment to the partnership described in this section, and for a district described in subsection (1) that is not a partnership district under this section, by October 15 of each year, complete a comprehensive needs assessment or evaluation in collaboration with an intermediate district, community members, education organizations, and postsecondary institutions, as applicable, that is approved by the superintendent. The comprehensive needs assessment or evaluation must include at least all of the following:

(i) A review of the district's implementation and utilization of a multi-tiered system of supports to ensure that it is used to appropriately inform instruction.

388.1631a. Allocations to eligible districts and eligible public school academies; proficiencies; funding eligibility; early literacy and numeracy; multi-tiered system of supports; weighted foundation per-pupil payment for economically disadvantaged pupils; school breakfast program; primary health care services; hearing and vision screenings; report; audit; implementation of schoolwide reform in schools with at-risk pupils; research-based professional development; instructional or behavioral coaches; prorated payments; dissolved district; anti-bullying or crisis intervention program; assignment of Pathways to Potential Success coaches; definitions.

(3) For a district or public school academy to be eligible to receive funding under this section, other than funding under subsection (7) or (8), the district or public school academy, for grades K to 12, must comply with the requirements under section 1280f of the revised school code, MCL 380.1280f, and shall use resources to address early literacy and numeracy, and for at least grades K to 12 or, if the district or public school academy does not operate all of grades K to 12, for all of the grades it operates, must implement a multi-tiered system of supports that is an evidence based framework that uses data driven problem solving to integrate academic and behavioral instruction and that uses intervention delivered to all pupils in varying intensities based on pupil needs. The multi-tiered system of supports described in this subsection must provide at least all of the following essential components:

(a) Team-based leadership.

(b) A tiered delivery system.

(c) Selection and implementation of instruction, interventions, and supports.

(d) A comprehensive screening and assessment system.

(e) Continuous data-based decision making. [...]

(12) A district or public school academy that receives funds under this section may use up to 7.5% of those funds to provide research based professional development and to implement a coaching model that supports the multi-tiered system of supports framework. Professional development may be provided to district and school leadership and teachers and must be aligned to professional learning standards; integrated into district, school building, and classroom practices; and solely related to the following:

- (a) Implementing the multi-tiered system of supports required in subsection (3) with fidelity and utilizing the data from that system to inform curriculum and instruction.
- (b) Implementing section 1280f of the revised school code, MCL 380.1280f, as required under subsection (3), with fidelity.

REGULATIONS

R 340.1011. Role of school social worker.

Rule 1. A school social worker may function in any of the following roles:

- (c) Implement school social work services within a multi-tiered intervention model for programs and services.

Prevention

LAWS

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

- (g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

R 340.1011. Role of school social worker.

Rule 1. A school social worker may function in any of the following roles:

- (i) Provide crisis prevention, planning, and intervention services, including assessments of the impact of trauma on development, learning, and school performance.

Mental Health Literacy Training

LAWS

380.1308b. Emergency operations plan; requirements; notice; exemption of certain information from freedom of information act; "school building" defined.

(3) The emergency operations plan developed and adopted under subsection (2) must include guidelines and procedures that address at least all of the following: (i) A plan to train teachers on mental health and pupil and teacher safety.

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(4) The department is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the department to local law enforcement officials and school officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The department shall ensure that appropriate training is provided to program personnel in all of the following areas:

- (a) Crisis management, including recognizing mental illness and emotional disturbance.
- (b) The resources that are available in the community for providing mental health treatment and other human services.
- (c) Other matters determined by the department to be relevant to the administration and operation of the program.

REGULATIONS

R 340.1011. Role of school social worker.

Rule 1. A school social worker may function in any of the following roles: (d) Provide instruction, modeling, and coaching to students, parents, and school staff in the implementation of effective behavior intervention strategies and techniques. Provide ongoing guidance and training services to parents and school staff on topics pertinent to the development, mental health, and learning needs of students.

School-based Behavioral Health Programs

LAWS

388.1631a. Allocations to eligible districts and eligible public school academies; proficiencies; funding eligibility; early literacy and numeracy; multi-tiered system of supports; weighted foundation per-pupil payment for economically disadvantaged pupils; school breakfast program; primary health care services; hearing and vision screenings; report; audit; implementation of schoolwide reform in schools with at-risk pupils; research-based professional development; instructional or behavioral coaches; prorated payments; dissolved district; anti-bullying or crisis intervention program; assignment of Pathways to Potential Success coaches; definitions.

(5) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical, mental health, or counseling services, for at-risk pupils; for school health clinics; and for the purposes of subsection (6), (7), or (8). In addition, a district that is a school district of the first class or a district or public school academy in which at least 50% of the pupils in membership were determined to be economically disadvantaged in the immediately preceding state fiscal year, as determined and reported as described in subsection (4), may use not more than 20% of the funds it receives under this section for school security that aligns to the needs assessment and the multi-tiered system of supports model. A district or public school academy shall not use any of that money for administrative costs. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year.

388.1631m. School mental health and support services fund; creation; deposit of money; money remaining end of the year; expenditures.

(1) The school mental health and support services fund is created as a separate account within the state school aid fund.

(2) The state treasurer may receive money or other assets from any source for deposit into the school mental health and support services fund. The state treasurer shall direct the investment of the school mental health and support services fund and shall credit to the school mental health and support services fund interest and earnings from the school mental health and support services fund.

(3) Money available in the school mental health and support services fund shall not be expended without a specific appropriation.

(4) Money in the school mental health and support services fund at the close of the fiscal year shall remain in the school mental health and support services fund and shall not lapse to the state school aid fund or to the general fund. The department of treasury shall be the administrator of the school mental health and support services fund for auditing purposes.

(5) For the fiscal year ending September 30, 2018, \$30,000,000.00 from the state school aid fund shall be deposited into the school mental health and support services fund to be used to support efforts to improve mental health and support services for K-12 pupils in this state, including, but not limited to, improved access to counseling services, educational awareness programs, and enhanced mental health and clinical services.

388.1631n. Licensed behavioral health providers for general education pupils; advisory council; application; services by child and adolescent health centers; services to nonpublic students.

(6) From the state school aid fund money allocated under subsection (1), there is allocated for 2020-2021 an amount not to exceed \$45,800,000.00 to be distributed to intermediate districts for the provision of mental health and support services to general education students. From the funds allocated under this subsection, the department shall distribute \$817,800.00 for 2020-2021 to each intermediate district that submits a plan approved by the department and the department of health and human services. The department and department of health and human services shall work cooperatively in providing oversight and assistance to intermediate districts during the plan submission process and shall monitor the program

upon implementation. An intermediate district shall use funds awarded under this subsection to provide funding to its constituent districts, including public school academies that are considered to be constituent districts under section 705(7) of the revised school code, MCL 380.705, for the provision of mental health and support services to general education students. In addition to the criteria identified under subsection (7), an intermediate district shall consider geography, cost, or other challenges when awarding funding to its constituent districts. For 2020-2021 only, even if grants under this subsection have already been received by constituent districts of an intermediate district under this subsection, the intermediate district may award additional grants to its constituent districts from funding allocated through the amendatory act that added this sentence, based on applications as described in subsection (7) that have already been submitted for the fiscal year, and, if a constituent district did not apply for initial grants as described in subsection (7) before the effective date of the amendatory act that added this sentence and asks to apply for the additional grants described in this sentence, the intermediate district must allow the constituent district to submit an application for the additional grant funding. If funding awarded to an intermediate district remains after funds are provided by the intermediate district to its constituent districts, the intermediate district may hire or contract for experts to provide mental health and support services to general education students residing within the boundaries of the intermediate district, including, but not limited to, expanding, hiring, or contracting for staff and experts to provide those services directly or to increase access to those services through coordination with outside mental health agencies.

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(7) The department shall develop a source of information on available community mental health resources and contacts, including mental health services. The department shall notify schools and law enforcement of this information source. The notice must include the departmental recommendation that schools and law enforcement, on investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

REGULATIONS

R 340.1011. Role of school social worker.

Rule 1. A school social worker may function in any of the following roles:

- (a) Provide individual and group counseling to students and their families in need of assistance utilizing an ecological framework addressing variations in development and learning, as well as reciprocal influences of home, school, and community.
- (b) Provide consultation, collaboration, and advisement services to students, their family members and school staff regarding students' social, emotional, and behavioral status impacting learning, development, mental health, and school success. Encourage developmentally appropriate student self-determination and self-advocacy.
- (c) Implement school social work services within a multi-tiered intervention model for programs and services.
- (d) Provide instruction, modeling, and coaching to students, parents, and school staff in the implementation of effective behavior intervention strategies and techniques. Provide ongoing guidance and training services to parents and school staff on topics pertinent to the development, mental health, and learning needs of students.
- (e) Provide liaison, coordination, and case management services with schools, families, community agencies, and other resources to influence positive school outcomes for students.

- (f) Develop functional behavior assessments and behavior intervention plans to facilitate successful learning and socialization opportunities.
Provide services and disseminate information to encourage schoolwide positive behavior supports.
- (g) Identify and coordinate accommodations and modifications of school environment for a student to obtain access to general education curriculum and instruction.
- (h) Provide support to facilitate successful transitions in areas that affect students' learning opportunities.
- (i) Provide crisis prevention, planning, and intervention services, including assessments of the impact of trauma on development, learning, and school performance.
- (j) Provide comprehensive written reports of assessments and evaluations of students that specifically address the reasons for referral. Utilize multiple methods of collecting data, and provide appropriate measurable goals for intervention and anticipated outcomes from service.
- (k) Provide and interpret assessments and evaluations to determine eligibility for special education, and identify needs for programs and services.
- (l) Utilize home and community settings, as appropriate, to collect assessment information, collaborate with parents, and provide interventions.
- (m) Collaborate with parents, multidisciplinary evaluation team members, school administrators, and other community agencies to develop an accurate understanding of a student's disability, the impact of the disability on students' educational performance, and provide information regarding whether behaviors and school performance are attributable to manifestations of the disability.
- (n) Conduct needs assessments and advocate for policies, programs, and services to meet educational and mental health needs of all students, and to support safe school climates conducive to learning.
- (o) Identify issues that may interfere with student development, learning, and school success.
- (p) Identify and work to prevent bias, prejudice, discrimination, and oppression that interfere with individual rights in the educational process.
- (q) Ensure that prevention, assessment, evaluation, and intervention services are sensitive to the diverse needs of the student's multi-cultural differences.
- (r) Consult, collaborate, and supervise school social work students and colleagues.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

380.1307d. Documentation and reporting of seclusion and restraint; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning documentation and reporting of seclusion and restraint:

- (a) Each use of seclusion or restraint and the reason for each use shall be documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately and documented in a written report for each use of seclusion or restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) must identify the types of incidents occurring at school that must be reported to law enforcement agencies and must establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy must address at least all of the following:

- (a) Law enforcement protocols and priorities for the reporting process. The law enforcement protocols must be developed with the cooperation of the appropriate state or local law enforcement agency. The law enforcement priorities must include at least investigation of reported incidents, identification of those involved in a reported incident, assistance in prevention of these types of incidents, and, when appropriate, assistance from a child protection agency.
- (b) Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident.
- (c) Protocols for responding to reportable incidents, addressing at least all of the following:
 - (a) Initial notification and reporting by school officials.
 - (b) The information to be provided by school officials.
 - (c) Initial response by law enforcement agencies, that must be specifically tailored for incidents in progress, incidents not in progress, and incidents involving delayed reporting. School officials shall be consulted to determine the extent of law enforcement involvement required by the situation.
 - (d) Custody of actors.
- (d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision requires school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.
- (e) Any other matters that will facilitate reporting of incidents affecting school safety and the exchange of other information affecting school safety.

(3) A school board or its designee shall report to the appropriate state or local law enforcement agencies and prosecutors all information that is required to be reported to those officials under the statewide school safety information policy.

(4) If school officials of a school district determine that an incident has occurred at school that is required to be reported to law enforcement agencies according to the statewide school safety information policy

under this section or under subsection (3), the superintendent of the school district, or his or her designee, immediately shall report that finding to the appropriate state or local law enforcement agency in the manner prescribed in the statewide school safety information policy.

(5) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(6) If provided in the statewide school safety information policy under this section, the prosecuting attorney of a county shall notify a school district located in whole or in part in that county of any criminal or juvenile court action initiated or taken against a pupil of the school district, including, but not limited to, convictions, adjudications, and dispositions. This notification must be made to either the school district superintendent or to the intermediate superintendent of the intermediate school district in which the county is located, as provided in the policy or by local agreement. If the notification is made to the intermediate superintendent, the intermediate superintendent shall forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receipt of information under this subsection, a school district superintendent shall share the information with appropriate school building personnel. The prosecuting attorney may inquire of each school age individual involved in a court action described in this subsection whether the individual is a pupil in a school district and, if so, in which school district.

(7) If provided for in the statewide school safety information policy under this section, the appropriate court shall inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

(8) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

(9) A school board shall cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints or critical incident mapping data, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency. Critical incident mapping data provided pursuant to this subsection must meet all of the following requirements:

- (a) Be compatible with software platforms used by a local, state, or federal public safety agency that provide emergency services.
- (b) Be provided in a printable format.
- (c) Be verified for accuracy through a walkthrough of a school building and school grounds.
- (d) Be oriented true north

(10) Reporting of information by a school district or school personnel under this section is subject to 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(11) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

(12) As used in this section:

- (a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.
- (b) "Critical incident mapping data" means information provided in an electronic or digital format to assist law enforcement or emergency first responders in an emergency. The information provided must include, but is not limited to, all of the following:
 - (a) Accurate floor plans overlaid on or current aerial imagery of a school building or school plan.
 - (b) Site specific labeling that matches the structure of the school building, including room labels, hallways names, external door or stairwell numbers, locations of hazards, key utility locations, key boxes, automated external defibrillators, and trauma kits.
 - (c) Site specific labeling that matches the school grounds, including parking areas athletic fields, surrounding roads, and neighboring properties.
 - (d) Gridded overlay with x/y coordinates.
- (c) "School board" and "school district" mean those terms as defined in section 1311.

380.1308a. Report to department of state police on certain crimes occurring at school; exemption from freedom of information act; noncompliance.

(1) A school district, intermediate school district, or public school academy shall provide a report to the department of state police, in a form and manner prescribed by the department of state police, on both of the following types of incidents regarding a school operated by the school district, intermediate school district, or public school academy within 24 hours after the incident occurs:

- (a) An incident involving a crime that would be required to be reported under section 1310a(2).
- (b) An incident, if known to the school, involving the attempted commission of a crime that would be required to be reported under section 1310a(2).

(2) At least quarterly, the office of school safety created by law shall compile a report on the information received under subsection (1) and make the report available to the school safety commission created under section 5 of the comprehensive school safety plan act, the department, and any law enforcement agency upon request.

(3) A report under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) If a school district, intermediate school district, or public school academy fails to comply with subsection (1), the department of state police may determine that the school district, intermediate school district, or public school academy is ineligible to receive any school safety grants from the department of state police for the fiscal year in which the noncompliance is discovered by the department of state police.

380.1310. Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

(1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section. [...]

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(g) A procedure for reporting an act of bullying.

(h) A procedure for prompt investigation of a report of violation of the policy or a related complaint, identifying either the principal or the principal's designee as the person responsible for the investigation.

(i) A procedure for each public school to document any prohibited incident that is reported and a procedure to report all verified incidents of bullying and the resulting consequences, including discipline and referrals, to the board of the school district or intermediate school district or board of directors of the public school academy on an annual basis.

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(1) The department, in consultation with the department of health and human services and the department of education, shall, to the extent that funds are appropriated for the purpose, establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts, including, but not limited to, sexual abuse, assault, or rape, directed at school students, school employees, or schools in this state. The department shall establish the program within the guidelines of this act. The department shall have access to the information needed to meet the reporting requirements of section 8.

(2) The program described in subsection (1) must include a hotline for receiving reports and information described in subsection (1). The hotline must be available for use 24 hours a day, 365 days a year. The department may provide promotional information regarding the program on its departmental website.

(3) Beginning on the date that the hotline established under this act is operational, all calls received by any existing state-run school violence hotline in operation before the establishment of this act must be directed to the hotline established under this act. Any existing state-run school violence hotline in operation before December 13, 2013 must be disconnected within 6 months after the hotline established under this act is operational.

(4) The department is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the department to local law enforcement officials and school officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The department shall ensure that appropriate training is provided to program personnel in all of the following areas:

(a) Crisis management, including recognizing mental illness and emotional disturbance.

(b) The resources that are available in the community for providing mental health treatment and other human services.

(c) Other matters determined by the department to be relevant to the administration and operation of the program.

(5) A report or other information submitted to the hotline is considered to be a report to a law enforcement agency and must be maintained as a record by the department for at least 1 year, subject to the confidentiality requirements of this act.

(6) The department shall ensure that any hotline information that suggests that a psychiatric emergency is taking place within a county is immediately referred to the community mental health services program psychiatric crisis line for that county.

(7) The department shall develop a source of information on available community mental health resources and contacts, including mental health services. The department shall notify schools and law enforcement of this information source. The notice must include the departmental recommendation that schools and law enforcement, on investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

(8) At least biannually, the governing body of a school shall provide to the department current emergency contact information for at least 1 school official to ensure that a school official is able to receive information under subsection (4) at all times. If a governing body provides contact information for more than 1 school official, the governing body shall specify the days and times that each school official is available to receive information under subsection (4).

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

380.1307d. Documentation and reporting of seclusion and restraint; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning documentation and reporting of seclusion and restraint:

- (a) Each use of seclusion or restraint and the reason for each use shall be documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately and documented in a written report for each use of seclusion or restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.

380.1307e. Development and implementation of emergency intervention plan; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning development and implementation of an emergency intervention plan:

- (a) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion and emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint. The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

- (v) Provide the parent or guardian with all of the following, in writing and orally:

- (A) A detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation.

(B) An explanation of what constitutes an emergency situation as defined in section 1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition.

(C) A detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion and emergency physical restraint.

(D) A detailed explanation of the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.

(E) A description of possible discomforts or risks.

(F) Answers to any questions.

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) must identify the types of incidents occurring at school that must be reported to law enforcement agencies and must establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy must address at least all of the following:

(d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision requires school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section. [...]

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(f) A procedure for providing notification to the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying.

380.1311. Suspension or expulsion of pupil.

(5) If a school board expels an individual under subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(4) If a school board permanently expels an individual pursuant to this section, the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

380.1307f. Data collection; state policy; provisions.

The state policy under section 1307a shall include at least all of the following provisions concerning data collection:

(a) A school district or public school academy, or an intermediate school district program in which pupils are enrolled, in accordance with department guidelines, shall collect and report data on and related to the use of restraint and seclusion in the school district, public school academy, or intermediate school district program. In collecting and reporting this data, a school district, public school academy, or intermediate school district program shall use existing data collection and reporting systems whenever possible. Incidents of use shall, at a minimum, be reported by race, age, grade, gender, disability status, medical condition, identity of the school personnel initiating the use of the restraint or seclusion, and identity of the school or program where the use occurred.

(b) All of the following should occur with respect to the data collected under subdivision (a):

(i) The data should be analyzed by the school and school district, public school academy, or intermediate school district in which the pupil is enrolled to determine the efficacy of the school's schoolwide system of behavioral support.

(ii) The data should be analyzed by the school and school district, public school academy, or intermediate school district in the context of attendance, suspension, expulsion, and dropout data.

(iii) The data should be analyzed by the school and school district, public school academy, or intermediate school district for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion and restraint.

(iv) The data should be analyzed by the school and school district, public school academy, or intermediate school district on a schedule determined by the department.

(v) The data should be reported electronically to the department in accordance with department guidelines by the school district, public school academy, or intermediate school district.

(c) The department shall make available redacted, aggregate data on the reported use of seclusion and restraint, compiled by school district, public school academy, and intermediate school district on a quarterly basis.

380.1308a. Report to department of state police on certain crimes occurring at school; exemption from freedom of information act; noncompliance.

(1) A school district, intermediate school district, or public school academy shall provide a report to the department of state police, in a form and manner prescribed by the department of state police, on both of the following types of incidents regarding a school operated by the school district, intermediate school district, or public school academy within 24 hours after the incident occurs:

(a) An incident involving a crime that would be required to be reported under section 1310a(2).

(b) An incident, if known to the school, involving the attempted commission of a crime that would be required to be reported under section 1310a(2).

(2) At least quarterly, the office of school safety created by law shall compile a report on the information received under subsection (1) and make the report available to the school safety commission created under section 5 of the comprehensive school safety plan act, the department, and any law enforcement agency upon request.

(3) A report under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) If a school district, intermediate school district, or public school academy fails to comply with subsection (1), the department of state police may determine that the school district, intermediate school district, or public school academy is ineligible to receive any school safety grants from the department of state police for the fiscal year in which the noncompliance is discovered by the department of state police.

380.1310a. Report.

(1) At least annually, each school board shall prepare and submit to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, a report stating the number of pupils expelled from the school district during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

(2) In order to obtain an accurate local picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall post on its website, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(a) Help policymakers and program designers develop appropriate prevention and intervention programs.

(b) Provide the continuous assessment tools needed for revising and refining school safety programs.

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

(d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

(3) Each school building shall collect and keep current on a weekly basis the information required for the report under subsection (2) and must provide that information, within 7 days, upon request. At least annually, each school board shall make a copy disaggregated by school building, of the most recent report for the school district under subsection (2) available to the parent or legal guardian of each pupil enrolled in the school district.

(4) As used in this section, "at school", "school board", and "school district" mean those terms as defined in section 1310.

380.1310b. Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

(7) The department shall establish a form and procedure for school districts and public school academies to report incidents of bullying to the department on an annual basis and shall make this information readily available to the public. A school district or public school academy shall report incidents of bullying to the department according to the form and procedures established by the department. The department shall ensure that the information collected and made available under this subsection does not include personally identifiable information about any individual who reports or is involved in a specific incident of bullying.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(4) A law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search of a pupil's locker and the locker's contents if that assistance is at the request of the school principal or his or her designee and the search is conducted in accordance with the policy under subsection (2).

380.1308. Statewide school safety information policy.

(1) Not later than October 6, 1999, the superintendent of public instruction, attorney general, and director of the department of state police shall adopt, publish, and distribute to school boards, county prosecutors, and local law enforcement agencies the statewide school safety information policy described in subsection (2). Not later than January 6, 2000, each school board, county prosecutor, and local law enforcement agency shall do both of the following:

(a) Meet and confer as appropriate on the implementation of the statewide school safety information policy for each school district and on any related issues that are unique to the affected locality. The appropriate local law enforcement agency or agencies to be involved must be determined locally, consistent with the statewide school safety information policy.

(b) Begin compliance with the statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) must identify the types of incidents occurring at school that must be reported to law enforcement agencies and must establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy must address at least all of the following:

(a) Law enforcement protocols and priorities for the reporting process. The law enforcement protocols must be developed with the cooperation of the appropriate state or local law enforcement agency. The law enforcement priorities must include at least investigation of reported incidents, identification of those involved in a reported incident, assistance in prevention of these types of incidents, and, when appropriate, assistance from a child protection agency.

(b) Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident.

(c) Protocols for responding to reportable incidents, addressing at least all of the following:

(i) Initial notification and reporting by school officials.

(ii) The information to be provided by school officials.

(iii) Initial response by law enforcement agencies, that must be specifically tailored for incidents in progress, incidents not in progress, and incidents involving delayed reporting. School officials shall be consulted to determine the extent of law enforcement involvement required by the situation.

(iv) Custody of actors.

(d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision requires school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.

(e) Any other matters that will facilitate reporting of incidents affecting school safety and the exchange of other information affecting school safety.

(3) A school board or its designee shall report to the appropriate state or local law enforcement agencies and prosecutors all information that is required to be reported to those officials under the statewide school safety information policy.

(4) If school officials of a school district determine that an incident has occurred at school that is required to be reported to law enforcement agencies according to the statewide school safety information policy under this section or under subsection (3), the superintendent of the school district, or his or her designee, immediately shall report that finding to the appropriate state or local law enforcement agency in the manner prescribed in the statewide school safety information policy.

(5) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(6) If provided in the statewide school safety information policy under this section, the prosecuting attorney of a county shall notify a school district located in whole or in part in that county of any criminal or juvenile court action initiated or taken against a pupil of the school district, including, but not limited to, convictions, adjudications, and dispositions. This notification must be made to either the school district superintendent or to the intermediate superintendent of the intermediate school district in which the county is located, as provided in the policy or by local agreement. If the notification is made to the intermediate superintendent, the intermediate superintendent shall forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receipt of information under this subsection, a school district superintendent shall share the information with appropriate school building personnel. The prosecuting attorney may inquire of each school age individual involved in a court action described in this subsection whether the individual is a pupil in a school district and, if so, in which school district.

(7) If provided for in the statewide school safety information policy under this section, the appropriate court shall inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

(8) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

(9) A school shall cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints or critical incident mapping data, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency. Critical incident mapping data provided pursuant to this subsection must meet all of the following requirements:

- (a) Be compatible with software platforms used by a local, state, or federal public safety agency that provide emergency services.
- (b) Be provided in a printable format.
- (c) Be verified for accuracy through a walkthrough of a school building and school grounds.
- (d) Be oriented true north.

(10) Reporting of information by a school district or school personnel under this section is subject to 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(11) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(b) "Critical incident mapping data" means information provided in an electronic or digital format to assist law enforcement or emergency first responders in an emergency. The information provided must include, but is not limited to, all of the following:

(i) Accurate floor plans overlaid on or current aerial imagery of a school building or school plan.

(ii) Site specific labeling that matches the structure of the school building, including room labels, hallways names, external door or stairwell numbers, locations of hazards, key utility locations, key boxes, automated external defibrillators, and trauma kits.

(iii) Site specific labeling that matches the school grounds, including parking areas athletic fields, surrounding roads, and neighboring properties.

(iv) Gridded overlay with x/y coordinates.

(c) "School board" and "school district" mean those terms as defined in section 1311.

380.1311a. Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(10) A school board or its designee shall report all assaults described in subsection (1) or (2) to appropriate state or local law enforcement officials and prosecutors as provided in the statewide school safety information policy under section 1308.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(1) The department, in consultation with the department of health and human services and the department of education, shall, to the extent that funds are appropriated for the purpose, establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts, including, but not limited to, sexual abuse, assault, or rape, directed at school students, school employees, or schools in this state. The department shall establish the program within the guidelines of this act. The department shall have access to the information needed to meet the reporting requirements of section 8.

(2) The program described in subsection (1) must include a hotline for receiving reports and information described in subsection (1). The hotline must be available for use 24 hours a day, 365 days a year. The department may provide promotional information regarding the program on its departmental website.

(3) Beginning on the date that the hotline established under this act is operational, all calls received by any existing state-run school violence hotline in operation before the establishment of this act must be directed to the hotline established under this act. Any existing state-run school violence hotline in operation before December 13, 2013 must be disconnected within 6 months after the hotline established under this act is operational.

(4) The department is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the department to local law enforcement officials and school officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The department shall ensure that appropriate training is provided to program personnel in all of the following areas:

- (a) Crisis management, including recognizing mental illness and emotional disturbance.
- (b) The resources that are available in the community for providing mental health treatment and other human services.
- (c) Other matters determined by the department to be relevant to the administration and operation of the program.

(5) A report or other information submitted to the hotline is considered to be a report to a law enforcement agency and must be maintained as a record by the department for at least 1 year, subject to the confidentiality requirements of this act.

(6) The department shall ensure that any hotline information that suggests that a psychiatric emergency is taking place within a county is immediately referred to the community mental health services program psychiatric crisis line for that county.

(7) The department shall develop a source of information on available community mental health resources and contacts, including mental health services. The department shall notify schools and law enforcement of this information source. The notice must include the departmental recommendation that schools and law enforcement, on investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

(8) At least biannually, the governing body of a school shall provide to the department current emergency contact information for at least 1 school official to ensure that a school official is able to receive information under subsection (4) at all times. If a governing body provides contact information for more

than 1 school official, the governing body shall specify the days and times that each school official is available to receive information under subsection (4).

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

380.1240. Law enforcement agency; creation.

(1) Subject to subsection (3), the board of a school district that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent decennial census may create a law enforcement agency in accordance with and as provided under the public body law enforcement agency act, 2004 PA 378, MCL 28.581 to 28.590.

(2) Subject to subsection (3), if the board of a school district creates a law enforcement agency under subsection (1), the board may grant to law enforcement officers of that law enforcement agency the same powers, immunities, and authority as are granted by law to peace officers and police officers to detect crime and to enforce the criminal laws of this state and to enforce state laws, local ordinances, and the ordinances and regulations of the school district, as provided under the public body law enforcement agency act, 2004 PA 378, MCL 28.581 to 28.590. Law enforcement officers to whom the authority of peace officers and police officers is granted under that act are considered peace officers of this state and have the authority of police officers provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and as provided under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(3) If a school district operates a law enforcement agency under this section and becomes a qualifying school district under section 12b, the qualifying school district's law enforcement agency shall be transferred by operation of law on the transfer date to the community district created under part 5b. Beginning on the transfer date, the community district may operate a law enforcement agency in accordance with this section.

(4) For purposes of this section, a community district's membership is considered to be the same as the membership of the qualifying school district whose law enforcement agency is transferred under subsection (3).

(5) As used in this section, "transfer date" means that term as defined in section 12b.

380.1308. Statewide school safety information policy.

(8) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

752.913. Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.

(1) The department, in consultation with the department of health and human services and the department of education, shall, to the extent that funds are appropriated for the purpose, establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts, including, but not limited to, sexual abuse, assault, or rape, directed at school students, school employees, or schools in this state. The department shall establish the program within the guidelines of this act. The department shall have access to the information needed to meet the reporting requirements of section 8.

(2) The program described in subsection (1) must include a hotline for receiving reports and information described in subsection (1). The hotline must be available for use 24 hours a day, 365 days a year. The department may provide promotional information regarding the program on its departmental website.

(3) Beginning on the date that the hotline established under this act is operational, all calls received by any existing state-run school violence hotline in operation before the establishment of this act must be directed to the hotline established under this act. Any existing state-run school violence hotline in operation before December 13, 2013 must be disconnected within 6 months after the hotline established under this act is operational.

(4) The department is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the department to local law enforcement officials and school officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The department shall ensure that appropriate training is provided to program personnel in all of the following areas:

- (a) Crisis management, including recognizing mental illness and emotional disturbance.
- (b) The resources that are available in the community for providing mental health treatment and other human services.
- (c) Other matters determined by the department to be relevant to the administration and operation of the program.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Michigan provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Alternatives to Suspensions and Expulsions Toolkit, MDE	Toolkit intended to provide alternatives to suspensions and expulsions including 11 modules around Restorative Justice Practices (with 4 videos examples embedded).	https://www.michigan.gov/mde/0,4615,7-140-74638_72831--00.html
Emergency Use of Seclusion and Physical Restraint, MDE	Provides links to resources on the emergency use of seclusion and physical restraint, including and FAQ and related documents.	https://www.michigan.gov/mde/services/health-safety/topics/emergency-use-of-seclusion-and-physical-restraint-1
Multi-Tiered System of Supports (MiMTSS), MDE	Provides information on MiMTSS including FAQs, technical assistance, data system, and additional resources.	https://www.michigan.gov/mde/0,4615,7-140-81376_86454---00.html
Safe and Supportive Schools, MDE	Provides general information, survey tools, programmatic interventions, and resources regarding Safe and Supportive Schools.	http://www.michigan.gov/mde/0,4615,7-140-28753_64839_38684_29233_59543--00.html
School Discipline Toolkit, MDE	Provides resources and information on positive cultural changes in K-12 schools. Provides resources on non-exclusionary disciplinary methods and restorative justice practices.	https://www.michigan.gov/mde/0,4615,7-140-74638_72831-361300--00.html
School Health and Safety, MDE	Provides links to resources for Positive Behavioral Interventions and Supports and the model anti-bullying policy.	https://www.michigan.gov/mde/services/health-safety
Social Emotional Learning (SEL), MDE	Compiles information and resources for educators as part of a statewide effort to expand and strengthen SEL professional learning and implementation of SEL instruction.	https://www.michigan.gov/mde/0,4615,7-140-74638_72831_72834-361321--00.html
Documents		
Integrating Mental Health in Schools Toolkit, MDE	Toolkit provides schools with the tools needed to assess the school district's approach to mental health and improve educational performance through community collaboration.	http://michigan.gov/mde/0,4615,7-140-43092_53593--00.html

Title	Description	Website address (if applicable)
Model Anti-Bullying Policy (December 2020), MDE	Model policy addressing prohibition of bullying, harassment, and other forms of aggression and violence in Michigan schools.	https://www.michigan.gov/mde/-/media/Project/Websites/mde/Year/2021/01/13/Model_Anti-Bullying_Policy_2020_FINAL_12_820.pdf?rev=6db819401c7c47c1b91ddf1c1c20a582&hash=014C43CE98772E425F25D140D8F67A96e
Model Code of Student Conduct (2019), MDE	Model Code of Conduct encouraging schools to reevaluate their zero tolerance policies and provide proactive supports in their discipline practices.	https://www.michigan.gov/documents/mde/2019_Model_Code_of_Student_Conduct_SBE_APPROV_ED_661838_7.pdf
Policy on Integrating Mental Health in Schools (February 2010), MDE	Policy establishes 14 recommended universal prevention, early intervention, and treatment practices for schools and districts to establish socially and emotionally healthy schools.	http://michigan.gov/documents/mde/MH_policy_339729_7.pdf
Policy on Reducing Student Suspensions and Expulsions (May 2014), MDE	State Board of Education Policy approved May 2014 to encourage schools to revise their current policies to provide alternatives to suspensions and expulsions.	http://www.michigan.gov/documents/mde/SBE_Policy_5-13_458333_7.pdf
Positive Behavior Support Policy (September 2006), MDE	Policy states that school districts should implement a system of school-wide positive behavior support strategies.	http://michigan.gov/documents/mde/Positivebehaviorsupportpolicy_172347_7.pdf
Standards for the Emergency Use of Seclusion and Restraint (April 2017), MDE	Standards provide guidance to schools on the use of seclusion and restraint.	http://www.michigan.gov/documents/mde/StandardsforSeclusion-Restraint_247533_7.pdf
Statement and Guidance for Prevention of Suspension and/or Expulsion of Children Birth through Age 8 in Early Education and Care Programs (December 2016), MDE	Provides guidance for educators on developing a policy to prevent or significantly limit the expulsion and suspension of young children.	https://www.michigan.gov/mikids/matter/-/media/Project/Websites/mde/ogs/suspension/suspensionpolicy.pdf?rev=4be09254a56c4ef6a1cc4c322ef6b817&hash=45DEB5191E8A2BD2404748377CF951F1
Suspensions And Expulsions Guidance For Administrators And School Staff (April 2022), MDE	Provides guidance general information and guidance on practices involving the suspension and expulsion of students.	Suspension and Expulsion Guidance (michigan.gov)
Other Resources		
Social-Emotional Learning: Introduction to SEL, Michigan Virtual	Introductory online training course for educators that provides insight into social-emotional learning (SEL) and a pathway to the initial steps of integrating SEL into schools or districts.	https://michiganvirtual.org/course/social-emotional-learning-introduction-to-sel/



Minnesota Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

121A.031. School student bullying policy.

Subd. 3. Local district and school policy.

(a) Districts and schools, in consultation with students, parents, and community organizations, to the extent practicable, shall adopt, implement, and, on a cycle consistent with other district policies, review, and revise where appropriate, a written policy to prevent and prohibit student bullying consistent with this section. The policy must conform with sections 121A.41 to 121A.56. A district or school must adopt and implement a local policy under subdivisions 3 to 5 or comply with the provisions of the state model policy in subdivision 6.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

121A.61. Discipline and removal of students from class.

Subdivision 1. Required policy. - Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

121A.69. Hazing policy.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

REGULATIONS

No relevant regulations found.

Scope

LAWS

121A.031. School student bullying policy.

Subdivision 1. Student bullying policy; scope and application.

(a) This section applies to bullying by a student against another student enrolled in a public school and which occurs:

- (1) on the school premises, at the school functions or activities, or on the school transportation;
- (2) by use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
- (3) by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.

(b) A nonpublic school under section 123B.41, subdivision 9, consistent with its school accreditation cycle, is encouraged to electronically transmit to the commissioner its antibullying policy, if any, and any summary data on its bullying incidents.

(c) This section does not apply to a home school under sections 120A.22, subdivision 4, and 120A.24, or a nonpublic school under section 123B.41, subdivision 9.

(d) A school-aged child who voluntarily participates in a public school activity such as a co-curricular or extra-curricular activity, is subject to the same student bullying policy provisions applicable to the public school students participating in the activity.

121A.69. Hazing policy.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

121A.03. Model policy.

Subd. 2. Sexual, religious, and racial harassment and violence policy. - A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

Subd. 3. Submission to commissioner. - Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

121A.031. School student bullying policy.

Subd. 3. Local district and school policy.

(b) Each local district and school policy must establish research-based, developmentally appropriate best practices that include preventive and remedial measures and effective discipline for deterring policy violations; apply throughout the school or district; and foster active student, parent, and community participation. The policy shall:

- (1) define the roles and responsibilities of students, school personnel, and volunteers under the policy;
- (2) specifically list the characteristics contained in subdivision 2, paragraph (g);
- (3) emphasize remedial responses;
- (4) be conspicuously posted in the administrative offices of the school and school district in summary form;
- (5) be given to each school employee and independent contractor, if a contractor regularly interacts with students, at the time of employment with the district or school;
- (6) be included in the student handbook on school policies; and
- (7) be available to all parents and other school community members in an electronic format in the languages appearing on the district or school Web site, consistent with the district policies and practices.

121A.0311. Notice of the rights and responsibilities of students and parents under the Safe and Supportive Minnesota Schools Act.

A district or school subject to section 121A.031 must include in the student discipline policy it distributes or otherwise transmits to students and their parents annually at the beginning of each school year notice about the rights and responsibilities of students and their parents under the Safe and Supportive Minnesota Schools Act.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

- (a) rules governing student conduct and procedures for informing students of the rules.

121A.69. Hazing policy.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

121A.72. School locker policy.

Subd. 2. Dissemination. - The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time that the student is given the use of a locker.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

121A.61. Discipline and removal of students from class.

Subdivision 1. Required policy. - Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

Subd. 2. Grounds for removal from class. - The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

- (a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
- (b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and
- (c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

Subd. 3. Policy components.- The policy must include at least the following components:

- (a) rules governing student conduct and procedures for informing students of the rules;
- (b) the grounds for removal of a student from a class;
- (c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;
- (d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;
- (e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;
- (f) provisions relating to the responsibility for and custody of a student removed from a class;
- (g) the procedures for return of a student to the specified class from which the student has been removed;
- (h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;
- (i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;
- (j) any procedures determined appropriate for encouraging early detection of behavioral problems;

(k) any procedures determined appropriate for referring a student in need of special education services to those services;

(1) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

(m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

(n) the minimum consequences for violations of the code of conduct;

(o) procedures for immediate and appropriate interventions tied to violations of the code;

(p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws;

(q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4889 for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention; and

(r) a provision that states a student must be removed from class immediately if the student engages in assault or violent behavior. For purposes of this paragraph, "assault" has the meaning given it in section 609.02, subdivision 10. The removal shall be for a period of time deemed appropriate by the principal, in consultation with the teacher.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

121A.60. Definitions.

Subdivision 1. Removal from class. - "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school district employee to prohibit a pupil from attending a class or activity period for a period of time not to exceed five days, pursuant to procedures established in the school district discipline policy adopted by the school board pursuant to section 121A.61.

Subd. 2. Class period. - "Class period" or "activity period" means a period of time as defined in the district's written discipline policy.

121A.61. Discipline and removal of students from class.

Subdivision 1. Required policy. - Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

Subd. 2. Grounds for removal from class. - The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board. [...]

Subd. 3. Policy components.- The policy must include at least the following components:

(c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee.

122A.42. General control of schools.

(b) Consistent with paragraph (a), the teacher may remove students from class under section 121A.61, subdivision 2, for violent or disruptive conduct.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

121A.031. School student bullying policy.

Subd. 4. Local policy components.

(a) Each district and school policy implemented under this section must, at a minimum:

(1) designate a staff member as the primary contact person in the school building to receive reports of prohibited conduct under clause (3), ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters implicating both the district or school and the department.

121A.45. Grounds for dismissal.

Subd. 3. Parent notification and meeting. - If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

121A.575. Alternatives to pupil suspension.

Notwithstanding any law to the contrary and in accordance with sections 121A.40 to 121A.56, after a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

(1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;

(2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and

(3) petition the juvenile court that the student is in need of services under chapter 260C.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

121A.58. Corporal punishment.

Subdivision 1. Definition. - For the purpose of this section, "corporal punishment" means conduct involving:

- (1) hitting or spanking a person with or without an object; or
- (2) unreasonable physical force that causes bodily harm or substantial emotional harm.

Subd. 2. Corporal punishment not allowed. - An employee or agent of a district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

Subd. 3. Violation. - Conduct that violates subdivision 2 is not a crime under section 645.241, but may be a crime under chapter 609 if the conduct violates a provision of chapter 609.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

121A.72. School locker policy.

Subdivision 1. Policy. -

It is the policy of the state of Minnesota that:

"School lockers are the property of the school district. At no time does the school district relinquish its exclusive control of lockers provided for the convenience of students. Inspection of the interior of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant. The personal possessions of students within a school locker may be searched only when school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. As soon as practicable after the search of a student's personal possessions, the school authorities must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or school officials."

Subd. 2. Dissemination. - The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time that the student is given the use of a locker.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

121A.582. Student discipline; reasonable force.

Subdivision 1. Reasonable force standard.

(a) A teacher or school principal, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

(b) A school employee, school bus driver, or other agent of a district, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

(c) Paragraphs (a) and (b) do not authorize conduct prohibited under section 125A.0942.

Subd. 2. Civil liability.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a civil action for damages under section 123B.25.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a civil action for damages under section 123B.25.

Subd. 3. Criminal prosecution.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a criminal prosecution under section 609.06, subdivision 1.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a criminal prosecution under section 609.06, subdivision 1.

Subd. 4. Supplementary rights and defenses. - Any right or defense in this section is supplementary to those specified in section 121A.58, 121A.67, 123B.25, or 609.06, subdivision 1.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

(p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws.

121A.67. Removal by peace officer.

Subdivision 1. Rules. - The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, the Elementary School Principals Association, and the Secondary School Principals Association, must amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

(1) promote the use of positive behavioral interventions and supports and must not encourage or require the use of aversive or deprivation procedures;

(2) require that planned application of aversive and deprivation procedures only be instituted after completing a functional behavior assessment and developing a behavior intervention plan that is included in or maintained with the individual education plan;

(3) require educational personnel to notify a parent or guardian of a pupil with an individual education plan on the same day aversive or deprivation procedures are used in an emergency or in writing within two school days if district personnel are unable to provide same-day notice;

(4) establish health and safety standards for the use of locked time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, adequate space, a locking mechanism that

disengages automatically when not continuously engaged by school personnel, and full compliance with state and local fire and building codes, including state rules on time-out rooms;

(5) contain a list of prohibited procedures;

(6) consolidate and clarify provisions related to behavior intervention plans;

(7) require school districts to register with the commissioner any room used for locked time-out, which the commissioner must monitor by making announced and unannounced on-site visits;

(8) place a student in locked time-out only if the intervention is:

(i) part of the comprehensive behavior intervention plan that is included in or maintained with the student's individual education plan, and the plan uses positive behavioral interventions and supports, and data support its continued use; or

(ii) used in an emergency for the duration of the emergency only; and

(9) require a providing school district or cooperative to establish an oversight committee composed of at least one member with training in behavioral analysis and other appropriate education personnel to annually review aggregate data regarding the use of aversive and deprivation procedures.

Subd. 2. Removal by peace officer. - If a pupil who has an individual education plan is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individual education program team must meet to determine if the pupil's individual education plan is adequate or if additional evaluation is needed.

125A.0941. Definitions.

(a) The following terms have the meanings given them.

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists.

(c) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement, where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. The term physical holding does not mean physical contact that:

(1) helps a child respond or complete a task;

(2) assists a child without restricting the child's movement;

(3) is needed to administer an authorized health-related service or procedure; or

(4) is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately, including the key components under section 122A.627.

(e) "Prone restraint" means placing a child in a face down position.

(f) "Restrictive procedures" means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child.

(g) "Seclusion" means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

125A.0942. Standards for restrictive procedures.

Subdivision 1. Restrictive procedures plan.

(a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an electronic format on a school or district Web site or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

- (1) lists the restrictive procedures the school intends to use;
- (2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;
- (3) describes how the school will provide training on de-escalation techniques, consistent with section 122A.187, subdivision 4;
- (4) describes how the school will monitor and review the use of restrictive procedures, including:
 - (i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and
 - (ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and
- (5) includes a written description and documentation of the training staff completed under subdivision 5.

(b) Schools annually must publicly identify oversight committee members who must at least include:

- (1) a mental health professional, school psychologist, or school social worker;
- (2) an expert in positive behavior strategies;
- (3) a special education administrator; and
- (4) a general education administrator.

Subd. 2. Restrictive procedures.

(a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (f).

(c) The district must hold a meeting of the individualized education program team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program or behavior intervention plan as appropriate. The district must hold the meeting: within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or a pattern of use emerges and the child's individualized education program or behavior intervention plan does not provide for using restrictive procedures in an emergency; or at the request of a parent or the district after restrictive procedures are used. The district must review use of restrictive procedures at a child's annual individualized education program meeting

when the child's individualized education program provides for using restrictive procedures in an emergency.

(d) If the individualized education program team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

(e) At the individualized education program meeting under paragraph (c), the team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program or behavior intervention plan.

(f) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3. Physical holding or seclusion.

(a) Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

- (1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;
- (2) physical holding or seclusion is not used to discipline a noncompliant child;
- (3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;
- (4) staff directly observes the child while physical holding or seclusion is being used;
- (5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:
 - (i) a description of the incident that led to the physical holding or seclusion;
 - (ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;
 - (iii) the time the physical holding or seclusion began and the time the child was released; and
 - (iv) a brief record of the child's behavioral and physical status;
- (6) the room used for seclusion must:
 - (i) be at least six feet by five feet;
 - (ii) be well lit, well ventilated, adequately heated, and clean;
 - (iii) have a window that allows staff to directly observe a child in seclusion;
 - (iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;
 - (v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and
 - (vi) not contain objects that a child may use to injure the child or others;

(7) before using a room for seclusion, a school must:

- (i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and
- (ii) register the room with the commissioner, who may view that room; and

(b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of prone restraints. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of prone restraints; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.

Subd. 4. Prohibitions. — The following actions or procedures are prohibited:

- (1) engaging in conduct prohibited under section 121A.58;
- (2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;
- (3) totally or partially restricting a child's senses as punishment;
- (4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;
- (5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;
- (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under chapter 260E;
- (7) withholding regularly scheduled meals or water;
- (8) denying access to bathroom facilities;
- (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso; and
- (10) prone restraint.

Subd. 5. Training for staff.

- (a) To meet the requirements of subdivision 1, staff who use restrictive procedures, including paraprofessionals, shall complete training in the following skills and knowledge areas:
 - (1) positive behavioral interventions;
 - (2) communicative intent of behaviors;
 - (3) relationship building;

- (4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;
- (5) de-escalation methods;
- (6) standards for using restrictive procedures only in an emergency;
- (7) obtaining emergency medical assistance;
- (8) the physiological and psychological impact of physical holding and seclusion;
- (9) monitoring and responding to a child's physical signs of distress when physical holding is being used;
- (10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;
- (11) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and
- (12) schoolwide programs on positive behavior strategies.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The commissioner also must develop and maintain a list of experts to help individualized education program teams reduce the use of restrictive procedures. The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

Subd. 6. Behavior supports; reasonable force.

(a) School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

(b) Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. For the 2014-2015 school year and later, districts must collect and submit to the commissioner summary data, consistent with subdivision 3, paragraph (b), on district use of reasonable force that is consistent with the definition of physical holding or seclusion for a child with a disability under this section.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

121A.45. Grounds for dismissal.

Subd. 2. Grounds for dismissal. - A pupil may be dismissed on any of the following grounds:

- (a) willful violation of any reasonable school board regulation. Such regulation must be clear and definite to provide notice to pupils that they must conform their conduct to its requirements;
- (b) willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
- (c) willful conduct that endangers the pupil or other pupils, or surrounding persons, including school district employees, or property of the school.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

- (r) a provision that states a student must be removed from class immediately if the student engages in assault or violent behavior. For purposes of this paragraph, "assault" has the meaning given it in section 609.02, subdivision 10. The removal shall be for a period of time deemed appropriate by the principal, in consultation with the teacher.

121A.69. Hazing policy.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

121A.41. Definitions.

Subd. 10. Suspension. - "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.091, subdivision 5, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 school days.

121A.425. Full and equitable participation in preschool and prekindergarten.

Subd. 1. Disciplinary dismissals prohibited. A pupil enrolled in a preschool or prekindergarten program, including a child participating in early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, Head Start, or other school-based preschool or prekindergarten program, may not be subject to dismissals under this chapter. Notwithstanding this subdivision, expulsions and exclusions may be used only after resources outlined in subdivision 2 have been exhausted, and only in circumstances where there is an ongoing serious safety threat to the child or others.

Subd. 2. Nonexclusionary discipline. For purposes of this section, nonexclusionary discipline must include at least one of the following:

- (1) collaborating with the pupil's family or guardian, child mental health consultant or provider, education specialist, or other community-based support;
- (2) creating a plan, written with the parent or guardian, that details the action and support needed for the pupil to fully participate in a preschool or prekindergarten program; or
- (3) providing a referral for needed support services, including parenting education, home visits, other supportive education interventions, or, where appropriate, an evaluation to determine if the pupil is eligible for special education services or section 504 services.

121A.43. Exclusion and expulsion of pupils with a disability.

(a) Consistent with federal law governing days of removal and section [121A.46](#), school personnel may suspend a child with a disability. When a child with a disability has been suspended for more than five consecutive school days or ten cumulative school days in the same school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.

(b) A dismissal for one school day or less is a day or a partial day of suspension if the child with a disability does not receive regular or special education instruction during that dismissal period. The notice requirements under section [121A.46](#) do not apply to a dismissal of one day or less.

(c) A child with a disability shall be provided alternative educational services to the extent a suspension exceeds five consecutive school days.

(d) Before initiating an expulsion or exclusion under sections [121A.40](#) to [121A.56](#), the district, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the child's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under sections [121A.40](#) to [121A.56](#) for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services during the exclusion or expulsion.

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

121A.575. Alternatives to pupil suspension.

Notwithstanding any law to the contrary and in accordance with sections 121A.40 to 121A.56, after a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

- (1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;
- (2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and
- (3) petition the juvenile court that the student is in need of services under chapter 260C.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

121A.40. Citation.

Sections 121A.40 to 121A.56 may be cited as the "Pupil Fair Dismissal Act."

121A.42. Policy.

No public school shall deny due process or equal protection of the law to any public school pupil involved in a dismissal proceeding which may result in suspension, exclusion, or expulsion.

121A.46. Suspension procedures.

Subdivision 1. Informal administrative conference before suspension. - The school administration shall not suspend a pupil from school without an informal administrative conference with the pupil. The informal administrative conference shall take place before the suspension, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension.

Subd. 2. Administrator notifies pupil of grounds for suspension. - At the informal administrative conference, a school administrator shall notify the pupil of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the pupil may present the pupil's version of the facts.

Subd. 3. Written notice of grounds for suspension. - A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of sections 121A.40 to 121A.56, shall be personally served upon the pupil at or before the time the suspension is to take effect, and upon the pupil's parent or guardian by mail within 48 hours of the conference. The district shall make reasonable efforts to notify the parents of the suspension by telephone as soon as possible following suspension. In the event a pupil is suspended without an informal administrative conference on the grounds that the pupil will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the pupil and the pupil's parent or guardian within 48 hours of the suspension. Service by mail is complete upon mailing.

Subd. 4. Suspension pending expulsion or exclusion hearing. - Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; provided that alternative educational services are implemented to the extent that suspension exceeds five days.

121A.47. Exclusion and expulsion procedures.

Subdivision 1. Requiring a hearing; pupil may waive hearing. - No exclusion or expulsion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the pupil and parent or guardian. The action shall be initiated by the school board or its agent.

Subd. 2. Written notice. - Written notice of intent to take action shall:

- (a) be served upon the pupil and the pupil's parent or guardian personally or by mail;
- (b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;
- (c) state the date, time, and place of the hearing;
- (d) be accompanied by a copy of sections 121A.40 to 121A.56;
- (e) describe alternative educational services accorded the pupil in an attempt to avoid the expulsion proceedings; and
- (f) inform the pupil and parent or guardian of the right to:
 - (1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district shall advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education;
 - (2) examine the pupil's records before the hearing;
 - (3) present evidence; and
 - (4) confront and cross-examine witnesses.

Subd. 3. Hearing schedule. - The hearing shall be scheduled within ten days of the service of the written notice unless an extension, not to exceed five days, is requested for good cause by the school board, pupil, parent or guardian.

Subd. 4. Convenient time and place of hearing. - The hearing shall be at a time and place reasonably convenient to pupil, parent or guardian.

Subd. 5. Closed or open hearing. - The hearing shall be closed unless the pupil, parent or guardian requests an open hearing.

Subd. 6. Impartial hearer. - The hearing shall take place before:

- (1) an independent hearing officer;
- (2) a member of the school board;

(3) a committee of the school board; or

(4) the full school board;

as determined by the school board. The hearing shall be conducted in a fair and impartial manner.

Subd. 7. Creating hearing record. - The school board shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense. Testimony shall be given under oath. The hearing officer or a member of the school board shall have the power to issue subpoenas and administer oaths.

Subd. 8. Access to pupil's records. - At a reasonable time prior to the hearing, the pupil, parent or guardian, or representative, shall be given access to all public school system records pertaining to the pupil, including any tests or reports upon which the proposed action may be based.

Subd. 9. Pupil's right to compel testimony. - The pupil, parent or guardian, or representative, shall have the right to compel the attendance of any official employee or agent of the public school system or any public employee or any other person who may have evidence upon which the proposed action may be based, and to confront and to cross-examine any witness testifying for the public school system.

Subd. 10. Pupil's right to present evidence and testimony. - The pupil, parent or guardian, or representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.

Subd. 11. Pupil not compelled to testify. - The pupil cannot be compelled to testify in the dismissal proceedings.

Subd. 12. Hearer's recommendation limited to evidence at hearing; service within two days. - The recommendation of the hearing officer or school board member or committee shall be based solely upon substantial evidence presented at the hearing and must be made to the school board and served upon the parties within two days of the end of the hearing.

Subd. 13. Basis of school board decision; opportunity for comment. - The school board shall base its decision upon the recommendation of the hearing officer or school board member or committee and shall render its decision at a meeting held within five days after receiving the recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's recommendations provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the commissioner of education of the basis and reason for the decision.

121A.48. Good faith exception.

A violation of the technical provisions of the Pupil Fair Dismissal Act, made in good faith, is not a defense to a disciplinary procedure under the act unless the pupil can demonstrate actual prejudice as a result of the violation.

121A.49. Appeal.

A party to an exclusion or expulsion decision made under sections 121A.40 to 121A.56 may appeal the decision to the commissioner of education within 21 calendar days of school board action. Upon being served with a notice of appeal, the district shall provide the commissioner and the parent or guardian with a complete copy of the hearing record within five days of its receipt of the notice of appeal. All written submissions by the appellant must be submitted and served on the respondent within ten days of its actual receipt of the transcript. All written submissions by the respondent must be submitted and served on the appellant within ten days of its actual receipt of the written submissions of the appellant. The decision of the school board must be implemented during the appeal to the commissioner.

In an appeal under this section, the commissioner may affirm the decision of the agency, may remand the decision for additional findings, or may reverse or modify the decision if the substantial rights of the

petitioners have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the school district;
- (3) made upon unlawful procedure, except as provided in section 121A.48;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record submitted; or
- (6) arbitrary or capricious.

The commissioner or the commissioner's representative shall make a final decision based upon the record. The commissioner shall issue a decision within 30 calendar days of receiving the entire record and the parties' written submission on appeal. The commissioner's decision shall be final and binding upon the parties after the time for appeal expires under section 121A.50.

121A.50. Judicial review.

The decision of the commissioner of education made under sections 121A.40 to 121A.56 is subject to judicial review under sections 14.63 to 14.69. The decision of the commissioner is stayed pending an appeal under this section.

121A.51. Reports to service agency.

The school board shall report any action taken pursuant to sections 121A.40 to 121A.56 to the appropriate public service agency, when the pupil is under the supervision of such agency.

121A.52. Nonapplication of compulsory attendance law.

The provisions of section 120A.22, subdivision 5, shall not apply to any pupil during a dismissal pursuant to sections 121A.40 to 121A.56.

124D.8957. Prekindergarten through grade 12 parental rights code elsewhere.

Subd. 10. Exclusion and expulsion. - The parental right to be included in exclusion or expulsion hearing procedures, including access to records, ability to testify and present evidence, and inclusion in the student's readmission plan, is governed by section 121A.47.

Subd. 11. Exclusion and expulsion appeal. - The parental right to notice of the right to appeal an exclusion or expulsion decision is governed by section 121A.49.

REGULATIONS

3525.3900. Initiating a due process hearing.

Subpart 1. Request to be filed with department. A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A request for a due process hearing must be in writing and filed with the department. A school district administrator receiving a request for a due process hearing must immediately file the request with the department and in no case more than two business days following receipt of the request. If the request for a due process hearing is filed directly with the department, the department must notify the district of the request immediately and in no case more than two business days following receipt of the request. The department must not deny a request for hearing if it is incomplete. When a district is notified of a due process hearing request it must serve notice on the parent, within two business days, which includes the federally required procedural safeguards notice and the information required under subpart 3, item J, if it has not already done so as part of the pending dispute.

3525.4750. Expedited hearings, who may request.

Subpart 1. Parent request for a hearing. A parent of a pupil with a disability may request an expedited due process hearing if the pupil's parent disagrees:

- A. with the determination that the pupil's behavior subject to disciplinary action was not a manifestation of the pupil's disability;
- B. with any decision regarding a change of the pupil's placement to an interim alternative educational setting for a weapon, controlled substance, or drug violation; or
- C. with any decision regarding a change of the pupil's placement under Code of Federal Regulations, title 34, sections 300.520 to 300.528, that is based upon a district contention that the move is for disciplinary or safety reasons.

Subp. 2. Local education agency request for a hearing. The local education agency may request an expedited hearing if school personnel maintain that the current placement of the pupil is substantially likely to result in injury to the pupil or to others.

Subp. 3. Continued placement. When a district proposes that an interim alternative placement should continue beyond 45 calendar days, it must provide parents with a written statement of the reasons for this proposal.

3525.4770. Expedited hearings, timelines.

Subpart 1. When parents request hearing. When requesting an expedited hearing the parents shall provide the district and department with:

- A. a statement indicating the parents request an expedited hearing
- B. the name and address of the child involved;
- C. the name, address, and telephone number, if available, of the parent;
- D. the name of the school the child is attending at the time of the request;
- E. the name or number of the school district of the parent's residence;
- F. a description of the nature of the problem of the child relating to the manifestation determination, interim placement, or proposed interim placement, including facts relating to the problem; and
- G. a proposed resolution of the problem to the extent known and available to the parents at the time.

The parent's right to an expedited hearing must not be denied or delayed for failure to provide the notice required here.

Immediately upon the district's receipt of the request for an expedited hearing or upon the initiation of an expedited hearing, the district shall serve the parents with a written notice of rights and procedures relative to the hearing, including the availability of free or low-cost legal services.

Subp. 2. When district requests hearing. When the district requests an expedited hearing it shall provide the parents and department with a written notice of:

- A. a description of the nature of the problem including the behavior for which the change of placement is requested;
- B. a description of the interim placement or proposed interim placement; and
- C. a proposed resolution of the problem to the extent known at the time.

Subp. 3. Hearing officer appointment. Within two business days of receipt of the notice, the commissioner shall appoint a hearing officer.

Subp. 4. [Repealed, 28 SR 1292]

Subp. 5. Disclosure of data. At least three business days prior to an expedited hearing, or longer, if ordered by the hearing officer, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party who fails to comply with this subpart from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Subp. 6. Prehearing conference. Within two business days of appointment, the hearing officer shall hold a prehearing conference, which may be by telephone. At that conference, or later, the hearing officer may

take any appropriate action relating to scheduling, jurisdiction, and listing witnesses, including expert witnesses. Issues not raised in an expedited due process hearing are not waived in subsequent proceedings. Any exchange of witness lists, evidence, and any other information deemed necessary by the hearing officer shall be exchanged based on the timeline ordered by the hearing officer as required to allow the hearing officer to render a written decision within ten calendar days of the request for the hearing. At the prehearing conference, and subsequently, the hearing officer may order either party to submit educational records, evaluations, and any other information to the hearing officer for prehearing review. The hearing officer may establish procedures necessary to ensure the timely and fair resolution of the dispute.

Subp. 7. [Repealed, 28 SR 1292]

Subp. 8. Decision. A written decision for an expedited hearing shall be rendered by the hearing officer in ten school days from the date the hearing was requested. An extension of up to five calendar days may be granted by the hearing officer for good cause shown on the record. The decision is effective upon issuance consistent with Code of Federal Regulations, title 34, section 300.514. All regulations in this chapter apply to expedited due process hearings to the extent not modified by this part.

Return to School Following Removal

LAWS

121A.41. Definitions.

Subd. 10. Suspension. - "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.091, subdivision 5, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 school days.

121A.47. Exclusion and expulsion procedures.

Subd. 14. Admission or readmission plan.

(a) A school administrator shall prepare and enforce an admission or readmission plan for any pupil who is excluded or expelled from school. The plan may include measures to improve the pupil's behavior, including completing a character education program, consistent with section 120B.232, subdivision 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the pupil of not improving the pupil's behavior.

(b) The definition of suspension under section 121A.41, subdivision 10, does not apply to a student's dismissal from school for one school day or less, except as provided under federal law for a student with a disability. Each suspension action may include a readmission plan. A readmission plan must provide, where appropriate, alternative education services, which must not be used to extend the student's current suspension period. Consistent with section 125A.091, subdivision 5, a readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School officials must not use the refusal of a parent or guardian to consent to the

administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect or medical or educational neglect.

121A.54. Notice of right to be reinstated.

Whenever a pupil fails to return to school within ten school days of the termination of dismissal, a school administrator shall inform the pupil and the pupil's parents by mail of the pupil's right to attend and to be reinstated in the public school.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

(g) the procedures for return of a student to the specified class from which the student has been removed.

124D.8957. Prekindergarten through grade 12 parental rights code elsewhere.

Subd. 12. Reinstatement after termination of dismissal. - The parental right to notice of a student's right to be reinstated after the termination of dismissal is governed by section 121A.54.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

120A.22. Compulsory instruction.

Subd. 5. Ages and terms.

(c) A pupil 16 years of age or older who meets the criteria of section 124D.68, subdivision 2, and under clause (5) of that subdivision has been excluded or expelled from school or under clause (11) of that subdivision has been chronically truant may be referred to an area learning center. Such referral may be made only after consulting the principal, area learning center director, student, and parent or guardian and only if, in the school administrator's professional judgment, the referral is in the best educational interest of the pupil. Nothing in this paragraph limits a pupil's eligibility to apply to enroll in other eligible programs under section 124D.68.

121A.41. Definitions.

Subd. 10. Suspension. - "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.091, subdivision 5, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 school days.

Subd. 11. Alternative educational services. - "Alternative educational services" may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessment, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under section 123A.05 selected to allow the pupil to progress toward meeting graduation standards under section 120B.02, although in a different setting.

121A.45. Grounds for dismissal.

Subdivision 1. Provision of alternative programs. - No school shall dismiss any pupil without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.

121A.46. Suspension procedures.

Subd. 4. Suspension pending expulsion or exclusion hearing. - Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; provided that alternative educational services are implemented to the extent that suspension exceeds five days.

121A.53. Report to commissioner of education.

Subdivision 1. Exclusions and expulsions; physical assaults.- The school board must report through the department electronic reporting system each exclusion or expulsion and each physical assault of a district employee by a student within 30 days of the effective date of the dismissal action or assault to the commissioner of education. This report must include a statement of alternative educational services, or other sanction, intervention, or resolution in response to the assault given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion or other sanction, intervention, or resolution. The report must also include the student's age, grade, gender, race, and special education status.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take

advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

121A.575. Alternatives to pupil suspension.

Notwithstanding any law to the contrary and in accordance with sections 121A.40 to 121A.56, after a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

- (1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;
- (2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and
- (3) petition the juvenile court that the student is in need of services under chapter 260C.

123A.05. State-approved alternative program organization.

Subdivision 1. Governance.

(a) A district may establish an area learning center, alternative learning program, or contract alternative in accordance with sections 124D.68, subdivision 3, paragraph (d), and 124D.69.

(b) An area learning center is encouraged to cooperate with a service cooperative, an intermediate school district, a local education and employment transitions partnership, public and private secondary and postsecondary institutions, public agencies, businesses, and foundations. Except for a district located in a city of the first class, an area learning center must be established in cooperation with other districts and must serve the geographic area of at least two districts. An area learning center must provide comprehensive educational services to enrolled secondary students throughout the year, including a daytime school within a school or separate site for both high school and middle school level students.

(c) An alternative learning program may serve the students of one or more districts, may designate which grades are served, and may make program hours and a calendar optional.

(d) A contract alternative is an alternative learning program operated by a private organization that has contracted with a school district to provide educational services for students under section 124D.68, subdivision 2.

Subd. 2. Reserve revenue. - Each district that is a member of an area learning center or alternative learning program must reserve revenue in an amount equal to the sum of (1) at least 90 and no more than 100 percent of the district average general education revenue per adjusted pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0466, calculated without basic skills revenue, local optional revenue, and transportation sparsity revenue, times the number of pupil units attending an area learning center or alternative learning program under this section, plus (2) the amount of basic skills revenue generated by pupils attending the area learning center or alternative learning program. The amount of reserved revenue under this subdivision may only be spent on program costs associated with the area learning center or alternative learning program.

Subd. 3. Access to services. - A state-approved alternative program shall have access to the district's regular education programs, special education programs, technology facilities, and staff. It may contract with individuals or postsecondary institutions. It shall seek the involvement of community education programs, postsecondary institutions, interagency collaboratives, culturally based organizations, mutual assistance associations, and other community resources, businesses, and other federal, state, and local public agencies.

Subd. 4. Nonresident pupils. - A pupil who does not reside in the district may attend a state-approved alternative program without consent of the school board of the district of residence.

123A.06. State-approved alternative programs and services.

Subd. 2. People to be served. - A state-approved alternative program shall provide programs for secondary pupils. A center may also provide programs and services for elementary and secondary pupils who are not attending the state-approved alternative program to assist them in being successful in school. A center shall use research-based best practices for serving English learners and their parents, taking into account the variations in students' backgrounds and needs and the amount of time and the staff resources necessary for students to overcome gaps in their education and to develop English proficiency and work-related skills. An individualized education program team may identify a state-approved alternative program as an appropriate placement to the extent a state-approved alternative program can provide the student with the appropriate special education services described in the student's plan. Pupils eligible to be served are those who qualify under the graduation incentives program in section 124D.68, subdivision 2, those enrolled under section 124D.02, subdivision 2, or those pupils who are eligible to receive special education services under sections 125A.03 to 125A.24, and 125A.65.

260A.03. Notice to parent or guardian when child is a continuing truant.

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

- (5) that alternative educational programs and services may be available in the child's enrolling or resident district.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

121A.05. Policy to refer firearms possessor.

A school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, a pupil who brings a firearm to school unlawfully.

121A.06. Reports of dangerous weapon incidents in school zones.

Subdivision 1. Definitions. - As used in this section:

- (1) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;
- (2) "school" has the meaning given it in section 120A.22, subdivision 4; and
- (3) "school zone" has the meaning given it in section 152.01, subdivision 14a, clauses (1) and (3).

Subd. 2. Reports; content. - School districts must electronically report to the commissioner of education incidents involving the use or possession of a dangerous weapon in school zones. The form must include the following information:

- (1) a description of each incident, including a description of the dangerous weapon involved in the incident;
- (2) where, at what time, and under what circumstances the incident occurred;
- (3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;
- (4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;
- (5) the cost of the incident to the school and to the victim; and
- (6) The action taken by the school administration to respond to the incident.

The commissioner shall provide an electronic reporting format that allows school districts to provide aggregate data.

Subd. 3. Reports; filing requirements. - By July 31 of each year, each public school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner. The reports must be submitted using the electronic reporting system developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety and the legislature.

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

120A.22. Compulsory instruction.

Subd. 5. Ages and terms.

(c) A pupil 16 years of age or older who meets the criteria of section 124D.68, subdivision 2, and under clause (5) of that subdivision has been excluded or expelled from school or under clause (11) of that subdivision has been chronically truant may be referred to an area learning center. Such referral may be made only after consulting the principal, area learning center director, student, and parent or guardian and only if, in the school administrator's professional judgment, the referral is in the best educational interest of the pupil. Nothing in this paragraph limits a pupil's eligibility to apply to enroll in other eligible programs under section 124D.68.

120A.24. Reporting.

Subdivision 1. Reports to superintendent.

(a) The person or nonpublic school in charge of providing instruction to a child must submit to the superintendent of the district in which the child resides the name, birth date, and address of the child; the annual tests intended to be used under section 120A.22, subdivision 11, if required; the name of each instructor; and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10:

- (1) by October 1 of the first school year the child receives instruction after reaching the age of seven;
- (2) within 15 days of when a parent withdraws a child from public school after age seven to provide instruction in a nonpublic school that is not accredited by a state-recognized accredited agency;
- (3) within 15 days of moving out of a district; and
- (4) by October 1 after a new resident district is established.

(b) The person or nonpublic school in charge of providing instruction to a child between the ages of seven and 16 and every child ages 16 through 17 for which an initial report was filed pursuant to this subdivision after the child is 16 must submit, by October 1 of each school year, a letter of intent to continue to provide instruction under this section for all students under the person's or school's supervision and any changes to the information required in paragraph (a) for each student.

(c) The superintendent may collect the required information under this section through an electronic or Web-based format, but must not require electronic submission of information under this section from the person in charge of reporting under this subdivision.

Subd. 2. Availability of documentation.

(a) The person or nonpublic school in charge of providing instruction to a child must maintain documentation indicating that the subjects required in section 120A.22, subdivision 9, are being taught and proof that the tests under section 120A.22, subdivision 11, have been administered. This

documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

(b) The parent of a child who enrolls full time in public school after having been enrolled in a nonpublic school that is not accredited by a state-recognized accrediting agency, must provide the enrolling public school or school district with the child's scores on any tests administered to the child under section 120A.22, subdivision 11, and other education-related documents the enrolling school or district requires to determine where the child is placed in school and what course requirements apply. This paragraph does not apply to a shared time student who does not seek a public school diploma.

(c) The person or nonpublic school in charge of providing instruction to a child must make the documentation in this subdivision available to the county attorney when a case is commenced under section 120A.26, subdivision 5; chapter 260C; or when diverted under chapter 260A.

Subd. 3. Exemptions. - A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements in subdivision 2.

Subd. 4. Reports to the state. - A superintendent must make an annual report to the commissioner of education by December 1 of the total number of nonpublic children reported as residing in the district. The report must include the following information:

(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;

(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and

(3) the number of children in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.

Subd. 5. Obligations. - Nothing in this section alleviates the obligations under section 120A.22.

120A.26. Enforcement and prosecution.

Subd. 3. Notice to parents. - The superintendent must notify the parent, in writing, if a child is alleged to be receiving instruction in violation of sections 120A.22 and 120A.24. The written notification must include a list of the specific alleged violations.

Subd. 4. Fact-finding and mediation. - If the specified alleged violations of the compulsory attendance requirements are not corrected within 15 days of receipt of the written notification, the superintendent must request fact-finding and mediation services from the commissioner.

Subd. 5. Notice to county attorney. - If the alleged violations are not corrected through the fact-finding and mediation process under subdivision 4, the superintendent must notify the county attorney of the alleged violations. The superintendent must notify the parents, by certified mail, of the superintendent's intent to notify the county attorney of the alleged violations.

Subd. 6. Criminal complaint; prosecution. - The county attorney in the county in which the alleged violations have occurred has jurisdiction to conduct a prosecution for violations of this section, section 120A.22, or section 120A.24. A criminal complaint may be filed in any court in the county exercising criminal jurisdiction and must name the persons neglecting or refusing to comply with this section, section 120A.22, or section 120A.24. After the complaint has been filed, a warrant must be issued and proceedings in trial must commence as provided by law in misdemeanor cases.

124D.03. Enrollment options program.

Subd. 12. Termination of enrollment. - A district may terminate the enrollment of a nonresident student enrolled under this section or section 124D.08 at the end of a school year if the student meets the definition of a habitual truant under section 260C.007, subdivision 19, the student has been provided appropriate services under chapter 260A, and the student's case has been referred to juvenile court. A district may also terminate the enrollment of a nonresident student over the age of 17 enrolled under this

section if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under section 120A.22, subdivision 8.

145.958. Youth violence prevention.

Subd. 2. Violence prevention programs for at-risk youth

(c) Violence prevention programs may include, but are not limited to:

(5) school-related initiative involving police liaison officers, youth leadership, peer mediation systems, after-school activities, and intervention in truancy cases.

260A.01. Truancy programs and services.

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section 125A.091, subdivision 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

260A.02. Definitions.

Subd. 3. Continuing truant. - "Continuing truant" means a child who is subject to the compulsory instruction requirements of section 120A.22 and is absent from instruction in a school, as defined in section 120A.05, without valid excuse within a single school year for:

(1) three days if the child is in elementary school; or

(2) three or more class periods on three days if the child is in middle school, junior high school, or high school.

Nothing in this section shall prevent a school district or charter school from notifying a truant child's parent or legal guardian of the child's truancy or otherwise addressing a child's attendance problems prior to the child becoming a continuing truant.

260A.03. Notice to parent or guardian when child is a continuing truant.

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

(1) that the child is truant;

(2) that the parent or guardian should notify the school if there is a valid excuse for the child's absences;

(3) that the parent or guardian is obligated to compel the attendance of the child at school pursuant to section 120A.22 and parents or guardians who fail to meet this obligation may be subject to prosecution under section 120A.34;

(4) that this notification serves as the notification required by section 120A.34;

(5) that alternative educational programs and services may be available in the child's enrolling or resident district;

(6) that the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the child's truancy;

(7) that if the child continues to be truant, the parent and child may be subject to juvenile court proceedings under chapter 260C;

(8) that if the child is subject to juvenile court proceedings, the child may be subject to suspension, restriction, or delay of the child's driving privilege pursuant to section 260C.201; and

(9) that it is recommended that the parent or guardian accompany the child to school and attend classes with the child for one day.

260A.04. Community-based truancy projects and service centers.

Subdivision 1. Establishment.

(a) Community-based truancy projects and service centers may be established to:

- (1) provide for identification of students with school attendance problems;
- (2) facilitate the provision of services geared to address the underlying issues that are contributing to a student's truant behavior; and
- (3) provide facilities to receive truant students from peace officers and probation officers.

(b) Truancy projects and service centers may provide any of these services and shall provide for referral of children and families to other appropriate programs and services.

Subd. 2. Community-based action projects. - Schools, community agencies, law enforcement, parent associations, and other interested groups may cooperate to provide coordinated intervention, prevention, and educational services for truant students and their families. Services may include:

- (1) assessment for underlying issues that are contributing to the child's truant behavior;
- (2) referral to other community-based services for the child and family, such as individual or family counseling, educational testing, psychological evaluations, tutoring, mentoring, and mediation;
- (3) transition services to integrate the child back into school and to help the child succeed once there;
- (4) culturally sensitive programming and staffing; and
- (5) increased school response, including in-school suspension, better attendance monitoring and enforcement, after-school study programs, and in-service training for teachers and staff.

Subd. 3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

- (1) assess a truant student's attendance situation, including enrollment status, verification of truancy, and school attendance history;
- (2) assist in coordinating intervention efforts where appropriate, including checking with juvenile probation and children and family services to determine whether an active case is pending and facilitating transfer to an appropriate facility, if indicated; and evaluating the need for and making referral to a health clinic, chemical dependency treatment, protective services, social or recreational programs, or other school or community-based services and programs described in subdivision 2;
- (3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person; and
- (4) facilitate the student's earliest possible return to school.

(b) Truancy service centers may not accept:

- (1) juveniles taken into custody for violations of law that would be crimes if committed by adults;
- (2) intoxicated juveniles;
- (3) ill or injured juveniles; or
- (4) juveniles older than mandatory school attendance age.

(c) Truancy service centers may expand their service capability in order to receive curfew violators and take appropriate action, such as coordination of intervention efforts, contacting parents, and developing strategies to ensure that parents assume responsibility for their children's curfew violations.

260A.05. School attendance review boards.

Subdivision 1. Establishment. - A school district or charter school may establish one or more school attendance review boards to exercise the powers and duties in this section. The school district or charter school board shall appoint the members of the school attendance review board and designate the schools within the board's jurisdiction. Members of a school attendance review board may include:

- (1) the superintendent of the school district or the superintendent's designee or charter school director or the director's designee;
- (2) a principal and one or more other school officials from within the district or charter school;
- (3) parent representatives;
- (4) representatives from community agencies that provide services for truant students and their families;
- (5) a juvenile probation officer;
- (6) school counselors and attendance officers; and
- (7) law enforcement officers.

Subd. 2. General powers and duties. - A school attendance review board shall prepare an annual plan to promote interagency and community cooperation and to reduce duplication of services for students with school attendance problems. The plan shall include a description of truancy procedures and services currently in operation within the board's jurisdiction, including the programs and services under section 260A.04. A board may provide consultant services to, and coordinate activities of, truancy programs and services. If a board determines that it will be unable to provide services for all truant students who are referred to it, the board shall establish procedures and criteria for determining whether to accept referrals of students or refer them for other appropriate action.

Subd. 3. Oversight of truant students. - A school attendance review board shall oversee referrals of truant students and provide appropriate intervention and services under section 260A.06. The board shall establish procedures for documenting student attendance and verifying actions and interventions with respect to truant students and their families.

260A.06. Referral of truant students to school attendance review board.

Subdivision 1. Referral; notice. - An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian. The notice must:

- (1) include the name and address of the board to which the student has been referred and the reason for the referral; and
- (2) indicate that the student, the parent or legal guardian, and the referring person will meet with the board to determine a proper disposition of the referral, unless the board refers the student directly to the county attorney or for other appropriate legal action.

Subd. 2. Meeting; community services.

(a) Except as provided in paragraph (b), the school attendance review board shall schedule the meeting described in subdivision 1 and provide notice of the meeting by first class mail or other reasonable means to the student, parent or guardian, and referring person. If the board determines that available community services may resolve the attendance problems of the truant student, the board shall refer the student or the student's parent or guardian to participate in the community services. The board may develop an agreement with the student and parent or guardian that specifies the actions to be taken. The board shall inform the student and parent or guardian that failure to comply with any agreement or

to participate in appropriate community services will result in a referral to the county attorney under subdivision 3. The board may require the student or parent or guardian to provide evidence of participation in available community services or compliance with any agreement.

(b) A school attendance review board may refer a student directly to the county attorney or for other appropriate legal action under subdivision 3 if it has established procedures and criteria for these referrals.

Subd. 3. Referral to county attorney; other appropriate action. - If the school attendance review board determines that available community services cannot resolve the attendance problems of the truant student, if the student or the parent or guardian has failed to comply with any referrals or agreements under subdivision 2 or to otherwise cooperate with the board, or if the board determines that a student should be referred directly under this subdivision, the board may:

(1) refer the matter to the county attorney under section 260A.07, if the county attorney has elected to participate in the truancy mediation program; or

(2) if the county attorney has not elected to participate in the truancy mediation program, refer the matter for appropriate legal action against the child or the child's parent or guardian under chapter 260 or section 120A.34.

260A.07. County attorney truancy medication program.

Subdivision 1. Establishment; referrals. - A county attorney may establish a truancy mediation program for the purpose of resolving truancy problems without court action. If a student is in a school district or charter school that has established a school attendance review board, the student may be referred to the county attorney under section 260A.06, subdivision 3. If the student's school district or charter school has not established a board, the student may be referred to the county attorney by the school district or charter school if the student continues to be truant after the parent or guardian has been sent or conveyed the notice under section 260A.03.

Subd. 2. Meeting; notice. - The county attorney may request the parent or legal guardian and the child referred under subdivision 1 to attend a meeting to discuss the possible legal consequences of the minor's truancy. The notice of the meeting must be served personally or by certified mail at least five days before the meeting on each person required to attend the meeting. The notice must include:

(1) the name and address of the person to whom the notice is directed;

(2) the date, time, and place of the meeting;

(3) the name of the minor classified as a truant;

(4) the basis for the referral to the county attorney;

(5) a warning that a criminal complaint may be filed against the parents or guardians pursuant to section 120A.34 for failure to compel the attendance of the minor at school or that action may be taken in juvenile court; and

(6) a statement that the meeting is voluntary.

260C.007. Definitions.

Subd. 19. Habitual truant. - "Habitual truant" means a child under the age of 17 years who is absent from attendance at school without lawful excuse for seven school days per school year if the child is in elementary school or for one or more class periods on seven school days per school year if the child is in middle school, junior high school, or high school or a child who is 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days per school year and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

120B.238. Vaping awareness and prevention.

Subdivision 1. Title. - This section may be referred to as the "Vaping Awareness and Prevention Act."

Subd. 2. Definitions.

(a) For purposes of this section, the words defined in this subdivision have the meanings given them.

(b) "Electronic delivery device" has the meaning given in section 609.685, subdivision 1.

(c) "Heated tobacco product" means a tobacco product that produces aerosols containing nicotine and other chemicals which are inhaled by users through the mouth.

(d) "Public school" means a school district or a charter school.

(e) "Vaping" means using an activated electronic delivery device or heated tobacco product.

Subd. 3. School instruction requirements.

(a) A public school must provide vaping prevention instruction at least once to students in grades 6 through 8. A public school may use instructional materials based on the Department of Health's e-cigarette toolkit or may use other smoking prevention instructional materials with a focus on vaping and the use of electronic delivery devices and heated tobacco products. The instruction may be provided as a part of a public school's locally developed health standards.

(b) A public school is strongly encouraged to provide evidence-based vaping prevention instruction to students in grades 9 through 12.

(c) A public school is encouraged to use a peer-to-peer education program to provide vaping prevention instruction.

Subd. 4. Student survey. The commissioner of education must include questions regarding tobacco use and vaping in the Minnesota student survey.

121A.25. Chemical abuse pre-assessment teams; definitions.

Subdivision 1. Applicability. - The definitions in this section apply to sections 121A.26 to 121A.29 and 121A.61, subdivision 3.

Subd. 2. Controlled substances. - "Controlled substances" means the term as defined in section 152.01, subdivision 4, and "marijuana" as defined in section 152.01, subdivision 9.

Subd. 3. Chemical abuse. - "Chemical abuse" means use of any psychoactive or mood-altering chemical substance, without compelling medical reason, in a manner that induces mental, emotional, or physical impairment and causes socially dysfunctional or socially disordering behavior, to the extent that the minor's normal functioning in academic, school, or social activities is chronically impaired.

Subd. 4. Teachers. - "Teachers" has the meaning given it in section 122A.15, subdivision 1.

121A.26. School pre-assessment teams.

Every public school, and every nonpublic school that participates in a school district chemical abuse program shall establish a chemical abuse preassessment team. The preassessment team must be composed of classroom teachers, administrators, and to the extent they exist in each school, school nurse, school counselor or psychologist, social worker, chemical abuse specialist, and other appropriate professional staff. The superintendents or their designees shall designate the team members in the public schools. The preassessment team is responsible for addressing reports of chemical abuse problems and making recommendations for appropriate responses to the individual reported cases.

Within 45 days after receiving an individual reported case, the preassessment team shall make a determination whether to provide the student and, in the case of a minor, the student's parents with information about school and community services in connection with chemical abuse. Data may be

disclosed without consent in health and safety emergencies pursuant to section 13.32 and applicable federal law and regulations.

Notwithstanding section 138.163, destruction of records identifying individual students shall be governed by this section. If the preassessment team decides not to provide a student and, in the case of a minor, the student's parents with information about school or community services in connection with chemical abuse, records created or maintained by the preassessment team about the student shall be destroyed not later than six months after the determination is made. If the preassessment team decides to provide a student and, in the case of a minor, the student's parents with information about school or community services in connection with chemical abuse, records created or maintained by the preassessment team about the student shall be destroyed not later than six months after the student is no longer enrolled in the district.

121A.29. Reporting; chemical abuse.

Subdivision 1. Teacher's duty. - A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team of this information. A teacher who complies with this section shall be defended and indemnified under section 466.07, subdivision 1, in any action for damages arising out of the compliance.

Subd. 2. Other reports. - Nothing in this section prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

(m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises.

126C.44. Safe schools levy.

(a) Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$ 36 multiplied by the district's adjusted pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes:

(2) to pay the costs for a drug abuse prevention program as defined in section 609.101, subdivision 3, paragraph (e), in the elementary schools. [...]

(5) to pay the costs for other crime prevention, drug abuse, student and staff safety, voluntary opt-in suicide prevention tools, and violence prevention measures taken by the school district.

144.396. Tobacco use prevention.

Subd. 6. Local tobacco prevention grants.

(a) The commissioner shall award grants to eligible applicants for local and regional projects and initiatives directed at tobacco prevention in coordination with other health areas aimed at reducing high-risk behaviors in youth that lead to adverse health-related problems. The project areas for grants include:

(1) school-based tobacco prevention programs aimed at youth and parents.

145.958. Youth violence prevention.

Subd. 2. Violence prevention programs for at-risk youth.

(c) Violence prevention programs may include, but are not limited to:

(6) chemical dependency and mental health intervention, screening, and assessment.

256.995. School-linked services for at-risk children and youth.

Subd. 3. Services. - The program must be designed not to duplicate existing programs, but to enable schools to collaborate with county social service agencies and county health boards and with local public and private providers to assure that at-risk children and youth receive health care, mental health services, family drug and alcohol counseling, and needed social services. Screenings and referrals under this program shall not duplicate screenings under section 121A.17.

260A.04. Community-based truancy projects and service centers.

Subd. 3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

(2) assist in coordinating intervention efforts where appropriate, including checking with juvenile probation and children and family services to determine whether an active case is pending and facilitating transfer to an appropriate facility, if indicated; and evaluating the need for and making referral to a health clinic, chemical dependency treatment, protective services, social or recreational programs, or other school or community-based services and programs described in subdivision 2.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

126C.44. Safe schools levy.

(a) Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$ 36 multiplied by the district's adjusted pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes:

(3) to pay the costs for a gang resistance education training curriculum in the district's schools.

145.958. Youth violence prevention.

Subdivision 1. Definition. - For purposes of this section, "at-risk youth" means adolescents and teenagers who are likely to be a threat to the health and well-being of themselves or others through gang involvement, alcohol and drug use, unsafe sexual activity, dropping out of school, or through violence and other criminal activity.

Subd. 2. Violence prevention programs for at-risk youth.

(a) Community-based violence prevention programs may apply to the commissioner of health for technical assistance. The programs must be community-based efforts serving at-risk youth and must work in collaboration with local schools, law enforcement agencies, faith communities, and community groups to provide a comprehensive approach to reducing youth violence by addressing the needs of at-risk youth.

(b) The programs must:

(1) ensure that there are trusted adults serving as role models and mentors for at-risk youth;

- (2) intervene at the first signs that a youth may be at risk and strive to rehabilitate youth who are already involved in violence;
 - (3) work to strengthen families;
 - (4) work with schools in order to keep students engaged and help them prepare for higher education or job training; and
 - (5) teach self-respect and respect of others so that unsafe and unhealthy behaviors may be avoided.
- (c) Violence prevention programs may include, but are not limited to:
- (1) mentorship;
 - (2) job placement and support;
 - (3) youth violence prevention training;
 - (4) parent and family intervention and teaching parenting skills;
 - (5) school-related initiative involving police liaison officers, youth leadership, peer mediation systems, after-school activities, and intervention in truancy cases;
 - (6) chemical dependency and mental health intervention, screening, and assessment;
 - (7) assisting juvenile offenders in reconnecting with families and reintegrating into the community;
 - (8) working with youth to prevent sexual violence;
 - (9) working with youth to prevent pregnancy and sexually transmitted infections; and
 - (10) a youth helpline and street outreach workers to connect youth with needed services.

Subd. 3. Coordination of prevention and intervention for programs for at-risk youth.

- (a) The commissioner of health, in collaboration with the commissioners of public safety, human services, and education, shall identify five community-based violence prevention programs that meet the criteria described in this section. One of these programs identified must be serving the youth in Minneapolis, one program must be serving the youth in St. Paul, and the remaining three programs must be serving youth in outstate communities.
- (b) The commissioner of health shall provide technical support to these community programs including, but not limited to, assistance in seeking and applying for federal grants and private foundation funding.
- (c) The commissioner of health shall monitor the progress of these programs in terms of the impact on public health and reducing juvenile violent crime and shall identify the effective aspects of each program in order to assist other programs in replicating these successful aspects.
- (d) The commissioner of health shall apply for private, state, or federal funding to support the activities described in this subdivision. This subdivision is effective upon the availability of funding to support these activities.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

120B.22. Violence prevention education.

- (b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:
 - (1) a comprehensive, accurate, and age appropriate curriculum on violence prevention, nonviolent conflict resolution, sexual, racial, and cultural harassment, self-protection, and student hazing that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful

decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety. [...]

(9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural harassment or student hazing.

121A.03. Model policy.

Subdivision 1. Model policy. - The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

Subd. 2. Sexual, religious, and racial harassment and violence policy. - A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

Subd. 3. Submission to commissioner. - Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

121A.031. School student bullying policy.

Subdivision 1. Student bullying policy; scope and application.

(a) This section applies to bullying by a student against another student enrolled in a public school and which occurs:

- (1) on the school premises, at the school functions or activities, or on the school transportation;
- (2) by use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
- (3) by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.

(b) A nonpublic school under section 123B.41, subdivision 9, consistent with its school accreditation cycle, is encouraged to electronically transmit to the commissioner its antibullying policy, if any, and any summary data on its bullying incidents.

(c) This section does not apply to a home school under sections 120A.22, subdivision 4, and 120A.24, or a nonpublic school under section 123B.41, subdivision 9.

(d) A school-aged child who voluntarily participates in a public school activity such as a co-curricular or extra-curricular activity, is subject to the same student bullying policy provisions applicable to the public school students participating in the activity.

Subd. 2. Definitions.

(a) For purposes of this section, the following terms have the meanings given them.

(b) "District" means a district under section 120A.05, subdivision 8.

(c) "Public school" or "school" means a public school under section 120A.05, subdivisions 9, 11, 13, and 17, and a charter school under section 124E

(d) "Student" means a student enrolled in a school under paragraph (c).

(e) "Bullying" means intimidating, threatening, abusive, or harming conduct that is objectively offensive and:

(1) there is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior and the conduct is repeated or forms a pattern; or

(2) materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.

(f) "Cyberbullying" means bullying using technology or other electronic communication, including, but not limited to, a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network Internet Web site or forum, transmitted through a computer, cell phone, or other electronic device.

(g) Intimidating, threatening, abusive, or harming conduct may involve, but is not limited to, conduct that causes physical harm to a student or a student's property or causes a student to be in reasonable fear of harm to person or property; under Minnesota common law, violates a student's reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional distress against a student; is directed at any student or students, including those based on a person's actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, age, or any additional characteristic defined in chapter 363A. However, prohibited conduct need not be based on any particular characteristic defined in this paragraph or chapter 363A.

(h) "Prohibited conduct" means bullying or cyberbullying as defined under this subdivision or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.

(i) "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student who is the target of the prohibited conduct. Subd. 3. Local district and school policy.

(a) Districts and schools, in consultation with students, parents, and community organizations, to the extent practicable, shall adopt, implement, and, on a cycle consistent with other district policies, review, and revise where appropriate, a written policy to prevent and prohibit student bullying consistent with this section. The policy must conform with sections 121A.41 to 121A.56. A district or school must adopt and implement a local policy under subdivisions 3 to 5 or comply with the provisions of the state model policy in subdivision 6.

(b) Each local district and school policy must establish research-based, developmentally appropriate best practices that include preventive and remedial measures and effective discipline for deterring policy violations; apply throughout the school or district; and foster active student, parent, and community participation. A district or school may request assistance from the school safety technical assistance center under section 127A.052 in complying with local policy requirements. The policy shall:

(1) define the roles and responsibilities of students, school personnel, and volunteers under the policy;

(2) specifically list the characteristics contained in subdivision 2, paragraph (g);

(3) emphasize remedial responses;

(4) be conspicuously posted in the administrative offices of the school and school district in summary form;

(5) be given to each school employee and independent contractor, if a contractor regularly interacts with students, at the time of employment with the district or school;

(6) be included in the student handbook on school policies; and

(7) be available to all parents and other school community members in an electronic format in the languages appearing on the district or school Web site, consistent with the district policies and practices.

(c) Consistent with its applicable policies and practices, Each district and school under this subdivision must discuss its policy with students, school personnel, and volunteers and provide appropriate training for all school personnel to prevent, identify, and respond to prohibited conduct. Districts and schools must establish a training cycle, not to exceed a period of three school years, for school personnel under this paragraph. Newly employed school personnel must receive the training within the first year of their employment with the district or school. A district or school administrator may accelerate the training cycle or provide additional training based on a particular need or circumstance.

(d) Each district and school under this subdivision must submit an electronic copy of its prohibited conduct policy to the commissioner.

Subd. 4. Local policy components.

(a) Each district and school policy implemented under this section must, at a minimum:

(1) designate a staff member as the primary contact person in the school building to receive reports of prohibited conduct under clause (3), ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters implicating both the district or school and the department;

(2) require school employees who witness prohibited conduct or possess reliable information that would lead a reasonable person to suspect that a student is a target of prohibited conduct to make reasonable efforts to address and resolve the prohibited conduct;

(3) provide a procedure to begin to investigate reports of prohibited conduct within three school days of the report, and make the primary contact person responsible for the investigation and any resulting record and for keeping and regulating access to any record;

(4) indicate how a school will respond to an identified incident of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct; at the school administrator's discretion and consistent with state and federal data practices law governing access to data, including section 13.02, subdivision 8, a presumption that a district or school official will notify the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial responses to the prohibited conduct; and ensuring that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history;

(5) prohibit reprisals or retaliation against any person who asserts, alleges, or reports prohibited conduct or provides information about such conduct and establish appropriate consequences for a person who engages in reprisal or retaliation;

(6) allow anonymous reporting but do not rely solely on an anonymous report to determine discipline;

(7) provide information about available community resources to the target, actor, and other affected individuals, as appropriate;

(8) where appropriate for a child with a disability to prevent or respond to prohibited conduct, allow the child's individualized education program or section 504 plan to address the skills and proficiencies the child needs to respond to or not engage in prohibited conduct;

(9) use new employee training materials, the school publication on school rules, procedures, and standards of conduct, and the student handbook on school policies to publicize the policy;

(10) require ongoing professional development, consistent with section 122A.60, to build the skills of all school personnel who regularly interact with students, including, but not limited to, educators, administrators, school counselors, social workers, psychologists, other school mental health professionals, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches,

extracurricular activities advisors, and paraprofessionals to identify, prevent, and appropriately address prohibited conduct;

(11) allow the alleged actor in an investigation of prohibited conduct to present a defense; and

(12) inform affected students and their parents of their rights under state and federal data practices laws to obtain access to data related to the incident and their right to contest the accuracy or completeness of the data.

(b) Professional development under a local policy includes, but is not limited to, information about:

(1) developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;

(2) the complex dynamics affecting an actor, target, and witnesses to prohibited conduct;

(3) research on prohibited conduct, including specific categories of students at risk for prohibited conduct in school;

(4) the incidence and nature of cyberbullying; and

(5) Internet safety and cyberbullying.

Subd. 5. Safe and supportive schools programming.

(a) Districts and schools are encouraged to provide developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct; value diversity in school and society; develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and make effective prevention and intervention programs available to students. Districts and schools must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

(b) Districts and schools are encouraged to:

(1) engage all students in creating a safe and supportive school environment;

(2) partner with parents and other community members to develop and implement prevention and intervention programs;

(3) engage all students and adults in integrating education, intervention, and other remedial responses into the school environment;

(4) train student bystanders to intervene in and report incidents of prohibited conduct to the school's primary contact person;

(5) teach students to advocate for themselves and others;

(6) prevent inappropriate referrals to special education of students who may engage in prohibited conduct; and

(7) foster student collaborations that foster a safe and supportive school climate.

Subd. 6. State model policy.

(a) The commissioner, in consultation with the commissioner of human rights, shall develop and maintain a state model policy. A district or school that does not adopt and implement a local policy under subdivisions 3 to 5 must implement and may supplement the provisions of the state model policy. The commissioner must assist districts and schools under this subdivision to implement the state policy. The state model policy must:

(1) define prohibited conduct, consistent with this section;

(2) apply the prohibited conduct policy components in this section;

(3) for a child with a disability, whenever an evaluation by an individualized education program team or a section 504 team indicates that the child's disability affects the child's social skills development or the child is vulnerable to prohibited conduct because of the child's disability, the child's individualized

education program or section 504 plan may address the skills and proficiencies the child needs to not engage in and respond to such conduct; and

(4) encourage violence prevention and character development education programs under section 120B.232, subdivision 1.

(b) The commissioner shall develop and post departmental procedures for:

- (1) periodically reviewing district and school programs and policies for compliance with this section;
- (2) investigating, reporting, and responding to noncompliance with this section, which may include an annual review of plans to improve and provide a safe and supportive school climate; and
- (3) allowing students, parents, and educators to file a complaint about noncompliance with the commissioner.

(c) The commissioner must post on the department's Web site information indicating that when districts and schools allow noncurriculum-related student groups access to school facilities, the district or school must give all student groups equal access to the school facilities regardless of the content of the group members' speech.

Subd. 7. Relation to existing law. — This section does not:

- (1) establish any private right of action;
- (2) limit rights currently available to an individual under other civil or criminal law, including, but not limited to, chapter 363A; or
- (3) interfere with a person's rights of religious expression and free speech and expression under the First Amendment of the United States Constitution.

121A.0311. Notice of the rights and responsibilities of students and parents under the Safe and Supportive Minnesota Schools Act.

A district or school subject to section 121A.031 must include in the student discipline policy it distributes or otherwise transmits to students and their parents annually at the beginning of each school year notice about the rights and responsibilities of students and their parents under the Safe and Supportive Minnesota Schools Act.

121A.69. Hazing policy.

Subdivision 1. Definitions.

- (a) "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person in order for the student to be initiated into or affiliated with a student organization.
- (b) "Student organization" means a group, club, or organization having students as its primary members or participants.

Subd. 2. Model policy. - The commissioner of education shall maintain and make available to school boards a model policy on student or staff hazing that addresses the requirements of subdivision 3.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

122A.60. Staff development program.

Subd. 3. Staff development outcomes. - The advisory staff development committee must adopt a staff development plan, consistent with section 122A.40, subdivision 8, or 122A.41, subdivision 5, for developing and evaluating teachers and for improving student outcomes and with section 123B.147,

subdivision 3, for strengthening principals' capacity in areas of instruction, supervision, evaluation, and teacher development. The plan must be consistent with education outcomes that the school board determines. The plan must include ongoing staff development activities that contribute toward continuous improvement in achieving the following goals:

(5) effectively teach and model violence prevention policy and curriculum that address early intervention alternatives, issues of harassment, and teach nonviolent alternatives for conflict resolution.

124D.231. Full-service community schools.

Subd. 2. Full-service community school program.

(f) School sites must complete a baseline analysis prior to beginning programming as a full-service community school. The analysis shall include:

(1) a baseline analysis of needs at the school site, led by the school leadership team, which shall include the following elements:

(vii) evaluation of the need for and availability of wraparound services, including, but not limited to:

(B) strategies to create a safe and secure school environment and improve school climate and discipline, such as implementing a system of positive behavioral supports, and taking additional steps to eliminate bullying.

124D.8957. Prekindergarten through grade 12 parental rights code elsewhere.

Subd. 4. Antibullying. - Parental rights related to school district antibullying policies, including the right to be involved in developing the policies, the right to be notified of incidents of prohibited conduct, and the right to be informed of data practices laws, are governed by section 121A.031.

128C.02. Duties, Policies, Criteria, Rules of Board.

Subd. 2. Sexual harassment and violence; hazing. - The board of the league shall adopt a policy, rules, penalties, and recommendations addressing sexual harassment and sexual violence and hazing toward and by participants in league activities.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

121A.03. Model policy.

Subdivision 1. Model policy. - The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

121A.031. School student bullying policy.

Subd. 6. State model policy.

(a) The commissioner, in consultation with the commissioner of human rights, shall develop and maintain a state model policy. A district or school that does not adopt and implement a local policy under subdivisions 3 to 5 must implement and may supplement the provisions of the state model policy. The commissioner must assist districts and schools under this subdivision to implement the state policy. The state model policy must:

- (1) define prohibited conduct, consistent with this section;
- (2) apply the prohibited conduct policy components in this section;
- (3) for a child with a disability, whenever an evaluation by an individualized education program team or a section 504 team indicates that the child's disability affects the child's social skills development or the child is vulnerable to prohibited conduct because of the child's disability, the child's individualized education program or section 504 plan may address the skills and proficiencies the child needs to not engage in and respond to such conduct; and
- (4) encourage violence prevention and character development education programs under section 120B.232, subdivision 1.

(b) The commissioner shall develop and post departmental procedures for:

- (1) periodically reviewing district and school programs and policies for compliance with this section;
- (2) investigating, reporting, and responding to noncompliance with this section, which may include an annual review of plans to improve and provide a safe and supportive school climate; and
- (3) allowing students, parents, and educators to file a complaint about noncompliance with the commissioner.

(c) The commissioner must post on the department's Web site information indicating that when districts and schools allow noncurriculum-related student groups access to school facilities, the district or school must give all student groups equal access to the school facilities regardless of the content of the group members' speech.

121A.69. Hazing policy.

Subd. 2. Model policy. - The commissioner of education shall maintain and make available to school boards a model policy on student or staff hazing that addresses the requirements of subdivision 3.

122A.60. Staff development program.

Subd. 3. Staff development outcomes. - The advisory staff development committee must adopt a staff development plan, consistent with section 122A.40, subdivision 8, or 122A.41, subdivision 5, for developing and evaluating teachers and for improving student outcomes and with section 123B.147,

subdivision 3, for strengthening principals' capacity in areas of instruction, supervision, evaluation, and teacher development. The plan must be consistent with education outcomes that the school board determines. The plan must include ongoing staff development activities that contribute toward continuous improvement in achieving the following goals:

- (5) effectively teach and model violence prevention policy and curriculum that address early intervention alternatives, issues of harassment, and teach nonviolent alternatives for conflict resolution.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

121A.67. Removal by peace officer.

Subdivision 1. Rules. - The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, the Elementary School Principals Association, and the Secondary School Principals Association, must amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

- (1) promote the use of positive behavioral interventions and supports and must not encourage or require the use of aversive or deprivation procedures.

122A.627. Positive behavior interventions and supports.

"Positive behavioral interventions and supports" or "PBIS" means an evidence-based framework for preventing problem behavior, providing instruction and support for positive and prosocial behaviors, and supporting social, emotional, and behavioral needs for all students. Schoolwide implementation of PBIS requires training, coaching, and evaluation for school staff to consistently implement the key components that make PBIS effective for all students, including:

- (1) establishing, defining, teaching, and practicing three to five positively stated schoolwide behavioral expectations that are representative of the local community and cultures;
- (2) developing and implementing a consistent system used by all staff to provide positive feedback and acknowledgment for students who display schoolwide behavioral expectations;
- (3) developing and implementing a consistent and specialized support system for students who do not display behaviors representative of schoolwide positive expectations;
- (4) developing a system to support decisions based on data related to student progress, effective implementation of behavioral practices, and screening for students requiring additional behavior supports;
- (5) using a continuum of evidence-based interventions that is integrated and aligned to support academic and behavioral success for all students; and
- (6) using a team-based approach to support effective implementation, monitor progress, and evaluate outcomes.

Consistent with section 120B.232, subdivision 1, character education curriculum and programs may be used to support implementation of the key components of PBIS.

125A.0941. Definitions.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately, including the key components under section 122A.627.

125A.0942. Standards for restrictive procedures.

Subd. 6. Behavior supports; reasonable force.

(a) School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

REGULATIONS

3525.0850. Behavior Interventions.

This policy is intended to encourage the use of positive approaches to behavioral interventions. The objective of any behavioral intervention must be that pupils acquire appropriate behaviors and skills. It is critical that behavioral intervention programs focus on skills acquisition rather than merely behavior reduction or elimination. Behavioral intervention policies, programs, or procedures must be designed to enable a pupil to benefit from an appropriate, individualized educational program as well as develop skills to enable them to function as independently as possible in their communities.

Prevention

LAWS

120B.22. Violence prevention education.

Subdivision 1. Violence prevention curriculum.

(a) The commissioner of education, in consultation with the commissioners of health and human services, state minority councils, battered women's and domestic abuse programs, battered women's shelters, sexual assault centers, representatives of religious communities, and the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall assist districts on request in developing or implementing a violence prevention program for students in kindergarten to grade 12 that can be integrated into existing curriculum. The purpose of the program is to help students learn how to resolve conflicts within their families and communities in nonviolent, effective ways.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(1) a comprehensive, accurate, and age appropriate curriculum on violence prevention, nonviolent conflict resolution, sexual, racial, and cultural harassment, self-protection, and student hazing that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety;

(2) planning materials, guidelines, and other accurate information on preventing physical and emotional violence, identifying and reducing the incidence of sexual, racial, and cultural harassment, and reducing child abuse and neglect;

(3) a special parent education component of early childhood family education programs to prevent child abuse and neglect and to promote positive parenting skills, giving priority to services and outreach programs for at-risk families;

(4) involvement of parents and other community members, including the clergy, business representatives, civic leaders, local elected officials, law enforcement officials, and the county attorney;

- (5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services;
- (6) collaboration among districts and service cooperatives;
- (7) targeting early adolescents for prevention efforts, especially early adolescents whose personal circumstances may lead to violent or harassing behavior;
- (8) opportunities for teachers to receive in-service training or attend other programs on strategies or curriculum designed to assist students in intervening in or preventing violence in school and at home; and
- (9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural harassment or student hazing.

(c) The department may provide assistance at a neutral site to a nonpublic school participating in a district's program.

Subd. 2. In-service training. Each district is encouraged to provide training for district staff and school board members on the following:

- (1) helping students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways;
- (2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and
- (3) complying with mandatory reporting requirements under chapter 260E.

The in-service training must be ongoing and involve experts familiar with sexual abuse, domestic violence, and personal safety issues.

Subd. 3. Funding sources. - Districts may accept funds from public and private sources for violence prevention programs developed and implemented under this section.

120B.23. Violence prevention education grants.

Subdivision 1. Grant program established. - The commissioner of education, after consulting with the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall establish a violence prevention education grant program to enable a school district, an education district, or a group of districts that cooperate for a particular purpose to develop and implement or to continue a violence prevention program for students in kindergarten through grade 12 that can be integrated into existing curriculum. A district or group of districts that elects to develop and implement or to continue a violence prevention program under section 120B.22 is eligible to apply for a grant under this section.

Subd. 2. Grant application. - To be eligible to receive a grant, a school district, an education district, a service cooperative, or a group of districts that cooperate for a particular purpose must submit an application to the commissioner in the form and manner and according to the timeline established by the commissioner. The application must describe how the applicant will: (1) continue or integrate into its existing K-12 curriculum a program for violence prevention that contains the program components listed in section 120B.22; (2) collaborate with local organizations involved in violence prevention and intervention; and (3) structure the program to reflect the characteristics of the children, their families and the community involved in the program. The commissioner may require additional information from the applicant. When reviewing the applications, the commissioner shall determine whether the applicant has met the requirements of this subdivision.

Subd. 3. Grant awards.

- (a) The commissioner may award grants for a violence prevention education program to eligible applicants as defined in subdivision 2. Grant amounts may not exceed \$3 per resident pupil unit in the district or group of districts in the prior school year. Grant recipients should be geographically distributed throughout the state.

(b) School districts and charter schools may accept funds from private and other public sources for child sexual abuse prevention programs developed and implemented under sections 120B.021, subdivision 1, paragraph (d), and 120B.234, including federal funding under the Every Student Succeeds Act.

Subd. 4. Grant proceeds. - A successful applicant must use the grant money to develop and implement or to continue a violence prevention program according to the terms of the grant application.

121A.03. Model policy.

Subdivision 1. Model policy. - The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

121A.031. School student bullying policy.

Subd. 3. Local district and school policy.

(b) Each local district and school policy must establish research-based, developmentally appropriate best practices that include preventive and remedial measures and effective discipline for deterring policy violations; apply throughout the school or district; and foster active student, parent, and community participation. A district or school may request assistance from the school safety technical assistance center under section 127A.052 in complying with local policy requirements. The policy shall:

- (1) define the roles and responsibilities of students, school personnel, and volunteers under the policy;
- (2) specifically list the characteristics contained in subdivision 2, paragraph (g);
- (3) emphasize remedial responses;
- (4) be conspicuously posted in the administrative offices of the school and school district in summary form;
- (5) be given to each school employee and independent contractor, if a contractor regularly interacts with students, at the time of employment with the district or school;
- (6) be included in the student handbook on school policies; and
- (7) be available to all parents and other school community members in an electronic format in the languages appearing on the district or school Web site, consistent with the district policies and practices.

121A.61. Discipline and removal of students from class.

Subd. 3. Policy components.- The policy must include at least the following components:

- (j) any procedures determined appropriate for encouraging early detection of behavioral problems;
- (o) procedures for immediate and appropriate interventions tied to violations of the code.

124D.895. Parental involvement programs.

Subdivision 1. Program goals. - The department, in consultation with the state curriculum advisory committee, must develop guidelines and model plans for parental involvement programs that will:

- (7) partner with parents in establishing a positive school climate by developing and implementing prevention and intervention programs on prohibited conduct under section 121A.031.

127A.051. School safety technical assistance council.

Subd. 2. Duties. - The council must provide leadership for the following activities:

- (1) establishment of norms and standards for prevention, intervention, and support around issues of prohibited conduct;

(2) advancement of evidence-based policy and best practices to improve school climate and promote school safety.

127A.052. School safety technical assistance center.

(b) The center's services shall include:

(7) administrative and financial support for school and district planning, schools recovering from incidents of violence, and school and district violence prevention education.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

120B.232. Character development education.

Subdivision 1. Character development education.

(a) Character education is the shared responsibility of parents, teachers, and members of the community. The legislature encourages districts to integrate or offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness. Instruction should be integrated into a district's existing programs, curriculum, or the general school environment. To the extent practicable, instruction should be integrated into positive behavioral intervention strategies, under section 122A.627. The commissioner shall provide assistance at the request of a district to develop character education curriculum and programs.

(b) Character development education under paragraph (a) may include a voluntary elementary, middle, and high school program that incorporates the history and values of Congressional Medal of Honor recipients and may be offered as part of the social studies, English language arts, or other curriculum, as a schoolwide character building and veteran awareness initiative, or as an after-school program, among other possibilities.

Subd. 1a. Staff development; continuing education.

(a) Staff development opportunities under section 122A.60 may include training in character development education that incorporates the history and values of Congressional Medal of Honor recipients under subdivision 1, paragraph (b), and is provided without cost to the interested school or district.

(b) Local continuing education and relicensure committees or other local relicensure committees under section 122A.187, subdivision 3, are encouraged to approve up to six clock hours of continuing education for licensed teachers who complete the training in character development education under paragraph (a).

Subd. 2. Funding sources.- The commissioner must first use federal funds for character development education programs to the extent available under United States Code, title 20, section 7247. Districts may accept funds from private and other public sources for character development education programs developed and implemented under this section, including programs funded through the Congressional Medal of Honor Foundation, among other sources.

121A.03. Model policy.

Subdivision 1. Model policy. - The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development

education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

121A.031. School student bullying policy.

Subd. 5. Safe and supportive schools programming.

(a) Districts and schools are encouraged to provide developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct; value diversity in school and society; develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and make effective prevention and intervention programs available to students. Upon request, the school safety technical assistance center under section 127A.052 must assist a district or school in helping students understand social media and cyberbullying. Districts and schools must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

122A.627. Positive behavior interventions and supports.

Consistent with section 120B.232, subdivision 1, character education curriculum and programs may be used to support implementation of the key components of PBIS.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

122A.187. Expiration and renewal.

Subd. 6. Mental illness. - The Professional Educator Licensing and Standards Board must adopt rules that require all licensed teachers renewing a teaching license under sections 122A.181 to 122A.184 to include in the renewal requirements at least one hour of suicide prevention best practices training in each licensure renewal period based on nationally recognized evidence-based programs and practices, among the continuing education credits required to renew a license under this subdivision. Initial training must include understanding the key warning signs of early-onset mental illness in children and adolescents, and during subsequent licensure renewal periods, training must include a more in-depth understanding of students' mental illness trauma, accommodations for students' mental illness, parents' roles in addressing students' mental illness, Fetal Alcohol Spectrum Disorders, autism, the requirements of section 125A.0942 governing restrictive procedures, and de-escalation methods, among other similar topics.

245.4889. Children's mental health grants.

(b) The following services are eligible for grants under this section:

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive website to share information and strategies to promote resilience and prevent trauma.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

122A.187. Expiration and renewal.

Subd. 6. Mental illness. - The Professional Educator Licensing and Standards Board must adopt rules that require all licensed teachers renewing a teaching license under sections 122A.181 to 122A.184 to include in the renewal requirements at least one hour of suicide prevention best practices training in each licensure renewal period based on nationally recognized evidence-based programs and practices, among the continuing education credits required to renew a license under this subdivision. Initial training must include understanding the key warning signs of early-onset mental illness in children and adolescents, and during subsequent licensure renewal periods, training must include a more in-depth understanding of students' mental illness trauma, accommodations for students' mental illness, parents' roles in addressing students' mental illness, Fetal Alcohol Spectrum Disorders, autism, the requirements of section 125A.0942 governing restrictive procedures, and de-escalation methods, among other similar topics.

245.4889. Children's mental health grants.

(b) The following services are eligible for grants under this section:

(11) mental health first aid training.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

121A.45. Grounds for dismissal.

Subd. 3. Parent notification and meeting. - If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

125A.0942. Standards for restrictive procedures.

Subdivision 1. Restrictive procedures plan.

(a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an electronic format on a school or district Web site or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

(2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services. [...]

Subd. 3. Physical holding or seclusion.

(b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of prone restraints. The statewide plan includes the following

components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of prone restraints; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.

120B.22. Violence prevention education.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services.

124D.231. Full-service community schools.

Subd. 2. Full-service community school program.

(g) Each school site receiving funding under this section must establish at least two of the following types of programming:

(4) mental and physical health:

(vii) mental health counseling services.

145.958. Youth violence prevention.

Subd. 2. Violence prevention programs for at-risk youth.

(c) Violence prevention programs may include, but are not limited to:

(6) chemical dependency and mental health intervention, screening, and assessment.

245.487. Citation; Declaration of policy; Mission.

Subd. 3. Mission of children's mental health service system. - As part of the comprehensive children's mental health system established under sections 245.487 to 245.4889, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children and that:

(5) provides mental health services to children and their families in the context in which the children live and go to school.

245.4889. Children's mental health grants.

(b) The following services are eligible for grants under this section:

(8) school-linked mental health services under section 245.4901.

245.4901. School-linked mental health grants.

Subdivision 1. Establishment. - The commissioner of human services shall establish a school-linked mental health grant program to provide early identification and intervention for students with mental health needs and to build the capacity of schools to support students with mental health needs in the classroom.

Subd. 2. Eligible applicants. - An eligible applicant for school-linked mental health grants is an entity that is:

(1) certified under Minnesota Rules, parts 9520.0750 to 9520.0870;

- (2) a community mental health center under section 256B.0625, subdivision 5;
- (3) an Indian health service facility or a facility owned and operated by a tribe or tribal organization operating under United States Code, title 25, section 5321;
- (4) a provider of children's therapeutic services and supports as defined in section 256B.0943; or
- (5) enrolled in medical assistance as a mental health or substance use disorder provider agency and employs at least two full-time equivalent mental health professionals qualified according to section 245I.16, subdivision 2, or two alcohol and drug counselors licensed or exempt from licensure under chapter 148F who are qualified to provide clinical services to children and families.

Subd. 3. Allowable grant activities and related expenses.

(a) Allowable grant activities and related expenses may include but are not limited to:

- (1) identifying and diagnosing mental health conditions of students;
- (2) delivering mental health treatment and services to students and their families, including via telemedicine consistent with section 256B.0625, subdivision 3b;
- (3) supporting families in meeting their child's needs, including navigating health care, social service, and juvenile justice systems;
- (4) providing transportation for students receiving school-linked mental health services when school is not in session;
- (5) building the capacity of schools to meet the needs of students with mental health concerns, including school staff development activities for licensed and nonlicensed staff; and
- (6) purchasing equipment, connection charges, on-site coordination, set-up fees, and site fees in order to deliver school-linked mental health services via telemedicine.

(b) Grantees shall obtain all available third-party reimbursement sources as a condition of receiving a grant. For purposes of this grant program, a third-party reimbursement source excludes a public school as defined in section 120A.20, subdivision 1. Grantees shall serve students regardless of health coverage status or ability to pay.

Subd. 4. Data collection and outcome measurement. - Grantees shall provide data to the commissioner for the purpose of evaluating the effectiveness of the school-linked mental health grant program.

256.995. School-linked services for at-risk children and youth.

Subd. 3. Services. - The program must be designed not to duplicate existing programs, but to enable schools to collaborate with county social service agencies and county health boards and with local public and private providers to assure that at-risk children and youth receive health care, mental health services, family drug and alcohol counseling, and needed social services. Screenings and referrals under this program shall not duplicate screenings under section 121A.17.

REGULATIONS

9505.1748. Contracts for administrative services.

Subpart 1. Authority. A local agency may contract with a county public health nursing service, a community health clinic, a Head Start agency, a community action agency, or a school district for early and periodic screening, diagnosis, and treatment administrative services. Early and periodic screening, diagnosis, and treatment administrative services include outreach; notification; appointment scheduling and transportation; follow-up; and documentation. For purposes of this subpart, "community action agency" means an entity defined in Minnesota Statutes, section 256E.31, subdivision 1, and "school district" means a school district as defined in Minnesota Statutes, section 120A.05, subdivisions 5, 10, and 14.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

121A.03. Model policy.

Subd. 2. Sexual, religious, and racial harassment and violence policy. - A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

121A.031. School student bullying policy.

Subd. 4. Local policy components.

(a) Each district and school policy implemented under this section must, at a minimum:

- (1) designate a staff member as the primary contact person in the school building to receive reports of prohibited conduct under clause (3), ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters implicating both the district or school and the department;
- (2) require school employees who witness prohibited conduct or possess reliable information that would lead a reasonable person to suspect that a student is a target of prohibited conduct to make reasonable efforts to address and resolve the prohibited conduct;
- (3) provide a procedure to begin to investigate reports of prohibited conduct within three school days of the report, and make the primary contact person responsible for the investigation and any resulting record and for keeping and regulating access to any record;
- (4) indicate how a school will respond to an identified incident of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct; at the school administrator's discretion and consistent with state and federal data practices law governing access to data, including section 13.02, subdivision 8, a presumption that a district or school official will notify the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial responses to the prohibited conduct; and ensuring that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history;
- (5) prohibit reprisals or retaliation against any person who asserts, alleges, or reports prohibited conduct or provides information about such conduct and establish appropriate consequences for a person who engages in reprisal or retaliation;
- (6) allow anonymous reporting but do not rely solely on an anonymous report to determine discipline.

121A.06. Reports of dangerous weapon incidents in school zones.

Subd. 2. Reports; content. - School districts must electronically report to the commissioner of education incidents involving the use or possession of a dangerous weapon in school zones. The form must include the following information:

- (1) a description of each incident, including a description of the dangerous weapon involved in the incident;
- (2) where, at what time, and under what circumstances the incident occurred;
- (3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;
- (4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;
- (5) the cost of the incident to the school and to the victim; and
- (6) The action taken by the school administration to respond to the incident.

The commissioner shall provide an electronic reporting format that allows school districts to provide aggregate data.

121A.64. Notification; Teachers' legitimate educational interest.

(a) A classroom teacher has a legitimate educational interest in knowing which students placed in the teacher's classroom have a history of violent behavior, including any documented physical assault of a district employee by the student, and must be notified before such students are placed in the teacher's classroom.

(b) Representatives of the school board and the exclusive representative of the teachers shall discuss issues related to the model policy on student records adopted under Laws 1999, chapter 241, article 9, section 50, and any modifications adopted under Laws 2003, First Special Session chapter 9, for notifying classroom teachers and other school district employees having a legitimate educational interest in knowing about students with a history of violent behavior, including any documented physical assault of a district employee by students placed in classrooms. The representatives of the school board and the exclusive representative of the teachers also may discuss the need for intervention services or conflict resolution or training for staff related to placing students with a history of violent behavior in teachers' classrooms.

121A.69. Hazing policy.

Subd. 3. School board policy. - Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41 to 121A.56. Each school must include the policy in the student handbook on school policies.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

120A.26. Enforcement and prosecution.

Subd. 3. Notice to parents. - The superintendent must notify the parent, in writing, if a child is alleged to be receiving instruction in violation of sections 120A.22 and 120A.24. The written notification must include a list of the specific alleged violations.

121A.031. School student bullying policy.

Subd. 4. Local policy components.

- (a) Each district and school policy implemented under this section must, at a minimum:

(4) indicate how a school will respond to an identified incident of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct; at the school administrator's discretion and consistent with state and federal data practices law governing access to data, including section 13.02, subdivision 8, a presumption that a district or school official will notify the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial responses to the prohibited conduct; and ensuring that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history.

121A.45. Grounds for dismissal.

Subd. 3. Parent notification and meeting. - If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

121A.46. Suspension procedures.

Subd. 3. Written notice of grounds for suspension. - A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of sections 121A.40 to 121A.56, shall be personally served upon the pupil at or before the time the suspension is to take effect, and upon the pupil's parent or guardian by mail within 48 hours of the conference. The district shall make reasonable efforts to notify the parents of the suspension by telephone as soon as possible following suspension. In the event a pupil is suspended without an informal administrative conference on the grounds that the pupil will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the pupil and the pupil's parent or guardian within 48 hours of the suspension. Service by mail is complete upon mailing.

121A.47. Exclusion and expulsion procedures.

Subd. 2. Written notice. - Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail.

121A.54. Notice of right to be reinstated.

Whenever a pupil fails to return to school within ten school days of the termination of dismissal, a school administrator shall inform the pupil and the pupil's parents by mail of the pupil's right to attend and to be reinstated in the public school.

121A.575. Alternatives to pupil suspension.

Notwithstanding any law to the contrary and in accordance with sections 121A.40 to 121A.56, after a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

- (1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;
- (2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and
- (3) petition the juvenile court that the student is in need of services under chapter 260C.

121A.61. Discipline and removal of students from class.

Subd. 2. Grounds for removal from class. - The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or

guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

- (a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
- (b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and
- (c) willful violation of any rule of conduct specified in the discipline policy adopted by the board. [...]

Subd. 3. Policy components.- The policy must include at least the following components:

- (h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;
- (i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior.

121A.67. Removal by peace officer.

Subdivision 1. Rules. - The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, the Elementary School Principals Association, and the Secondary School Principals Association, must amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

- (3) require educational personnel to notify a parent or guardian of a pupil with an individual education plan on the same day aversive or deprivation procedures are used in an emergency or in writing within two school days if district personnel are unable to provide same-day notice.

125A.0942. Standards for restrictive procedures.

Subd. 2. Restrictive procedures.

- (b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (f).

124D.8957. Prekindergarten through grade 12 parental rights code elsewhere.

Subd. 4. Antbullying. - Parental rights related to school district antibullying policies, including the right to be involved in developing the policies, the right to be notified of incidents of prohibited conduct, and the right to be informed of data practices laws, are governed by section 121A.031.

Subd. 5. Student discipline policies. - The parental right to notice in student discipline policies of rights under the Safe and Supportive Minnesota Schools Act is governed by section 121A.0311. [...]

Subd. 7. Chemical abuse. - The parental right to be informed of a reported case of chemical abuse by a minor student is governed by section 121A.26. [...]

Subd. 9. Student dismissal. - The parental right to notice and a meeting regarding the removal of a student for more than ten days is governed by section 121A.45.

Subd. 10. Exclusion and expulsion. - The parental right to be included in exclusion or expulsion hearing procedures, including access to records, ability to testify and present evidence, and inclusion in the student's readmission plan, is governed by section 121A.47. Subd. 11. Exclusion and expulsion appeal. - The parental right to notice of the right to appeal an exclusion or expulsion decision is governed by section 121A.49.

Subd. 12. Reinstatement after termination of dismissal. - The parental right to notice of a student's right to be reinstated after the termination of dismissal is governed by section 121A.54.

260A.02. Definitions.

Subd. 3. Continuing truant. - "Continuing truant" means a child who is subject to the compulsory instruction requirements of section 120A.22 and is absent from instruction in a school, as defined in section 120A.05, without valid excuse within a single school year for:

- (1) three days if the child is in elementary school; or
- (2) three or more class periods on three days if the child is in middle school, junior high school, or high school.

Nothing in this section shall prevent a school district or charter school from notifying a truant child's parent or legal guardian of the child's truancy or otherwise addressing a child's attendance problems prior to the child becoming a continuing truant.

260A.03. Notice to parent or guardian when child is a continuing truant.

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

- (1) that the child is truant;
- (2) that the parent or guardian should notify the school if there is a valid excuse for the child's absences;
- (3) that the parent or guardian is obligated to compel the attendance of the child at school pursuant to section 120A.22 and parents or guardians who fail to meet this obligation may be subject to prosecution under section 120A.34;
- (4) that this notification serves as the notification required by section 120A.34;
- (5) that alternative educational programs and services may be available in the child's enrolling or resident district;
- (6) that the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the child's truancy;
- (7) that if the child continues to be truant, the parent and child may be subject to juvenile court proceedings under chapter 260C;
- (8) that if the child is subject to juvenile court proceedings, the child may be subject to suspension, restriction, or delay of the child's driving privilege pursuant to section 260C.201; and
- (9) that it is recommended that the parent or guardian accompany the child to school and attend classes with the child for one day.

260A.04. Community-based truancy projects and service centers.

Subd. 3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

- (3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person. [...]

(c) Truancy service centers may expand their service capability in order to receive curfew violators and take appropriate action, such as coordination of intervention efforts, contacting parents, and developing strategies to ensure that parents assume responsibility for their children's curfew violations.

260A.06. Referral of truant students to school attendance review board.

Subdivision 1. Referral; notice. - An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian. The notice must:

- (1) include the name and address of the board to which the student has been referred and the reason for the referral; and
- (2) indicate that the student, the parent or legal guardian, and the referring person will meet with the board to determine a proper disposition of the referral, unless the board refers the student directly to the county attorney or for other appropriate legal action.

Subd. 2. Meeting; community services.

(a) Except as provided in paragraph (b), the school attendance review board shall schedule the meeting described in subdivision 1 and provide notice of the meeting by first class mail or other reasonable means to the student, parent or guardian, and referring person. If the board determines that available community services may resolve the attendance problems of the truant student, the board shall refer the student or the student's parent or guardian to participate in the community services. The board may develop an agreement with the student and parent or guardian that specifies the actions to be taken. The board shall inform the student and parent or guardian that failure to comply with any agreement or to participate in appropriate community services will result in a referral to the county attorney under subdivision 3. The board may require the student or parent or guardian to provide evidence of participation in available community services or compliance with any agreement.

(b) A school attendance review board may refer a student directly to the county attorney or for other appropriate legal action under subdivision 3 if it has established procedures and criteria for these referrals.

260A.07. County attorney truancy medication program.

Subdivision 1. Establishment; referrals. - A county attorney may establish a truancy mediation program for the purpose of resolving truancy problems without court action. If a student is in a school district or charter school that has established a school attendance review board, the student may be referred to the county attorney under section 260A.06, subdivision 3. If the student's school district or charter school has not established a board, the student may be referred to the county attorney by the school district or charter school if the student continues to be truant after the parent or guardian has been sent or conveyed the notice under section 260A.03.

Subd. 2. Meeting; notice. - The county attorney may request the parent or legal guardian and the child referred under subdivision 1 to attend a meeting to discuss the possible legal consequences of the minor's truancy. The notice of the meeting must be served personally or by certified mail at least five days before the meeting on each person required to attend the meeting. The notice must include:

- (1) the name and address of the person to whom the notice is directed;
- (2) the date, time, and place of the meeting;
- (3) the name of the minor classified as a truant;
- (4) the basis for the referral to the county attorney;
- (5) a warning that a criminal complaint may be filed against the parents or guardians pursuant to section 120A.34 for failure to compel the attendance of the minor at school or that action may be taken in juvenile court; and
- (6) a statement that the meeting is voluntary.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

120A.24. Reporting.

Subd. 4. Reports to the state. - A superintendent must make an annual report to the commissioner of education by December 1 of the total number of nonpublic children reported as residing in the district. The report must include the following information:

- (1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;
- (2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and
- (3) the number of children in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.

121A.06. Reports of dangerous weapon incidents in school zones.

Subd. 3. Reports; filing requirements. - By July 31 of each year, each public school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner. The reports must be submitted using the electronic reporting system developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety and the legislature.

121A.53. Report to commissioner of education.

Subdivision 1. Exclusions and expulsions; physical assaults.- The school board must report through the department electronic reporting system each exclusion or expulsion and each physical assault of a district employee by a student within 30 days of the effective date of the dismissal action or assault to the commissioner of education. This report must include a statement of alternative educational services, or other sanction, intervention, or resolution in response to the assault given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion or other sanction, intervention, or resolution. The report must also include the student's age, grade, gender, race, and special education status.

Subd. 2. Report.

(a) The school board must include state student identification numbers of affected pupils on all dismissal and other disciplinary reports required by the department. The department must report annually to the commissioner summary data on the number of dismissals and physical assaults of district employees by a student by age, grade, gender, race, and special education status of the affected pupils. All dismissal and other disciplinary reports must be submitted through the department electronic reporting system.

(b) The commissioner must aggregate the district data reported under this section and include the aggregated data, including aggregated data on physical assaults of a district employee by a student, in the annual school performance reports under section 120B.36.

121A.65. Review of policy.

The principal or other person having general control and supervision of the school, and representatives of parents, students, and staff in a school building shall confer at least annually to review the discipline policy and to assess whether the policy has been enforced. A school board must conduct an annual review of the districtwide discipline policy.

125A.0942. Standards for restrictive procedures.

Subd. 3. Physical holding or seclusion.

(b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of prone restraints. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of prone restraints; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582. [...]

Subd. 6. Behavior supports; reasonable force.

(b) Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. For the 2014-2015 school year and later, districts must collect and submit to the commissioner summary data, consistent with subdivision 3, paragraph (b), on district use of reasonable force that is consistent with the definition of physical holding or seclusion for a child with a disability under this section.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

121A.05. Policy to refer firearms possessor.

A school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, a pupil who brings a firearm to school unlawfully.

121A.28. Law enforcement records.

A law enforcement agency shall provide notice of any drug incident occurring within the agency's jurisdiction, in which the agency has probable cause to believe a student violated section 152.021, 152.022, 152.023, 152.024, 152.025, 152.0262, 152.027, 152.092, 152.097, or 340A.503, subdivision 1, 2, or 3. The notice shall be in writing and shall be provided, within two weeks after an incident occurs, to the chemical abuse preassessment team in the school where the student is enrolled.

121A.29. Reporting; chemical abuse.

Subdivision 1. Teacher's duty. - A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team of this information. A teacher who complies with this section shall be defended and indemnified under section 466.07, subdivision 1, in any action for damages arising out of the compliance.

Subd. 2. Other reports. - Nothing in this section prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

260A.04. Community-based truancy projects and service centers.

Subd. 3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services.

260A.06. Referral of truant students to school attendance review board.

Subd. 3. Referral to county attorney; other appropriate action. - If the school attendance review board determines that available community services cannot resolve the attendance problems of the truant student, if the student or the parent or guardian has failed to comply with any referrals or agreements under subdivision 2 or to otherwise cooperate with the board, or if the board determines that a student should be referred directly under this subdivision, the board may:

(1) refer the matter to the county attorney under section 260A.07, if the county attorney has elected to participate in the truancy mediation program; or

(2) if the county attorney has not elected to participate in the truancy mediation program, refer the matter for appropriate legal action against the child or the child's parent or guardian under chapter 260 or section 120A.34.

260A.07. County attorney truancy medication program.

Subdivision 1. Establishment; referrals. - A county attorney may establish a truancy mediation program for the purpose of resolving truancy problems without court action. If a student is in a school district or charter school that has established a school attendance review board, the student may be referred to the

county attorney under section 260A.06, subdivision 3. If the student's school district or charter school has not established a board, the student may be referred to the county attorney by the school district or charter school if the student continues to be truant after the parent or guardian has been sent or conveyed the notice under section 260A.03.

Subd. 2. Meeting; notice. - The county attorney may request the parent or legal guardian and the child referred under subdivision 1 to attend a meeting to discuss the possible legal consequences of the minor's truancy. The notice of the meeting must be served personally or by certified mail at least five days before the meeting on each person required to attend the meeting. The notice must include:

- (1) the name and address of the person to whom the notice is directed;
- (2) the date, time, and place of the meeting;
- (3) the name of the minor classified as a truant;
- (4) the basis for the referral to the county attorney;
- (5) a warning that a criminal complaint may be filed against the parents or guardians pursuant to section 120A.34 for failure to compel the attendance of the minor at school or that action may be taken in juvenile court; and
- (6) a statement that the meeting is voluntary.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

121A.55. Policies to be established.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

126C.44. Safe schools levy.

(a) Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$ 36 multiplied by the district's adjusted pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes:

- (1) to pay the costs incurred for the salaries, benefits, and transportation costs of peace officers and sheriffs for liaison in services in the district's schools [...]

(b) For expenditures under paragraph (a), clause (1), the district must initially attempt to contract for services to be provided by peace officers or sheriffs with the police department of each city or the sheriff's department of the county within the district containing the school receiving the services. If a local police department or a county sheriff's department does not wish to provide the necessary services, the district

may contract for these services with any other police or sheriff's department located entirely or partially within the school district's boundaries.

299A.62. Community-oriented policing (COPS) grant program.

Subdivision 1. Program established.

(b) Grants may be awarded as provided in subdivision 2 for the following purposes:

(3) to enable local law enforcement agencies to implement or expand community-oriented policing projects, liaison efforts with local school districts, and other innovative community policing initiatives.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Minnesota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Alternatives to Suspension, Minnesota Department of Education (MDE)	Provides resources for school staff to reduce out-of-school suspensions as a response to disciplinary incidents to keep students in school where they can learn.	http://education.state.mn.us/MDE/dse/sped/alt/index.htm
Comprehensive School Mental Health Systems (CSMHS)	Provides information and resources on school-community collaborations that provide a continuum of mental health services in schools to enhance outcomes for individual students, reduce exclusionary discipline practices, better social/emotional functioning, and improve both school climate and safety.	https://education.mn.gov/MDE/dse/safe/CSMHS/
Discipline, MDE	Provides general information about due process protections that Minnesota schools must provide to students who are dismissed (suspended, expelled, or excluded) from school.	https://education.mn.gov/MDE/fam/disc/index.htm
Dropout Prevention/At Risk Students, MDE	Addresses dropout prevention in Minnesota schools and provides an overview of the Minnesota Early Indicator and Response System (MEIRS).	http://education.state.mn.us/MDE/dse/drop/
Ensuring Safe and Supportive Schools, MDE	Provides an overview of the School Climate Center, which offers resources for all members of the school community, including school staff, students, and families. Links are provided to subsections related to school climate such as bullying prevention, restorative practices, social emotional learning, and crisis and traumatic event resources.	http://education.state.mn.us/MDE/dse/safe/
Expulsion, MDE	Provides information about expulsion and exclusion procedures and due process protections for Minnesota students.	https://education.mn.gov/MDE/fam/disc/exp/
Multi-Tiered System of Supports (MTSS), MDE	Provides an overview of MTSS and includes links to additional resources for schools.	https://education.mn.gov/MDE/dse/mtss/
Physical Holds and Seclusion, MDE	Provides general information about the standards for the use of restrictive procedures (physical holds and seclusion) in Minnesota schools.	http://education.state.mn.us/MDE/fam/sped/holds/index.htm

Title	Description	Website address (if applicable)
Positive Behavioral Interventions and Supports (PBIS), MDE	Provides an overview on PBIS in Minnesota's schools and the use of the PBIS Recognition system to identify and recognize exemplar schools and districts that have completed PBIS implementation and are continuing to achieve positive student outcomes.	http://education.state.mn.us/MDE/dse/sped/pbis/index.htm
Q&As on Discipline, Unique Placements, and Restrictive Procedures	Contains technical assistance documents on discipline and other topics.	https://education.mn.gov/MDE/dse/sped/caqa/dis/index.htm
Restorative Practices, MDE	Provides information about developing a restorative mindset, implementing restorative practices in schools, and integrating restorative practices into schoolwide climate alongside efforts to increase equity, address the impact of racism, and support public health measures.	https://education.mn.gov/MDE/dse/safe/prac/
Restrictive Procedures, MDE	Provides an overview on restrictive procedures for school districts and links additional resources such as model restrictive procedures forms and a compliance checklist.	http://education.state.mn.us/MDE/dse/sped/restr/index.htm
School and Staff Resources, MDE	Provides school and staff with resources, tools, strategies and best practices to prevent bullying, respond to bullying and improve school climate. Webpage contains links to training and procedures, model policies, resources for responding to trauma and tragedy, and school safety.	https://education.mn.gov/MDE/dse/safe/res/
Student Discipline, MDE	Provides student discipline resources for Minnesota schools, including opportunities for training and technical assistance and information about reporting discipline data through MDE's electronic reporting system.	http://education.state.mn.us/MDE/dse/disc/
Suspension, MDE	Provides information about suspension procedures and due process protections for Minnesota students.	https://education.mn.gov/MDE/fam/disc/susp/
Documents		
2020-21 Planning Guidance for Minnesota Public Schools (May 2021), MDE	Guidance document for Minnesota public schools designed to ensure that every student receives an equitable education and has equal access to learning and instruction during the COVID-19 pandemic.	https://education.mn.gov/mdeprod/groups/communications/documents/basic/bwrl/mdmy/~edis/mde032934.pdf
A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming	Toolkit providing guidance for schools to create school environments where transgender and gender nonconforming students are safe, supported and fully included, and have equal access to the	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE072543&RevisionSelectionMethod=latestReleased&Rendition=primary

Title	Description	Website address (if applicable)
Students (September 2017), MDE	educational opportunities provided to all students.	
Model Harassment and Violence Prohibition Policy (January 2013), MDE	Model policy addressing prohibition of harassment and violence in Minnesota schools.	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=049863&RevisionSelectionMethod=latestReleased&Rendition=primary
Model Hazing Prohibition Policy (March 2012), MDE	Model policy addressing prohibition of hazing in Minnesota schools.	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=005464&RevisionSelectionMethod=latestReleased&Rendition=primary
Model Restrictive Procedures Checklist (March 2014), MDE	Checklist containing information for the compliance review of the use of restrictive procedures (physical holding and seclusion) for districts and parents to verify compliance in the following areas: seclusion, physical holding, and restrictive procedures plan and training.	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=054727&RevisionSelectionMethod=latestReleased&Rendition=primary
Model Student Bullying Prohibition Policy (November 2014), MDE	Model policy addressing prohibition of bullying in Minnesota schools.	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=057641&RevisionSelectionMethod=latestReleased&Rendition=primary
Restorative Practices School Implementation Guidance (January 2020), MDE	Guidance document providing school districts with support for implementing restorative practices into their districts and schools.	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE089351&RevisionSelectionMethod=latestReleased&Rendition=primary
School Districts' Progress in Reducing the Use of Restrictive Procedures in Minnesota Schools (March 2022), MDE	Report to the legislature containing information about Minnesota's progress towards its goals and recommendations and resources on reducing the use of restrictive procedures and eliminating the use of seclusion in Minnesota schools (Appendix D)	https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=PROD058663&RevisionSelectionMethod=latestReleased&Rendition=primary
Social Emotional Learning District Implementation and Professional Development Guidance, MDE	Guidance document supporting the SEL implementation process, from assessing capacity and developing plans for implementation to detailed guidance on implementation and assessment.	http://education.state.mn.us/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE073520&RevisionSelectionMethod=latestReleased&Rendition=primary
<i>Other Resources</i>		
Discipline Data, MDE	Reports summarize the disciplinary incident data as well as student demographic data (grade, gender, race/ethnicity) for disciplinary actions (suspensions, exclusions and expulsions) by district and state totals for the most current school year. Includes a trend report of student disciplinary actions by district and state totals for the last three school years.	https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=133



Mississippi Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Mississippi Revised Statutes

The State of Mississippi contracts with LexisNexis to provide free public access to the Mississippi Code (<http://www.lexisnexis.com/hottopics/mscode/>). Users must agree to terms and conditions prior to use of the site. All listed statutes are searchable by title and chapter number or by using key search terms.

Title 21. Municipalities

Chapter 19. Health, Safety, and Welfare

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Title 37. Education

Chapter 3. State Department of Education

- 37-3-82. Mississippi Community Oriented Policing Services in Schools grant program established; purpose; use of funds
- 37-3-82.1. Schools unable to meet financial requirements for participation in MCOPS program authorized to develop alternative plans for student security
- 37-3-83. School Safety Grant Program; implementation of “Erin’s Law Awareness” policy addressing sexual abuse of children; pilot program utilizing evidence-based curriculum to provide children stress and anxiety management skills; biennial refresher training on mental health and suicide prevention for all school employees
- 37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation; standardized Memorandum of Understanding between mental health facilities and school districts to include referral protocols and standardized behavioral health screening
- 37-3-93. School crisis management program; quick response teams; toll-free telephone service for reporting school violence; certified threat assessment officers and duties thereof

Chapter 7. School Districts; Board of Trustees of School Districts

Article 7. Boards of Trustees; General Powers and Duties

- 37-7-301. General powers and duties
- 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services
- 37-7-323. Application and enforcement of general criminal laws of state

Chapter 9. District Superintendents, Principals, Teachers, and other Employees

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- 37-9-14. General duties and powers of superintendent of school district

- 37-9-69. General duties of superintendents, principals and teachers
37-9-71. Suspension or expulsion of pupils

Chapter 11. General Provisions Pertaining to Education

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37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes
37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting
37-11-43. Public high school fraternity, sorority or secret society; duties of boards of trustees
37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension
37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports
37-11-55. Code of student conduct
37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students; exception for students with disabilities
37-11-67. Bullying or harassing behavior in public schools prohibited
37-11-69. Anti-bullying personnel and discipline policies and code of student conduct

Chapter 13. Curriculum; School year and Attendance

Mississippi Compulsory School Attendance Law

- 37-13-85. Powers and duties
37-13-89. School attendance officers; qualifications; duties; salaries
37-13-91. Compulsory school attendance requirements generally; enforcement of law
37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report

Character Education

- 37-13-181. Character education programs in public schools authorized
37-13-183. Assessment of students' understanding of character traits
37-13-185. Review of proposed character education programs by State Board of Education

Chapter 14. Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Act of 2007

- 37-14-3. Office of Healthy Schools of State Department of Education to administer school nurse program; transfer of school nurse intervention program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools

Chapter 15. Public Schools; Records, Enrollment and Transfer of Pupils

37-15-6. Central reporting system for information concerning expulsions from public schools; access to information

Chapter 18. Superior-Performing, Exemplary and School At-Risk Schools Programs

37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council

Title 41. Public Health

Chapter 4. Department of Mental Health

41-4-7. Powers and duties of board

Chapter 113. Tobacco Education, Prevention and Cessation Program

41-113-3. Office of tobacco control created in state board of health; development of comprehensive statewide tobacco education, prevention and cessation program; program components; funding

Title 43. Public Welfare

Chapter 14. Mississippi Statewide System of Care for Children and Youth

43-14-1. Mississippi statewide system of care for children and youth; purpose; included services; Interagency coordinating council for children and youth (ICCCY) established; membership; Interagency System of Care Council (ISCC); purpose and composition; Multidisciplinary assessment, planning, and resource (MAP) teams; funds contributed by participating state agencies

Title 45. Public Safety and Good Orders

Chapter 6. Law Enforcement Officers Training Program

45-6-7. Powers of board

Title 95. Torts

Chapter 15. Liability Exception for Report of Suspicious Activity or Behavior

95-15-1. Limitation of liability for report of suspicious activity or behavior

Title 97. Crimes

Chapter 3. Crimes Against the Person

97-3-105. Hazing; initiation into organization

Chapter 37. Weapons and Explosives

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97-37-17. Possession of weapons by students; aiding or encouraging

Mississippi Regulations

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Title 7. Department of Education

Part 3: Board Policies

Chapter 7: Alternate Education Programs

Rule 7.1. Guidelines

Chapter 9: Attendance Reporting

Rule 9.1. Attendance reporting

Chapter 15. Character Education

Rule 15.1. Character education

Chapter 18: Children First Act of 2009

Rule 18.1. Annual report

Chapter 30: Dropout Prevention

Rule 30.1. Compulsory school attendance

Rule 30.2. Reporting unexcused absences

Rule 30.4. Truancy rate definition, calculation and rate

Chapter 38: Healthy and Safe Schools

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Chapter 97: Weapons

Rule 97.1. Weapons

Part 24. Mississippi Public School Accountability Standards

2.0. District Accreditation Policy

2.2. Process standards

Part 192. Mississippi School Safety Manual

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 37-7-301. General powers and duties.

The school boards of all school districts shall have the following powers, authority and duties in addition to all others imposed or granted by law, to wit:

(e) To suspend or to expel a pupil or to change the placement of a pupil to the school district's alternative school or homebound program for misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district.

§ 37-9-71. Suspension or expulsion of pupils.

The superintendent of schools and the principal of a school shall have the power to suspend or expel a pupil for good cause, including misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event when such conduct by a pupil, in the determination of the superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, or for any reason for which such pupil might be suspended, dismissed or expelled by the school board under state or federal law or any rule, regulation or policy of the local school district. For any suspension of more than ten (10) days or expulsions, a student shall have the right to a due process hearing, be represented by legal counsel, to present evidence and cross-examine witnesses presented by the district. The student and the student's parent, legal guardian or person in custody of the student may appeal suspension of more than ten (10) days and expulsions to the school board. The standard of proof in all disciplinary proceedings shall be substantial evidence. The parent or guardian of the child shall be advised of this right to a hearing by the appropriate superintendent or principal and the proper form shall be provided for requesting such a hearing.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars (\$20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(a) Specific grounds for disciplinary action under the school district's discipline plan;

(b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;

(c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

§ 37-11-69. Anti-bullying personnel and discipline policies and code of student conduct.

(1) Each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior, that:

(a) Prohibit the bullying of a student.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

5. Administrative Procedures

a. Local school districts that utilize physical restraint and seclusion for all students shall develop written policies and procedures that govern the use of restraint and/or seclusion and shall periodically review and update them as appropriate.

CMSR 07-000-003. Rule 97.1. Weapons.

Each local school district shall have a policy concerning weapons on school premises.

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Operational Approach

MDE is focusing on the school safety plan as the primary foundation instrument by which schools can evaluate their status as well as design and implement changes to policies, procedures, and emergency protocols based on research results. MDE has established broad principles of student intervention, discipline, and management. Implementing these principles daily, as part of normal routine, will ensure schools are maintaining a safe environment. Operational approaches deal with routine procedures and typically yield an almost immediate safe school environment when rigorously implemented. A safe environment requires the support from all levels, starting with the school board and working down through the superintendent, principals, teachers, and students to implement the school safety as well as disciplinary policies and procedures. This includes student monitoring, implementation of student codes of conduct, properly utilized disciplinary procedures, deployment of School Resource Officers (SRO) and School Safety Officers (SSO), proper enforcement procedures, compliance with state statutes as well as liaison with law enforcement, emergency services, youth court, and community service agencies. [...]

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)
 - a. Miss. Code Ann. § 37-11-53 - Dissemination of the Student Code of Conduct
 - b. Must possess and enforce the Student Disciplinary Plan.

Scope

LAWS

§ 37-7-301. General powers and duties.

The school boards of all school districts shall have the following powers, authority and duties in addition to all others imposed or granted by law, to wit:

- (e) To suspend or to expel a pupil or to change the placement of a pupil to the school district's alternative school or homebound program for misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district.

§ 37-9-69. General duties of superintendents, principals and teachers.

It shall be the duty of each superintendent, principal and teacher in the public schools of this state to enforce in the schools the courses of study prescribed by law or by the state board of education, to comply with the law in distribution and use of free textbooks, and to observe and enforce the statutes, rules and regulations prescribed for the operation of schools. Such superintendents, principals and

teachers shall hold the pupils to strict account for disorderly conduct at school, on the way to and from school, on the playgrounds, and during recess.

§ 37-9-71. Suspension or expulsion of pupils.

The superintendent of schools and the principal of a school shall have the power to suspend or expel a pupil for good cause, including misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event when such conduct by a pupil, in the determination of the superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, or for any reason for which such pupil might be suspended, dismissed or expelled by the school board under state or federal law or any rule, regulation or policy of the local school district. For any suspension of more than ten (10) days or expulsions, a student shall have the right to a due process hearing, be represented by legal counsel, to present evidence and cross-examine witnesses presented by the district. The student and the student's parent, legal guardian or person in custody of the student may appeal suspension of more than ten (10) days and expulsions to the school board. The standard of proof in all disciplinary proceedings shall be substantial evidence. The parent or guardian of the child shall be advised of this right to a hearing by the appropriate superintendent or principal and the proper form shall be provided for requesting such a hearing.

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved. However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have

its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

5. Administrative Procedures

- d. All parents shall receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the local school district or school. The written policies are to be included in each local education agencies code of conduct, student handbook, or other appropriate school publication.

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

- 7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)
 - a. Miss. Code Ann. § 37-11-53 - Dissemination of the Student Code of Conduct. [...]

School Safety Plan Components

There are three (3) components to a School Safety Plan.

1. District and School Policies and Procedures Manual

Policies and procedures that are clearly communicated and consistently enforced to afford a safe school operating environment. A listing of policies, procedures, and regulations the district and/or school has enacted are typically those items listed in:

- b. Parent/Student Handbook: Uniform policies, code of conduct policies, etc.
- c. Discipline Code: Hearing procedures and prohibited conduct.
- d. District Policies and Procedures: Safety policies, campus security policy, assessments conducted, needs identified, alternative school/detention policy.

In-School Discipline

Discipline Frameworks

LAWS

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars (\$20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

- (a) Specific grounds for disciplinary action under the school district's discipline plan;
- (b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;
- (c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;
- (d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;
- (e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;
- (f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and
- (g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students; exception for students with disabilities.

(1) Except in the case of excessive force or cruel and unusual punishment, a public school teacher, assistant teacher, principal, or an assistant principal acting within the course and scope of his employment shall not be liable for any action carried out in conformity with state or federal law or rules or regulations of the State Board of Education or the local school board or governing board of a charter school regarding the control, discipline, suspension and expulsion of students. The local school board shall provide any necessary legal defense to a teacher, assistant teacher, principal, or assistant principal in the school district who was acting within the course and scope of his employment in any action which may be filed against such school personnel. A school district or charter school, as the case may be, shall be entitled to reimbursement for legal fees and expenses from its employee if a court finds that the act of the employee was outside the course and scope of his employment, or that the employee was acting with criminal intent. Any action by a school district or charter school against its employee and any action by the employee against the school district or charter school for necessary legal fees and expenses shall be tried to the court in the same suit brought against the school employee.

(2) Corporal punishment administered in a reasonable manner, or any reasonable action to maintain control and discipline of students taken by a public school teacher, assistant teacher, principal or assistant principal acting within the scope of his employment or function and in accordance with any state or federal laws or rules or regulations of the State Board of Education or the local school board or governing board of a charter school does not constitute negligence or child abuse. No public school teacher, assistant teacher, principal or assistant principal so acting shall be held liable in a suit for civil damages alleged to have been suffered by a student as a result of the administration of corporal punishment, or the taking of action to maintain control and discipline of a student, unless the court determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

(3) Notwithstanding subsection (2) of this section a public school teacher, assistant teacher, principal, assistant principal or other school personnel is prohibited from using corporal punishment, as defined in subsection (2) of this section, on any student with a disability. No school personnel shall be granted immunity from liability under subsection (2) of this section for the use of corporal punishment on a student with a disability. For purposes of this subsection, the term "student with a disability" means a student who has an individualized education plan (IEP) under the Individuals with Disabilities Education Act (IDEA) or a Section 504 plan under the Rehabilitation Act of 1973. The term "school personnel" includes all individuals employed on a full-time or part-time basis by a public school.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)
 - e. Must have a search policy for students, personal property, and vehicles that is enforced.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

1. Introduction

The Mississippi Department of Education and the State Board of Education supports a positive approach to behavior that uses proactive strategies to create a safe school climate that promotes dignity, creates authentic student engagement, and improves student achievement for all students. When teachers and administrators implement evidence-based positive behavior supports with fidelity, a safe and orderly school environment is created that is conducive to learning and students are able to achieve without the constant interruptions that occur when teachers are required to address discipline in the classroom.

Research indicates that the most effective response to school violence is to establish a school culture that emphasizes prevention, early identification, teaching, reinforcement of appropriate behavior and continuous data-based problem solving. One primary method is to structure the environment using a non-aversive effective behavioral system, such as Positive Behavior Interventions and Supports (PBIS). Effective positive behavioral systems are comprehensive, in that they are comprised of a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavioral outcomes for all students. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. When integrated with effective academic instruction, such systems can help provide the supports children need to become actively engaged in their own learning and academic success. Schools successfully implementing comprehensive behavioral systems create school-wide environments that reinforce appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. In schools implementing comprehensive behavioral systems, trained school staff use preventive assessments to identify where, under what conditions, with whom, and why

specific inappropriate behavior may occur, as well as implement de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments should include (1) a review of existing records; (2) interviews with parents, family members, and students; and (3) examination of previous and existing behavioral intervention plans. Using these data from such assessments helps schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior. The use of comprehensive behavioral systems significantly decreases the likelihood that restraint or seclusion would be used, supports the attainment of more appropriate behavior, and, when implemented as described, can help to improve academic achievement and behavior. In order to reduce the use of aversive techniques in response to student behavior, restraint and seclusion, school wide behavior systems should include a comprehensive behavior management system that includes: (a) socially valued and measurable outcomes, (b) empirically validated and practical practices (c) systems that efficiently and effectively support the implementation of these practices, and (d) continuous collection and use of data for decision making.

However, at times, some students exhibit behaviors which place themselves and others in imminent danger. Schools shall implement proactive strategies and interventions to reduce the likelihood of these situations, and they shall have clearly identified responses to address such situations when they occur. Additionally, schools shall have policies in place that address the responses needed to ensure the safety of all students and staff.

2. Restraint and Seclusion Policy

A Restraint and Seclusion Policy is defined through written local school board-approved policies and procedures that define appropriate means of restraint and seclusion to provide for a safe and orderly education. These policies and procedures shall apply to all students in the local school district and shall not focus on one or more subgroups of students.

In accordance with Miss. Code Ann. §§ 37-9-69. and 37-11-57, it is recognized that staff may intercede in situations wherein students are displaying physically violent behavior or are deemed to be a danger to themselves or others. State Board policy positively prohibits the use of excessive force, or cruel and unusual punishment regarding student management. Restraint and/or seclusion shall not be utilized as a punitive measure.

This policy in no way shall inhibit the right of staff to reasonable self-defense in accordance with the provisions of the 5 [th] and 14 [th] amendments to the Constitution of the United States, or the Constitution of Mississippi, nor negate the obligation of the district to provide a safe work environment.

3. Definitions

a. Aversive behavioral interventions is defined as a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

b. Aversive procedure is defined as the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to: infliction of bodily pain, (e.g., hitting, pinching, slapping), water spray, noxious fumes, extreme physical exercise, costumes, or signs.

c. Aversive technique is defined as physical, emotional or mental distress as a method of redirecting or controlling behavior.

- d. Behavioral intervention is defined as the implementation of strategies to address behavior that is dangerous, inappropriate, detrimental, or otherwise impedes the learning of the students.
- e. Behavior Intervention Plan (BIP) is defined as a plan of action for managing a student's behavior. The BIP includes a set of strategies and supports intended to increase the occurrence of behaviors that school personnel encourage and to decrease behaviors that school personnel want to lessen or eliminate. The BIP shall include:
- i. Observable and measurable description of the problem behavior;
 - ii. Identified purpose of the problem behavior as a result of the FBA;
 - iii. General strategy or combination of strategies for changing the problem behavior;
 - iv. Written description of when, where, and how often the strategy will be implemented; and
 - v. Consistent system of monitoring and evaluating the effectiveness of the plan.
- f. Chemical restraint is defined as "the administration of medication for the purpose of restraint." Chemical restraint does not apply to medication prescribed by and administered in accordance with the directions of a licensed physician. The use of chemical restraint is prohibited in Mississippi Public Schools.
- g. Dangerous behavior is defined as behavior that presents an imminent danger of physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out-of-seat behaviors.
- h. De-escalation techniques are defined as strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.
- i. Emergency situation is defined as spontaneous unpredictable events posing an imminent threat of serious bodily injury.
- j. Functional Behavioral Assessment (FBA) is defined as a school-based, collaborative process that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment.
- i. The term includes direct assessments, indirect assessments and data analysis designed to assist the team to identify and define the problem behavior in concrete terms.
 - ii. Contextual factors (including affective and cognitive factors) are identified that contribute to the behavior, and a hypothesis is formulated regarding the general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior.
 - iii. Formal documentation of the assessment by appropriately qualified individuals become part of the child's educational record.
 - iv. The FBA must include all of the following:
 - a. Clear description of the problematic behavior;
 - b. Identification of the antecedent events, times, and situations that predict when the problem behavior will and will not occur;
 - c. Identification of the consequences of the problem behavior;
 - d. Development of hypotheses and summary statements that describes the problem behavior and its functions; and
 - e. Collection of data from a variety of sources: interviews, direct observation data, etc.
- k. Imminent danger is defined as a danger which is impending, close at hand, threatening, or about to happen.
- l. Individualized Education Plan (IEP) is defined as a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§ 300.320-300.324.

m. Mechanical restraint is defined as "any device that attaches to a student's body that restricts movement and cannot be removed by the student." Examples include: straps, tie downs, boards, and harnesses. Handcuffs are also considered mechanical restraints, but may only be used by certified school resource officers, as defined in Miss. Code Ann. §§ 37-7-321. and 37-7-323. The use of mechanical restraints is prohibited in Mississippi Public Schools, except as provided in §§ 37-7-321. and 37-7-323.

Devices not considered mechanical restraints include: adaptive equipment, protective devices, or assistive technology devices documented in a student's individualized education plan (IEP), Section 504 plan, behavior intervention plan, or otherwise prescribed for the student by a medical or related service provider, seatbelts, and other safety equipment when used to secure students during transportation.

n. Physical escort is defined as the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out (with minimal resistance) and able to respond to such physical prompt, to move to a safe location.

o. Physical prompt is defined as a teaching technique that involves physical contact with the student and that enable the student to learn or model the physical movement necessary for the development of the desired competency.

p. Physical Restraint is defined as "the use of physical force, without the use of any device or material that restricts the free movement of all or a portion of a student's body." Physical restraint does not include briefly holding a student's hand or arm to calm them or escort them to another area. A physical restraint shall be removed as soon as the student is no longer a danger to himself/herself or others. The term physical restraint does not include:

i. Physical restraint that restricts the flow of air to the student's lungs.

ii. Prone restraint in which a student is placed face down on the floor or other surface, and physical pressure is applied to the student's body to keep the student in the prone position.

q. Positive Behavior Interventions and Supports (PBIS) is defined as a proactive approach to establishing the behavioral supports and social culture needed for all students in a school to achieve social, emotional and academic success. Attention is focused on creating and sustaining primary (school-wide), secondary (classroom), and tertiary (individual) systems of support that improve lifestyle results (personal, health, social, family, work, recreation) for all youth by making targeted misbehavior less effective, efficient, and relevant, and desired behavior more functional.

r. Positive Behavior Support Plan is defined as the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

s. Seclusion is defined as "the confinement of a student in an enclosure from which the student's egress is restricted." Seclusion does not include in-school suspension, detention, or alternative school.

t. Section 504 Plan is defined as an individualized plan of accommodations and modifications to provide a free appropriate public education to a student who has a disability that substantially limits a major life activity. A 504 plan spells out the modifications and accommodations that will be needed for a student to have the opportunity to perform at the same level as their peers.

u. Written report is defined as a printed paper filings and electronic filings that can be printed.

4. General

Procedures Restraint

a. Physical restraint is considered to be an emergency response after all other verbal and non-verbal de-escalation measures have failed in effectiveness based on the following criteria:

- i. The student or other person is engaged in actions that would constitute a danger to themselves or others;
- ii. The student or other person is engaged in actions that would constitute potential or actual destruction of property;
- iii. To remove a non-compliant student or person from the scene of an incident;
- iv. The restraint should be removed as soon as the student is no longer a danger to themselves or others.

b. When using physical restraint for students who are a danger to themselves or others, staff should take precautions necessary to ensure the safety of the student and the staff members engaged in restraining the student. Physical restraints that restrict the flow of air are prohibited in all situations. When deemed it is necessary to restrain a student who is a danger to themselves or others, the following procedures shall be used:

- i. Restraint shall be conducted by staff who are trained in the restraint procedures adopted by the school district;
- ii. Staff shall carefully observe the student throughout the restraint to observe the student's physical and emotional status;
- iii. Restraint shall be immediately terminated if the student appears to be, or claims to be, in severe stress;
- iv. The restraint shall be removed as soon as the staff determines the student is no longer a danger to himself/herself or others;
- v. When the student is able, he/she should be returned to the instructional activity, or to a less restrictive environment;
- vi. Parents must be notified on the same school day of the incident. At the time the parent is notified, the school shall schedule a debriefing with the parent to discuss the incident. In the event a parent cannot be reached by telephone, a letter shall be sent informing the parent of the incident and the person who can be contacted at the school to address any questions the parent may have.
- vii. Within two school days after the restraint incident occurs, the staff shall conduct a debriefing of the circumstances leading to the restraint and discuss any alternative behaviors that could have been utilized;
- viii. The school shall report the restraint and/or seclusion incident to the local school district and the Mississippi Department of Education.

c. School districts that permit restraint and seclusion shall ensure that staff members are trained in the use of restraint. This training shall be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, crisis intervention, and de-escalation techniques.

Absent an imminent danger to health or safety, physical restraint shall only be practiced by staff trained in the physical restraint approach adopted by the local school district. The Mississippi Department of Education does not endorse a particular training program. The local school district shall select programs which are approved by the MDE and those that are founded on evidence-based techniques which focus on:

- i. Certification for school personnel and recertification as required by the training program;
- ii. Preventing the need for restraint;
- iii. Training in first aid;

- iv. Identification of antecedent behaviors;
- v. Use of positive behavior supports, de-escalation, and conflict management;
- vi. Keeping staff and students safe during required restraints.

Local school district administrators shall monitor the use of physical restraint to ensure fidelity of implementation. Additional and follow-up training shall be provided on an ongoing basis and any situations in which procedures are not followed shall be addressed immediately.

- d. The use of mechanical restraints is prohibited in Mississippi Public Schools, except by law enforcement.
- e. The use of chemical restraints is prohibited in Mississippi Public Schools.

Behavioral Interventions

- a. Behavioral intervention must be consistent with the child's right to be treated as an individual. Schools shall implement an evidence-based system of positive behavioral intervention strategies and support. Elements of the system of support shall include universal screening to identify potential students, teaching school-wide expected behaviors and social skills, and a system to monitor the effectiveness of the interventions and supports.
- b. Behavioral strategies, in conjunction with the school-wide system of positive behavioral interventions shall be used to help identify the causes of dangerous behavior and reduce the need for restraint or seclusion. Information about a student through interviews, observation, and records help identify the causes of the dangerous behavior and shall guide the development of a behavioral plan for the student. A complete plan shall include:
 - i. Addressing the characteristics of the setting and the event;
 - ii. If possible, removing the antecedents that triggered the event;
 - iii. Adding antecedents that promote appropriate behavior;
 - iv. Teaching appropriate behaviors to replace the dangerous behaviors.

Seclusion

- a. The use of seclusion occurs in a specially designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. The room or space used for seclusion may not be locked and staff shall be present to monitor the student. Seclusion shall cease once the student regains control of his or her behavior.

Only school personnel trained in the use of restraint and seclusion should be used to observe and monitor these students. Staff engaged in monitoring students shall have knowledge of effective restraint and seclusion procedures, emergency procedures, and knowledge of how to effectively debrief students after the use of restraint or seclusion.
- b. The room or space used for seclusion shall not contain any objects or fixtures with which a student could reasonably be harmed. Additionally, the room shall provide adequate lighting and ventilation.
- c. School personnel may use seclusion to address a student's behavior:
 - i. If the student's behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
 - ii. After less restrictive or alternative approaches have failed or have been determined to be inappropriate.
- d. Each time a student is placed in restraint or seclusion, the incident shall be documented in the student's educational record or cumulative folder. The documentation shall be available to the parent or guardian, and the parent or guardian shall be notified verbally or in writing on the day of the restraint or

seclusion or no later than 48 hours following the incident. In the event a parent cannot be reached by telephone, a letter shall be sent informing the parent of the incident and the person who can be contacted at the school to address any questions the parent may have. This documentation shall be provided using an incident report that is completed for each student in each instance in which the student is restrained or placed in seclusion. This report shall include the following:

- i. Date of incident and date submitted in MSIS;
- ii. Student's name, age and grade level;
- iii. Ethnicity, sex, and non-disabled/disabled status;
- iv. Location of restraint;
- v. Precipitating behavior/antecedent;
- vi. De-escalation efforts tried;
- vii. Type of restraint used;
- viii. The student's behavior and physical status during the restraint/seclusion;
- ix. Total time spent in restraint or seclusion. The student shall not be kept in seclusion for more than 20 minutes. If additional time is needed, school personnel shall reassess the student and document why the extra time is needed, or after this time, if the physical behavior is still manifested, the student shall be assessed for transport to a medical facility for evaluation by a physician and the parent notified;
- x. Injuries to student or staff;
- xi. Staff participating in the restraint/seclusion;
- xii. Staff signatures, including the principal/administrator;
- xiii. Name of school employee who the parent can contact; and
- xiv. Date and time parent was contacted.

After an incident of restraint and/or seclusion, all school personnel involved in the incident and appropriate administrative staff shall participate in a debriefing session for the purpose of planning to prevent or at least reduce the reoccurrence of the event. The debriefing session shall occur no later than two school days following the imposition of physical restraint or seclusion.

e. If restraint and/or seclusion is used on a student who is not identified with a disability, the student shall be referred to the school's intervention team within 10 days of the incident. The team shall determine if the student shows a pattern of behavior that would indicate the need for an intervention plan.

5. Administrative Procedures

a. Local school districts that utilize physical restraint and seclusion for all students shall develop written policies and procedures that govern the use of restraint and/or seclusion and shall periodically review and update them as appropriate. The written policies and procedures shall be designed to ensure the safety of all students, school personnel, and visitors and include the following provisions:

- i. Staff and faculty training on the use of physical restraint;
- ii. Parental notification when physical restraint is used to restrain their student not to exceed one school day from the use of the restraint;
- iii. Documentation of the use of physical restraint or seclusion by staff or faculty participating in or supervising the restraint or seclusion event;
- iv. Procedures for the periodic review of the use of restraint and seclusion policies;

v. Procedures by which a parent may submit a complaint regarding the physical restraint or seclusion of their child;

vi. Procedures for reporting the use of restraint or seclusion to the local board of education and to the Mississippi Department of Education.

b. The policies and procedures shall be reviewed with all staff on an annual basis.

c. Teachers and other district personnel shall be trained on how to collect and analyze student data to determine the effectiveness of these procedures in increasing appropriate behavior.

d. All parents shall receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the local school district or school. The written policies are to be included in each local education agencies code of conduct, student handbook, or other appropriate school publication.

e. A review of the use of a restraint and seclusion process shall be conducted by the school to determine if a revision of behavioral strategies are in place to address dangerous behavior or if positive behavioral strategies were not in place at the time of the restraint or seclusion.

f. School districts shall not only establish and disseminate policies and procedures on the use of seclusion and restraint, but also shall periodically review and update them as appropriate. The school district or school shall maintain records of its review of seclusion and restraint data and any resulting decisions or actions regarding the use of seclusion and restraint.

g. In any situation in which a student is a danger to themselves or others, and it becomes necessary to contact law enforcement or emergency medical personnel, nothing in this policy guidance shall be construed to interfere with the duties of law enforcement or emergency medical personnel.

h. The school district shall report the restraint and/or seclusion incident to the local school district and the Mississippi Department of Education annually.

6. Parental Notification

a. All parents shall receive, at least annually, written information about the policies for restraint and seclusion issued by the local school district or school.

b. All parents shall be notified when physical restraint is used to restrain their student before the close of school on the day the restraint was used or within 48 hours following the incident.

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)

d. Must have a restraint policy.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 37-11-19. Suspension or expulsion of student damaging school property; liability of parent or custodian.

If any pupil shall wilfully destroy, cut, deface, damage, or injure any school building, equipment or other school property he shall be liable to suspension or expulsion and his parents or person or persons in loco parentis shall be liable for all damages.

§ 37-11-43. Public high school fraternity, sorority or secret society; duties of boards of trustees.

All boards of trustees of public high schools shall prohibit fraternities, sororities, or secret societies in all high schools under their respective jurisdiction. It shall be the duty of said boards of trustees to suspend or expel from said high schools under their control, any pupil or pupils who shall be or remain a member of, or shall join or promise to join, or who shall become pledged to become a member, or who shall solicit or encourage any other person to join, promise to join, or be pledged to become a member of, any such public high school fraternity, sorority or secret society, as defined in Section 37-11-37.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

- (a) Specific grounds for disciplinary action under the school district's discipline plan.
- (b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;
- (c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;
- (d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such

recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

REGULATIONS

CMSR 07-000-003. Rule 7.1. Guidelines.

1. The alternative school program is defined through written board-approved policies and procedures that define and provide appropriate educational opportunities for the categories of students to be served. Further, the program must meet the requirements of Mississippi Code Section 37-13-92. [...]

21. School districts that enter into a contractual agreement with a private entity to provide services to students placed in an alternative setting must ensure compliance with federal and state laws and State Board Policies governing alternative education.

22. Alternative school placement shall be for, but not limited to, the following categories of compulsory school age students;

- a. whose presence in the classroom is a disruption to the educational environment of the school or a detriment to the best interest and welfare of the students and teacher;
 - b. who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious acts;
 - c. who are referred by the dispositive order of a chancellor or youth court judge, with the consent of the school district's superintendent; and
 - d. who has been referred by the parent, legal guardian or custodian of such child due to disciplinary problems (37-13-92).
23. The removal of a student to an alternative education program shall include a process of educational review to develop the student's individual instruction plan.
24. Alternative school placement shall be determined individually on a case-by-case basis and applied consistently.
25. School districts are without discretion to establish categories or classes of offenses for which the penalty is total removal from the school setting. Thus, unless a child has been suspended or expelled from school for possession of a weapon or other felonious conduct, the student must be assigned to the alternative school for that school district. The district is cautioned not to have policies that remove students from the traditional school setting to an alternative school setting for minor infractions. If the acts of a student, although not rising to the level of a felony, are such that the student poses a threat to the safety of himself or others or will disrupt the educational process at the alternative school, the school district is not required to admit the student into the alternative school.

Due Process

LAWS

§ 37-9-71. Suspension or expulsion of pupils.

The superintendent of schools and the principal of a school shall have the power to suspend or expel a pupil for good cause, including misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event when such conduct by a pupil, in the determination of the superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, or for any reason for which such pupil might be suspended, dismissed or expelled by the school board under state or federal law or any rule, regulation or policy of the local school district. For any suspension of more than ten (10) days or expulsions, a student shall have the right to a due process hearing, be represented by legal counsel, to present evidence and cross-examine witnesses presented by the district. The student and the student's parent, legal guardian or person in custody of the student may appeal suspension of more than ten (10) days and expulsions to the school board. The standard of proof in all disciplinary proceedings shall be substantial evidence. The parent or guardian of the child shall be advised of this right to a hearing by the appropriate superintendent or principal and the proper form shall be provided for requesting such a hearing.

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in

Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars (\$20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

(1) Beginning with the school year 2004-2005, the school boards of all school districts shall establish, maintain and operate, in connection with the regular programs of the school district, an alternative school program or behavior modification program as defined by the State Board of Education for, but not limited to, the following categories of compulsory-school-age students:

(a) Any compulsory-school-age child who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious conduct;

(b) Any compulsory-school-age child referred to such alternative school based upon a documented need for placement in the alternative school program by the parent, legal guardian or custodian of such child due to disciplinary problems;

(c) Any compulsory-school-age child referred to such alternative school program by the dispositive order of a chancellor or youth court judge, with the consent of the superintendent of the child's school district;

(d) Any compulsory-school-age child whose presence in the classroom, in the determination of the school superintendent or principal, is a disruption to the educational environment of the school or a detriment to the interest and welfare of the students and teachers of such class as a whole; and

(e) No school district is required to place a child returning from out-of-home placement in the mental health, juvenile justice or foster care system in alternative school. Placement of a child in the alternative school shall be done consistently, and for students identified under the Individuals with Disabilities Education Act (IDEA), shall adhere to the requirements of the Individuals with Disabilities Education Improvement Act of 2004. If a school district chooses to place a child in alternative school the district will make an individual assessment and evaluation of that child in the following time periods:

(i) Five (5) days for a child transitioning from a group home, mental health care system, and/or the custody of the Department of Human Services, Division of Youth and Family Services;

(ii) Ten (10) days for a child transitioning from a dispositional placement order by a youth court pursuant to Section 43-21-605; and

(iii) An individualized assessment for youth transitioning from out-of-home placement to the alternative school shall include:

1. A strength needs assessment.
2. A determination of the child's academic strengths and deficiencies.
3. A proposed plan for transitioning the child to a regular education placement at the earliest possible date.

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

- (a) The removal of a student to an alternative education program that will include a process of educational review to develop the student's individual instruction plan and the evaluation at regular intervals of the student's educational progress; the process shall include classroom teachers and/or other appropriate professional personnel, as defined in the district policy, to ensure a continuing educational program for the removed student;
- (b) The duration of alternative placement; and
- (c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

(3) The local school board or the superintendent shall provide for the continuing education of a student who has been removed to an alternative school program.

(4) A school district, in its discretion, may provide a program of High School Equivalency Diploma preparatory instruction in the alternative school program. However, any High School Equivalency Diploma preparation program offered in an alternative school program must be administered in compliance with the rules and regulations established for such programs under Sections 37-35-1 through 37-35-11 and by the Mississippi Community College Board. The school district may administer the High School Equivalency Diploma Testing Program under the policies and guidelines of the Testing Service of the American Council on Education in the alternative school program or may authorize the test to be administered through the community/junior college district in which the alternative school is situated.

(5) Any such alternative school program operated under the authority of this section shall meet all appropriate accreditation requirements of the State Department of Education.

(6) The alternative school program may be held within such school district or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate an alternative school program, the school board of a district designated to be the lead district shall serve as the governing board of the alternative school program. Transportation for students attending the alternative school program shall be the responsibility of the local school district. The expense of establishing, maintaining and operating such alternative school program may be paid from funds contributed or otherwise made available to the school district for such purpose or from local district maintenance funds.

(7) The State Board of Education shall promulgate minimum guidelines for alternative school programs. The guidelines shall require, at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program and, upon a determination that it is in a student's best interest for that student to receive High School Equivalency Diploma preparatory instruction, that the local school board assign the student to a High School Equivalency Diploma preparatory program established

under subsection (4) of this section. The minimum guidelines for alternative school programs shall also require the following components:

- (a) Clear guidelines and procedures for placement of students into alternative education programs which at a minimum shall prescribe due process procedures for disciplinary and High School Equivalency Diploma placement;
 - (b) Clear and consistent goals for students and parents;
 - (c) Curricula addressing cultural and learning style differences;
 - (d) Direct supervision of all activities on a closed campus;
 - (e) Attendance requirements that allow for educational and workforce development opportunities;
 - (f) Selection of program from options provided by the local school district, Division of Youth Services or the youth court, including transfer to a community-based alternative school;
 - (g) Continual monitoring and evaluation and formalized passage from one (1) step or program to another;
 - (h) A motivated and culturally diverse staff;
 - (i) Counseling for parents and students;
 - (j) Administrative and community support for the program; and
 - (k) Clear procedures for annual alternative school program review and evaluation.
- (8) On request of a school district, the State Department of Education shall provide the district informational material on developing an alternative school program that takes into consideration size, wealth and existing facilities in determining a program best suited to a district.
- (9) Any compulsory-school-age child who becomes involved in any criminal or violent behavior shall be removed from such alternative school program and, if probable cause exists, a case shall be referred to the youth court.
- (10) The State Board of Education shall promulgate guidelines for alternative school programs which provide broad authority to school boards of local school districts to establish alternative education programs to meet the specific needs of the school district.
- (11) Each school district having an alternative school program shall submit a report by July 31 of each calendar year to the State Department of Education describing the results of its annual alternative school program review and evaluation undertaken pursuant to subsection (7)(k). The report shall include a detailed account of any actions taken by the school district during the previous year to comply with substantive guidelines promulgated by the State Board of Education under subsection (7)(a) through (j). In the report to be implemented under this section, the State Department of Education shall prescribe the appropriate measures on school districts that fail to file the annual report. The report should be made available online via the department's website to ensure transparency, accountability and efficiency.

REGULATIONS

CMSR 07-000-003. Rule 7.1. Guidelines.

1. The alternative school program is defined through written board-approved policies and procedures that define and provide appropriate educational opportunities for the categories of students to be served. Further, the program must meet the requirements of Mississippi Code Section 37-13-92. [...]

21. School districts that enter into a contractual agreement with a private entity to provide services to students placed in an alternative setting must ensure compliance with federal and state laws and State Board Policies governing alternative education.

22. Alternative school placement shall be for, but not limited to, the following categories of compulsory school age students;

- a. whose presence in the classroom is a disruption to the educational environment of the school or a detriment to the best interest and welfare of the students and teacher;

- b. who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious acts;
- c. who are referred by the dispositive order of a chancellor or youth court judge, with the consent of the school district's superintendent; and
- d. who has been referred by the parent, legal guardian or custodian of such child due to disciplinary problems (37-13-92).

23. The removal of a student to an alternative education program shall include a process of educational review to develop the student's individual instruction plan.

24. Alternative school placement shall be determined individually on a case-by-case basis and applied consistently.

25. School districts are without discretion to establish categories or classes of offenses for which the penalty is total removal from the school setting. Thus, unless a child has been suspended or expelled from school for possession of a weapon or other felonious conduct, the student must be assigned to the alternative school for that school district. The district is cautioned not to have policies that remove students from the traditional school setting to an alternative school setting for minor infractions. If the acts of a student, although not rising to the level of a felony, are such that the student poses a threat to the safety of himself or others or will disrupt the educational process at the alternative school, the school district is not required to admit the student into the alternative school.

CMSR 07-000-003. Rule 9.1. Attendance reporting.

When local school districts receive a report from a juvenile court that a student's probation has school attendance as a condition, the following rules will be followed:

- 1. A review will be conducted by the school administration to determine the most appropriate academic placement, the need for counseling and other social services, and the development of an instruction plan, if appropriate;
- 2. parental involvement will be encouraged;
- 3. alternative placement will be considered if the act necessitating the order would hinder the instructional program or place others at risk for their personal safety; and
- 4. the appropriate School Attendance Officer will be notified.

CMSR 07-000-024. Part 24: Mississippi public school accountability standards.

Process Standards

Instructional Practices.

22. The school district provides access to an alternative education program that meets the program guidelines outlined in Miss. Code Ann. § 37-13-92. and the guidelines established by the State Board of Education. Miss. Admin. Code 7-3:7.1, State Board Policy, Chapter 7, Rule 7.1. See guidelines for Alternative/GED School Programs. [...]

Glossary.

Alternative School

A public elementary/secondary school that addresses needs of students that typically cannot be met in a regular school, provides nontraditional education, serves as an adjunct to a regular school, and falls outside of the categories of regular education, special education, or career technical education. Students who are placed in an alternative school will remain enrolled in the school they would normally attend if not placed in an alternative school program. Test results for students placed in an alternative school program will be reported at the school the student would normally attend. See Miss. Admin. Code 7-3: 36, State Board Policy Chapter 36.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which

occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved. However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

(a) Possession or use of a deadly weapon, as defined in Section 97-37-1.

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

(1) Beginning with the school year 2004-2005, the school boards of all school districts shall establish, maintain and operate, in connection with the regular programs of the school district, an alternative school program or behavior modification program as defined by the State Board of Education for, but not limited to, the following categories of compulsory-school-age students:

(a) Any compulsory-school-age child who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious conduct.

§ 97-37-17. Possession of weapons by students; aiding or encouraging.

(1) The following definitions apply to this section:

(a) "Educational property" shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school-related activity, and shall include the facility and property of the Oakley Youth Development Center, operated by the Department of Human Services; provided, however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

(b) "Student" shall mean a person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five (5) years from a public or private

school, college or university, or a person in the custody of the Oakley Youth Development Center, operated by the Department of Human Services, whether the person is an adult or a minor.

(c) "Switchblade knife" shall mean a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(d) "Weapon" shall mean any device enumerated in subsection (2) or (4) of this section.

(2) It shall be a felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(3) It shall be a felony for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(4) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or be imprisoned not exceeding six (6) months, or both.

(5) It shall be a misdemeanor for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade, knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving) and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or be imprisoned not exceeding six (6) months, or both.

(6) It shall not be a violation of this section for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind on educational property if:

- (a) The person is not a student attending school on any educational property;
- (b) The firearm is within a motor vehicle; and
- (c) The person does not brandish, exhibit or display the firearm in any careless, angry or threatening manner.

(7) This section shall not apply to:

- (a) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;
- (b) Armed Forces personnel of the United States, officers and soldiers of the militia and National Guard, law enforcement personnel, any private police employed by an educational institution, State Militia or Emergency Management Corps and any guard or patrolman in a state or municipal institution, and any

law enforcement personnel or guard at a state juvenile training school, when acting in the discharge of their official duties;

(c) Home schools as defined in the compulsory school attendance law, Section 37-13-91;

(d) Competitors while participating in organized shooting events;

(e) Any person as authorized in Section 97-37-7 while in the performance of his official duties;

(f) Any mail carrier while in the performance of his official duties; or

(g) Any weapon not prescribed by Section 97-37-1 which is in a motor vehicle under the control of a parent, guardian or custodian, as defined in Section 43-21-105, which is used to bring or pick up a student at a school building, school property or school function.

(8) All schools shall post in public view a copy of the provisions of this section.

REGULATIONS

CMSR 07-000-003. Rule 7.1. Guidelines.

22. Alternative school placement shall be for, but not limited to, the following categories of compulsory school age students;

b. who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious acts [...]

25. School districts are without discretion to establish categories or classes of offenses for which the penalty is total removal from the school setting. Thus, unless a child has been suspended or expelled from school for possession of a weapon or other felonious conduct, the student must be assigned to the alternative school for that school district. The district is cautioned not to have policies that remove students from the traditional school setting to an alternative school setting for minor infractions. If the acts of a student, although not rising to the level of a felony, are such that the student poses a threat to the safety of himself or others or will disrupt the educational process at the alternative school, the school district is not required to admit the student into the alternative school.

CMSR 07-000-003. Rule 97.1. Weapons.

Each local school district shall have a policy concerning weapons on school premises.

Students with Chronic Disciplinary Issues

LAWS

§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year.

(1) For the purposes of this section:

(a) The term "disruptive behavior" means conduct of a student that is so unruly, disruptive or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or school-related activity, and which is not covered by other laws related to violence or possession of weapons or controlled substances on school property, school vehicles or at school-related activities. Such behaviors include, but are not limited to: foul, profane, obscene, threatening, defiant or abusive language or action toward teachers or other school employees; defiance, ridicule or verbal attack of a teacher; and willful, deliberate and overt acts of disobedience of the directions of a teacher; and

(b) The term "habitually disruptive" refers to such actions of a student which cause disruption in a classroom, on school property or vehicles or at a school-related activity on more than two (2) occasions during a school year, and to disruptive behavior that was initiated, willful and overt on the part of the student and which required the attention of school personnel to deal with the disruption. However, no student shall be considered to be habitually disruptive before the development of a behavior modification plan for the student in accordance with the code of student conduct and discipline plans of the school district.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

(3) Any student who is thirteen (13) years of age or older for whom a behavior modification plan is developed by the school principal, reporting teacher and student's parent and which student does not comply with the plan shall be deemed habitually disruptive and subject to expulsion on the occurrence of the third act of disruptive behavior during a school year. After the second act of disruptive behavior during a school year by a student, a psychological evaluation shall be performed upon the child.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars (\$20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

§ 37-13-85. Powers and duties.

The Office of Compulsory School Attendance Enforcement shall have the following powers and duties, in addition to all others imposed or granted by law:

(a) To establish any policies or guidelines concerning the employment of school attendance officers which serve to effectuate a uniform system of enforcement under the Mississippi Compulsory School Attendance Law throughout the state, and to designate the number of school attendance officers which shall be employed to serve in each school district area;

(b) To supervise and assist school attendance officer supervisors in the performance of their duties;

(c) To establish minimum standards for enrollment and attendance for the state and each individual school district, and to monitor the success of the state and districts in achieving the required levels of performance;

(d) To provide to school districts failing to meet the established standards for enrollment and attendance assistance in reducing absenteeism or the dropout rates in those districts;

(e) To establish any qualifications, in addition to those required under Section 37-13-89, for school attendance officers as the office deems necessary to further the purposes of the Mississippi Compulsory School Attendance Law;

(f) To develop and implement a system under which school districts are required to maintain accurate records that document enrollment and attendance in such a manner that the records reflect all changes in enrollment and attendance, and to require school attendance officers to submit information concerning public school attendance on a monthly basis to the office;

(g) To prepare the form of the certificate of enrollment required under the Mississippi Compulsory School Attendance Law and to furnish a sufficient number of the certificates of enrollment to each school attendance officer in the state;

- (h) To provide to the State Board of Education statistical information concerning absenteeism, dropouts and other attendance-related problems as requested by the State Board of Education;
- (i) To provide for the certification of school attendance officers;
- (j) To provide for a course of training and education for school attendance officers, and to require successful completion of the course as a prerequisite to certification by the office as school attendance officers;
- (k) To adopt any guidelines or policies the office deems necessary to effectuate an orderly transition from the supervision of school attendance officers by district attorneys to the supervision by the school attendance officer supervisors;
- (l) Beginning on July 1, 1998, to require school attendance officer supervisors to employ persons employed by district attorneys before July 1, 1998, as school attendance officers without requiring such persons to submit an application or interview for employment with the State Department of Education;
- (m) To adopt policies or guidelines linking the duties of school attendance officers to the appropriate courts, law enforcement agencies and community service providers; and
- (n) To adopt any other policies or guidelines that the office deems necessary for the enforcement of the Mississippi Compulsory School Attendance Law; however, the policies or guidelines shall not add to or contradict with the requirements of Section 37-13-91.

§ 37-13-89. School attendance officers; qualifications; duties; salaries.

- (4) It shall be the duty of each school attendance officer to:
- (a) Cooperate with any public agency to locate and identify all compulsory-school-age children who are not attending school;
 - (b) Cooperate with all courts of competent jurisdiction;
 - (c) Investigate all cases of nonattendance and unlawful absences by compulsory-school-age children not enrolled in a nonpublic school;
 - (d) Provide appropriate counseling to encourage all school-age children to attend school until they have completed high school;
 - (e) Attempt to secure the provision of social or welfare services that may be required to enable any child to attend school;
 - (f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located;
 - (g) Contact promptly the home of each compulsory-school-age child in the school district within the officer's jurisdiction who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the school attendance officer shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;
 - (h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the Office of Compulsory School Attendance Enforcement; and
 - (i) Perform all other duties relating to compulsory school attendance established by the State Department of Education or district school attendance supervisor, or both.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

REGULATIONS

CMSR 07-000-003. Rule 9.1. Attendance reporting.

When local school districts receive a report from a juvenile court that a student's probation has school attendance as a condition, the following rules will be followed:

1. A review will be conducted by the school administration to determine the most appropriate academic placement, the need for counseling and other social services, and the development of an instruction plan, if appropriate;
2. parental involvement will be encouraged;
3. alternative placement will be considered if the act necessitating the order would hinder the instructional program or place others at risk for their personal safety; and
4. the appropriate School Attendance Officer will be notified.

CMSR 07-000-003. Rule 30.1. Compulsory school attendance.

1. Requirements

- a. Employment of all School Attendance Officers, qualifications and duties, shall be in compliance with {MS Code § 37-13-89.} (1972).
- b. Pursuant to {MS Code § 43-21-321. and § 37-13-80.} School Attendance Officers shall:
 - i. Serve on transition teams to assist youth in detention centers to transition successfully back into the home school district once released from detention; and
 - ii. Gather accurate data on youth in juvenile detention centers to properly track students.
- c. In addition to the duties set forth in statute, State School Attendance Officers shall be required to provide technical assistance to school districts in the areas of attendance and dropout prevention.

CMSR 07-000-003. Rule 30.2. Reporting unexcused absences.

1. Pursuant to Mississippi Code 37-13-91, a parent, guardian or custodian of a compulsory-school- age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic for the period of time that the child is of compulsory-school-age. Mississippi Code Section 37-9-14(2)(u) states that School District Superintendents are "to comply in a timely manner with the compulsory education reporting requirements prescribed in Section 37-13-92(6)." The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer.

- a. An unlawful absence is an absence by any compulsory school-age child missing for thirty-seven (37%) or more of a school day, in which the absence is not due to a valid excuse for temporary nonattendance.

b. An unlawful absence is an absence by any compulsory school-age child who is removed from school for days missed as a result of disciplinary suspension. Absences due to suspension or expulsion shall not be excused by the school district superintendent, or his designee. A student that is absent due to suspensions or expulsions shall not be reported as truant.

2. Based on Section 37-13-91(6), the school district superintendent or his/her designee, shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officers. Therefore, pursuant to Section 37-13-85(o), provides that the MDE shall adopt any other policies that the office deems necessary for the enforcement of the Mississippi Compulsory School Attendance Law; however, the policies or guidelines shall not add or contradict with the requirements of Section 37-13-91. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur and code them as "unexcused absences". However, these absences will not be counted towards a student being identified as truant.

3. For the purpose of determining and reporting attendance, a pupil must be present for at least sixty-three percent (63%) of his/her instructional day, as fixed by the local school board, and defined by the student's schedule, in order to be considered in full-day attendance.

4. Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

- a. An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.
- b. An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.
- c. An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.
- d. An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.
- e. An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.
- f. An absence may be excused if the religion, to which the compulsory-school-age child or the child's parents adheres, requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion's observance is of such duration as to interfere with the education of the child.
- g. An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.
- h. An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's nonattendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

5. If a compulsory-school-age child is participating in an authorized school activity with the prior approval of the superintendent of the school district, or his/her designee, the student is considered PRESENT for average daily attendance reporting purposes. The activities include, but are not limited to:

- a. Official Organized Events Sponsored by the 4-H
- b. Future Farmers of America
- c. Junior Livestock Shows
- d. Rodeo Events
- e. Official Employment as a Page at the State Capitol
- f. Subject-Matter Field Trips
- g. Athletic Contest
- h. Student Conventions
- i. Music Festivals or Contest

6. A student's participation in an authorized school activity must be verified by one of the following:

- a. Student Schedule
- b. Class Roster
- c. Activity Roster

7. If a district superintendent fails to comply with the above guidelines, the following may occur:

- a. The School Attendance Officer may present evidence to the Director of the Office of Compulsory School Attendance Enforcement that a school superintendent has failed to report unexcused absences in a timely manner. Such a report must be in writing and supported by written evidence.
- b. If no action is warranted, the Director of the Office of Compulsory School Attendance
- c. Enforcement will notify the School Attendance Officer in writing of the determination.
- d. If further action is warranted, the Director of the Office of Compulsory School Attendance Enforcement may recommend to the State Superintendent of Education or his/her designee, downgrading of the district's accreditation status.
- e. When information on file in the Mississippi Department of Education indicates that a school district may be in violation of a state law, the superintendent of the district will be informed in writing by appropriate staff in the Department responsible for monitoring compliance with of the compulsory school attendance law.
- f. School district officials will be given thirty (30) days from the date of receipt of notification to provide a written response verifying accuracy or inaccuracy of the notice of possible noncompliance with the compulsory school attendance law. If the written response includes appropriate evidence to correct or refute the alleged violation, the superintendent of the district will be notified by appropriate staff.
- g. The appropriate staff member in the Office of Accreditation will notify the superintendent of the district in writing of the verified violation. Although the accreditation status of the district may not be subject to change until the next assignment of annual district status, the superintendent is required to provide a written response specifying how and when the violation will be corrected.

CMSR 07-000-003. Rule 30.4. Truancy rate definition, calculation and rate.

1. Purpose

Pursuant to MS Code § 37-13-91., a parent, guardian or custodian of a compulsory-school- age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory-school- age. A "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and

who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

Pursuant to the Elementary and Secondary School Act, Subpart I, § 4112., (c)(3)(A)(B)(i), beginning with the 2005-2006 school year, state education agencies were required to report truancy rates on a school-by-school basis to the US Department of Education. In an effort to ensure compliance with federal guidelines, this policy sets forth the distinction between excused and unlawful absences and provides formulas for truancy, habitual truancy, suspension and expulsion rate calculations. This information will serve to establish a uniform reporting method.

2. Definitions

- a. Cumulative Enrollment - sum of all entering students within a school year.
- b. Excused Absence - any of seven designated valid excuses for temporary nonattendance of a compulsory-school-age child enrolled in a public school, pursuant to MS Code § 37-13-91., (4)(a) through (4)(i).
- c. Habitual Truant - a student who has accumulated twelve (12) or more unlawful absences, excluding suspension and expulsion days, in a school year, which shall result in the filing of a petition in a court of competent jurisdiction by the school attendance officer.
- d. School Day - pursuant to Mississippi Code § 37-13-91. (d), defined as not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.
- e. Truant - a student that has accumulated five (5) or more unlawful absences in a school year, excluding suspension and expulsion days.
- f. Unlawful absence - (also known as an unexcused absence) an absence during a school day by a compulsory-school-age child, which the absence is not due to a valid excuse for temporary nonattendance, pursuant to MS Code § 37-13-91. (4).

3. Requirements

- a. Truancy shall only apply to students of compulsory-school-age.
- b. Each local school district shall determine whether an absence is excused or unlawful based on the Compulsory School Attendance Law § 37-13-91. of the Mississippi Code 1972 Annotated.
- c. For the purpose of calculating truancy rates, out of school suspensions shall not be considered unlawful absences. Out of school suspension days shall not be factored into truancy rate calculations.
- d. Students that satisfy the school day attendance requirements shall not be considered absent and/or calculated in the truancy rate, including students enrolled in alternative education programs, GED Options programs, and students detained in juvenile detention centers.
- e. The MDE shall calculate the truancy, habitual truancy, suspension, and expulsion rates once per year. The MDE shall report disaggregated data at both the state and district levels. The following calculations shall be used in determining truancy, suspension and expulsion rates:
 - i. The Truancy Rate shall be calculated using the following formula: Numerator: Number of students with five or more unlawful absences (truant)
Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

ii. The Habitual Truancy Rate shall be calculated using the following formula: Numerator: Number of students with twelve or more unlawful absences (habitual truant)

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

iii. The Student Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of student out-of-school suspensions in a school year

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

iv. The Overall Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of out-of-school suspension days in a school year

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

v. The Expulsion Rate shall be calculated using the following formula: Numerator: Number of student expulsions in a school year Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value {MS Code§ 37-13-91.} (1972).

Substance Use

LAWS

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon

said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved. However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

(b) Possession, sale or use of any controlled substance.

§ 37-14-3. Office of Healthy Schools of State Department of Education to administer school nurse program; transfer of school nurse intervention program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools.

(1) The State Department of Education is designated as the state agency responsible for the administration and supervision of the school nurse program as an education and wellness curriculum in the public schools of the State of Mississippi. The public school nurse program administered by the State Department of Education shall be known and may be cited as the "Mary Kirkpatrick Haskell-Mary

Sprayberry Public School Nurse Program." It is the intent of the Legislature that all funds made available to the State Department of Education for the purpose of employing school nurses shall be administered by the State Department of Education. [...]

(4) The nurses in the Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program shall have the following specific responsibilities:

(c) Implement activities to promote health and prevent tobacco, alcohol and substance use and abuse.

§ 41-113-3. Office of tobacco control created in state board of health; development of comprehensive statewide tobacco education, prevention and cessation program; program components; funding.

(1) There is hereby created the Office of Tobacco Control (office) which shall be an administrative division of the State Department of Health.

(2) The Office of Tobacco Control, with the advice of the Mississippi Tobacco Control Advisory Board, shall develop and implement a comprehensive and statewide tobacco education, prevention and cessation program that is consistent with the recommendations for effective program components and funding recommendations in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as those Best Practices may be periodically amended by the Centers for Disease Control and Prevention.

(3) At a minimum, the program shall include the following components, and may include additional components that are contained within the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and that based on scientific data and research have been shown to be effective at accomplishing the purposes of this section:

(a) The use of mass media, including paid advertising and other communication tools to discourage the use of tobacco products and to educate people, especially youth, about the health hazards from the use of tobacco products, which shall be designed to be effective at achieving these goals and shall include, but need not be limited to, television, radio, and print advertising, as well as sponsorship, exhibits and other opportunities to raise awareness statewide;

(b) Evidence-based curricula and programs implemented in schools to educate youth about tobacco and to discourage their use of tobacco products, including, but not limited to, programs that involve youth, educate youth about the health hazards from the use of tobacco products, help youth develop skills to refuse tobacco products, and demonstrate to youth how to stop using tobacco products;

(c) Local community programs, including, but not limited to, youth-based partnerships that discourage the use of tobacco products and involve community-based organizations in tobacco education, prevention and cessation programs in their communities;

(d) Enforcement of laws, regulations and policies against the sale or other provision of tobacco products to minors, and the possession of tobacco products by minors;

(e) Programs to assist and help people to stop using tobacco products; and

(f) A surveillance and evaluation system that monitors program accountability and results, produces publicly available reports that review how monies expended for the program are spent, and includes an evaluation of the program's effectiveness in reducing and preventing the use of tobacco products, and annual recommendations for improvements to enhance the program's effectiveness.

(4) All programs or activities funded by the State Department of Health through the tobacco education, prevention and cessation program, whether part of a component described in subsection (2) or an additional component, must be consistent with the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and all

funds received by any person or entity under any such program or activity must be expended for purposes that are consistent with those Best Practices. The State Department of Health shall exercise sole discretion in determining whether components are consistent with the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention.

(5) Funding for the different components of the program shall be apportioned between the components based on the recommendations in the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, or any additional programs as determined by the State Board of Health to provide adequate program development, implementation and evaluation for effective control of the use of tobacco products. While the office shall develop annual budgets based on strategic planning, components of the program shall be funded using the following areas as guidelines for priority:

- (a) School nurses and school programs;
- (b) Mass media (counter-marketing);
- (c) Cessation programs (including media promotions);
- (d) Community programs;
- (e) Surveillance and evaluation;
- (f) Law enforcement; and
- (g) Administration and management; however, not more than five percent (5%) of the total budget may be expended for administration and management purposes.

(6) In funding the components of the program, the State Department of Health may provide funding for health care programs at the University of Mississippi Medical Center and Mississippi Quality Health Center Grants that are related to the prevention and cessation of the use of tobacco products and the treatment of illnesses that are related to the use of tobacco products.

(7) No statewide, district, local, county or municipal elected official shall take part as a public official in mass media advertising under the provisions of this chapter.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

§ 37-3-82. Mississippi Community Oriented Policing Services in Schools grant program established; purpose; use of funds.

(1) There is hereby established the Mississippi Community Oriented Policing Services in Schools (MCOPS) grant program in the State Department of Education to provide funding, pursuant to specific appropriation by the Legislature therefor, to assist law enforcement agencies in providing additional School Resource Officers to engage in community policing in and around primary and secondary schools. The MCOPS program shall authorize the State Department of Education to make grants to increase deployment of law enforcement officers in order (a) to increase or enhance community policing in this state, (b) that trained, sworn enforcement officers assigned to schools play an integral part in the development and/or enhancement of a comprehensive school safety plan, and (c) that the presence of these officers shall provide schools with a direct link to local law enforcement agencies.

(2) The MCOPS program shall meet the following requirements and standards:

(d) School Resource Officers (SROs) may serve in a variety of roles, including, but not limited to, that of a law enforcement officer/safety specialist, law-related educator, and problem-solver/community liaison. These officers may teach programs such as crime prevention, substance abuse prevention, and gang resistance as well as monitor and assist troubled students through mentoring programs. The School Resource Officer(s) may also identify physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies which address criminal activity and school safety. The application must also include a Memorandum of Understanding (MOU), signed by the law enforcement executive and the appropriate school official(s), to document the roles and responsibilities to be undertaken by the law enforcement agency and the educational school partner(s) through this collaborative effort. The application must also include a Narrative Addendum to document that the School Resource Officer(s) will be assigned to work in and around primary or secondary schools and provide supporting documentation in the following areas: problem identification and justification, community policing strategies to be used by the officers, quality and level of commitment to the effort, and the link to community policing.

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

REGULATIONS

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Programs Implemented

2. Gang Reduction Education and Training.

Bullying, Harassment, or Hazing

LAWS

§ 37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes.

It shall be unlawful for any person to intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, whether by illegal force, threats of force or by the distribution of intimidating, threatening or coercive material, any person enrolled in any school for the purpose of interfering with the right of that person to attend school classes or of causing him not to attend such classes.

Upon conviction of violation of any provision of this section, such individual shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00), imprisonment in jail for a period not to exceed six (6) months, or both. Any person under the age of seventeen (17) years who violates any provision of this section shall be treated as a delinquent within the jurisdiction of the youth court.

§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

§ 37-11-67. Bullying or harassing behavior in public schools prohibited.

(1) As used in this section, "bullying or harassing behavior" is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication, or any act reasonably perceived as being motivated by any actual or perceived differentiating characteristic, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

- (a) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
- (b) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

(2) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(3) No person shall engage in any act of reprisal or retaliation against a victim, witness or a person with reliable information about an act of bullying or harassing behavior.

(4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

(6) Conduct described in subsection (1) of this section is considered bullying if that conduct interferes with a student's education or substantially disrupts the operation of a school.

§ 37-11-69. Anti-bullying personnel and discipline policies and code of student conduct.

(1) Each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior, that:

- (a) Prohibit the bullying of a student;

- (b) Prohibit retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
 - (c) Establish a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;
 - (d) Establish the actions a student should take to obtain assistance and intervention in response to bullying;
 - (e) Set out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
 - (f) Establish procedures for reporting an incident of bullying, investigating a reported incident of bullying and determining whether the reported incident of bullying occurred;
 - (g) Prohibit the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and
 - (h) Require that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 USCS Section 1400 et seq.).
- (2) The policies must recognize the fundamental right of every student to take reasonable actions as may be necessary to defend himself or herself from an attack by another student who has evidenced menacing or threatening behavior through bullying or harassing.
- (3) The procedure for reporting bullying established under subsection (1) of this section must be posted on the district's Internet website.

§ 97-3-105. Hazing; initiation into organization.

- (1) A person is guilty of hazing in the first degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.
- (2) Any person violating the provisions of subsection (1) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) or imprisonment in the county jail for not more than six (6) months, or both.
- (3) A person is guilty of hazing in the second degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person.
- (4) Any person violating the provisions of subsection (3) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00).
- (5) The provisions of this section shall be in addition to other criminal laws, and actions taken pursuant to this section shall not bar prosecutions for other violations of criminal law.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

(10) The State Board of Education shall promulgate guidelines for alternative school programs which provide broad authority to school boards of local school districts to establish alternative education programs to meet the specific needs of the school district.

REGULATIONS

CMSR 07-000-003. Rule 38.1. School violence reporting.

The State Board of Education is implementing the requirements of Section 37-11-29, Mississippi Code of 1972, as amended 1994, which requires the development of a form to report school violence; the required form is attached. State Department of Education staff shall develop guidance materials to assist school districts in reporting school violence.

To obtain a Report of Unlawful Activity and Violent Act Form go to: MS Department of Education website, Office of Healthy Schools.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

§ 43-14-1. Mississippi statewide system of care for children and youth; purpose; included services; Interagency coordinating council for children and youth (ICCCY) established; membership; Interagency System of Care Council (ISCC); purpose and composition; Multidisciplinary assessment, planning, and resource (MAP) teams; funds contributed by participating state agencies.

Mississippi Statewide System of Care services shall be timely, intensive, coordinated and delivered in the community. Mississippi Statewide System of Care services shall include, but not be limited to, the following:

- (j) Positive behavioral supports (PBIS) in schools.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

1. Introduction

The Mississippi Department of Education and the State Board of Education supports a positive approach to behavior that uses proactive strategies to create a safe school climate that promotes dignity, creates authentic student engagement, and improves student achievement for all students. When teachers and administrators implement evidence-based positive behavior supports with fidelity, a safe and orderly school environment is created that is conducive to learning and students are able to achieve without the constant interruptions that occur when teachers are required to address discipline in the classroom.

Research indicates that the most effective response to school violence is to establish a school culture that emphasizes prevention, early identification, teaching, reinforcement of appropriate behavior and continuous data-based problem solving. One primary method is to structure the environment using a non-aversive effective behavioral system, such as Positive Behavior Interventions and Supports (PBIS). Effective positive behavioral systems are comprehensive, in that they are comprised of a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavioral outcomes for all students. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. When integrated with effective academic instruction, such systems can help provide the supports children need to become actively engaged in their own learning and academic success. Schools successfully implementing comprehensive behavioral systems create school-wide environments that

reinforce appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. In schools implementing comprehensive behavioral systems, trained school staff use preventive assessments to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur, as well as implement de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments should include (1) a review of existing records; (2) interviews with parents, family members, and students; and (3) examination of previous and existing behavioral intervention plans. Using these data from such assessments helps schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior. The use of comprehensive behavioral systems significantly decreases the likelihood that restraint or seclusion would be used, supports the attainment of more appropriate behavior, and, when implemented as described, can help to improve academic achievement and behavior. In order to reduce the use of aversive techniques in response to student behavior, restraint and seclusion, school wide behavior systems should include a comprehensive behavior management system that includes: (a) socially valued and measurable outcomes, (b) empirically validated and practical practices (c) systems that efficiently and effectively support the implementation of these practices, and (d) continuous collection and use of data for decision making.

However, at times, some students exhibit behaviors which place themselves and others in imminent danger. Schools shall implement proactive strategies and interventions to reduce the likelihood of these situations, and they shall have clearly identified responses to address such situations when they occur. Additionally, schools shall have policies in place that address the responses needed to ensure the safety of all students and staff. [...]

3. Definitions

q. Positive Behavior Interventions and Supports (PBIS) is defined as a proactive approach to establishing the behavioral supports and social culture needed for all students in a school to achieve social, emotional and academic success. Attention is focused on creating and sustaining primary (school-wide), secondary (classroom), and tertiary (individual) systems of support that improve lifestyle results (personal, health, social, family, work, recreation) for all youth by making targeted misbehavior less effective, efficient, and relevant, and desired behavior more functional.

CMSR 07-000-003. Rule 41.1. Intervention.

1. The purpose of this policy is to ensure that the behavioral and academic needs of every student are met through an instructional model that is designed to address student learning with quality classroom instruction and opportunities for intervention. The Mississippi Department Education (MDE) shall require every school district to follow the instructional model, which consists of three (3) tiers of instruction:

- a. Tier 1: Quality classroom instruction based on Mississippi Curriculum Frameworks
- b. Tier 2: Focused supplemental instruction
- c. Tier 3: Intensive interventions specifically designed to meet the individual needs of students

2. If strategies at Tier 1 and Tier 2 are unsuccessful, students must be referred to the Teacher Support Team (TST). The TST is the problem-solving unit responsible for interventions developed at Tier 3. Each school must have a Teacher Support Team (TST) implemented in accordance with the process developed by the MDE. The chairperson of the TST shall be the school principal as the school's instructional leader or the principal's designee. The designee may not be an individual whose primary responsibility is special education. Interventions will be:

- a. designed to address the deficit areas;
- b. evidence based;

- c. implemented as designed by the TST;
 - d. supported by data regarding the effectiveness of interventions.
3. Teachers should use progress monitoring information to:
- a. determine if students are making adequate progress,
 - b. identify students as soon as they begin to fall behind, and
 - c. modify instruction early enough to ensure each student gains essential skills.

Monitoring of student progress is an ongoing process that may be measured through informal classroom assessment, benchmark assessment instruments, and large-scale assessments.

4. After a referral is made, the TST must develop and begin implementation of an intervention(s) within two weeks. No later than eight weeks after implementation of the intervention(s) the TST must conduct a documented review of the interventions to determine success of the intervention(s). No later than 16 weeks after implementation of the intervention(s), a second review must be conducted to determine whether the intervention(s) is successful. If the intervention(s) is determined to be unsuccessful, then the student will be referred for a comprehensive assessment.

Prevention

LAWS

§ 37-3-83. School Safety Grant Program; implementation of “Erin’s Law Awareness” policy addressing sexual abuse of children; pilot program utilizing evidence-based curriculum to provide children stress and anxiety management skills; biennial refresher training on mental health and suicide prevention for all school employees.

(1) There is established within the State Department of Education, using only existing staff and resources, a School Safety Grant Program, available to all eligible public school districts, to assist in financing programs to provide school safety. However, no monies from the Temporary Assistance for Needy Families grant may be used for the School Safety Grant Program.

(2) The school board of each school district, with the assistance of the State Department of Education School Safety Center, shall adopt a comprehensive local school district school safety plan and shall update the plan on an annual basis.

(3) Subject to the extent of appropriations available, the School Safety Grant Program shall offer any of the following specific preventive services, and other additional services appropriate to the most current school district school safety plan:

- (c) Crisis management/action teams responding to school violence;
- (d) Violence prevention training, conflict resolution training, behavioral stress training and other appropriate training designated by the State Department of Education for faculty and staff.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

1. Introduction

The Mississippi Department of Education and the State Board of Education supports a positive approach to behavior that uses proactive strategies to create a safe school climate that promotes dignity, creates authentic student engagement, and improves student achievement for all students. When teachers and administrators implement evidence-based positive behavior supports with fidelity, a safe and orderly

school environment is created that is conducive to learning and students are able to achieve without the constant interruptions that occur when teachers are required to address discipline in the classroom. Research indicates that the most effective response to school violence is to establish a school culture that emphasizes prevention, early identification, teaching, reinforcement of appropriate behavior and continuous data-based problem solving. One primary method is to structure the environment using a non-aversive effective behavioral system, such as Positive Behavior Interventions and Supports (PBIS). Effective positive behavioral systems are comprehensive, in that they are comprised of a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavioral outcomes for all students. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. When integrated with effective academic instruction, such systems can help provide the supports children need to become actively engaged in their own learning and academic success. Schools successfully implementing comprehensive behavioral systems create school-wide environments that reinforce appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. In schools implementing comprehensive behavioral systems, trained school staff use preventive assessments to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur, as well as implement de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments should include (1) a review of existing records; (2) interviews with parents, family members, and students; and (3) examination of previous and existing behavioral intervention plans. Using these data from such assessments helps schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior. The use of comprehensive behavioral systems significantly decreases the likelihood that restraint or seclusion would be used, supports the attainment of more appropriate behavior, and, when implemented as described, can help to improve academic achievement and behavior. In order to reduce the use of aversive techniques in response to student behavior, restraint and seclusion, school wide behavior systems should include a comprehensive behavior management system that includes: (a) socially valued and measurable outcomes, (b) empirically validated and practical practices (c) systems that efficiently and effectively support the implementation of these practices, and (d) continuous collection and use of data for decision making.

However, at times, some students exhibit behaviors which place themselves and others in imminent danger. Schools shall implement proactive strategies and interventions to reduce the likelihood of these situations, and they shall have clearly identified responses to address such situations when they occur. Additionally, schools shall have policies in place that address the responses needed to ensure the safety of all students and staff.

CMSR 07-000-003. Rule 38.2 Behavior Modifications Programs.

Miss. Code Ann. § 37-13-92 requires the State Board of Education to establish the definition and components of a behavior modification program.

1. Definition: Policies, procedures and research-based strategies that teach students the skills needed to make positive decisions concerning behavior and learning.
2. Components: The program will contain procedures and research-based strategies that:
 - a. Include a (proactive) prevention component for all students

CMSR 07-000-192. Part 192: Mississippi school safety manual.

School Safety Plan Components

There are three (3) components to a School Safety Plan.

2. Programs that Promote Compliant Behavior and Reduce Prohibited Conduct

A listing of those programs that have been implemented to encourage a safe and secure school environment and compliant behavior. The program shall:

- a. Be statistically proven to promote good character and encourage compliant behavior.
- b. Have a means of objectively measuring the success of the program.

Social-emotional Learning (SEL)

LAWS

§ 37-13-181. Character education programs in public schools authorized.

The local school boards of the public school districts, in their discretion, may develop and implement, at the beginning of the 1999-2000 school year, a comprehensive program for character education in Grades K-12. The definition of the character traits chosen by the school district for implementation shall reflect and be in keeping with both the spirit and the letter of the following founding documents: the Mississippi Constitution of 1890; the Constitution of the United States of America; the Declaration of Independence; and state and federal law. A public school may not define or teach character or character traits in any manner that might promote or encourage students to participate in conduct that would violate any state or federal law.

§ 37-13-183. Assessment of students' understanding of character traits.

Assessment of the students' understanding of the character traits chosen to be taught in public school shall be limited to and must reflect the material taught in the classroom. Students shall not be evaluated in any way as to whether or not the students evidence a specific character trait in their own lives.

§ 37-13-185. Review of proposed character education programs by State Board of Education.

The State Board of Education shall review the proposed character education programs of the individual school districts to ascertain if the programs comply with the criteria set forth in Section 37-13-181. Review of the programs shall not exceed a time period of sixty (60) days. If a review extends beyond this time period, the proposal will be deemed in compliance with the law.

If the proposed character education program is rejected, the State Board of Education shall set forth in writing the specific areas of objection. These objections must be based on and limited to the following criteria: the definition of the character traits chosen by the school district for implementation shall reflect and be in keeping with both the spirit and letter of our founding documents; no instruction shall promote or encourage participation in any conduct that would violate existing state or federal law; and no student shall be assessed or evaluated as to whether or not the student evidences a specific character trait in his or her own life.

REGULATIONS

CMSR 07-000-003. Rule 15.1. Character Education.

The policy of the State Board of Education shall be to encourage each school district and each school to ensure the inclusion of character education in the entire curriculum and to include character education in the staff development programs for teachers.

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Programmatic Approach

Programmatic approaches include character education, crime prevention programs, aggression management, peer counseling, DARE, GREAT, ROTC and similar programs. Schools shall only implement those programs that can demonstrate they have been proven successful in statistically reducing student violence, narcotics usage or alcohol usage. These programs shall be periodically evaluated for effectiveness and efficiency with a view towards discontinuing those programs that are ineffective or not cost effective.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§ 37-3-83. School Safety Grant Program; implementation of “Erin’s Law Awareness” policy addressing sexual abuse of children; pilot program utilizing evidence-based curriculum to provide children stress and anxiety management skills; biennial refresher training on mental health and suicide prevention for all school employees.

(9) As a component of the comprehensive local school district safety plan required under subsection (2) of this section, beginning in the 2019-2020 school year, the State Department of Education shall require local school districts to conduct, every two (2) years, refresher training on mental health and suicide prevention for all school employees and personnel, including all cafeteria workers, custodians, teachers and administrators. The Mississippi Department of Mental Health shall be responsible for the development and/or selection of the content of the training, which training shall be provided at no cost to school employees. School districts shall report completion of the training to the State Department of Education.

§ 37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation; standardized Memorandum of Understanding between mental health facilities and school districts to include referral protocols and standardized behavioral health screening.

(1) Subject to the availability of funds appropriated for such purpose, the State Department of Education may establish regional behavioral institutes for the purpose of providing state-of-the-art training to teachers and administrators in discipline and classroom management strategies and behavioral health screenings for students.

(2) Any school district may volunteer to participate in a regional behavioral institute. However, the State Department of Education may require a school district to participate in a regional behavioral institute if the department determines that such participation is in the best interest of the school district based upon:

(a) Complaints received and determined by the department to be valid which relate to disciplinary problems in the school district;

(b) Any visit to the school by representatives of the department which indicates disciplinary problems in the school district; or

(c) A review of reports submitted by a school district to the department which indicates disciplinary problems in the school district.

(3) Effective with the 2019-2020 school year, the Mississippi Department of Mental Health shall develop a standardized Memorandum of Understanding (“MOU”) to be utilized by the Mississippi Department of Mental Health certified mental health providers and mental health facilities in providing mental health services to local school districts. The MOU shall include standardized behavioral health screening and referral protocols, procedures and forms to be utilized by the local school districts. Any standardized behavioral health screening and referral protocols shall only be performed on students with the approval

of the student's parent or legal guardian. The Mississippi Department of Mental Health shall provide online training for appropriate school personnel to conduct initial behavioral health screenings of students experiencing or exhibiting behavioral stress or at risk of harming themselves or others.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation; standardized Memorandum of Understanding between mental health facilities and school districts to include referral protocols and standardized behavioral health screening.

(3) Effective with the 2019-2020 school year, the Mississippi Department of Mental Health shall develop a standardized Memorandum of Understanding ("MOU") to be utilized by the Mississippi Department of Mental Health certified mental health providers and mental health facilities in providing mental health services to local school districts. The MOU shall include standardized behavioral health screening and referral protocols, procedures and forms to be utilized by the local school districts. Any standardized behavioral health screening and referral protocols shall only be performed on students with the approval of the student's parent or legal guardian. The Mississippi Department of Mental Health shall provide online training for appropriate school personnel to conduct initial behavioral health screenings of students experiencing or exhibiting behavioral stress or at risk of harming themselves or others.

§ 41-4-7. Powers and duties of board.

(bb) To enter into interagency agreements with other state agencies, school districts and other local entities as determined necessary by the department to ensure that local mental health service entities are fulfilling their responsibilities to the overall state plan for behavioral services.

REGULATIONS

CMSR 07-000-007. Mississippi kindergarten guidelines.

Section II Curriculum, Materials, and Assessment

C. Guidelines for Assessment.

2. Recommended Screening

It is recommended that all entering kindergarten students receive a comprehensive health screening, such as (1) the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), (2) a Bright Futures checkup, or (3) a standard physical conducted by a child's health care provider or health department. If no documentation of a current comprehensive health screening or standard physical is available from within the last year, screenings/standard physicals should be conducted within 45 days of the beginning of school by either a private health care provider of the parents' choosing, or through school resources such as school nurses, or the local Department of Health. Parents are strongly encouraged to attend screenings conducted at the school. A standard physical form is to be submitted for all screenings conducted by a private health care provider.

CMSR 07-000-003. Rule 38.2. Behavior Modifications Programs.

Miss. Code Ann. § 37-13-92 requires the State Board of Education to establish the definition and components of a behavior modification program.

1. Definition: Policies, procedures and research-based strategies that teach students the skills needed to make positive decisions concerning behavior and learning.

2. Components: The program will contain procedures and research-based strategies that:
- a. Include a (proactive) prevention component for all students;
 - b. Include interventions designed to deal with common disciplinary problems;
 - c. Provide an intensive intervention program for low-incidence behavior problems;
 - d. Provide professional development for all team members and parents;
 - e. Provide a safe and disciplined environment where teaching and learning can take place; and
 - f. Permit implementation of the School Safety Plan.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

§ 37-11-67. Bullying or harassing behavior in public schools prohibited.

(4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

§ 37-11-69. Anti-bullying personnel and discipline policies and code of student conduct.

(1) Each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior, that:

(f) Establish procedures for reporting an incident of bullying, investigating a reported incident of bullying and determining whether the reported incident of bullying occurred.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

§ 37-15-6. Central reporting system for information concerning expulsions from public schools; access to information.

For the purpose of providing notice to public and private school officials, both within and outside the boundaries of the state, of the expulsion of any public school student, the State Department of Education may develop a central reporting system for maintaining information concerning each expulsion from a public school. In establishing and maintaining the reporting system, the department may require each school district and charter school to report, within a certain period of time after an expulsion, as established by the department, information such as the following:

- (a) The name of the student expelled;
- (b) The date the student was expelled;
- (c) The age of the student at the time of the expulsion;
- (d) The school from which the student was expelled;
- (e) The reason for the expulsion, including a detailed description of the student's act or acts;
- (f) The duration of the period of expulsion, if not indefinite; and
- (g) Any other information that the department deems necessary for school officials in a public or private school, where a student is seeking enrollment, to determine whether or not a student should be denied enrollment based upon a previous expulsion.

Any information maintained by the department under the authority of this section shall be strictly confidential. The information shall be available to school officials at a public or private school only upon their request and only when a student seeks enrollment or admission to that school. In no case shall the information be available to the general public.

REGULATIONS

CMSR 07-000-003. Rule 38.1. School violence reporting.

The State Board of Education is implementing the requirements of Section 37-11-29, Mississippi Code of 1972, as amended 1994, which requires the development of a form to report school violence; the required form is attached. State Department of Education staff shall develop guidance materials to assist school districts in reporting school violence.

To obtain a Report of Unlawful Activity and Violent Act Form go to: MS Department of Education website, Office of Healthy Schools.

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)

c. Must report all crimes in accordance with the provisions of Miss. Code Ann. § 37-11-29.

Parental Notification

LAWS

§ 37-9-14. General duties and powers of superintendent of school district.

(1) It shall be the duty of the superintendent of schools to administer the schools within his district and to implement the decisions of the school board.

(2) In addition to all other powers, authority and duties imposed or granted by law, the superintendent of schools shall have the following powers, authority and duties:

(w) To notify, in writing, the parent, guardian or custodian, the youth court and local law enforcement of any expulsion of a student for criminal activity as defined in Section 37-11-29.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval.

§ 37-11-69. Anti-bullying personnel and discipline policies and code of student conduct.

(1) Each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior, that:

(c) Establish a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident.

§ 37-13-89. School attendance officers; qualifications; duties; salaries.

(4) It shall be the duty of each school attendance officer to:

(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located.

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

(c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

6. Parental Notification

- a. All parents shall receive, at least annually, written information about the policies for restraint and seclusion issued by the local school district or school.
- b. All parents shall be notified when physical restraint is used to restrain their student before the close of school on the day the restraint was used or within 48 hours following the incident.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved. However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

§ 37-13-85. Powers and duties.

The Office of Compulsory School Attendance Enforcement shall have the following powers and duties, in addition to all others imposed or granted by law:

- (h) To provide to the State Board of Education statistical information concerning absenteeism, dropouts and other attendance-related problems as requested by the State Board of Education.

§ 37-13-89. School attendance officers; qualifications; duties; salaries.

(4) It shall be the duty of each school attendance officer to:

- (h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the Office of Compulsory School Attendance Enforcement.

REGULATIONS

CMSR 07-000-003. Rule 18.1. Annual report.

1. Children First Act Annual Report Guidelines

The information required to be in the Children First Act (CFA) Annual Report will be compiled by the Mississippi Department of Education's Office of Research and Statistics. This report is, according to the CFA, to be printed in the newspaper, listed on the district website and made available free of charge at a

location(s) in the district in a hard copy format. The report shall look at the district as a whole and be printed in the paper and made available on the district website no later than November 1 of each year.

2. Publication in the Newspaper

There are three categories of information which shall be included in the Annual Reports: District Profile Information, Academic Achievement Information and Financial Data Information. Specific items to be included in the report are as follows:

a. District Profile

- i. Number of students
- ii. Number of employees
- iii. Number of full-time teachers
- iv. Number of National Board Certified teachers
- v. Percentage of teachers who are highly qualified
- vi. Percentage of teachers with emergency licenses
- vii. Number of special education teachers
- viii. Percentage of special education teachers who are highly qualified
- ix. Percentage of special education teachers with emergency licenses
- x. Racial profile of student population
- xi. Percentage of students receiving free and reduced lunches
- xii. Number and percentage of students receiving special education services
- xiii. Percentage of students receiving out-of-school suspensions and expulsions
- xiv. Percentage of students receiving special education services receiving out- of-school suspensions and expulsions
- xv. Average Daily Attendance rate (ADA)
- xvi. Contact information for the district and information on how to get involved in the schools
- xvii. Superintendent's name and contact information

b. Academic Achievement Information

- i. Accreditation status
- ii. Percentage of students receiving a high school diploma
- iii. Percentage of students receiving special education services receiving a high school diploma
- iv. Percentage of students receiving an occupational diploma
- v. Percentage of students receiving special education services receiving an occupational diploma
- vi. Percentage of students receiving a certificate of completion
- vii. Percentage of students receiving special education services receiving a certificate of completion
- viii. Dropout rate for all students
- ix. Dropout rate for students receiving special education services
- x. Percent of Graduates Taking the ACT
- xi. District rating level
- xii. Number of schools by rating level
- xiii. ACT information (% taking the test and the average score).

CMSR 07-000-003. Rule 30.4. Truancy rate definition, calculation and rate.

1. Purpose

Pursuant to MS Code § 37-13-91., a parent, guardian or custodian of a compulsory-school- age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory-school- age. A "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

Pursuant to the Elementary and Secondary School Act, Subpart I, § 4112., (c)(3)(A)(B)(i), beginning with the 2005-2006 school year, state education agencies were required to report truancy rates on a school-by-school basis to the US Department of Education. In an effort to ensure compliance with federal guidelines, this policy sets forth the distinction between excused and unlawful absences and provides formulas for truancy, habitual truancy, suspension and expulsion rate calculations. This information will serve to establish a uniform reporting method.

2. Definitions

- a. Cumulative Enrollment - sum of all entering students within a school year.
- b. Excused Absence - any of seven designated valid excuses for temporary nonattendance of a compulsory-school-age child enrolled in a public school, pursuant to MS Code § 37-13-91., (4)(a) through (4)(i).
- c. Habitual Truant - a student who has accumulated twelve (12) or more unlawful absences, excluding suspension and expulsion days, in a school year, which shall result in the filing of a petition in a court of competent jurisdiction by the school attendance officer.
- d. School Day - pursuant to Mississippi Code § 37-13-91. (d), defined as not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.
- e. Truant - a student that has accumulated five (5) or more unlawful absences in a school year, excluding suspension and expulsion days.
- f. Unlawful absence - (also known as an unexcused absence) an absence during a school day by a compulsory-school-age child, which the absence is not due to a valid excuse for temporary nonattendance, pursuant to MS Code § 37-13-91. (4).

3. Requirements

- a. Truancy shall only apply to students of compulsory-school-age.
- b. Each local school district shall determine whether an absence is excused or unlawful based on the Compulsory School Attendance Law § 37-13-91. of the Mississippi Code 1972 Annotated.
- c. For the purpose of calculating truancy rates, out of school suspensions shall not be considered unlawful absences. Out of school suspension days shall not be factored into truancy rate calculations.
- d. Students that satisfy the school day attendance requirements shall not be considered absent and/or calculated in the truancy rate, including students enrolled in alternative education programs, GED Options programs, and students detained in juvenile detention centers.

e. The MDE shall calculate the truancy, habitual truancy, suspension, and expulsion rates once per year. The MDE shall report disaggregated data at both the state and district levels. The following calculations shall be used in determining truancy, suspension and expulsion rates:

i. The Truancy Rate shall be calculated using the following formula: Numerator: Number of students with five or more unlawful absences (truant)

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

ii. The Habitual Truancy Rate shall be calculated using the following formula: Numerator: Number of students with twelve or more unlawful absences (habitual truant)

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

iii. The Student Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of student out-of-school suspensions in a school year

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

iv. The Overall Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of out-of-school suspension days in a school year

Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value

v. The Expulsion Rate shall be calculated using the following formula: Numerator: Number of student expulsions in a school year Denominator: Count of Student Membership - Cumulative Enrollment Multiplied by 100 to create a percentage value {MS Code§ 37-13-91.} (1972).

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

5. Administrative Procedures

h. The school district shall report the restraint and/or seclusion incident to the local school district and the Mississippi Department of Education annually.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 37-9-14. General duties and powers of superintendent of school district.

(1) It shall be the duty of the superintendent of schools to administer the schools within his district and to implement the decisions of the school board.

(2) In addition to all other powers, authority and duties imposed or granted by law, the superintendent of schools shall have the following powers, authority and duties:

(w) To notify, in writing, the parent, guardian or custodian, the youth court and local law enforcement of any expulsion of a student for criminal activity as defined in Section 37-11-29.

(x) To notify the youth court and local law enforcement agencies, by affidavit, of the occurrence of any crime committed by a student or students upon school property or during any school-related activity, regardless of location and the identity of the student or students committing the crime.

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has

accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

§ 95-15-1. Limitation of liability for report of suspicious activity or behavior.

REGULATIONS

CMSR 07-000-003. Rule 38.13. Restraint and seclusion.

5. Administrative Procedures

g. In any situation in which a student is a danger to themselves or others, and it becomes necessary to contact law enforcement or emergency medical personnel, nothing in this policy guidance shall be construed to interfere with the duties of law enforcement or emergency medical personnel.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§ 37-3-82. Mississippi Community Oriented Policing Services in Schools grant program established; purpose; use of funds.

(2) The MCOPS program shall meet the following requirements and standards:

(e) All agencies receiving awards through the MCOPS in Schools program are required to send the School Resource Officer position(s) funded by this grant, to the Mississippi Law Enforcement Officers' Training Academy where they shall be required to participate in training through the Advanced Law Enforcement Rapid Response Training Program at the academy, with the cost to be defrayed from the MCOPS program. The MCOPS Office of the State Department of Education will reimburse grantees for training, per diem, travel, and lodging costs for attendance of required participants up to a maximum of One Thousand Two Hundred Dollars (\$1,200.00) per person attending. Applicants receiving an MCOPS in Schools grant, will receive additional training information following notification of the grant award. The MCOPS in Schools training requirement must be completed prior to the end of twelve-month grant funding for officer positions.

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services.

(1) The school board of any school district within the State of Mississippi, in its discretion, may employ one or more persons as security personnel and may designate such persons as peace officers in or on any property operated for school purposes by such board upon their taking such oath and making such bond as required of a constable of the county in which the school district is situated.

(2) Any person employed by a school board as a security guard or school resource officer or in any other position that has the powers of a peace officer must receive a minimum level of basic law enforcement

training, as jointly determined and prescribed by the Board on Law Enforcement Officer Standards and Training and the State Board of Education, within two (2) years of the person's initial employment in such position. Upon the failure of any person employed in such position to receive the required training within the designated time, the person may not exercise the powers of a peace officer in or on the property of the school district.

(3) The school board is authorized and empowered, in its discretion, and subject to the approval of the Federal Communications Commission, to install and operate a noncommercial radio broadcasting and transmission station for educational and vocational educational purposes.

(4) If a law enforcement officer is duly appointed to be a peace officer by a school district under this section, the local school board may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of school property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

§ 45-6-7. Powers of board.

In addition to the powers conferred upon the board elsewhere in this chapter, the board shall have power to:

(n) Establish jointly with the State Board of Education the minimum level of basic law enforcement training required of persons employed by school districts as school security guards, or school resource officers or in other positions that have the powers of a peace officer.

REGULATIONS

CMSR 07-000-192. Part 192: Mississippi school safety manual.

Accreditation Standards and the School Safety Plan

The School Safety Plan is essentially the foundation the school uses to maintain a safe and secure educational environment. The existence of a comprehensive school safety plan is a generally accepted standard of school safety, as well as a mandatory requirement of Miss. Code Ann. § 37-3-83, and Mississippi Public School Accountability Standards, 2017 (Process Standard 31). Specific accreditation standards for school safety include:

7. The school must be compliant with all pertinent Mississippi Codes: (District Policy and Procedure Manual Review)

g. School Safety Personnel:

- 1) SROs and SSOs must be certified by MDE within 2 years of appointment to the school if employed by the school district.
- 2) All school safety personnel must be supervised by the superintendent or designee, excluding principals.
- 3) SROs must be certified full-time police officers.
- 4) SROs must be armed and deployed in accordance with the generally accepted standards of police practice. They must qualify with firearms bi-annually.
- 5) SROs must attend Active Shooter Training (ALERRT) every third year.
- 6) All school safety personnel must receive a minimum of 40 hours service training as approved by MDE each year. [...]

School Safety Personnel

Assignment of personnel shall be based on the school safety assessment, threat profile, needs of the district, and funding availability. In accordance with Miss. Code Ann. § 37-3-321, all security or law

enforcement personnel assigned to a school district on a full-time basis (greater than 75%) must be certified by MDE within 2 years of appointment if employed directly by a school district. The School Resource Officer (or SSO/CEO) shall be an integral part of all safety planning areas since this individual is responsible for safety planning and response.

School Resource Officer (SRO)

1. Definition: An officer, commissioned by a local law enforcement agency or school district, who has at least three (3) years of full time commissioned law enforcement service and is a graduate of the Basic Law Enforcement Officer Training Program and the Mississippi Department of Education (MDE) School Resource Officer Basic Course. This officer shall be supervised by the superintendent or their designee, excluding principals. The officer typically spends 40% of their time in enforcement and security administration, 30% teaching character related education subjects, and 30% mentoring at-risk students.
2. Duties/Qualifications: Must be at least 24 years of age and have at least three (3) years of law enforcement experience prior to assignment. The SRO is assigned to a school district on a full-time basis. Duties include school safety planning, enforcement, teaching, and mentoring. It is recommended that the SRO have an assigned office space, computer, and phone line. This allows the SRO to have a location to write reports, maintain intelligence logs, communicate with surrounding Law Enforcement for situational awareness, and research items that may provide safety and security to schools. The SRO is expected to be armed and maintain qualifications with the issued weapon every six (6) months. Officers shall be screened for intelligence, ability to teach subjects within their area of expertise, and their ability to interact with students. The SRO is not merely an armed security guard.
3. Minimum Training Standard:
 - a. Completion of the Police Officer Basic Course (reserve basic is not acceptable).
 - b. Completion of the MDE School Resource Officer Basic Course within two (2) years of appointment (See MS Code 37-7-321).
 - c. 40 hours per year of MDE sanctioned in-service training.

Campus Enforcement Officer (CEO)

1. Definition: An officer, commissioned by a local law enforcement agency or local school district in accordance with Miss. Code Ann. § 37-3-321 who is a graduate of the Reserve Police Officer Basic Course and is assigned enforcement, security, and safety duties.
2. Duties/Qualifications: The Campus Enforcement Officer (CEO) is a School Safety Officer that is commissioned by a local law enforcement agency that has law enforcement authority. The CEO has authority to carry a weapon and make arrests. The officer is responsible only for enforcement and safety related activities. The Campus Enforcement Officer is not trained in school safety, planning, classroom teaching, or counseling related duties.
3. Minimum Training Standard:
 - a. Completion of the Reserve Police Officer Basic Course
 - b. 40 hours per year of MDE sanctioned in-service training is recommended.

School Safety Officer (SSO)

1. Definition: A security and safety specialist, employed by the school district or private security company, who has been contracted by the district to provide routine safety and security duties.
2. Duties/Qualifications: The School Safety Officer (SSO) is assigned routine duties of safety and physical security under the supervision of a School Resource Officer, Campus Enforcement Officer, or school administrator. The SSO does not have authority to carry a weapon or make arrests. The SSO conducts routine patrols, secures buildings, and checks for safety hazards.
3. Minimum Training Standards:

- a. Completion of the MDE School Safety Officer Basic Course
- b. 40 hours per year of MDE sanctioned in-service training.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 21-19-49. Appropriation of funds or conveyance of buildings and property to school districts by local governments; contracts for provision of additional police protection for schools; off-duty law enforcement officers authorized to use public uniforms and equipment for school security purposes; municipalities authorized to donate to public school districts for certain purposes.

(1) The governing authority of any municipality or the board of supervisors of any county are hereby authorized and empowered to appropriate money or dedicate and convey municipally-owned buildings and property or county-owned buildings and property, as the case may be, to the school district or districts situated within that municipality or county for the purpose of erecting, purchasing or otherwise providing the school building or a site for such school building of such school district, in cases where the governing authority or board of supervisors are of the opinion that the location of such school building within the corporate limits of the municipality or the county, or in close proximity thereto, will be of special benefit to the inhabitants of the municipality or county.

(2) Municipalities, municipal police departments and the sheriffs' departments may contract with the school board of any school district to provide additional Law Enforcement Officers Training Academy-certified police protection to said school district on such terms and for such reimbursement as the school district and the entity may agree in their discretion.

(3) The governing authority of any municipality or the board of supervisors of any county may allow off-duty municipal or county law enforcement officers who are hired individually for security purposes by the school district or districts within that municipality or county to use municipal or county law enforcement uniforms and equipment during such off-duty employment.

(4) The governing authority of any municipality, in its discretion, may donate funds, equipment or in-kind services to any school district located within the boundaries of the municipality to assist the voluntary character development or public service programs of that school district.

§ 37-3-82. Mississippi Community Oriented Policing Services in Schools grant program established; purpose; use of funds.

(1) There is hereby established the Mississippi Community Oriented Policing Services in Schools (MCOPS) grant program in the State Department of Education to provide funding, pursuant to specific appropriation by the Legislature therefor, to assist law enforcement agencies in providing additional School Resource Officers to engage in community policing in and around primary and secondary schools. The MCOPS program shall authorize the State Department of Education to make grants to increase deployment of law enforcement officers in order (a) to increase or enhance community policing in this state, (b) that trained, sworn enforcement officers assigned to schools play an integral part in the development and/or enhancement of a comprehensive school safety plan, and (c) that the presence of these officers shall provide schools with a direct link to local law enforcement agencies.

(2) The MCOPS program shall meet the following requirements and standards:

- (a) This program shall provide an incentive for law enforcement agencies to build collaborative partnerships with the school community and to use community policing efforts to combat school violence and implement educational programs to improve student and school safety.

(b) The additional School Resource Officers must devote at least seventy-five percent (75%) of their time to work in and around primary and secondary schools, in addition to the time that School Resource Officers are devoting in the absence of the MCOPS in Schools grant.

(c) Beginning with the 2019-2020 school year, the MCOPS in Schools program shall provide a minimum state contribution of up to Ten Thousand Dollars (\$10,000.00) per officer position over the one-year grant period, to be matched from local funds on a 50/50 matching basis. Officers paid with MCOPS funds may be employed by the local law enforcement agency or by the local school district. MCOPS funds may be used to pay for entry-level salaries and benefits of newly trained additional School Resource Officers and may be used to pay the salaries and benefits of School Resource Officers employed prior to July 1, 2013. All jurisdictions that apply must demonstrate that they have primary law enforcement authority over the school(s) identified in their application and demonstrate their inability to implement this project without state assistance. Schools or law enforcement agencies may not reduce its overall federal, state, locally funded level of sworn officers (including other School Resource Officers or other sworn officers assigned to the schools) as a result of applying for or receiving MCOPS in Schools grant funding. MCOPS in Schools funding may be used to rehire sworn officers previously employed who have been laid off for financial reasons unrelated to the availability of the MCOPS in Schools grant, but must obtain prior written approval from the State Department of Education. MCOPS in Schools funding may be used to train school resource officers. In order to be eligible for such program, each local school board desiring to participate shall apply to the State Department of Education by May 31 before the beginning of the applicable fiscal year on forms provided by the department. The State Department of Education shall determine by July 1 of each succeeding year which local school districts have submitted approved applications for School Resource Officer funding.

(d) School Resource Officers (SROs) may serve in a variety of roles, including, but not limited to, that of a law enforcement officer/safety specialist, law-related educator, and problem-solver/community liaison. These officers may teach programs such as crime prevention, substance abuse prevention, and gang resistance as well as monitor and assist troubled students through mentoring programs. The School Resource Officer(s) may also identify physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies which address criminal activity and school safety. The application must also include a Memorandum of Understanding (MOU), signed by the law enforcement executive and the appropriate school official(s), to document the roles and responsibilities to be undertaken by the law enforcement agency and the educational school partner(s) through this collaborative effort. The application must also include a Narrative Addendum to document that the School Resource Officer(s) will be assigned to work in and around primary or secondary schools and provide supporting documentation in the following areas: problem identification and justification, community policing strategies to be used by the officers, quality and level of commitment to the effort, and the link to community policing.

(e) All agencies receiving awards through the MCOPS in Schools program are required to send the School Resource Officer position(s) funded by this grant, to the Mississippi Law Enforcement Officers' Training Academy where they shall be required to participate in training through the Advanced Law Enforcement Rapid Response Training Program at the academy, with the cost to be defrayed from the MCOPS program. The MCOPS Office of the State Department of Education will reimburse grantees for training, per diem, travel, and lodging costs for attendance of required participants up to a maximum of One Thousand Two Hundred Dollars (\$1,200.00) per person attending. Applicants receiving an MCOPS in Schools grant, will receive additional training information following notification of the grant award. The MCOPS in Schools training requirement must be completed prior to the end of twelve-month grant funding for officer positions.

(3) The State Department of Education shall promulgate rules and regulations prescribing procedures for the application, expenditure requirements and the administration of the Mississippi Community Oriented

Policing Services in Schools (MCOPS) program established in this section, and shall make a report on the implementation of the MCOPS program with any recommendations to the 2020 Regular Session of the Legislature.

§ 37-3-82.1. Schools unable to meet financial requirements for participation in MCOPS program authorized to develop alternative plans for student security.

In the event that a public school district is unable to participate in the MCOPS program due to the district's inability to meet the necessary financial requirements of the local fund match, the local school board of that school district may develop a plan for the security of its students, faculty and administration, which must be approved by the State Board of Education and the Mississippi Department of Public Safety prior to its implementation. The local school board may still apply for grants under the MCOPS program for training of security personnel employed by the school district.

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services.

(1) The school board of any school district within the State of Mississippi, in its discretion, may employ one or more persons as security personnel and may designate such persons as peace officers in or on any property operated for school purposes by such board upon their taking such oath and making such bond as required of a constable of the county in which the school district is situated.

(2) Any person employed by a school board as a security guard or school resource officer or in any other position that has the powers of a peace officer must receive a minimum level of basic law enforcement training, as jointly determined and prescribed by the Board on Law Enforcement Officer Standards and Training and the State Board of Education, within two (2) years of the person's initial employment in such position. Upon the failure of any person employed in such position to receive the required training within the designated time, the person may not exercise the powers of a peace officer in or on the property of the school district.

(3) The school board is authorized and empowered, in its discretion, and subject to the approval of the Federal Communications Commission, to install and operate a noncommercial radio broadcasting and transmission station for educational and vocational educational purposes.

(4) If a law enforcement officer is duly appointed to be a peace officer by a school district under this section, the local school board may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of school property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

§ 37-7-323. Application and enforcement of general criminal laws of state.

Any act which, if committed within the limits of a city, town or village, or in any public place, would be a violation of the general laws of this state, shall be criminal and punishable if done on the campus, grounds or roads of any of the public schools of this state. The peace officers duly appointed by the school board of any school district are vested with the powers and subjected to the duties of a constable for the purpose of preventing all violations of law on school property within the district, and for preserving order and decorum thereon. The peace officers duly appointed by the school board of any school district are also vested with the powers and subjected to the duties of a constable for the purpose of preventing all violations of law that occur within five hundred (500) feet of any property owned by the school district, if reasonably determined to have a possible impact on the safety of students, faculty or staff of the school district while on said property. Provided, however, that nothing in this section shall be interpreted to

require action by any such peace officer appointed by a school district to events occurring outside the boundaries of school property, nor shall any such school district or its employees be liable for any failure to act to any event occurring outside the boundaries of property owned by the school district.

REGULATIONS

CMSR 07-000-192. Part 192: Mississippi school safety manual.

School Safety Personnel

Assignment of personnel shall be based on the school safety assessment, threat profile, needs of the district, and funding availability. In accordance with Miss. Code Ann. § 37-3-321, all security or law enforcement personnel assigned to a school district on a full-time basis (greater than 75%) must be certified by MDE within 2 years of appointment if employed directly by a school district. The School Resource Officer (or SSO/CEO) shall be an integral part of all safety planning areas since this individual is responsible for safety planning and response.

School Resource Officer (SRO)

1. Definition: An officer, commissioned by a local law enforcement agency or school district, who has at least three (3) years of full time commissioned law enforcement service and is a graduate of the Basic Law Enforcement Officer Training Program and the Mississippi Department of Education (MDE) School Resource Officer Basic Course. This officer shall be supervised by the superintendent or their designee, excluding principals. The officer typically spends 40% of their time in enforcement and security administration, 30% teaching character related education subjects, and 30% mentoring at-risk students.
2. Duties/Qualifications: Must be at least 24 years of age and have at least three (3) years of law enforcement experience prior to assignment. The SRO is assigned to a school district on a full-time basis. Duties include school safety planning, enforcement, teaching, and mentoring. It is recommended that the SRO have an assigned office space, computer, and phone line. This allows the SRO to have a location to write reports, maintain intelligence logs, communicate with surrounding Law Enforcement for situational awareness, and research items that may provide safety and security to schools. The SRO is expected to be armed and maintain qualifications with the issued weapon every six (6) months. Officers shall be screened for intelligence, ability to teach subjects within their area of expertise, and their ability to interact with students. The SRO is not merely an armed security guard.
3. Minimum Training Standard:
 - a. Completion of the Police Officer Basic Course (reserve basic is not acceptable).
 - b. Completion of the MDE School Resource Officer Basic Course within two (2) years of appointment (See MS Code 37-7-321).
 - c. 40 hours per year of MDE sanctioned in-service training.

Campus Enforcement Officer (CEO)

1. Definition: An officer, commissioned by a local law enforcement agency or local school district in accordance with Miss. Code Ann. § 37-3-321 who is a graduate of the Reserve Police Officer Basic Course and is assigned enforcement, security, and safety duties.
2. Duties/Qualifications: The Campus Enforcement Officer (CEO) is a School Safety Officer that is commissioned by a local law enforcement agency that has law enforcement authority. The CEO has authority to carry a weapon and make arrests. The officer is responsible only for enforcement and safety related activities. The Campus Enforcement Officer is not trained in school safety, planning, classroom teaching, or counseling related duties.
3. Minimum Training Standard:
 - a. Completion of the Reserve Police Officer Basic Course

- b. 40 hours per year of MDE sanctioned in-service training is recommended.

School Safety Officer (SSO)

1. Definition: A security and safety specialist, employed by the school district or private security company, who has been contracted by the district to provide routine safety and security duties.
2. Duties/Qualifications: The School Safety Officer (SSO) is assigned routine duties of safety and physical security under the supervision of a School Resource Officer, Campus Enforcement Officer, or school administrator. The SSO does not have authority to carry a weapon or make arrests. The SSO conducts routine patrols, secures buildings, and checks for safety hazards.
3. Minimum Training Standards:
 - a. Completion of the MDE School Safety Officer Basic Course
 - b. 40 hours per year of MDE sanctioned in-service training.

Threat Assessment Protocols

LAWS

§ 37-3-93. School crisis management program; quick response teams; toll-free telephone service for reporting school violence; certified threat assessment officers and duties thereof.

(3) As a component of the School Crisis Management Program, the Mississippi Office of Homeland Security shall develop a curriculum, train and certify threat assessment officers. A certified threat assessment officer shall conduct an annual inspection and threat assessment of each public school in the state. The threat assessment officer shall develop an improvement plan for each school inspected. The assessment shall include the inspection of surveillance equipment and building-specific floor plans. The findings of the inspection and threat assessment, including a copy of the improvement plan shall be provided to local law enforcement agencies and the local school board within four (4) weeks of completion.

REGULATIONS

CMR 07-000-192. Part 192: Mississippi school safety manual.

Types of Assessments

3. School Threat Assessment: A school threat assessment analyzes communication and behaviors to determine whether a student, staff, or other person may pose a threat. These assessments must be based on fact, must comply with applicable privacy, civil, and other laws. The threat assessment team is separate from the planning team and meets on its own regular schedule.

Purpose and Results

Students, staff, or other persons that may pose a threat are identified before a threat develops into an incident and are referred for services, if appropriate.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Mississippi provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Behavior and Beyond Symposium (2019), Mississippi Department of Education (MDE)	Provides symposium presentations for schools and educators on behavior intervention practices such as MTSS, Positive Behavioral Interventions or Supports (PBIS), and behavior in a law context.	https://www.mdek12.org/node/3643
Intervention Services, MDE	Provides an overview of the Office of Intervention services including tools and support services for behavior interventions and links to resources and documents on Multi-Tiered System of Supports (MTSS).	https://www.mdek12.org/OAE/OEER/InterventionServices
School Safety, MDE	Provides an overview of school safety in Mississippi schools and links teacher resources, online courses and training, and other related school safety websites.	https://www.mdek12.org/OSOS/SS
Mental Health, MDE	Provides information on bullying and links to tools and supports such as training and a sample bullying policy.	https://www.mdek12.org/ESE/Mental-Health
Documents		
Multi-Tiered System of Supports Guidance Document (June 2020), MDE	Guidance document designed to assist stakeholders in understanding a Multi-Tiered System of Supports, provide an in-depth look at the essential components of an effective MTSS Model, clarify the usefulness and value of MTSS in regard to student outcomes, and explain best practices for the implementation of MTSS for ALL students.	https://www.mdek12.org/sites/default/files/Offices/MDE/OAE/OEER/Intervention/guidance_document_mtss_june2020.pdf
Sample Bullying Policy (July 2017), MDE	Sample policy addressing the prohibition of bullying or harassing behavior in Mississippi schools.	https://www.mdek12.org/sites/default/files/sample-bullying-policy.pdf
Other Resources		
MTSS Webinar Series (2020), MDE	Provides links to several video recordings and guidance documents on MTSS practices and implementation for schools and educators.	https://www.mdek12.org/OAE/OEER/InterventionServices/SWS



Missouri Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

160.069. Policy on consequences of possession or drinking alcohol at school or during extracurricular activities.

Every school district shall develop a policy by June 30, 2006, detailing the consequences that will result for a student at school if the student is found to be in possession or drinking alcohol either on school property or while representing the school at extracurricular activities.

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Rape in the first degree under section 566.030;
- (6) Sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;

- (9) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
- (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;
- (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;
- (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
- (16) Rape in the second degree under section 566.031;
- (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
- (18) Property damage in the first degree under section 569.100;
- (19) The possession of a weapon under chapter 571;
- (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069;
- (21) Sodomy in the second degree pursuant to section 566.061;
- (22) Sexual misconduct involving a child pursuant to section 566.083;
- (23) Sexual abuse in the first degree pursuant to section 566.100;
- (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090; or
- (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or
- (4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

- (1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;
- (2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

- (1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and
- (2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

160.263. Confinement of a student prohibited, when-policy on restrictive behavioral interventions required-model policy to be developed.

1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.
2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:
 - (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;
 - (2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

- (3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and
- (4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

160.775. Antibullying policy required-definition- content, requirements.

1. Every district shall adopt an antibullying policy by September 1, 2007.
2. "Bullying" means intimidation, unwanted aggressive behavior, or harassment that is repetitive or is substantially likely to be repeated and causes a reasonable student to fear for his or her physical safety or property; substantially interferes with the educational performance, opportunities, or benefits of any student without exception; or substantially disrupts the orderly operation of the school. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts. Bullying of students is prohibited on school property, at any school function, or on a school bus. "Cyberbullying" means bullying as defined in this subsection through the transmission of a communication including, but not limited to, a message, text, sound, or image by means of an electronic device including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager.
3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat all students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age-appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.
4. Each district's antibullying policy shall be included in the student handbook and shall require, at a minimum, the following components:
 - (1) A statement prohibiting bullying, defined no less inclusively than in subsection 2 of this section;
 - (2) A statement requiring district employees to report any instance of bullying of which the employee has firsthand knowledge. The policy shall require a district employee who witnesses an incident of bullying to report the incident to the district's designated individual at the school within two school days of the employee witnessing the incident;
 - (3) A procedure for reporting an act of bullying. The policy shall also include a statement requiring that the district designate an individual at each school in the district to receive reports of incidents of bullying. Such individual shall be a district employee who is teacher level staff or above;
 - (4) A procedure for prompt investigation of reports of violations and complaints, identifying one or more employees responsible for the investigation including, at a minimum, the following requirements:
 - (a) Within two school days of a report of an incident of bullying being received, the school principal, or his or her designee, shall initiate an investigation of the incident;
 - (b) The school principal may appoint other school staff to assist with the investigation; and
 - (c) The investigation shall be completed within ten school days from the date of the written report unless good cause exists to extend the investigation;
 - (5) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(6) A statement of how the policy is to be publicized; and
(7) A process for discussing the district's antibullying policy with students and training school employees and volunteers who have significant contact with students in the requirements of the policy, including, at a minimum, the following statements:

(a) The school district shall provide information and appropriate training to the school district staff who have significant contact with students regarding the policy;

(b) The school district shall give annual notice of the policy to students, parents or guardians, and staff;

(c) The school district shall provide education and information to students regarding bullying, including information regarding the school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to address bullying, including student peer-to-peer initiatives to provide accountability and policy enforcement for those found to have engaged in bullying, reprisal, or retaliation against any person who reports an act of bullying;

(d) The administration of the school district shall instruct its school counselors, school social workers, licensed social workers, mental health professionals, and school psychologists to educate students who are victims of bullying on techniques for students to overcome bullying's negative effects. Such techniques shall include, but not be limited to, cultivating the student's self-worth and self-esteem; teaching the student to defend himself or herself assertively and effectively; helping the student develop social skills; or encouraging the student to develop an internal locus of control. The provisions of this paragraph shall not be construed to contradict or limit any other provision of this section; and

(e) The administration of the school district shall implement programs and other initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize the victim, and to make resources or referrals available to victims of bullying.

5. Notwithstanding any other provision of law to the contrary, any school district shall have jurisdiction to prohibit cyberbullying that originates on a school's campus or at a district activity if the electronic communication was made using the school's technological resources, if there is a sufficient nexus to the educational environment, or if the electronic communication was made on the school's campus or at a district activity using the student's own personal technological resources. The school district may discipline any student for such cyberbullying to the greatest extent allowed by law.

6. Each district shall review its antibullying policy and revise it as needed. The district's school board shall receive input from school personnel, students, and administrators when reviewing and revising the policy.

REGULATIONS

No relevant regulations found

Scope

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the

superintendent of such district, during normal business hours, for public inspection. . No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Rape in the first degree under section 566.030;
- (6) Sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;
- (9) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;

- (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;
- (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;
- (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
- (16) Rape in the second degree under section 566.031;
- (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
- (18) Property damage in the first degree under section 569.100;
- (19) The possession of a weapon under chapter 571;
- (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069;
- (21) Sodomy in the second degree pursuant to section 566.061;
- (22) Sexual misconduct involving a child pursuant to section 566.083;
- (23) Sexual abuse in the first degree pursuant to section 566.100;
- (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090; or
- (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged. [...]

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

CC1-The school system provides a safe and caring environment that supports teaching, learning, and student success.

- A. The school system implements trauma-informed methodologies, implements youth suicide awareness and prevention practices, and provides responsive services based on student need and local context.
- B. The school system provides staff, teachers, parents/guardians, and students access to the school system's written code of conduct, which specifies unacceptable student behavior and consequences for that behavior.
- C. The school system's code of conduct is equitably and consistently enforced during any school related activity whether on or off school property.
- D. The school system promotes respect for individual differences (e.g., diversity training, diversity awareness, policies, and procedures).
- E. The school system provides training on and ensures the implementation effective practices on violence-prevention instruction, including information on preventing and responding to harassment and bullying, for each student and staff member.

Communication of Policy

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. . No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including

but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

160.775. Antibullying policy required-definition- content, requirements.

4. Each district's antibullying policy shall be included in the student handbook and shall require, at a minimum, the following components:

(6) A statement of how the policy is to be publicized; and

(7) A process for discussing the district's antibullying policy with students and training school employees and volunteers who have significant contact with students in the requirements of the policy, including, at a minimum, the following statements:

(a) The school district shall provide information and appropriate training to the school district staff who have significant contact with students regarding the policy;

(b) The school district shall give annual notice of the policy to students, parents or guardians, and staff;

(c) The school district shall provide education and information to students regarding bullying, including information regarding the school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to address bullying, including student peer-to-peer initiatives to provide accountability and policy enforcement for those found to have engaged in bullying, reprisal, or retaliation against any person who reports an act of bullying;

(d) The administration of the school district shall instruct its school counselors, school social workers, licensed social workers, mental health professionals, and school psychologists to educate students who are victims of bullying on techniques for students to overcome bullying's negative effects. Such techniques shall include, but not be limited to, cultivating the student's self-worth and self-esteem; teaching the student to defend himself or herself assertively and effectively; helping the student develop social skills; or encouraging the student to develop an internal locus of control. The provisions of this paragraph shall not be construed to contradict or limit any other provision of this section; and

(e) The administration of the school district shall implement programs and other initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize the victim, and to make resources or referrals available to victims of bullying.

162.208. Internet website, required postings.

If any public school district hosts a district-sponsored internet website, that district shall post the following on such site:

(1) A current version of that district's policy manual and all related documents; and

(2) A current version of that district's handbook, or, if the district has more than one handbook, a current version of all of that district's handbooks.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

School Board Policy

L5-The local board establishes and implements policies that provide a framework within which the school system operates and ensures legal compliance.

A. The local board and administration have a systematic process for establishing, adopting, and revising policies so that they are clear, current, and legally compliant.

B. The local board, administration, and staff implement and enforce policy when conducting school system business.

C. The local board approves documents and reports as required by policy and law.

D. The school system's policies and handbooks are posted on the system's website or are otherwise Collaborative Climate and Culture (CC)

Safe, Orderly, and Caring Environment

CC1-The school system provides a safe and caring environment that supports teaching, learning, and student success available to the community. [...]

B. The school system provides staff, teachers, parents/guardians, and students access to the school system's written code of conduct, which specifies unacceptable student behavior and consequences for that behavior.

In-School Discipline

Discipline Frameworks

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Rape in the first degree under section 566.030;
- (6) Sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;
- (9) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
- (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;

- (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;
- (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
- (16) Rape in the second degree under section 566.031;
- (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
- (18) Property damage in the first degree under section 569.100;
- (19) The possession of a weapon under chapter 571;
- (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069;
- (21) Sodomy in the second degree pursuant to section 566.061;
- (22) Sexual misconduct involving a child pursuant to section 566.083;
- (23) Sexual abuse in the first degree pursuant to section 566.100;
- (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090; or
- (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the

student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the

board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210.

11. Upon receipt of any reports of child abuse by the children's division other than reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

12. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

167.164. Suspension or expulsion not to relieve duty to educate-district to pay costs of alternative education-voucher-district may contract for alternative education services.

1. Any suspension issued pursuant to section 167.161, or this section, or expulsion pursuant to section 167.161, shall not relieve the state or the suspended student's parents or guardians of their responsibilities to educate the student. School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school. Each school district or special school district constituting the domicile of any child for whom alternative education programs are provided or procured under this section shall pay toward the per pupil costs for alternative education programs for such child. A school district which is not a special school district shall pay an amount equal to the average sum

produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. When educational services have been provided by the school district or special school district in which a child actually resides, other than the district of domicile, the amounts as provided in subsection 2 of this section* for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

2. A school district may contract with other political subdivisions, public agencies, not-for-profit organizations, or private agencies for the provision of alternative education services for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. Such contracting may be included as part of a grant application pursuant to section

167.335 or conducted independent of the provisions of section 167.335.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality. [...]

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

563.061. Use of force by persons with responsibility for care, discipline or safety of others.

1. The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1) The actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

- (2) The force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain or extreme emotional distress.
2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use whatever physical force, including deadly force, that is authorized by law.
3. The use of physical force by an actor upon another person is justifiable when the actor is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the actor reasonably believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly force may be used only when the actor reasonably believes it necessary to prevent death or serious physical injury.
4. The use of physical force by an actor upon another person is justified when the actor is a physician or a person assisting at his or her direction; and
- (1) The force is used for the purpose of administering a medically acceptable form of treatment which the actor reasonably believes to be adapted to promoting the physical or mental health of the patient; and
- (2) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent on his or her behalf, or the treatment is administered in an emergency when the actor reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.
5. The use of physical force by an actor upon another person is justifiable when the actor acts under the reasonable belief that
- (1) Such other person is about to commit suicide or to inflict serious physical injury upon himself or herself; and
- (2) The force used is necessary to thwart such result.
6. The defendant shall have the burden of injecting the issue of justification under this section.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

167.166. Prohibition on strip searches, exceptions-strip search defined-violation, penalty-prohibition on removal of certain items not deemed disruptive.

1. Except as provided in subsections 2 and 3 of this section, no employee of or volunteer at any public school or charter school within this state shall perform a strip search, as that term is defined in section 544.193, of any student of any such school. However, strip searches may be conducted by, or under the authority of, a commissioned law enforcement officer.
2. A student may be strip searched by a school employee only if a commissioned law enforcement officer is not immediately available and if the school employee reasonably believes that a student possesses a weapon, explosive, or substance that poses an imminent threat of physical harm to himself or herself or another person.
3. For the purposes of this section, the term "strip search" shall not include the removal of clothing in order to investigate the potential abuse or neglect of a student; give medical attention to a student; provide health services to a student; or screen a student for medical conditions.

4. If a student is strip searched by an employee of a school or a commissioned law enforcement officer, the district will attempt to notify the student's parent or guardian as soon as possible.
5. Any employee of a public school or charter school who violates the provisions of subsections 1 to 4 of this section shall be immediately suspended without pay, pending an evidentiary hearing when such employee is entitled by statute or contract to such hearing. If an employee is not entitled to such evidentiary hearing, the employee shall be suspended pending completion of due process or further disciplinary action as provided in the district's personnel policies, as applicable.
6. For the purposes of subsections 1 to 5 of this section, the term "employee" shall include all temporary, part-time, and full-time employees of a public school or charter school.
7. No employee of or volunteer in or school board member of or school district administrator of a public school or charter school shall direct a student to remove an emblem, insignia, or garment, including a religious emblem, insignia, or garment, as long as such emblem, insignia, or garment is worn in a manner that does not promote disruptive behavior.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

160.263. Confinement of a student prohibited, when-policy on restrictive behavioral interventions required-model policy to be developed.

1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.
2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:
 - (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;
 - (2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;
 - (3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and
 - (4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

160.020. Registration requirements – homeless child or youth defined – residency – hardship waiver – recovery of costs, when – records to be requested, provided, when – military relocation, remote registration permitted

In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within five working days of the request to register and determine whether or not the pupil may register.

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or
- (4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

- (1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

167.161. Suspension or expulsion of pupil-notice-hearing-felony violation, grounds for suspension.

1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider records of past disciplinary actions, criminal court records or juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

171.141. Fraternities and sororities may be barred-enforcement.

1. As used in this section, a school fraternity or sorority is any organization composed wholly or in part of public school pupils, which seeks to perpetuate itself by taking in additional members from the pupils enrolled in public high schools, junior high schools or elementary schools on the basis of the decision of its membership rather than upon the free choice of any pupil in the school who is qualified by the rules of the board to fill the aims of the organization.

2. The school board of any school district, by rule, may prohibit membership of pupils in school fraternities or sororities composed of pupils in any high school, junior high school or elementary school in the district, when it deems that membership in the fraternities or sororities detrimentally affects the conduct and discipline of the schools in the district. Any rule adopted under this subsection shall prescribe the aim of school organizations which may be formed and the qualifications of pupils eligible for

membership therein. The board may adopt other rules that are necessary to carry out the purposes of this section.

3. Upon the adoption of the rule authorized by subsection 2, the school board may suspend, discipline and expel from the schools under its control, any pupil who remains a member of, who joins or promises to join, or who becomes pledged to become a member, or who solicits any other person to join, promise to join or be pledged or to become a member of a school fraternity or sorority. Upon direction of the board, by rule or otherwise, the superintendent of schools may suspend and discipline any person who violates the rule authorized by subsection 2 until the time that the matter is considered by the board.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or
- (4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

- (1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

167.161. Suspension or expulsion of pupil-notice-hearing-felony violation, grounds for suspension.

1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider records of past disciplinary actions, criminal court records or juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

167.171. Summary suspension of pupil-appeal-grounds for suspension-procedure-conference required, when-statewide suspension, when.

1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts

relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

- (1) The pupil shall be given oral or written notice of the charges against such pupil;
- (2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;
- (3) The pupil shall be given an opportunity to present such pupil's version of the incident; and
- (4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

167.161. Suspension or expulsion of pupil-notice-hearing-felony violation, grounds for suspension.

1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider records of past disciplinary actions, criminal court records or juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

167.171. Summary suspension of pupil-appeal-grounds for suspension-procedure-conference required, when-statewide suspension, when.

1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

- (1) The pupil shall be given oral or written notice of the charges against such pupil;
- (2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;
- (3) The pupil shall be given an opportunity to present such pupil's version of the incident; and
- (4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

- (1) Such pupil has been convicted of; or
- (2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:
 - (a) First degree murder under section 565.020;

- (b) Second degree murder under section 565.021;
- (c) First degree assault under section 565.050;
- (d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;
- (e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;
- (f) Statutory rape under section 566.032;
- (g) Statutory sodomy under section 566.062;
- (h) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
- (i) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (j) Arson in the first degree under section 569.040;
- (k) Kidnapping or kidnapping in the first degree, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

167.171. Summary suspension of pupil-appeal-grounds for suspension-procedure-conference required, when-statewide suspension, when.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

- (1) Such pupil has been convicted of; or
- (2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:
 - (a) First degree murder under section 565.020;
 - (b) Second degree murder under section 565.021;
 - (c) First degree assault under section 565.050;
 - (d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;
 - (e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;
 - (f) Statutory rape under section 566.032;
 - (g) Statutory sodomy under section 566.062;
 - (h) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
 - (i) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
 - (j) Arson in the first degree under section 569.040;
 - (k) Kidnapping or kidnapping in the first degree, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above

acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school. [...]

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

167.091. Truant or parental schools, establishment-attendance may be compelled-neglected children, attendance-support payments.

1. The school board of any district which has ten thousand inhabitants or more, may establish and maintain from the public school funds one or more special truant or parental day schools in the city or district for children who are either habitual truants from any school in which they are enrolled as pupils, or who, while in attendance at any school are incorrigible, vicious or immoral, or who habitually wander or loiter about the streets or roads or other public places without lawful employment, or who, in the opinion of the board or of its superintendent of instruction, require special attention and instruction. The school board, through its officers, may assign, require and compel all such children to attend the special truant or parental school or any department of the graded schools that the board directs.

2. The board may also establish and maintain from the public school funds, either within or without its district, a parental school for the care and education of any child resident of the school district and committed to it by a juvenile court under the provisions of section 211.181. For every child committed to the school there shall be paid to the board of education out of the treasury of the city or county the sum of ten dollars per month for the support, maintenance, clothing and other expenses of the child from the time of its entrance into the school until its discharge there from.

167.164. Suspension or expulsion not to relieve duty to educate-district to pay costs of alternative education-voucher-district may contract for alternative education services.

1. Any suspension issued pursuant to section 167.161, or this section, or expulsion pursuant to section 167.161, shall not relieve the state or the suspended student's parents or guardians of their responsibilities to educate the student. School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school. Each school district or special school district constituting the domicile of any child for whom alternative education programs are provided or procured under this section shall pay toward the per pupil costs for alternative education programs for such child. A school district which is not a special school district shall pay an amount equal to the average sum produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. When educational services have been provided by the school district or special school district in which a child actually resides, other than the district of domicile, the amounts as provided in subsection 2 of this section* for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

2. A school district may contract with other political subdivisions, public agencies, not-for-profit organizations, or private agencies for the provision of alternative education services for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. Such contracting may be included as part of a grant application pursuant to section

167.335 or conducted independent of the provisions of section 167.335.

167.171. Summary suspension of pupil-appeal-grounds for suspension-procedure-conference required, when-statewide suspension, when.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

167.335. Alternative education grants-qualifications-joint applications.

1. The state board of education shall establish a program to award grants to school districts that apply for assistance in providing alternative educational opportunities for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. The board shall solicit applications from school districts and shall make grants from funds appropriated for that purpose in such amounts and on such terms as it determines best encourages the development of alternative education programs throughout the state. The board shall give preference to applications that demonstrate a need for alternative education services and stress:

- (1) A comprehensive, kindergarten through grade twelve approach to preventing problems that result in the need for alternative education services;
- (2) Rigorous instruction in core academic disciplines;
- (3) Activities designed to enable the student to better perform in the regular classroom and to transition students back to the regular classroom when merited by their performance;
- (4) A student-centered approach whereby activities are designed to meet the particular needs of individual students; and
- (5) Collaboration with existing community-based service providers, such as cooperative education programs, school to work programs, parents-as-teachers programs, programs developed by the department of economic development and programs developed by local service delivery agencies, and other governmental and private agencies to address student needs beyond those traditionally addressed by schools.

2. School districts may submit joint applications and are encouraged to pursue regional approaches to alternative education where warranted. Area vocational learning centers shall be eligible to submit applications and are encouraged to pursue grants to expand and enhance existing alternative education programs established pursuant to sections 167.320 to 167.332, provided that any additional activities are compatible with subdivisions (1) to (5) of subsection 1 of this section. The state board of education shall adopt rules necessary to implement the grant program established pursuant to this section, provided that no rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(19) The possession of a weapon under chapter 571 [...]

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section. 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons. [...]

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

167.117. Principal, teachers, school employees to report certain acts, to whom, exceptions-limit on liability-penalty.

2. In any instance when a pupil is discovered to have on or about such pupil's person, or among such pupil's possessions, or placed elsewhere on the school premises, including but not limited to the school playground or the school parking lot, on a school bus or at a school activity whether on or off of school property any controlled substance as defined in section 195.010 or any weapon as defined in subsection 6 of section 160.261 in violation of school policy, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent.

3. In any instance when a teacher becomes aware of an assault as set forth in subsection 1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth in subsection 2 of this section, the teacher shall immediately report such incident to the principal.

571.010. Definitions.

As used in this chapter, the following terms shall mean:

(4) "Concealable firearm", any firearm with a barrel less than sixteen inches in length, measured from the face of the bolt or standing breech; (6) "Detonator", any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to, electric blasting caps of instantaneous and delay types, nonelectric blasting caps for use with safety fuse or shock tube and detonating cord delay connectors; [...]

(7) "Explosive weapon", any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon. For the purposes of this subdivision, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents;

(8) "Firearm", any weapon that is designed or adapted to expel a projectile by the action of an explosive;

(9) "Firearm silencer", any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm;

(10) "Gas gun", any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance; [...]

(14) "Machine gun", any firearm that is capable of firing more than one shot automatically, without manual reloading, by a single function of the trigger;

(15) "Projectile weapon", any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person;

(16) "Rifle", any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;

(17) "Short barrel", a barrel length of less than sixteen inches for a rifle and eighteen inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six inches;

(18) "Shotgun", any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger;

(19) "Spring gun", any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

571.030. Unlawful use of weapons-exceptions-penalties.

1. A person commits the offense of unlawful use of weapons, except as otherwise provided by sections 571.101 to 571.121, if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into any area where firearms are restricted under section 571.107; or

- (2) Sets a spring gun; or
- (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, or any building or structure used for the assembling of people; or
- (4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
- (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense; or
- (6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or
- (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
- (8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or
- (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
- (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board; or
- (11) Possesses a firearm while also knowingly in possession of a controlled substance that is sufficient for a felony violation of section 579.015.

2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection.

Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:

- (1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection 12 of this section, and who carry the identification defined in subsection 13 of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
- (3) Members of the Armed Forces or National Guard while performing their official duty;
- (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
- (5) Any person whose bona fide duty is to execute process, civil or criminal;

- (6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
- (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
- (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the department of public safety under section 590.750;
- (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;
- (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney; circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under subsection 2 of section 571.111;
- (11) Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
- (12) Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person nineteen years of age or older or eighteen years of age or older and a member of the United States Armed Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

6. Notwithstanding any provision of this section to the contrary, the state shall not prohibit any state employee from having a firearm in the employee's vehicle on the state's property provided that the vehicle is locked and the firearm is not visible. This subsection shall only apply to the state as an employer when the state employee's vehicle is on property owned or leased by the state and the state employee is conducting activities within the scope of his or her employment. For the purposes of this subsection, "state employee" means an employee of the executive, legislative, or judicial branch of the government of the state of Missouri.

7. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

8. A person who commits the crime of unlawful use of weapons under:

- (1) Subdivision (2), (3), (4), or (11) of subsection 1 of this section shall be guilty of a class E felony;
- (2) Subdivision (1), (6), (7), or (8) of subsection 1 of this section shall be guilty of a class B misdemeanor, except when a concealed weapon is carried onto any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch, in which case the penalties of subsection 2 of section 571.107 shall apply;
- (3) Subdivision (5) or (10) of subsection 1 of this section shall be guilty of a class A misdemeanor if the firearm is unloaded and a class E felony if the firearm is loaded;
- (4) Subdivision (9) of subsection 1 of this section shall be guilty of a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

9. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

- (1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;
- (2) For any violation by a prior offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;
- (3) For any violation by a persistent offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;
- (4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

10. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

11. Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of subsection 1 of this section shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms- or weapons- related felony offense.

12. As used in this section "qualified retired peace officer" means an individual who:

- (1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;
- (2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

- (5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;
- (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- (7) Is not prohibited by federal law from receiving a firearm.

13. The identification required by subdivision (1) of subsection 2 of this section is:

- (1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or
- (2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and
- (3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

167.034. Absences in St. Louis City reported to children's division, when, notification requirements-duties of children's division.

1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the children's division within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

- (1) The student's full name and parents' or guardians' full names;
- (2) The addresses and phone numbers of the student and parents or guardians;
- (3) The student's date of birth and age;
- (4) The student's current school and grade level;
- (5) The student's current grades for all classes in which the student is enrolled; and
- (6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification

required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

167.071. School attendance officers in seven-director districts, powers and duties-powers of police officers in certain areas.

1. In school districts having seven or more directors the school board may appoint and remove at pleasure one or more school attendance officers and shall pay them from the public school funds.
2. Each attendance officer has the powers of a deputy sheriff in the performance of his duties. He shall investigate the claims of children for exemptions under section 167.031, and report his findings to the person authorized by that section to grant the exemption sought. He shall refer all cases involving an alleged violation of section 167.031 involving a public school to the superintendent of the public school of the district where the child legally resides and all cases involving an alleged violation of section 167.031 involving a private, parochial, parish or home school to the prosecuting attorney of the county wherein the child legally resides. When reasonable doubt exists as to the age of any such child he may require a properly attested birth certificate or an affidavit stating the child's age, date of birth, physical characteristics and bearing the signature of the child. He may visit and enter any mine, office, factory, workshop, business house, place of amusement, or other place in which children are employed or engaged in any kind of service, or any place or building in which children loiter or idle during school hours; may require a properly attested certificate of the attendance of any child at school; may arrest, without warrant, any truant, or nonattendants or other juvenile disorderly persons, and place them in some school or take them to their homes, or take them to any place of detention provided for neglected children in the county or school district. He shall serve in the cases which he prosecutes without additional fee or compensation. Each attendance officer appointed by a school board shall carry into effect the regulations lawfully prescribed by the board by which he was appointed.

167.091. Truant or parental schools, establishment-attendance may be compelled-neglected children, attendance-support payments.

1. The school board of any district which has ten thousand inhabitants or more, may establish and maintain from the public school funds one or more special truant or parental day schools in the city or district for children who are either habitual truants from any school in which they are enrolled as pupils, or who, while in attendance at any school are incorrigible, vicious or immoral, or who habitually wander or loiter about the streets or roads or other public places without lawful employment, or who, in the opinion of the board or of its superintendent of instruction, require special attention and instruction. The school board, through its officers, may assign, require and compel all such children to attend the special truant or parental school or any department of the graded schools that the board directs.
2. The board may also establish and maintain from the public school funds, either within or without its district, a parental school for the care and education of any child resident of the school district and committed to it by a juvenile court under the provisions of section 211.181. For every child committed to the school there shall be paid to the board of education out of the treasury of the city or county the sum of ten dollars per month for the support, maintenance, clothing and other expenses of the child from the time of its entrance into the school until its discharge there from.

167.111. Officials to enforce compulsory attendance law.

The state commissioner of education, superintendents of schools, school boards, county superintendents of public welfare, and every school attendance and probation officer shall enforce all laws relating to compulsory school attendance.

211.031. Juvenile court to have exclusive jurisdiction, when – exception – home schooling, attendance violations, how treated

1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in [chapter 487](#) shall have exclusive original jurisdiction in proceedings:

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

- (a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

160.069. Policy on consequences of possession or drinking alcohol at school or during extracurricular activities.

Every school district shall develop a policy by June 30, 2006, detailing the consequences that will result for a student at school if the student is found to be in possession or drinking alcohol either on school property or while representing the school at extracurricular activities.

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;
- (3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or
- (4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

161.502. Definitions.

As used in sections 161.500 to 161.508, the following terms mean:

- (1) "Department", the department of elementary and secondary education;
- (2) "Drugs" includes, but is not limited to:
 - (a) All controlled substances defined in chapter 195; and
 - (b) Alcoholic beverages.

161.504. Drug-free schools program created-department may apply for funding-disbursement of funds-application for funding of prevention and suppression programs-interagency agreements-administrative guidelines-annual report, contents.

1. There is hereby created in the department of elementary and secondary education the "Drug-Free Schools Program". The department of elementary and secondary education may apply for federal grants or other federal assistance as additional funding to appropriated state moneys in order to implement the provisions of sections 161.500 to 161.508 and the activities of the state drug-free school advisory committee. All funds made available to the department for the purposes of sections 161.500 to 161.508 shall be administered and disbursed by the department in consultation with the state drug-free school advisory committee established in section 161.508.
2. The department, in consultation with the drug-free school advisory committee, is authorized to allocate and award funds to local law enforcement agencies and public schools working jointly to develop drug and alcohol use prevention and drug and alcohol trafficking suppression programs in substantial compliance with the policies and criteria set forth in sections 161.500 to 161.508.
3. The allocation and award of funds shall be made upon the joint application by the chief law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the local drug-free school advisory committee established in section 161.506. After review, the application shall be submitted to the department. Funds disbursed under sections 161.500 to 161.508 may enhance, but shall not supplant, local funds that would, in the absence of the drug-free school program, be made available to suppress and prevent drug and alcohol use among school-age children and to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.
4. The coapplicant local law enforcement agency and coapplicant school district shall enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to sections 161.500 to 161.508 and assigned to both the law enforcement agency and the school district to be performed by only one of them.
5. Within one hundred twenty days of August 28, 1990, the department in consultation with the state drug-free school advisory committee shall prepare and issue administrative guidelines and procedures for the drug-free school program consistent with the provisions of sections 161.500 to 161.508. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft shall be submitted within ninety days of the effective date of August 28, 1990, to the chairmen of the judiciary committees of the house of representatives and the senate.
6. After a full year of program operation, the department shall prepare and submit an annual evaluation report to the general assembly describing in detail the operation of the program and the results obtained from the drug-free school program receiving funds under sections 161.500 to 161.508. The report also shall list the full costs applicable both to the department for processing the reviewing application, and to the state and local agencies for obtaining grants, from any source, to support the program. The purpose of the program evaluation shall be to identify successful methods of preventing drug and alcohol trafficking and use in schools. Ongoing evaluation findings shall be used to replicate proven successful methods, identify, implement, and refine new methods.

161.506. Concentration of program-elements-enhanced efforts-use of funds-advisory committee.

1. Law enforcement agencies and school districts receiving funds under sections 161.500 to 161.508 shall concentrate enhanced apprehension, prevention and education efforts and resources on drug and alcohol use and drug trafficking in and around schools, parks and playgrounds. Such enhanced apprehension, prevention, and education efforts shall include, but not be limited to:
 - (1) Drug and alcohol traffic intervention programs;
 - (2) School- and classroom-oriented programs, using tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol, which may include the participation

of local law enforcement agencies and qualified drug and alcohol use prevention specialists and which are designed to increase teachers' and students' awareness of drugs and alcohol and their effects;

(3) Family-oriented programs aimed at preventing drug and alcohol use, which may include the participation of community-based organizations experienced in the successful operation of such programs;

(4) The establishment of a local drug-free school advisory committee. The committee shall be established and appointed by the school board of each school district. The committee may be a newly created committee or an existing local drug and alcohol use committee as designated by the appointing authority. The committee shall be composed of, at a minimum, the following:

(a) Local and law enforcement executives;

(b) School district administrators;

(c) School-site staff, which includes administrators, teachers and certified personnel;

(d) Parents;

(e) Students;

(f) School peace officers;

(g) State, county, or local drug and alcohol program administrators designated pursuant to chapter 195; and

(h) Drug and alcohol prevention program executives;

(5) Development and distribution of appropriate written and audiovisual aids for training of school and law enforcement staff for handling drug- and alcohol-related problems and offenses. Appropriate existing aids may be used in lieu of the development of new materials;

(6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs;

(7) Development of a coordinated intervention system that identifies students with chronic drug and alcohol abuse treatment programs.

2. Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between law enforcement agencies and local school districts. These efforts shall include, but are not limited to, the concentration of apprehension efforts in problem areas cooperatively identified by local school and law enforcement authorities.

3. Funds appropriated pursuant to sections 161.500 to 161.508 may be used in part to support state-level development and statewide distribution of appropriate written and audiovisual aids for public awareness and training of school and law enforcement staff for handling drug- and alcohol-related problems and offenses. When existing aids can be identified, these aids may be used in lieu of the development of new aids.

579.150. Distribution of prescription medication on school property - exceptions - penalty.

1. A person commits the offense of distribution of prescription medication on school property if he or she is less than twenty-one years of age and knowingly distributes upon the real property comprising a public or private elementary or secondary school or school bus a prescription medication to any individual who does not have a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010.

2. The provisions of this section shall not apply to any person authorized to distribute a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338. This section shall not limit the use of any prescription medication by emergency personnel during an emergency situation.

3. The offense of distribution of prescription medication on school property is a class B misdemeanor for a first offense and a class A misdemeanor for any second or subsequent offense.

579.155. Possession of prescription medication on school property - exceptions - penalty.

1. A person commits the offense of possession of prescription medication on school property if he or she is less than twenty-one years of age and knowingly possesses upon the real property comprising a public or private elementary or secondary school or school bus prescription medication without a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010.

2. The provisions of this section shall not apply to any person authorized to possess a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338. This section shall not limit the use of any prescription medication by emergency personnel during an emergency situation.

3. The offense of possession of prescription medication on school property is a class C misdemeanor for a first offense and a class B misdemeanor for any second or subsequent offense.

589.310. Establishment and enhancement of local crime prevention programs - proactive partnership prevention approach - amount of funding - audit - rules.

1. Subject to availability of funds within the Missouri crime prevention information and programming fund, the director, or his designee, may contract with local law enforcement or prevention-related organizations to assist in establishing or enhancing local crime prevention programs. Such programs would include, but not be limited to:

- (1) Community crime prevention;
- (2) Drug abuse prevention in schools;
- (3) Community-oriented policing;
- (4) Family violence prevention;
- (5) Juvenile delinquency prevention;
- (6) Gang-related activity prevention;
- (7) Gun violence prevention; and
- (8) School violence prevention.

2. In awarding contracts for local government crime prevention programs, the director or his designee shall place special emphasis on applications which demonstrate the existence of a local government/school district partnership taking a proactive approach toward preventing crime by children and young adults under the age of twenty-one. Such evidence shall include a copy of the agreement between the local government and school district specifying the duties and obligations of each should a contract be awarded.

3. The state shall provide one-third of the funding for each contract awarded to a local government/school district partnership to operate a local government crime prevention program. The local government or governments receiving the contract shall contribute one-third and the school district or districts shall also contribute one-third.

4. The director, or his designee, shall ensure that the fund administered under this section will not be used by any agency to supplant existing funds which are presently being used for crime prevention programming. The department may, at its discretion, audit the expenditure of any contract funds awarded under this section.

5. The department shall promulgate such rules and regulations as are necessary for the administration of sections 589.300 to 589.310, pursuant to chapter 536 and section 650.005.

REGULATIONS

5 CSR 20-100.210. Persistently dangerous schools.

2) A Missouri public elementary or secondary school is persistently dangerous if the following conditions exist: (A) In each of three (3) consecutive years— 1. The school has a federal and/or state gun-free schools violation; or

Gang-related Activity

LAWS

161.650. Department to identify and adopt violence prevention program, district to administer- state board to adopt violence prevention program-duties-administered how-funding.

1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as those phrases are defined in section 578.421, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall be administered as appropriate for different grade levels and shall not be offered for academic credit.

589.310. Establishment and enhancement of local crime prevention programs - proactive partnership prevention approach - amount of funding - audit - rules.

1. Subject to availability of funds within the Missouri crime prevention information and programming fund, the director, or his designee, may contract with local law enforcement or prevention-related organizations to assist in establishing or enhancing local crime prevention programs. Such programs would include, but not be limited to:

(6) Gang-related activity prevention; [...]

2. In awarding contracts for local government crime prevention programs, the director or his designee shall place special emphasis on applications which demonstrate the existence of a local government/school district partnership taking a proactive approach toward preventing crime by children and young adults under the age of twenty-one. Such evidence shall include a copy of the agreement between the local government and school district specifying the duties and obligations of each should a contract be awarded.

3. The state shall provide one-third of the funding for each contract awarded to a local government/school district partnership to operate a local government crime prevention program. The local government or governments receiving the contract shall contribute one-third and the school district or districts shall also contribute one-third.

4. The director, or his designee, shall ensure that the fund administered under this section will not be used by any agency to supplant existing funds which are presently being used for crime prevention programming. The department may, at its discretion, audit the expenditure of any contract funds awarded under this section.

5. The department shall promulgate such rules and regulations as are necessary for the administration of sections 589.300 to 589.310, pursuant to chapter 536 and section 650.005.

REGULATIONS

5 CSR 20-400.390. State level professional development funds for statewide areas of critical need for learning and development.

2) The statewide areas of critical need for learning and development include:

(J) Implementing and promoting programs to combat gang activity, violence and weaponry in the schools of the state.

Bullying, Harassment, or Hazing

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(24) Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090.

160.775. Antibullying policy required-definition- content, requirements.

1. Every district shall adopt an antibullying policy by September 1, 2007.

2. "Bullying" means intimidation, unwanted aggressive behavior, or harassment that is repetitive or is substantially likely to be repeated and causes a reasonable student to fear for his or her physical safety or property; substantially interferes with the educational performance, opportunities, or benefits of any student without exception; or substantially disrupts the orderly operation of the school. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts. Bullying of students is prohibited on school property, at any school function, or on a school bus. "Cyberbullying" means bullying as defined in this subsection through the transmission of a communication including, but not limited to, a message, text, sound, or image by means of an electronic device including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager.

3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat all students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age-appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

4. Each district's antibullying policy shall be included in the student handbook and shall require, at a minimum, the following components:

(1) A statement prohibiting bullying, defined no less inclusively than in subsection 2 of this section;

(2) A statement requiring district employees to report any instance of bullying of which the employee has firsthand knowledge. The policy shall require a district employee who witnesses an incident of bullying to report the incident to the district's designated individual at the school within two school days of the employee witnessing the incident;

(3) A procedure for reporting an act of bullying. The policy shall also include a statement requiring that the district designate an individual at each school in the district to receive reports of incidents of bullying. Such individual shall be a district employee who is teacher level staff or above;

(4) A procedure for prompt investigation of reports of violations and complaints, identifying one or more employees responsible for the investigation including, at a minimum, the following requirements:

- (a) Within two school days of a report of an incident of bullying being received, the school principal, or his or her designee, shall initiate an investigation of the incident;
 - (b) The school principal may appoint other school staff to assist with the investigation; and
 - (c) The investigation shall be completed within ten school days from the date of the written report unless good cause exists to extend the investigation;
- (5) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;
- (6) A statement of how the policy is to be publicized; and
- (7) A process for discussing the district's antibullying policy with students and training school employees and volunteers who have significant contact with students in the requirements of the policy, including, at a minimum, the following statements:
- (a) The school district shall provide information and appropriate training to the school district staff who have significant contact with students regarding the policy;
 - (b) The school district shall give annual notice of the policy to students, parents or guardians, and staff;
 - (c) The school district shall provide education and information to students regarding bullying, including information regarding the school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to address bullying, including student peer-to-peer initiatives to provide accountability and policy enforcement for those found to have engaged in bullying, reprisal, or retaliation against any person who reports an act of bullying;
 - (d) The administration of the school district shall instruct its school counselors, school social workers, licensed social workers, mental health professionals, and school psychologists to educate students who are victims of bullying on techniques for students to overcome bullying's negative effects. Such techniques shall include, but not be limited to, cultivating the student's self-worth and self-esteem; teaching the student to defend himself or herself assertively and effectively; helping the student develop social skills; or encouraging the student to develop an internal locus of control. The provisions of this paragraph shall not be construed to contradict or limit any other provision of this section; and
 - (e) The administration of the school district shall implement programs and other initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize the victim, and to make resources or referrals available to victims of bullying.

5. Notwithstanding any other provision of law to the contrary, any school district shall have jurisdiction to prohibit cyberbullying that originates on a school's campus or at a district activity if the electronic communication was made using the school's technological resources, if there is a sufficient nexus to the educational environment, or if the electronic communication was made on the school's campus or at a district activity using the student's own personal technological resources. The school district may discipline any student for such cyberbullying to the greatest extent allowed by law.

6. Each district shall review its antibullying policy and revise it as needed. The district's school board shall receive input from school personnel, students, and administrators when reviewing and revising the policy.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

CC1-The school system provides a safe and caring environment that supports teaching, learning, and student success.

- A. The school system implements trauma-informed methodologies, implements youth suicide awareness and prevention practices, and provides responsive services based on student need and local context.

B. The school system provides staff, teachers, parents/guardians, and students access to the school system's written code of conduct, which specifies unacceptable student behavior and consequences for that behavior.

C. The school system's code of conduct is equitably and consistently enforced during any school related activity whether on or off school property.

D. The school system promotes respect for individual differences (e.g., diversity training, diversity awareness, policies, and procedures).

E. The school system provides training on and ensures the implementation effective practices on violence-prevention instruction, including information on preventing and responding to harassment and bullying, for each student and staff member.

Culture of High Academic and Behavioral Expectations

CC2-The school system establishes a culture focused on learning, characterized by high academic and behavioral expectations for each student.

A. Leadership develops a systematic process for establishing and maintaining a positive learning climate.

B. Staff and students share in the responsibility for learning by being actively engaged in learning and demonstrating appropriate standards of behavior and attendance.

C. The school system gathers and analyzes data on student violence, substance abuse, and bullying, and modifies programs and strategies to ensure safe and orderly schools.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

160.263. Confinement of a student prohibited, when-policy on restrictive behavioral interventions required-model policy to be developed.

1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.
2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:
 - (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;
 - (2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;
 - (3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and
 - (4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.
3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

161.1050. Initiative established, department duties-definitions.

1. There is hereby established within the department of elementary and secondary education the "Trauma-Informed Schools Initiative".
2. The department of elementary and secondary education shall consult the department of mental health and the department of social services for assistance in fulfilling the requirements of this section.
3. The department of elementary and secondary education shall:
 - (1) Provide information regarding the trauma-informed approach to all school districts;
 - (2) Offer training on the trauma-informed approach to all school districts, which shall include information on how schools can become trauma-informed schools; and
 - (3) Develop a website about the trauma-informed schools initiative that includes information for schools and parents regarding the trauma-informed approach and a guide for schools on how to become trauma-informed schools.

161.508. Criteria for rating grant applications to be developed by committee-membership of committee-staff services-compensation-duties-guidelines and procedures to be developed-department to administer and monitor-personnel costs-administrative costs.

4. The state drug-free school advisory committee shall develop specific guidelines and administrative procedures for the drug-free school program. The program developed by the state drug-free school

advisory committee may be utilized by the local school districts or such districts may develop programs based on the unique needs and resources of such districts.

170.020. Social and emotional health education, voluntary pilot project.

1. (1) The department of elementary and secondary education, through its school counseling section, shall be authorized to establish a voluntary pilot program, beginning in the 2020-2021 school year, to provide for social and emotional health education in elementary schools in the state. The purpose of the pilot program shall be to determine whether and how to implement an elementary social and emotional health education program statewide.

(2) The department, through its employees who work in the school counseling section, is authorized to select from among applications submitted by the public elementary schools a minimum of sixteen public elementary schools for participation in the pilot program. If fewer than sixteen schools apply for participation in the program, the department shall select as many eligible schools possible for partnership in the pilot program. The department shall develop an application process for public elementary schools to apply to participate in the pilot program. The local school board for each elementary school selected to be in the pilot program shall agree to implement and fully fund an elementary social and emotional health program in such school and to continue to provide such elementary social and emotional health education program for a period no shorter than three years. The local school district may employ a social and emotional health teacher to provide such program for the elementary school.

(3) The department, through its employees who work in the school counseling section, and local school districts shall collaborate to establish the instructional model for each elementary social and emotional health education program. Such instructional model shall be grade-appropriate and include instruction in an organized classroom, including instruction on how to set and achieve positive goals, how to utilize coping strategies to handle stress, and shall have an increased emphasis on protective factors, such as problem-solving skills, social support and social connectedness through positive relationships and teamwork.

(4) The department, through its school counseling section, shall provide for a program evaluation regarding the success and impact of the pilot program upon completion of the third year of the pilot program and shall report the results of such evaluation to the relevant house and senate committees on health and mental health, and education.

2. The department shall maintain an adequate number of full-time employees, certified in social and emotional health education and distributed regionally throughout the state, to provide accountability for program delivery of social and emotional health education, to continue to develop and maintain pertinent social and emotional health education instructional model and standards, to assist local school districts on matters related to social and emotional health education, and to coordinate regional and state-wide activities supporting K-12 social and emotional health education programming.

3. Nothing in this section shall be construed to require public elementary schools to participate in the pilot program.

589.307. Fund established, administration, purpose.

1. There is hereby established in the state treasury the "Missouri Crime Prevention Information and Programming Fund". The Missouri crime prevention information and programming fund shall be administered by the center created within the department of public safety. Money in the fund shall be used solely for carrying out the provisions of sections [589.300 to 589.310](#).

2. Any moneys received from private sources, gifts, donations, transferred from other governmental agencies, or generated by center-sponsored activities shall be credited to the Missouri crime prevention information and programming fund.

3. The provisions of section [33.080](#) to the contrary notwithstanding, moneys in the Missouri crime prevention information and programming fund shall not be transferred and placed to the credit of the general revenue fund.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

Multi-Tiered System of Support

TL7-The school system provides a comprehensive multi-tiered system of support that addresses the academic, emotional, behavioral, social, and physical needs of each student.

A. The school system establishes learning and behavioral supports that are identified, coordinated, and implemented with fidelity at the classroom, building, and system level.

B. The school system monitors the implementation of these supports through observation, program evaluation, and data analysis.

C. The school system implements a written process for the early identification of students' needs and implements differentiated learning and behavioral supports for each student.

D. The school system uses targeted student assessment and data collection to monitor, evaluate, and inform decision-making to identify and implement successful learning and behavioral supports.

E. The school system collaborates with community partners to provide information and resources to students and parents/guardians to address barriers impacting student success.

F. The school system implements methodologies to support social-emotional learning, culturally responsive teaching, and trauma-informed practices based on student need. [...]

CC1-The school system provides a safe and caring environment that supports teaching, learning, and student success.

A. The school system implements trauma-informed methodologies, implements youth suicide awareness and prevention practices, and provides responsive services based on student need and local context.

Prevention

LAWS

161.650. Department to identify and adopt violence prevention program, district to administer- state board to adopt violence prevention program-duties-administered how-funding.

1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as those phrases are defined in section 578.421, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of

and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall be administered as appropriate for different grade levels and shall not be offered for academic credit.

2. All public school districts within this state with the approval of the district's board of education may administer the program or programs of student instruction adopted pursuant to subsection 1 of this section to students within the district starting at the kindergarten level and every year thereafter through the twelfth-grade level.

171.410. Program may be taught to first graders, purpose

1. Each school district and charter school may annually teach the Eddie Eagle Gunsafe Program to first grade students. School districts and charter schools may also teach any substantially similar program of the same qualifications or any successor program in lieu of the Eddie Eagle Gunsafe Program.

2. The purpose of the educational program shall be to promote the safety and protection of children. The educational program shall emphasize how students should respond if they encounter a firearm. School personnel and program instructors shall not make value judgments about firearms.

3. No school district or charter school shall include or use a firearm or demonstrate the use of a firearm when teaching the program.

4. Students with disabilities shall participate to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.

5. School districts and charter schools may seek grant funding for the program from public, private, and nonprofit entities.

589.310. Establishment and enhancement of local crime prevention programs - proactive partnership prevention approach - amount of funding - audit - rules.

1. Subject to availability of funds within the Missouri crime prevention information and programming fund, the director, or his designee, may contract with local law enforcement or prevention-related organizations to assist in establishing or enhancing local crime prevention programs. Such programs would include, but not be limited to:

- (1) Community crime prevention;
- (2) Drug abuse prevention in schools;
- (3) Community-oriented policing;
- (4) Family violence prevention;
- (5) Juvenile delinquency prevention;
- (6) Gang-related activity prevention;
- (7) Gun violence prevention; and
- (8) School violence prevention.

2. In awarding contracts for local government crime prevention programs, the director or his designee shall place special emphasis on applications which demonstrate the existence of a local government/school district partnership taking a proactive approach toward preventing crime by children and young adults under the age of twenty-one. Such evidence shall include a copy of the agreement between the local government and school district specifying the duties and obligations of each should a contract be awarded.

3. The state shall provide one-third of the funding for each contract awarded to a local government/school district partnership to operate a local government crime prevention program. The

local government or governments receiving the contract shall contribute one-third and the school district or districts shall also contribute one-third.

4. The director, or his designee, shall ensure that the fund administered under this section will not be used by any agency to supplant existing funds which are presently being used for crime prevention programming. The department may, at its discretion, audit the expenditure of any contract funds awarded under this section.

5. The department shall promulgate such rules and regulations as are necessary for the administration of sections 589.300 to 589.310, pursuant to chapter 536 and section 650.005.

REGULATIONS

No relevant regulations found

Social-emotional Learning (SEL)

LAWS

170.020. Social and emotional health education, voluntary pilot project.

1. (1) The department of elementary and secondary education, through its school counseling section, shall be authorized to establish a voluntary pilot program, beginning in the 2020-2021 school year, to provide for social and emotional health education in elementary schools in the state. The purpose of the pilot program shall be to determine whether and how to implement an elementary social and emotional health education program statewide.

(2) The department, through its employees who work in the school counseling section, is authorized to select from among applications submitted by the public elementary schools a minimum of sixteen public elementary schools for participation in the pilot program. If fewer than sixteen schools apply for participation in the program, the department shall select as many eligible schools possible for partnership in the pilot program. The department shall develop an application process for public elementary schools to apply to participate in the pilot program. The local school board for each elementary school selected to be in the pilot program shall agree to implement and fully fund an elementary social and emotional health program in such school and to continue to provide such elementary social and emotional health education program for a period no shorter than three years. The local school district may employ a social and emotional health teacher to provide such program for the elementary school.

(3) The department, through its employees who work in the school counseling section, and local school districts shall collaborate to establish the instructional model for each elementary social and emotional health education program. Such instructional model shall be grade-appropriate and include instruction in an organized classroom, including instruction on how to set and achieve positive goals, how to utilize coping strategies to handle stress, and shall have an increased emphasis on protective factors, such as problem-solving skills, social support and social connectedness through positive relationships and teamwork.

(4) The department, through its school counseling section, shall provide for a program evaluation regarding the success and impact of the pilot program upon completion of the third year of the pilot program and shall report the results of such evaluation to the relevant house and senate committees on health and mental health, and education.

2. The department shall maintain an adequate number of full-time employees, certified in social and emotional health education and distributed regionally throughout the state, to provide accountability for program delivery of social and emotional health education, to continue to develop and maintain pertinent social and emotional health education instructional model and standards, to assist local school districts on matters related to social and emotional health education, and to coordinate regional and state-wide activities supporting K-12 social and emotional health education programming.

3. Nothing in this section shall be construed to require public elementary schools to participate in the pilot program.

170.037. Adoption of service-learning programs and projects encourages - state board of education to provide assistance, when.

1. The state board of education shall encourage the adoption of service-learning programs and projects among school districts. As used in this section, the term "service-learning programs and projects" means a student-centered, research-based method of teaching and learning which engages students of all ages in solving problems and addressing issues in their school or greater community as part of the academic curriculum. As a result, service-learning fosters academic achievement, civic engagement, and character development.
2. Upon request of any school district that elects to implement service-learning programs or projects, the state board of education shall provide any assistance needed to districts in locating, leveraging, and utilizing alternative financial resources that will assist teachers desiring to receive training in developing and administering service-learning programs or projects.
3. Any local board of education that maintains a high school may include service-learning as part of any course contributing to the satisfaction of credits necessary for high school graduation and provide support for the use of service-learning as an instructional strategy at any grade level to address appropriate areas of current state educational standards for student knowledge and performance.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

161.1050. Initiative established, department duties-definitions.

1. There is hereby established within the department of elementary and secondary education the "Trauma-Informed Schools Initiative".
2. The department of elementary and secondary education shall consult the department of mental health and the department of social services for assistance in fulfilling the requirements of this section.
3. The department of elementary and secondary education shall:
 - (1) Provide information regarding the trauma-informed approach to all school districts;
 - (2) Offer training on the trauma-informed approach to all school districts, which shall include information on how schools can become trauma-informed schools; and
 - (3) Develop a website about the trauma-informed schools initiative that includes information for schools and parents regarding the trauma-informed approach and a guide for schools on how to become trauma-informed schools.
4. Each school district shall provide the address of the website described under subdivision (3) of subsection 3 of this section to all parents of the students in its district before October first of each school year.
5. For purposes of this section, the following terms mean:
 - (1) "Trauma-informed approach", an approach that involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress across the lifespan;
 - (2) "Trauma-informed school", a school that:
 - (a) Realizes the widespread impact of trauma and understands potential paths for recovery;
 - (b) Recognizes the signs and symptoms of trauma in students, teachers, and staff;
 - (c) Responds by fully integrating knowledge about trauma into its policies, procedures, and practices; and
 - (d) Seeks to actively resist re-traumatization.

161.1055. Pilot program established, selection of schools-fund created-definitions.

1. Subject to appropriations, the department of elementary and secondary education shall establish the "Trauma- Informed Schools Pilot Program".
2. Under the trauma-informed schools pilot program, the department of elementary and secondary education shall choose five schools to receive intensive training on the trauma-informed approach. [...]
4. The department of elementary and secondary education shall:
 - (1) Train the teachers and administrators of the five schools chosen for the pilot program regarding the trauma-informed approach and how to become trauma-informed schools;
 - (2) Provide the five schools with funds to implement the trauma- informed approach; and
 - (3) Closely monitor the progress of the five schools in becoming trauma-informed schools and provide further assistance if necessary.
5. The department of elementary and secondary education shall terminate the trauma-informed schools pilot program on August 28, 2019. Before December 31, 2019, the department of elementary and secondary education shall submit a report to the general assembly that contains the results of the pilot program, including any benefits experienced by the five schools chosen for the program.
6. (1) There is hereby created in the state treasury the "Trauma- Informed Schools Pilot Program Fund". The fund shall consist of any appropriations to such fund. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements of public moneys in accordance with distribution requirements and procedures developed by the department of elementary and secondary education. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the administration of this section.
 - (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.
 - (3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.
7. For purposes of this section, the following terms mean:
 - (1) "Trauma-informed approach", an approach that involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress across the lifespan;
 - (2) "Trauma-informed school", a school that:
 - (a) Realizes the widespread impact of trauma and understands potential paths for recovery;
 - (b) Recognizes the signs and symptoms of trauma in students, teachers, and staff;
 - (c) Responds by fully integrating knowledge about trauma into its policies, procedures, and practices; and
 - (d) Seeks to actively resist re-traumatization.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

TL7-The school system provides a comprehensive multi-tiered system of support that addresses the academic, emotional, behavioral, social, and physical needs of each student.

F. The school system implements methodologies to support social-emotional learning, culturally responsive teaching, and trauma-informed practices based on student need.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

5 CSR 20-100.125. Missouri school improvement program 6.

TL10-The school system provides school counseling services to support the career, academic, and social/emotional development of all students.

- A. The school system ensures a system-wide school counseling program, consistent with the Missouri Comprehensive School Counseling Program framework, is fully implemented in every building.
- B. Beginning no later than 7th grade, building leaders ensure each student participates in an individual planning process designed to assist in a successful transition to postsecondary experiences (e.g. college, technical school, the military or the workforce, etc.).
- C. Individual Career and Academic Plans (ICAPs) are developed and annually reviewed for each student starting no later than 8th grade and continuing through 12th grade.
- D. Each student has equitable access to responsive services and resources to assist them in addressing issues and concerns that may affect their academic, career, and social-emotional needs.
- E. The school system monitors system supports as a crucial component in the full implementation of a comprehensive school counseling program.
- F. The school system provides student support in the form of school counseling and additional supports such as school psychologists, social workers, nurses, and therapists, based on local context and student need.
- G. The school system implements an evaluation system for school counselors that provides feedback based on school counselor standards and indicators.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

160.775. Antibullying policy required-definition- content, requirements.

4. Each district's antibullying policy shall be included in the student handbook and shall require, at a minimum, the following components:

(2) A statement requiring district employees to report any instance of bullying of which the employee has firsthand knowledge. The policy shall require a district employee who witnesses an incident of bullying to report the incident to the district's designated individual at the school within two school days of the employee witnessing the incident;

(3) A procedure for reporting an act of bullying. The policy shall also include a statement requiring that the district designate an individual at each school in the district to receive reports of incidents of bullying. Such individual shall be a district employee who is teacher level staff or above.

167.020. Registration requirements – homeless child or youth defined – residency – hardship waiver – recovery of costs, when – records to be requested, provided, when – military relocation, remote registration permitted.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 9 of section 160.261 from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g(b)(1)(E).

167.022. Request for records, placed pupils.

Consistent with the provisions of section 167.020, within forty-eight hours of enrolling a nonresident pupil placed pursuant to sections 210.481 to 210.536, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 9 of section 160.261 from all schools and other facilities previously attended by the pupil and from other state agencies as enumerated in section 210.518 and any entities involved with the placement of the student within the last twenty-four months. Any request for records under this section shall include, if applicable to the student, any records relating to an act of violence as defined under subsection 7 of section 160.262.

167.026. Expungement of disciplinary records, exception.

1. The state board of education shall adopt a policy relating to the expungement of disciplinary records of pupils who have graduated or reached the age of twenty-one years.

2. Any school district may adopt a policy consistent with the policy adopted pursuant to subsection 1 of this section.

3. No such policy shall allow the expungement of any act listed in subsection 1 of section 167.115 unless the petition regarding the act was dismissed or the pupil has been acquitted or adjudicated not to have committed the act.

167.123. Notification to superintendent, when, manner — responsibility of superintendent upon notification — confidentiality of information.

1. Notwithstanding any other provisions of this chapter, or chapter 610, to the contrary, the juvenile officer or an employee of the children's division shall notify the superintendent of the school district in which the child is enrolled, or the superintendent's designee, upon request by the superintendent or designee regarding such child, when a case is active regarding the child.
2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the request by the superintendent or designee. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the case involving the pupil, the conduct the child is alleged to have committed, if any, and the dates the conduct occurred but shall not include the name of any victim other than the child.
3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for not providing educational services to a pupil.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

167.034. Absences in St. Louis City reported to children's division, when, notification requirements-duties of children's division.

1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the children's division within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

- (1) The student's full name and parents' or guardians' full names;
- (2) The addresses and phone numbers of the student and parents or guardians;
- (3) The student's date of birth and age;
- (4) The student's current school and grade level;
- (5) The student's current grades for all classes in which the student is enrolled; and
- (6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

5 CSR 20-100.210 Persistently Dangerous Schools

(2) A Missouri public elementary or secondary school is persistently dangerous if the following conditions exist:

(A) In each of three (3) consecutive years— 1. The school has a federal and/or state gun-free schools violation; or 2. An “act of school violence” or “violent behavior” as set forth in section 160.261, RSMo is committed on school property which includes, but is not limited to, school buses or school activities; and

(B) In any two (2) years within the three- (3-) year period listed above, the school experienced expulsions by local board action, for drug, alcohol, weapons, or violence that exceed one (1) of the following rates:

1. More than five (5) expulsions per year for a school of less than two hundred fifty (250) students;
2. More than ten (10) expulsions per year for a school of more than two hundred fifty (250) students but less than one thousand (1,000) students; or
3. More than fifteen (15) expulsions per year for a school of more than one thousand (1,000) students.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Rape in the first degree under section 566.030;
- (6) Sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;
- (9) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
- (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;
- (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;
- (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
- (16) Rape in the second degree under section 566.031;

- (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
- (18) Property damage in the first degree under section 569.100;
- (19) The possession of a weapon under chapter 571;
- (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069;
- (21) Sodomy in the second degree pursuant to section 566.061;
- (22) Sexual misconduct involving a child pursuant to section 566.083;
- (23) Sexual abuse in the first degree pursuant to section 566.100;
- (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090; or
- (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225.

167.115. Juvenile officer or other law enforcement authority to report to superintendent, when, how- superintendent to report certain acts, to whom-notice of suspension or expulsion to court- superintendent to consult.

1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;
- (6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
- (9) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;
- (10) Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
- (11) Arson in the first degree under section 569.040;
- (12) Voluntary manslaughter under section 565.023;
- (13) Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;

- (14) Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
- (15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape in the second degree under section 566.031;
- (16) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
- (17) Property damage in the first degree under section 569.100;
- (18) The possession of a weapon under chapter 571;
- (19) Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017;
- (20) Child molestation in the first, second, or third degree pursuant to sections 566.067, 566.068, or 566.069;
- (21) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28, 2013, or sodomy in the second degree under section 566.061;
- (22) Sexual misconduct involving a child pursuant to section 566.083; or
- (23) Sexual abuse pursuant to section 566.100 as it existed prior to August 28, 2013, or sexual abuse in the first degree under section 566.100.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

167.117. Principal, teachers, school employees to report certain acts, to whom, exceptions-limit on liability-penalty.

1. In any instance when any person is believed to have committed an act which if committed by an adult would be assault in the first, second or third degree, sexual assault, or deviate sexual assault against a pupil or school employee, while on school property, including a school bus in service on behalf of the district, or while involved in school activities, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent, except in any instance when any person is believed to have committed an act which if committed by an adult would be assault in the third degree and a written agreement as to the procedure for the reporting of such incidents of third degree assault has been executed between the superintendent of the school district and the appropriate local law enforcement agency, the principal shall report such incident to the appropriate local law enforcement agency in accordance with such agreement.

2. In any instance when a pupil is discovered to have on or about such pupil's person, or among such pupil's possessions, or placed elsewhere on the school premises, including but not limited to the school playground or the school parking lot, on a school bus or at a school activity whether on or off of school property any controlled substance as defined in section 195.010 or any weapon as defined in subsection 6 of section 160.261 in violation of school policy, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent.
3. In any instance when a teacher becomes aware of an assault as set forth in subsection 1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth in subsection 2 of this section, the teacher shall immediately report such incident to the principal.
4. A school employee, superintendent or such person's designee who in good faith provides information to law enforcement or juvenile authorities pursuant to this section or section 160.261 shall not be civilly liable for providing such information.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

168.450. Officer training, Missouri state training center to develop curriculum and certification requirements.

The Missouri state training center for the D.A.R.E. program shall develop the curriculum and certification requirements for school resource officers. At a minimum, school resource officers must complete forty hours of basic school resource officer training to include legal operations within an educational environment, intruder training and planning, juvenile law, and any other relevant topics relating to the job and functions of a school resource officer.

590.200. School protection officers, POST commission duties-minimum training requirements.

1. The POST commission shall:

- (1) Establish minimum standards for the training of school protection officers;
- (2) Set the minimum number of hours of training required for a school protection officer; and
- (3) Set the curriculum for school protection officer training programs.

2. At a minimum this training shall include:

- (1) Instruction specific to the prevention of incidents of violence in schools;
- (2) The handling of emergency or violent crisis situations in school settings;
- (3) A review of state criminal law;
- (4) Training involving the use of defensive force;
- (5) Training involving the use of deadly force; and
- (6) Instruction in the proper use of self-defense spray devices.

590.205. School protection officer training, POST commission to establish minimum standards-list of approved instructors, centers, and programs-background checks-certification.

1. The POST commission shall establish minimum standards for school protection officer training instructors, training centers, and training programs.

2. The director shall develop and maintain a list of approved school protection officer training instructors, training centers, and training programs. The director shall not place any instructor, training center, or training program on its approved list unless such instructor, training center, or training program meets all

of the POST commission requirements under this section and section 590.200. The director shall make this approved list available to every school district in the state. The required training to become a school protection officer shall be provided by those firearm instructors, private and public, who have successfully completed a department of public safety POST certified law enforcement firearms instructor school.

3. Each person seeking entrance into a school protection officer training center or training program shall submit a fingerprint card and authorization for a criminal history background check to include the records of the Federal Bureau of Investigation to the training center or training program where such person is seeking entrance. The training center or training program shall cause a criminal history background check to be made and shall cause the resulting report to be forwarded to the school district where the elementary school teacher or administrator is seeking to be designated as a school protection officer.

4. No person shall be admitted to a school protection officer training center or training program unless such person submits proof to the training center or training program that he or she has a valid concealed carry endorsement or permit.

5. A certificate of school protection officer training program completion may be issued to any applicant by any approved school protection officer training instructor. On the certificate of program completion the approved school protection officer training instructor shall affirm that the individual receiving instruction has taken and passed a school protection officer training program that meets the requirements of this section and section 590.200 and indicate whether the individual has a valid concealed carry endorsement or permit. The instructor shall also provide a copy of such certificate to the director of the department of public safety.

REGULATIONS

11 CSR 75-17.010. Minimum training standards for school protection officer training centers.

(1) Only those basic training centers licensed pursuant to 11 CSR 75-14.010-14.080, and those Continuing Law Enforcement Education providers licensed pursuant to 11 CSR 75-15.030, shall be approved to deliver the School Protection Officer Training Program.

11 CSR 75-17.020. Minimum training standards for school protection officer training instructors.

(1) Only those instructors licensed as basic training instructors pursuant to 11 CSR 75-14.050(3), 11 CSR 75-14.070, and 11 CSR 75-14.080, shall be approved to deliver the School Protection Officer Training Program.

11 CSR 75-17.030. Minimum training standards for school protection officers.

(1) Applicants seeking to be designated a School Protection Officer, pursuant to section 590.205, RSMo, must-

(A) Successfully complete a one hundred twelve (112) hour School Protection Officer Training Program; or

(B) Successfully graduate from a Missouri basic training center licensed pursuant to 11 CSR 75-14.010, having completed a minimum of six hundred (600) hours of basic law enforcement training certified pursuant to 11 CSR 75-14.040; or

(C) Have been issued a Class A peace officer license under the Veteran Peace Officer Police Scale pursuant to 11 CSR 75-13.060.

(2) Applicants who have had their peace officer license revoked are not eligible to be designated a School Protection Officer.

(3) The one hundred twelve (112) hours of instruction for School Protection Officers is derived, in part, from the mandatory learning objectives for the six hundred (600) hour basic training curriculum outlined in 11 CSR 75-14.030, and shall cover the following subject areas:

(A) 303 - Justification - Use of Force - 8 hours

- (B) 809 - Emergency Response/Building Searches - 9 hours
 - (C) 812 - Survival Mentality - 4 hours
 - (D) 1502 - Handcuffing and Restraint Devices - 4 hours
 - (E) 1506 - Weapons Retention and Disarming - 8 hours
 - (F) 1507 - Ground Fighting Techniques - 8 hours
 - (G) 1601 - Fundamentals of Marksmanship - 2 hours
 - (H) 1602 - Shooting Stance/Loading/Dry Fire - 4 hours
 - (I) 1603 - Skill Development - Handgun - 22 hours
 - (J) 1604 - Handgun Qualification - 4 hours
 - (K) 1608 - Stress Combat Courses - 8 hours
 - (L) 1610 - Shooting Decisions - 6 hours
 - (M) Basic First Aid/CPR - 8 hours
 - (N) Combat First Aid - 4 hours
 - (O) Practical Application Scenarios - 13 hours
- (4) To be eligible for graduation from the School Protection Officer Training Program, trainees shall-
- (A) Be tested for mastery of each subject area. A written or practical examination may test more than one (1) subject area simultaneously.
 1. A trainee who achieves less than seventy percent (70%) on any written examination may, at the discretion of the training center director or Continuing Law Enforcement Education provider, retake the examination one (1) time.
 2. Mastery of firearms shall be tested by practical examination and scored on a numerical scale from zero (0) to one hundred (100). Supplemental written examinations are permitted, but the overall firearms score required for graduation pursuant to paragraph (4)(C)4. of this rule shall be based solely upon the practical examinations. The final grade of the firearms practical examination may, at the discretion of the training center director or Continuing Law Enforcement Education provider, be recorded as a pass or fail.
 3. Mastery of any training subject areas requiring a trainee to perform a demonstrative skill, including Practical Application Scenarios, shall be tested by practical examination and may be graded on a numerical scale from zero (0) to one hundred (100) or on a pass/fail basis.
 - A. A trainee who achieves a failing score on an objective graded pass/fail basis may, at the discretion of the training center director or Continuing Law Enforcement Education provider, reattempt the objective one (1) time.
 - B. A trainee who achieves less than seventy percent (70%) on the firearms practical examination may, at the discretion of the training center director or Continuing Law Enforcement Education provider, retake the practical examination one (1) time. The highest score that may be awarded on a retake examination is seventy percent (70%).
 - C. The determination to grade an objective pass/fail shall be made before the start of the training course.
 - (B) Attend at least ninety-five percent (95%) of the total contact hours of the mandatory basic training curriculum and make up any missed hours in a manner that ensures that the trainee develops a thorough understanding of the mandatory learning objectives that were missed.
 - (C) Achieve-
 1. A score of no less than seventy percent (70%) on each written exam;
 2. A final, overall score of no less than seventy percent (70%) for all written exams;
 3. A passing score on each objective graded pass or fail; and

4. An overall firearms score of no less than seventy percent (70%).

11 CSR 75-17.040. Minimum continuing education training standards for school protection officers.

(1) To maintain their designation, School Protection Officers shall-

(A) Successfully complete a minimum of twelve (12) hours of annual training. Eight (8) hours of this training shall have a primary focus of responding to active school shootings and shall be delivered by a local, county, or state law enforcement officer qualified to offer a response to active shooter course and who is in possession of a valid peace officer license. The remaining four (4) hours of training shall have a primary focus of weapon retention, firearms skill development, defensive tactics, ground fighting, and handcuffing and restraint devices. The four (4) hours of training shall be delivered by a local, county, or state law enforcement officer qualified to offer this type of training and who is in possession of a valid peace officer license.

(B) On a quarterly basis, successfully complete a firearm qualification course using the same firearm used in the performance of their duties as a School Protection Officer. This course can be delivered by any local, county, or state law enforcement officer qualified to offer a firearm qualification course and who is in possession of a valid peace officer license.

(C) Maintain a secondary/third-party First Aid/CPR certification.

(2) Written documentation of the completion of the twelve (12) hours of annual training, successful quarterly firearm qualification, and a current copy of his/her secondary/third-party First Aid/CPR certification must be maintained by the school where the School Protection Officer is employed for a period of three (3) years from the date the training, qualifications, and certifications were successfully completed.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

160.665. School protection officers, teachers or administrators may be designated as-authorized to carry concealed firearms-requirements-public hearing to be held, when-

1. Any school district within the state may designate one or more elementary or secondary school teachers or administrators as a school protection officer. The responsibilities and duties of a school protection officer are voluntary and shall be in addition to the normal responsibilities and duties of the teacher or administrator. Any compensation for additional duties relating to service as a school protection officer shall be funded by the local school district, with no state funds used for such purpose.

2. Any person designated by a school district as a school protection officer shall be authorized to carry concealed firearms or a self-defense spray device in any school in the district. A self-defense spray device shall mean any device that is capable of carrying, and that ejects, releases, or emits, a nonlethal solution capable of incapacitating a violent threat. The school protection officer shall not be permitted to allow any firearm or device out of his or her personal control while that firearm or device is on school property. Any school protection officer who violates this subsection may be removed immediately from the classroom and subject to employment termination proceedings.

3. A school protection officer has the same authority to detain or use force against any person on school property as provided to any other person under chapter 563.

4. Upon detention of a person under subsection 3 of this section, the school protection officer shall immediately notify a school administrator and a school resource officer, if such officer is present at the school. If the person detained is a student then the parents or guardians of the student shall also be immediately notified by a school administrator.

5. Any person detained by a school protection officer shall be turned over to a school administrator or law enforcement officer as soon as practically possible and shall not be detained by a school protection officer for more than one hour.

6. Any teacher or administrator of an elementary or secondary school who seeks to be designated as a school protection officer shall request such designation in writing, and submit it to the superintendent of the school district which employs him or her as a teacher or administrator. Along with this request, any teacher or administrator seeking to carry a concealed firearm on school property shall also submit proof that he or she has a valid concealed carry endorsement or permit, and all teachers and administrators seeking the designation of school protection officer shall submit a certificate of school protection officer training program completion from a training program approved by the director of the department of public safety which demonstrates that such person has successfully completed the training requirements established by the POST commission under chapter 590 for school protection officers.

7. No school district may designate a teacher or administrator as a school protection officer unless such person has successfully completed a school protection officer training program, which has been approved by the director of the department of public safety. No school district shall allow a school protection officer to carry a concealed firearm on school property unless the school protection officer has a valid concealed carry endorsement or permit.

8. Any school district that designates a teacher or administrator as a school protection officer shall, within thirty days, notify, in writing, the director of the department of public safety of the designation, which shall include the following:

- (1) The full name, date of birth, and address of the officer;
- (2) The name of the school district; and
- (3) The date such person was designated as a school protection officer.

Notwithstanding any other provisions of law to the contrary, any identifying information collected under the authority of this subsection shall not be considered public information and shall not be subject to a request for public records made under chapter 610.

9. A school district may revoke the designation of a person as a school protection officer for any reason and shall immediately notify the designated school protection officer in writing of the revocation. The school district shall also within thirty days of the revocation notify the director of the department of public safety in writing of the revocation of the designation of such person as a school protection officer. A person who has had the designation of school protection officer revoked has no right to appeal the revocation decision.

10. The director of the department of public safety shall maintain a listing of all persons designated by school districts as school protection officers and shall make this list available to all law enforcement agencies.

11. Before a school district may designate a teacher or administrator as a school protection officer, the school board shall hold a public hearing on whether to allow such designation. Notice of the hearing shall be published at least fifteen days before the date of the hearing in a newspaper of general circulation within the city or county in which the school district is located. The board may determine at a closed meeting, as "closed meeting" is defined under section 610.010, whether to authorize the designated school protection officer to carry a concealed firearm or a self-defense spray device.

162.215. School officers may be commissioned to enforce certain criminal laws.

1. The school board of any school district may authorize and commission school officers to enforce laws relating to crimes committed on school premises, at school activities, and on school buses operating within the school district only upon the execution of a memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, provided that the memorandum shall not grant statewide arrest authority. School officers shall be licensed peace officers, as defined in section 590.010, and shall comply with the provisions of chapter 590. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer.

2. School officers shall abide by district school board policies, all terms and conditions defined within the executed memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, and shall consult with and coordinate activities through the school superintendent or the superintendent's designee. School officers' authority shall be limited to crimes committed on school premises, at school activities, and on school buses operating within the jurisdiction of the executed memorandum of understanding. All crimes involving any sexual offense or any felony involving the threat or use of force shall remain under the authority of the local jurisdiction where the crime occurred. School officers may conduct any justified stop on school property and enforce any local violation that occurs on school grounds. School officers shall have the authority to stop, detain, and arrest for crimes committed on school property, at school activities, and on school buses.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Missouri provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying, Missouri Department of Elementary and Secondary Education (MO DESE)	Provides links to state and federal resources on bullying behavior and approaches for educators.	https://dese.mo.gov/governmental-affairs/public-school-laws-missouri/bullying
Guidance on the Long-Term Suspension of Students from the Regular School Setting (MO DESE)	Provides information and link to a resource on providing ongoing, quality education services for students subject to long-term suspension or in alternative settings.	https://dese.mo.gov/guidance-long-term-suspension-students-regular-school-setting
Missouri Center for Education Safety, Missouri School Board's Association (MSBA)	Provides an overview of MSBA's Center for Education Safety and lists available and accessible events and trainings, services, and resources addressing school safety.	https://www.mosba.org/page/ces
School-Wide Positive Behavior Supports, Missouri School-Wide Positive Behavior Support	Provides an overview of Missouri's school-wide positive behavior support framework and presents school-wide data on PBS including accessible data collection tools for educators.	https://pbissmissouri.org/
Social-Emotional Learning and Trauma-Informed Schools Initiative, MO DESE	Provides information and training to school districts regarding the trauma-informed approach, how schools can become trauma-informed schools, and developed a website about the trauma-informed schools initiative that includes information for schools and parents.	https://dese.mo.gov/college-career-readiness/school-counseling/traumainformed
Student Discipline, MO DESE	Provides an overview on state discipline policies and procedures including student discipline records, suspension/expulsion, corporal punishment/spanking, and special education discipline issues.	https://dese.mo.gov/financial-admin-services/school-governance/grievance/student-discipline

Title	Description	Website address (if applicable)
Documents		
Model Policy on Seclusion and Restraint (November 2021), MO DESE	State model policy addressing the use of seclusion and restraint and other responses to emergency or crisis situations, in which student and/or educator safety is at risk.	https://dese.mo.gov/media/pdf/model-policy-seclusion-and-restraint-0
Trauma-Informed Schools Initiative, The Missouri Model: A Developmental Framework for Trauma-Informed Schools, MO DESE	Guidance document providing resources and information on how to become trauma informed and translates the Missouri Model guidance into language and processes to support schools interested to become trauma informed.	https://dese.mo.gov/media/pdf/dese-the-trauma-informed-schools-initiative_0
Other Resources		
Bullying Website Tool, MO DESE	Website tool offering resources on bullying, depending upon the issue a child is having.	https://www.surveymonkey.com/r/BullyingIssues
Missouri Education Data Dashboard, MO DESE	Data dashboard presenting district-level performance indicators, including the suspension rate of out of school suspensions for 10 or more consecutive days for every LEA in the state.	https://apps.dese.mo.gov/MCDS/Visualizations.aspx?id=22
Missouri School Violence Hotline	Hotline provides information on how to report online incidents of school violence in Missouri schools, and includes links to resources for parents, students, school personnel, and law enforcement.	https://krcgtv.com/news/stop-bullying-mid-mo/hotline-provides-opportunity-to-report-bullying https://www.mshp.dps.missouri.gov/MHPWeb/Courage2ReportMO/index.html
Youth Suicide Awareness and Prevention Model Policy	This policy outlines key protocol and procedures for districts in educating employees and students on the actions and resources necessary to prevent suicide and to promote student well-being.	https://dese.mo.gov/media/pdf/dese-youth-suicide-awareness-and-prevention-model-policy_03_18



Montana Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Montana Revised Statutes

Title 20. Education

Chapter 1. General Provisions

Part 2. Miscellaneous Provisions

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42. Revenue

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

20-5-202. Suspension and expulsion.

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is any removal of a pupil for more than 20 school days without the provision of educational services and is a disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration in writing to modify the requirement for expulsion of a student, up to and including eliminating the requirement for expulsion, on a case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or principal may immediately suspend a student if, prior to a hearing conducted pursuant to subsection (6), there is cause to believe the student brought a firearm to school or possessed a firearm at school.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a student to bring a firearm to school for instructional activities sanctioned by the district if:

- (i) the district has appropriate safeguards in place to ensure student safety; and
- (ii) the firearm is secured in a locked container approved by the school district when the firearm is at school and is not in use for the instructional activity

(b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

(5) Before holding a hearing as required under subsection (6) to determine if a student has violated this section, the trustees shall, in a clear and timely manner, notify the student if the student is an adult or notify the parent or guardian of a student if the student is a minor that the student may:

- (a) waive the student's privacy interest by requesting that the hearing be held in public; and
- (b) invite other individuals to attend the hearing.

- (6) Before expelling a student under this section, the trustees shall hold a due process hearing that includes presentation of a summary of the information leading to the allegations and an opportunity for the student to respond to the allegations. The student may not be expelled unless the trustees find that the student knowingly, as defined in 1-1-204, brought a firearm to school or possessed a firearm at school.
- (7) When a student subject to a hearing is found to have not violated this section, the student's school record must be expunged of the incident.
- (8) The office of public instruction shall make available on its website the information gathered from school districts that is provided annually to the federal government under the reporting requirements of 20 U.S.C. 7151, provided that any personally identifiable information is redacted.
- (9) The provisions of this section do not require expulsion of a student who has brought a firearm to school or possesses a firearm at school as long as the firearm is secured in a locked container approved by the school district or in a locked motor vehicle the entire time the firearm is at school, except while the firearm is in use for a school-sanctioned instructional activity.
- (10) For the purposes of this section, the following definitions apply:
- (a) "Firearm" has the same meaning as provided in 18 U.S.C. 921.
 - (b) (i) "School" means a building, grounds, or property of a public elementary or secondary school.
 - (ii) The term does not include a student's home, a locked vehicle, a parking lot, or a commercial business when the student is participating in an online, remote, or distance-learning setting."

REGULATIONS

10.55.719. Student protection procedures.

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

- (a) a prohibition on the behavior specified in (1), regardless of the underlying reason or reasons the student has engaged in such behavior;
- (b) a procedure for reporting and documenting reported acts of behavior prohibited under (1);
- (c) a procedure for investigation of all reports of behavior prohibited under (1)(a) that includes an identification of the persons responsible for the investigation and response;
- (d) procedure for determining whether the reported act is subject to the jurisdiction of the school district or another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction;
- (e) a procedure for prompt notification, as defined in the district policy, of the alleged victim and the alleged perpetrator, or the parents or guardian of such students when the students are minors;
- (f) a procedure to protect any alleged victim of behavior prohibited under (1)(a) from further incidents of such behavior;

- (g) a disciplinary procedure establishing the consequences for students found to have committed behavior prohibited under (1); and
- (h) a procedure for the use of appropriate intervention and remediation for victims and perpetrators.

10.55.801. School climate.

- (1) The local board of trustees shall:
 - (a) develop policies, procedures, and rules that respect the rights of all learners, and promote an awareness of and concern for the well-being of others, and address bullying, intimidation, and harassment of students and school personnel.

Scope

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

- (1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.

REGULATIONS

10.55.719. Student protection procedures.

- (1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school.

- (4) The behavior prohibited in (1) includes but is not limited to conduct:

- (a) in a classroom or other location on school premises;
- (b) during any school-sponsored program, activity, or function where the school is responsible for the student including when the student is traveling to and from school or on a school bus or other school-related vehicle; or
- (c) through the use of electronic communication, as defined in 45-8-213, MCA, that substantially and materially disrupts the orderly operation of the school or any school-sponsored program, activity, or function where the school is responsible for the student.

Communication of Policy

LAWS

No relevant laws found.

REGULATIONS

10.55.701. Board of trustees.

- (2) Each school district shall make available to the staff and public:
 - (a) an integrated strategic action plan that includes a graduate profile as outlined in ARM 10.55.601;
 - (b) sequential K-12 curriculum for each program area that aligns to the content standards, content specific grade-level or grade-band learning progressions, and program area standards;

- (c) policies establishing student assessment procedures that ensure evaluation of the district's curriculum and student learning. These procedures shall specify how and when data are to be collected, analyzed, and reported;
- (d) policies providing descriptions of the roles and the responsibilities of the local board of trustees, superintendent, and personnel employed by the school district;
- (e) a policy addressing grievances for students, families, staff, and stakeholders; and a policy on
- (f) any other policies required by state or federal law.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

10.55.719. Student protection procedures.

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

- (g) a disciplinary procedure establishing the consequences for students found to have committed behavior prohibited under (1).

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

20-9-236. Transfer of funds - Improvements to school safety and security.

(1) A school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school and student safety and security as follows:

- (b) programs to support school and student safety and security, including but not limited to active shooter training, threat assessments, and restorative justice.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(2) For the purposes of this section, "corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil.

(4)(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary. [...]

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(4)(a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

- (i) quell a disturbance;
- (ii) provide self-protection;
- (iii) protect the pupil or others from physical injury;
- (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;
- (v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary. [...]

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

45-3-107. Use of force by parent, guardian, or teacher.

A parent or an authorized agent of a parent or a guardian, master, or teacher is justified in the use of force that is reasonable and necessary to restrain or correct the person's child, ward, apprentice, or pupil.

REGULATIONS

10.16.3346. Aversive treatment procedures.

(1) Positive behavioral interventions based on the results of a functional behavioral assessment shall serve as the foundation for any program utilizing aversive procedures to address the behavioral needs of students. Aversive treatment procedures may be appropriate for an individual student who exhibits behaviors which pose a risk of physical harm to the student or others, or a risk of significant damage to property, or significantly disruptive or dangerous behaviors which cannot be modified solely through the use of positive behavioral interventions. Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.

(2) Aversive treatment procedures are defined as:

(a) physical restraint, other than as provided in 20-4-302, MCA, when the IEP team has determined that the frequency, intensity or duration of the restraint warrants an aversive treatment procedure; and

(b) isolation time-out which results in the removal of a student to an isolation room under the following conditions:

(i) the student is alone in the isolation room during the period of isolation;

(ii) the student is prevented from exiting the isolation room during the period of isolation;

(iii) the door to the isolation room remains closed during the period of isolation; and

(iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.

(3) Any student in isolation timeout must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.

(4) The following procedures are prohibited:

(a) any procedure solely intended to cause physical pain;

(b) isolation in a locked room or mechanical restraint, except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law;

(c) the withholding of a meal for a period of greater than one hour from its scheduled starting time;

- (d) aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; and
 - (e) mechanical restraint that physically restricts a student's movement through the use upon the student of any mechanical or restrictive device which is not intended for medical reasons.
- (5) Exclusion time-out is not considered an aversive treatment procedure. Exclusion time-out is defined as any removal of a student from a regularly scheduled activity for disciplinary purposes that does not result in placing the student in an isolation room under all of the conditions described in (2)(b).
- (6) IEPs may include the use of aversive treatment procedures only when:
- (a) subsequent to a functional behavioral assessment, a series of no less than two written positive behavioral intervention strategies, which were designed to target the behavior to be changed, were previously implemented;
 - (b) the IEP team includes a person trained and knowledgeable about best practices in the application of positive behavioral interventions, aversive treatment procedures and nonaversive alternatives for de-escalation of behaviors; and
 - (c) a written behavioral intervention plan using aversive treatment procedures is developed and incorporated as a part of the IEP.
- (7) A behavioral intervention plan using aversive treatment procedures must be in writing and shall:
- (a) include a statement describing no less than two positive behavioral intervention strategies previously attempted and the results of these interventions, as described in (6)(a);
 - (b) describe the target behavior(s) that will be consequented with the use of the aversive treatment procedure(s);
 - (c) include short-term objective(s) with measurable criteria stating the expected change in the target behavior(s);
 - (d) provide a written description of the aversive treatment procedure(s);
 - (e) specify a time limit for the use of the aversive treatment procedure for any one instance;
 - (f) include data collection procedures for recording each application of the aversive treatment(s);
 - (g) state when the IEP team will meet to review the ongoing use, modification or termination of the aversive procedure;
 - (h) designate an individual responsible for ongoing review and analysis of the data on the target behavior;
 - (i) state how the student's parents will be regularly informed of the progress toward the short-term objectives in the IEP at a frequency no less than is required in 34 CFR 300.347; and
 - (j) state whether any standard school disciplinary measures are waived.
- (8) When an aversive treatment plan is incorporated in the IEP, the parents must be informed that their consent to the IEP includes consent for the aversive treatment plan. Failure to obtain consent is subject to due process proceedings under ARM 10.16.3507 through 10.16.3523.
- (9) Parents must be informed as soon as possible, but no more than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

20-5-201. Duties and sanctions.

(2) A pupil who disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, or book belonging to the district, harms or threatens to harm another person or the person's property, or otherwise violates district policy regarding pupil conduct is subject to punishment, suspension, or expulsion under the provisions of this title. When a pupil defaces or damages school property, the pupil's parent or guardian is liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent, or any trustee and the proof of any damage.

20-5-202. Suspension and expulsion.

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is any removal of a pupil for more than 20 school days without the provision of educational services and is a disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration in writing to modify the requirement for expulsion of a student, up to and including eliminating the requirement for expulsion, on a case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or principal may immediately suspend a student if, prior to a hearing conducted pursuant to subsection (6), there is cause to believe the student brought a firearm to school or possessed a firearm at school.

(10) For the purposes of this section, the following definitions apply:

(a) "Firearm" has the same meaning as provided in 18 U.S.C. 921.

(b) (i) "School" means a building, grounds, or property of a public elementary or secondary school.

(ii) The term does not include a student's home, a locked vehicle, a parking lot, or a commercial business when the student is participating in an online, remote, or distance-learning setting."

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

20-5-202. Suspension and expulsion.

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is any removal of a pupil for more than 20 school days without the provision of educational services and is a disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration in writing to modify the requirement for expulsion of a student, up to and including eliminating the requirement for expulsion, on a case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, superintendent, or principal may immediately suspend a student if, prior to a hearing conducted pursuant to subsection (6), there is cause to believe the student brought a firearm to school or possessed a firearm at school.

- (4) Nothing in this section prevents a school district from:
- (a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district if:
 - (i) the district has appropriate safeguards in place to ensure student safety; and
 - (ii) the firearm is secured in a locked container approved by the school district when the firearm is at school and is not in use for the instructional activity
- (6) Before expelling a student under this section, the trustees shall hold a due process hearing that includes presentation of a summary of the information leading to the allegations and an opportunity for the student to respond to the allegations. The student may not be expelled unless the trustees find that the student knowingly, as defined in 1-1-204, brought a firearm to school or possessed a firearm at school.
- (7) When a student subject to a hearing is found to have not violated this section, the student's school record must be expunged of the incident.
- (9) The provisions of this section do not require expulsion of a student who has brought a firearm to school or possesses a firearm at school as long as the firearm is secured in a locked container approved by the school district or in a locked motor vehicle the entire time the firearm is at school, except while the firearm is in use for a school-sanctioned instructional activity.
- (10) For the purposes of this section, the following definitions apply:
- (a) "Firearm" has the same meaning as provided in 18 U.S.C. 921.
 - (b) (i) "School" means a building, grounds, or property of a public elementary or secondary school.
 - (ii) The term does not include a student's home, a locked vehicle, a parking lot, or a commercial business when the student is participating in an online, remote, or distance-learning setting."

REGULATIONS

No relevant regulations found.

Due Process

LAWS

20-5-202. Suspension and expulsion.

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is any removal of a pupil for more than 20 school days without the provision of educational services and is a disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional

(2) suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(6) Before expelling a student under this section, the trustees shall hold a due process hearing that includes presentation of a summary of the information leading to the allegations and an opportunity for the student to respond to the allegations. The student may not be expelled unless the trustees find that the student knowingly, as defined in 1-1-204, brought a firearm to school or possessed a firearm at school.

(7) When a student subject to a hearing is found to have not violated this section, the student's school record must be expunged of the incident.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

20-5-202. Suspension and expulsion.

- (4) Nothing in this section prevents a school district from:
- (b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

20-5-202. Suspension and expulsion.

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration in writing to modify the requirement for expulsion of a student, up to and including eliminating the requirement for expulsion, on a case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, superintendent, or principal may immediately suspend a student if, prior to a hearing conducted pursuant to subsection (6), there is cause to believe the student brought a firearm to school or possessed a firearm at school.

(6) Before expelling a student under this section, the trustees shall hold a due process hearing that includes presentation of a summary of the information leading to the allegations and an opportunity for the student to respond to the allegations. The student may not be expelled unless the trustees find that the student knowingly, as defined in 1-1-204, brought a firearm to school or possessed a firearm at school.

(9) The provisions of this section do not require expulsion of a student who has brought a firearm to school or possesses a firearm at school as long as the firearm is secured in a locked container approved by the school district or in a locked motor vehicle the entire time the firearm is at school, except while the firearm is in use for a school-sanctioned instructional activity.

(10) For the purposes of this section, the following definitions apply:

(a) "Firearm" has the same meaning as provided in 18 U.S.C. 921.

(b) (i) "School" means a building, grounds, or property of a public elementary or secondary school.

(ii) The term does not include a student's home, a locked vehicle, a parking lot, or a commercial business when the student is participating in an online, remote, or distance-learning setting."

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.

20-5-106. Truancy.

(1) For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy, for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under 20-5-103.

(2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

(3)(a) If convicted, the person shall be fined not more than \$ 100, ordered to perform up to 20 hours of community service, or required to give bond in the penal sum of \$ 100, with sureties, conditioned on the person's agreement to cooperate with the district in implementing the truancy plan provided for in subsection (2) for the remainder of the current school term.

(b) If a person fails to comply with an order of the court issued under subsection (3)(a), the person may be imprisoned in the county jail for a term of not more than 3 days.

(4)(a) If the child is discovered by the attendance officer to be truant on 9 or more days or 54 or more parts of a day in 1 school year, the child may be referred to youth court as habitually truant under Title 41, chapter 5.

(b) Following a referral to youth court under subsection (4)(a), an attendance officer shall inform the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in need of intervention as defined in 41-5-103 and make any of the dispositions provided in 41-5-1512.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

20-1-220. Use of tobacco product in public school building or on public school property prohibited.

(1) An individual may not use a tobacco product, vapor product, or alternative nicotine product in a public school building or on public school property.

(2)(a) Subsection (1) does not apply to the use of a tobacco product, vapor product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or

educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

(c) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

(d) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device.

REGULATIONS

37.111.825. Health supervision and maintenance.

(7) Pursuant to the advisory authority of 50-1-202, MCA, the department recommends that students be evaluated by registered professional nurses or other appropriately qualified health professionals on a periodic basis in order to identify those health problems which have the potential for interfering with learning, including:

(d) chemical and alcohol abuse.

42.31.350. Use of tobacco products in public school buildings.

(1) The use of tobacco products in public school buildings referred to in 20-1-220, MCA, applies only to elementary and secondary schools.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

20-5-207. Short title.

Sections 20-5-207 through 20-5-210 may be cited as the "Bully-Free Montana Act".

20-5-208. Definition.

(1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student that is persistent, severe, or repeated and that:

- (a) causes a student physical harm, damages a student's property, or places a student in reasonable fear of harm to the student or the student's property;
- (b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of a school.

(2) The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.

20-5-209. Bullying of student prohibited.

Bullying of a student enrolled in a public K-12 school by another student or an employee is prohibited.

20-5-210. Enforcement - exhaustion of administrative remedies.

(1) A person alleging a violation of 20-5-207 through 20-5-210 may seek redress under any available law after exhausting all administrative remedies.

(2) Nothing in this section precludes a person from contacting law enforcement in relation to incidents of bullying at any point in time.

HB 601 Section 1. Transfer of funds - grant program.

(b) The superintendent of public instruction shall offer grants to school districts to provide professional development on topics related to school safety. Acceptable uses for the school safety professional development grants include but are not limited to individual training of school employees, improvement of facilities, and programs that promote the protection of students from violence, theft, bullying, exposure to weapons, and the sale or use of illegal substances on school grounds.

REGULATIONS

10.55.719. Student protection procedures.

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school.

(2) Behavior prohibited under (1) includes retaliation against a victim or witness who reports behavior prohibited under (1).

(3) "Persistent" as used in this rule can consist of repeated acts against a single student or isolated acts directed against a number of different students.

(4) The behavior prohibited in (1) includes but is not limited to conduct:

- (a) in a classroom or other location on school premises;
 - (b) during any school-sponsored program, activity, or function where the school is responsible for the student including when the student is traveling to and from school or on a school bus or other school-related vehicle; or
 - (c) through the use of electronic communication, as defined in 45-8-213, MCA, that substantially and materially disrupts the orderly operation of the school or any school-sponsored program, activity, or function where the school is responsible for the student.
- (5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:
- (a) a prohibition on the behavior specified in (1), regardless of the underlying reason or reasons the student has engaged in such behavior;
 - (b) a procedure for reporting and documenting reported acts of behavior prohibited under (1);
 - (c) a procedure for investigation of all reports of behavior prohibited under (1)(a) that includes an identification of the persons responsible for the investigation and response;
 - (d) a procedure for determining whether the reported act is subject to the jurisdiction of the school district or another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction;
 - (e) a procedure for prompt notification, as defined in the district policy, of the alleged victim and the alleged perpetrator, or the parents or guardian of such students when the students are minors;
 - (f) a procedure to protect any alleged victim of behavior prohibited under (1)(a) from further incidents of such behavior;
 - (g) a disciplinary procedure establishing the consequences for students found to have committed behavior prohibited under (1); and
 - (h) a procedure for the use of appropriate intervention and remediation for victims and perpetrators.

10.55.801. School climate.

- (1) The local board of trustees shall:
- (a) develop policies, procedures, and rules that respect the rights of all learners, and promote an awareness of and concern for the well-being of others, and address bullying, intimidation, and harassment of students and school personnel.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

37.87.1802. Comprehensive school and community treatment program: contract requirements.

(6) The school must describe the implementation of a school-wide positive behavior intervention and supports program, including, at a minimum, the following procedures:

- (a) identifying youth who exhibit inappropriate behaviors to the degree that a positive behavior intervention plan is needed and youth at risk of, or suspected to have need of, mental health services;
- (b) implementing and monitoring the progress of a positive behavior intervention plan for its effectiveness; and
- (c) referring youth to the CSCT program when positive behavior interventions and supports have not resulted in significant positive behavioral change or when a youth may have a clinical condition and may be in need of mental health services.

37.106.1960. Mental health center: Comprehensive school and community treatment (CSCT) program, personnel training.

(3) All team members program staff are required to receive a minimum of 18 hours training per year in behavior management strategies that focus on the prevention of behavior problems for youth with serious emotional disturbance (SED). Training must include:

- (a) positive behavioral intervention planning and support.

Prevention

LAWS

No relevant laws found.

REGULATIONS

10.55.701. Board of trustees.

(3) The local board of trustees shall establish conditions that contribute to a positive school climate which:

- (a) implement family and community engagement strategies as found in [New Rule II]; and
- (b) engage in a continuous school improvement process that is aligned with the school district's integrated strategic action plan.

(5) The local board of trustees with meaningful stakeholder involvement shall establish and implement such additional policies as the board deems necessary that:

- (a) provide for the safety and well-being of all students and staff.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

37.87.1802. Comprehensive school and community treatment program: contract requirements.

(7) The school and mental health center must describe annual training offered to school personnel, parents, and students concerning the following:

- (a) CSCT program and services;
- (b) CSCT referral process and criteria;
- (c) signs and symptoms that indicate a need for mental health services for a youth; and
- (d) confidentiality requirements under the Family Education Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPPA) Privacy and Security, and the Health Information Technology for Economic and Clinical Health Act (HITECH).

37.106.1960. Mental health center: Comprehensive school and community treatment (CSCT) program, personnel training.

- (1) The CSCT program must be delivered by adequately trained staff. Training should be competency-based and must be documented and maintained in personnel files.
- (2) All CSCT program staff are required to receive a minimum of 18 hours of orientation training during the first three months of employment which addresses all of the following:
 - (a) certified de-escalation training inclusive of physical and nonphysical methods;
 - (b) child development;
 - (c) behavior management;
 - (d) crisis planning;
 - (e) roles and responsibilities of CSCT staff in the school setting;
- (3) All team members program staff are required to receive a minimum of 18 hours training per year in behavior management strategies that focus on the prevention of behavior problems for youth with serious emotional disturbance (SED). Training must include:

- (a) positive behavioral intervention planning and support;
- (b) classroom and youth behavior management techniques that include certified de-escalation training inclusive of physical and nonphysical methods;
- (c) evidence and research-based behavior interventions and practices; and
- (d) progress monitoring techniques to inform treatment decisions.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

37.87.1801. Comprehensive school and community treatment program: referrals.

(1) Comprehensive school and community treatment (CSCT) services must be provided as set forth in ARM 37.106.1916 , 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965 in order to receive payment under this program.

(2) Youth referred to the CSCT program must be served in sequential order as determined by the priorities below based upon acuity and need, regardless of payer:

- (a) without treatment, the youth may become at risk of self-harm or harm to others;
- (b) the youth requires support for transition from intensive out-of-home or community-based services;
- (c) the youth meets the serious emotional disturbance criteria;
- (d) the youth has not responded to positive behavior interventions and supports;
- (e) the youth is not attending school due to the mental health condition of the youth.

37.87.1802. Comprehensive school and community treatment program: contract requirements.

(1) The licensed mental health center providing a comprehensive school and community treatment (CSCT) program must have a written contract with the school district.

(2)(a) specific services to be provided;

- (b) staffing by position and minimum qualifications; and
- (c) a description of the mental health services provided by the mental health center during and outside of normal classroom hours.

(3) The school must identify:

- (a) the provision of transportation and classroom space during non-school days as described in ARM 37.106.1956(1)(i) ;
- (b) the role of the school counselor and the school psychologist, as appropriate, in the provision of mental health services and supports to youth including coordination with the CSCT program;
- (c) program supports, including telephone, computer access, locking file cabinet(s), and copying, that the school will make available to CSCT staff while providing services within the school;
- (d) office space dedicated to CSCT which must be adequate and appropriate for confidentiality and privacy for the services provided; and
- (e) treatment space available to CSCT large enough to host a group during both school and nonschool days.

(4) The school and mental health center must specify a referral process to the CSCT program.

(5) The school and mental health center must specify an enrollment process that:

- (a) includes the CSCT licensed or in-training mental health professional and a school administrator or designee;

- (b) ensures youth have access to services prioritized according to acuity and need as specified in ARM 37.87.1801 ; and
 - (c) considers the current caseload of the CSCT program in terms of a wait list and near-term discharges.
- (6) The school must describe the implementation of a school-wide positive behavior intervention and supports program, including, at a minimum, the following procedures:
- (a) identifying youth who exhibit inappropriate behaviors to the degree that a positive behavior intervention plan is needed and youth at risk of, or suspected to have need of, mental health services;
 - (b) implementing and monitoring the progress of a positive behavior intervention plan for its effectiveness; and
 - (c) referring youth to the CSCT program when positive behavior interventions and supports have not resulted in significant positive behavioral change or when a youth may have a clinical condition and may be in need of mental health services.
- (7) The school and mental health center must describe annual training offered to school personnel, parents, and students concerning the following:
- (a) CSCT program and services;
 - (b) CSCT referral process and criteria;
 - (c) signs and symptoms that indicate a need for mental health services for a youth; and
 - (d) confidentiality requirements under the Family Education Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPPA) Privacy and Security, and the Health Information Technology for Economic and Clinical Health Act (HITECH).
- (8) The contract must identify program data and information which will be shared between the school district and the licensed mental health center to evaluate program effectiveness to include ARM 37.106.1956(9) .
- (9) The contract must include record keeping and management, billing procedures, and must state which party is responsible for each requirement.
- (10) In the circumstance in which a school district is the licensed mental health center providing a CSCT program, the school district must adopt an operational plan that is substantially similar to the contractual requirements set forth in this rule. This operational plan must be kept on file and made available to the department upon request.

37.106.1902. Mental health center: Definitions.

In addition to the definitions in 50-5-101, MCA, the following definitions apply to this subchapter:

- (7) "Comprehensive school and community treatment program (CSCT)" means a comprehensive, planned course of community mental health outpatient treatment provided in cooperation and under written contract with the school district where the youth attends school. The program must be provided by a licensed mental health center with an endorsement under ARM 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965.

37.106.1956. Mental health center: Comprehensive school and community treatment program (CSCT), services and staffing.

- (1) The CSCT program must be able to provide the following services, as clinically indicated, to youth as outlined in the individualized treatment plan (ITP):
 - (a) individual, group and family therapy;
 - (b) behavioral intervention;
 - (c) other evidence and research-based practices effective in the treatment of youth with a serious emotional disturbance;

- (d) direct crisis intervention services during the time the youth is present in a school-owned or operated facility;
- (e) a crisis plan that identifies a range of potential crisis situations with a range of corresponding responses including physically present face-to-face encounters and telephonic responses 24/7, as appropriate;
- (f) treatment plan coordination with substance use disorder and mental health treatment services the youth receives outside the CSCT program;
- (g) access to emergency services;
- (h) referral and aftercare coordination with inpatient facilities, psychiatric residential treatment facilities, or other appropriate out-of-home placement programs; and
- (i) continuous treatment that must be available twelve months of the year. The program must provide a minimum of 16 hours per month of CSCT services in summer months.

37.106.1960. Mental health center: Comprehensive school and community treatment (CSCT) program, personnel training.

(1) The CSCT program must be delivered by adequately trained staff. Training should be competency-based and must be documented and maintained in personnel files.

37.111.825. Health supervision and maintenance.

(7) Pursuant to the advisory authority of 50-1-202, MCA, the department recommends that students be evaluated by registered professional nurses or other appropriately qualified health professionals on a periodic basis in order to identify those health problems which have the potential for interfering with learning, including:

- (e) mental health screening.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.

REGULATIONS

10.55.719. Student protection procedures.

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

(b) a procedure for reporting and documenting reported acts of behavior prohibited under (1).

10.55.910. Student discipline records.

(1) Each school shall maintain a record of any disciplinary action that is educationally related, with explanation, taken against the student. When a local board of trustees takes disciplinary action against a student, the board must take minutes of the action taken, with detailed explanation, even if the disciplinary action is decided during a closed session. For the purpose of this rule, a disciplinary action that is educationally related is an action that results in the expulsion or out-of-school suspension of the student. This record must be maintained/destroyed consistent with Montana Local Government Records Schedule 7, and is subject to transfer to a local educational agency, accredited school, or nonpublic school pursuant to 20-1-213, MCA.

Parental Notification

LAWS

20-5-106. Truancy.

(2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

REGULATIONS

10.16.3346. Aversive treatment procedures.

(9) Parents must be informed as soon as possible, but no more than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

10.55.719. Student protection procedures.

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

(e) a procedure for prompt notification, as defined in the district policy, of the alleged victim and the alleged perpetrator, or the parents or guardian of such students when the students are minors.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

20-5-202. Suspension and expulsion.

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration in writing to modify the requirement for expulsion of a student, up to and including eliminating the requirement for expulsion, on a case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

REGULATIONS

10.55.719. Student protection procedures.

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

(d) a procedure for determining whether the reported act is subject to the jurisdiction of the school district or another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

20-9-236. Transfer of funds - Improvements to school safety and security.

(1) A school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school and student safety and security as follows:

(a) planning for improvements to and maintenance of school and student safety, including but not limited to the cost of staffing for or services provided by architects, engineers, school resource officers,

(b) counselors, and other staff or consultants assisting the district with improvements to school and student safety and security.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

20-9-236. Transfer of funds - Improvements to school safety and security.

(1) A school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school and student safety and security as follows:

(c) programs to support school and student safety and security, including but not limited to active shooter training, threat assessments, and restorative justice.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Montana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Alcohol and Drug Prevention, Montana Office of Public Instruction (OPI)	Provides information and links to resources supporting implementation of school-based alcohol and drug prevention programs.	http://opi.mt.gov/Families-Students/Family-Student-Support/Alcohol-Drug-Prevention
Bully Free Montana, OPI	Provides information on model bullying policies and procedures, Montana's Student Protections and Procedures accreditation rule, and links to state resources.	https://opi.mt.gov/bullyfree
Multi-Tiered Systems of Supports (MTSS), OPI	Provides information and resources supporting implementation of Montana's Multi-Tiered Systems of Supports (MTSS).	http://opi.mt.gov/Educators/Teaching-Learning/Multi-Tiered-Systems-of-Support
Positive School Climate Development	Provides information and resources to support educators in developing a positive school climate, including a resource for creating a safe and connected school climate for American Indian students.	https://opi.mt.gov/Educators/School-Climate-Student-Wellness/Safe-and-Supportive-Schools/Positive-School-Climate-Development
School Mental Health, OPI	Provides resources and information to support and promote wellness in schools including topics such as trauma-informed schools and social emotional learning (SEL).	http://opi.mt.gov/Educators/School-Climate-Student-Wellness/School-Mental-Health
<i>Documents</i>		
Bully Free Montana: A Toolkit for Educators, Families, and Students, OPI	Toolkit for educators, families, and students addressing bullying prevention with fact sheets, tips, and checklists dealing with bullying in schools; includes model policy for bullying and report forms for bullying incidents.	http://opi.mt.gov/Portals/182/Page%20Files/HES%20Bully%20Free%20Montana/Bullyfree%20Toolkit/19BullyFreeToolkitA.pdf?ver=2019-08-29-114053-417

Title	Description	Website address (if applicable)
Bully Free Montana Checklist for Schools, OPI	Checklist for monitoring the progress and needs of schools regarding bullying prevention.	http://opi.mt.gov/Portals/182/Page%20Files/HES%20Bully%20Free%20Montana/Schools/Checklist_School.pdf
Model School District Policy Bullying, Harassment, Intimidation, and Hazing of Students, OPI	Model policy addressing bullying, harassment, intimidation, and hazing in Montana schools.	https://opi.mt.gov/Portals/182/Page%20Files/HES%20Bully%20Free%20Montana/Schools/ModelBully_FreePolicy.pdf
Trauma Informed Handbooks: Guidance on Creating a Culture of Safety, Connection, and Regulation in Your School (2019), OPI	A handbook to guide and support schools and educators taking a trauma-informed and restorative practices approach to meeting the needs of students and families.	http://opi.mt.gov/Portals/182/Page%20Files/School%20Mental%20Health/Handbook%20Final%202019_OPI.pdf?ver=2020-05-08-150041-340
<i>Other Resources</i>		
School Safety Professional Development Grant, OPI	State grant program allocating funding to Montana school districts for professional development related to protecting students from violence, theft, bullying, exposure to weapons, and the sale or use of illegal substances on school grounds.	http://opi.mt.gov/Leadership/Academic-Success/Title-Other-Federal-Programs/Title-IV-Part-A-Student-Support-Academic-Enrichment/School-Safety-Professional-Development-Grant



Nebraska Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

R.R.S. Neb. § 79-257. School board or board of education; emergency disciplinary actions; authorized.

The school board or board of education may authorize the emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment of any pupil from school for conduct prohibited by the board's rules or standards established pursuant to the Student Discipline Act if such emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment complies with the procedures required by the act.

R.R.S. Neb. § 79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

R.R.S. Neb. § 79-261. School board or board of education; powers; delegation of authority.

- (1) The school board or board of education may by rule amplify, supplement, or extend the procedures provided in the Student Discipline Act if such actions are not inconsistent with the act.
- (2) Any action taken by the school board or board of education or by its employees or agents in a material violation of the act shall be considered null, void, and of no effect.
- (3) The school board or board of education may authorize the delegation to other school officials of responsibilities directed to the principal or superintendent by the act.

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post; review with county attorney.

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section 79-258, 79-265, or 79-267. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process. On or before August 1 of each year, all school boards shall annually review in collaboration with the county attorney of the county in which the principal office of the school district is located the rules and standards concerning student

conduct adopted by the school board and the provisions of section 79-267 to define conduct which the principal or designee is required to report to law enforcement under section 79-293.

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

R.R.S. Neb. § 79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(3) On or before July 1, 2009, each school district as defined in section 79-101 shall develop and adopt a policy concerning bullying prevention and education for all students.

REGULATIONS

No relevant regulations found.

Scope

LAWS

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

- (1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
- (2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
- (3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

- (4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
- (5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;
- (6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;
- (7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;
- (8) Engaging in bullying as defined in section 79-2,137;
- (9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;
- (10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or
- (11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

R.R.S. Neb. § 79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post; review with county attorney.

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section 79-258, 79-265,

or 79-267. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process. On or before August 1 of each year, all school boards shall annually review in collaboration with the county attorney of the county in which the principal office of the school district is located the rules and standards concerning student conduct adopted by the school board and the provisions of section 79-267 to define conduct which the principal or designee is required to report to law enforcement under section 79-293. [...]

(3) Rules or standards which form the basis for discipline, including the conduct required to be reported to law enforcement, shall be distributed to each student and his or her parent or guardian at the beginning of each school year, or at the time of enrollment if during the school year, and shall be posted in conspicuous places in each school during the school year. Changes in rules and standards shall not take effect until reasonable effort has been made to distribute such changes to each student and his or her parent or guardian.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall include, but not be limited to:

(b) One or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal or actual charge or control of the child, and the child, when appropriate, to attempt to address the barriers to attendance. The result of the meeting or meetings shall be to develop a collaborative plan to reduce barriers identified to improve regular attendance. The plan shall consider, but not be limited to:

(vii) Referral to restorative justice practices or services.

R.R.S. Neb. § 79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

R.R.S. Neb. § 79-282. Hearing; hearing examiner; report; contents; review; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

R.R.S. Neb. § 79-295. Corporal punishment; prohibited.

Corporal punishment shall be prohibited in public schools.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

Nebraska Admin. Code Title 92, Ch. 10-011. School Environment.

011.01 Quality Indicator: The school facilities and the general environment are safe, orderly, and supportive of quality learning for all students. A positive atmosphere for learning supports and reflects the work of students.

011.01E Each school system has a seclusion and restraints policy approved by the school board or local governing body.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

R.R.S. Neb. § 79-256. Terms, defined.

For purposes of the Student Discipline Act, unless the context otherwise requires:

- (1) Long-term suspension means the exclusion of a student from attendance in all schools within the system for a period exceeding five school days but less than twenty school days;
- (2) Expulsion means exclusion from attendance in all schools within the system in accordance with section 79-283;
- (3) Mandatory reassignment means the involuntary transfer of a student to another school in connection with any disciplinary action; and
- (4) Short-term suspension means the exclusion of a student from attendance in all schools within the system for a period not to exceed five school days.

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(1) Any student may be excluded from school in the following circumstances, subject to the procedural provisions of section 79-265, and, if longer than five school days, subject to the provisions of subsection (3) of this section:

- (a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health or safety of the school community; or
- (b) If the student's conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.

(2) Any emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections 79-266 to 79-287, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(1) The principal may deny any student the right to attend school or to take part in any school function for a period of up to five school days on the following grounds:

- (a) Conduct constituting grounds for expulsion as set out in the Student Discipline Act; or
- (b) Any other violation of rules and standards of behavior adopted under the act.

(2) Such short-term suspension shall be made only after the principal has made an investigation of the alleged conduct or violation and has determined that such suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

- (1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
- (2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
- (3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;
- (4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
- (5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;
- (6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;
- (7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;
- (8) Engaging in bullying as defined in section 79-2,137;
- (9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post; review with county attorney.

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section 79-258, 79-265, or 79-267. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process. On or before August 1 of each year, all school boards shall annually review in collaboration with the county attorney of the county in which the principal office of the school district is located the rules and standards concerning student conduct adopted by the school board and the provisions of section 79-267 to define conduct which the principal or designee is required to report to law enforcement under section 79-293.

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(1) Any student may be excluded from school in the following circumstances, subject to the procedural provisions of section 79-265, and, if longer than five school days, subject to the provisions of subsection (3) of this section:

(a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health or safety of the school community; or

(b) If the student's conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.

(2) Any emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections 79-266 to 79-287, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(3) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 79-283. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may require participation in a plan pursuant to subsection (2) of this section or assign the student to a school, class, or educational program which the school district deems appropriate.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred

(a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

R.R.S. Neb. § 79-255. Act; purpose.

The purpose of the Student Discipline Act is to assure the protection of all elementary and secondary school students' constitutional right to due process and fundamental fairness within the context of an orderly and effective educational process. The sanctions defined in the act shall be interpreted at all times in the light of the principles of free speech and assembly protected under the Constitution of Nebraska and the United States Constitution and in recognition of the right of every student to public education.

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final

determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections 79-266 to 79-287, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(4) Within twenty-four hours or such additional time as is reasonably necessary following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school.

R.R.S. Neb. § 79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

- (1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;
- (2) Such written notice shall include the following:
 - (a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;
 - (b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;
 - (c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;
 - (d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;
 - (e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and
 - (f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections 79-271 and 79-272; and
- (3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk

of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.

R.R.S. Neb. § 79-269. Long-term suspension, expulsion, or mandatory reassignment; hearing; procedure; hearing examiner; how designated; examination of records.

(1) If a hearing is requested within five school days after receipt of the notice as provided in section 79-268, the superintendent shall appoint a hearing examiner who shall, within two school days after being appointed, give written notice to the principal, the student, and the student's parent or guardian of the time and place for the hearing.

(2) The hearing examiner shall be any person designated by the school district's superintendent, school board or board of education, or counsel, if such person (a) has not brought the charges against the student, (b) shall not be a witness at the hearing, and (c) has no involvement in the charge.

(3) The hearing shall be scheduled within a period of five school days after it is requested, but such time may be changed by the hearing examiner for good cause. No hearing shall be held upon less than two school days' actual notice to the principal, the student, and the student's parent or guardian, except with the consent of all the parties.

(4) The principal or legal counsel for the school, the student, and the student's parent, guardian, or representative have the right to examine the records and written statements referred to in the Student Discipline Act as well as the statement of any witness in the possession of the school board or board of education at a reasonable time prior to the hearing.

R.R.S. Neb. § 79-270. Hearing examiner; duties.

In addition to the other duties provided in the Student Discipline Act, the hearing examiner shall remain impartial throughout all deliberations. The hearing examiner shall be available prior to any hearing held pursuant to the act to answer any questions the principal, the student, or the student's parent or guardian may have regarding the nature and conduct of the hearing.

R.R.S. Neb. § 79-271. Hearing; not requested within five days; recommended punishment; effect.

If a hearing is not requested under sections 79-268 and 79-269 by the student or the student's parent or guardian within five school days following receipt of the written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian as required in section 79-268.

R.R.S. Neb. § 79-272. Hearing; requested within thirty days; effect.

If a hearing is requested under sections 79-268 and 79-269 more than five school days but not more than thirty calendar days following the actual receipt of written notice, the hearing shall be held but the imposed punishment shall continue in effect pending final determination.

R.R.S. Neb. § 79-273. Hearing; by whom attended; witnesses; student excluded; when.

Any hearing conducted pursuant to the Student Discipline Act shall be attended by the hearing examiner, the student, the student's parent or guardian, the student's representative, if any, and counsel for the school board or board of education, if the hearing examiner or the superintendent deems it advisable.

Witnesses shall be present only when they are giving information at the hearing. The student may be excluded in the discretion of the hearing examiner at times when the student's psychological evaluation or

emotional problems are being discussed. The student's representative may be an attorney. The hearing examiner may exclude anyone from the hearing when his or her actions substantially disrupt an orderly hearing.

R.R.S. Neb. § 79-275. Hearing; student; testimony.

At a hearing requested under sections 79-268 and 79-269, the student may speak in his or her own defense and may be questioned on his or her testimony, but he or she may choose not to testify and, in such case, shall not be threatened with punishment nor be later punished for refusal to testify.

R.R.S. Neb. § 79-276. Hearing; evidence on student's conduct and records.

At a hearing requested under sections 79-268 and 79-269, the principal shall present to the hearing examiner statements, in affidavit form, of any person having information about the student's conduct and the student's records but not unless such statements and records have been made available to the student or the student's parent, guardian, or representative prior to the hearing. The information contained in such records shall be explained and interpreted, prior to or at the hearing, to the student, parent, guardian, or representative, upon request, by appropriate school personnel.

R.R.S. Neb. § 79-277. Hearing; rules of evidence or courtroom procedures; not applicable.

In conducting the hearing requested under sections 79-268 and 79-269, the hearing examiner shall not be bound by the rules of evidence or any other courtroom procedure.

R.R.S. Neb. § 79-278. Hearing; witnesses; testimony; cross-examination.

(1) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner may ask witnesses to testify at the hearing requested under sections 79-268 and 79-269. Such testimony shall be under oath, and the hearing examiner shall be authorized to administer the oath. The hearing examiner shall make reasonable effort to assist the student or the student's parent, guardian, or representative in obtaining the attendance of witnesses.

(2) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner has the right to question any witness giving information at the hearing.

R.R.S. Neb. § 79-279. Hearing; witnesses; immunity.

Any person giving evidence by written statement or in person at a hearing requested under sections 79-268 and 79-269 shall be given the same immunity from liability as a person testifying in a court case.

R.R.S. Neb. § 79-280. Hearing; recorded; how paid.

The proceedings of the hearing requested under sections 79-268 and 79-269 shall be recorded at the expense of the school district.

R.R.S. Neb. § 79-281. Hearing; joint hearing; separate hearings; when.

(1) When more than one student is charged with violating the same rule and having acted in concert and when the facts are substantially the same for all such students, a single hearing requested under sections 79-268 and 79-269 may be conducted for such students as a group if the hearing examiner believes that a single hearing is not likely to result in confusion and that no student shall have his or her interests substantially prejudiced by a single hearing.

(2) If during the conduct of the hearing the hearing examiner finds that a student's interests will be substantially prejudiced by a group hearing or that the hearing is resulting in confusion, the hearing examiner may order a separate hearing for any student.

R.R.S. Neb. § 79-282. Hearing; hearing examiner; report; contents; review; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

(2) A review shall be made of the hearing examiner's report by the superintendent, who may change, revoke, or impose the sanction recommended by the hearing examiner but shall not impose a sanction more severe than that recommended by the hearing examiner.

(3) The findings and recommendations of the hearing examiner, the determination by the superintendent, and any determination on appeal to the governing body, shall be made solely on the basis of the evidence presented at the hearing or, in addition, on any evidence presented on appeal.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

R.R.S. Neb. § 79-285. Hearing; appeal to school board or board of education; procedure.

(1) The student or the student's parent or guardian may, within seven school days following receipt of the written notice of the determination of the superintendent under section 79-282, appeal the superintendent's determination to the school board or board of education by a written request which shall be filed with the secretary of the board or with the superintendent.

(2) A hearing shall be held before the school board or the board of education within a period of ten school days after it is requested, and such time for a hearing may be changed by mutual agreement of the student and superintendent, except that the hearing may be held before a committee of the school board or board of education of not less than three members. Such appeal shall be made on the record, except that new evidence may be admitted to avoid a substantial threat of unfairness and such new evidence shall be recorded as provided in section 79-280.

R.R.S. Neb. § 79-286. Hearing; appeal; school board or board of education; powers and duties.

(1) After examining the record and taking new evidence pursuant to section 79-285, if any, the school board or board of education or the designated committee thereof may withdraw to deliberate privately upon such record and new evidence. Any such deliberation shall be held in the presence only of board members in attendance at the appeal proceeding but may be held in the presence of legal counsel who has not previously acted as the designee of the principal in presenting the school's case before the hearing examiner.

(2) If any questions arise during such deliberations which require additional evidence, the deliberating body may reopen the hearing to receive such evidence, subject to the right of all parties to be present.

(3) The board may alter the superintendent's disposition of the case if it finds the decision to be too severe but may not impose a more severe sanction.

R.R.S. Neb. § 79-287. Hearing; appeal; board; final action.

The final action of the board under section 79-286 shall be evidenced by personally delivering or mailing by certified mail a copy of the board's decision to the student and his or her parent or guardian.

R.R.S. Neb. § 79-288. Final decision; judicial review; appeal to district court; other relief.

Any person aggrieved by a final decision in a contested case under the Student Discipline Act, whether such decision is affirmative or negative in form, shall be entitled to judicial review under sections 79-288 to 79-292. Nothing in the act shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

R.R.S. Neb. § 79-289. Judicial review; procedure.

- (1) Proceedings for review under sections 79-288 to 79-292 shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the school board or board of education under sections 79-286 and 79-287.
- (2) All parties of record shall be made parties to the proceedings for review. The court, in its discretion, may permit other interested persons to intervene.
- (3) Summons shall be served as in other actions, except that a copy of the petition shall be served upon the board together with the summons. Service of summons upon a duly elected officer of the board or the appointed secretary of the board shall constitute service on the board.
- (4) The filing of the petition or the service of summons upon the board shall not stay enforcement of a decision, but the board may stay enforcement, or the court may order a stay after notice to such board of application therefor and upon such terms as it deems proper.
- (5) The court may require the party requesting such stay to give bond in such amount and condition as the court may direct but only in cases involving injury or damage to person or property.

R.R.S. Neb. § 79-290. Judicial review; transcript of record and proceedings; responsive pleading not required.

Within fifteen days after service of the petition under section 79-289 or within such further time as the court for good cause shown may allow, the school board or board of education shall prepare and transmit to the court a certified transcript of the record which shall include the rules and regulations of the school board relied upon by the school district in its determination to suspend, reassign, or expel the student and the proceedings conducted before it, including the final decision sought to be reversed, vacated, or modified. The school board need not file any responsive pleading.

R.R.S. Neb. § 79-291. Judicial review; conducted without a jury; grounds for judicial action.

- (1) The review under sections 79-288 to 79-292 shall be conducted by the court without a jury on the record.
- (2) The court may affirm the decision of the school board or board of education, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the board's decision is:
 - (a) In violation of constitutional provisions;
 - (b) In excess of the statutory authority or jurisdiction of the board;
 - (c) Made upon unlawful procedure;
 - (d) Affected by other error of law;

- (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
- (f) Arbitrary or capricious.

R.R.S. Neb. § 79-292. Appeal.

An aggrieved party may secure a review of any final judgment of the district court under sections 79-288 to 79-291 by appeal as provided in the Administrative Procedure Act.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

At the conclusion of such suspension period, the school district shall (a) reinstate any student who has satisfactorily participated in a plan pursuant to subsection (2) of this section or the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program or the procedures of subsection (2) of this section available or in operation for all expelled students.

Any two or more school boards or boards of education may join together in providing alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. An educational program may include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, or as a participant in specialized tutorial experiences. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

(2) If a district does not provide an alternative school, class, or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

R.R.S. Neb. § 79-266.01. Expelled student; enrollment in public school; when.

If a student has been expelled from a public school in any school district in any state or from a private, denominational, or parochial school in any state and the student has not completed the terms of the expulsion, the student shall not be permitted to enroll in a public school in any school district until the school board of the district in which enrollment is sought approves, by a majority vote, the enrollment of the student. As a condition of enrollment, the school board may require attendance in an alternative school, class, or educational program pursuant to section 79-266 until the terms of the expulsion are completed. A student expelled from a private, denominational, or parochial school or from a school in another state may not be prohibited from enrolling in a public school district in which the student resides or in which the student has been accepted pursuant to the enrollment option program for any period of time beyond the time limits placed on expulsion pursuant to the Student Discipline Act or for any expulsion for an offense for which expulsion is not authorized for a public school student under the act.

R.R.S. Neb. § 79-282. Hearing; hearing examiner; report; contents; review; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

REGULATIONS

Nebraska Admin. Code Title 92, Ch. 17-001. General Information.

01.01 Statutory Authority. This Chapter is adopted pursuant to Section 79-266 of the Revised Statutes of Nebraska which requires that:

"(1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program or the procedures of subsection (2) of this section available or in operation for all expelled students. Any two or more school boards may join together in providing alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. An educational program may include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, or as a participant in specialized tutorial experiences. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs."

01.02 An alternative school, class, or educational program for expelled students shall be approved if it meets the respective provisions of this Chapter.

01.03 The requirements of this rule are only applicable to alternative schools, classes, or programs provided for expelled students or to procedures provided for expelled students in districts not providing alternative schools, courses or programs.

Nebraska Admin. Code Title 92, Ch. 17-002. Definitions.

002.04 Alternative Schools, Classes, or Programs means that special category of schools, classes, or programs required by law to be provided for expelled students.

Nebraska Admin. Code Title 92, Ch. 17-003. Establishment and general requirements of alternative schools, classes, or programs.

003.01 Effective July 1, 1997, the school district shall provide an alternative school, class, or program or shall carry out the procedures of Section 79-266 (2) found in Section 005 of this Rule for students who have been expelled.

003.01A The alternative school, class, or program for expelled students may be provided by the district, through a cooperative arrangement of two or more districts, or through an arrangement with an educational service unit.

003.01B Alternative schools, classes, or programs for expelled students may include community-based programs, home-based programs, specialized tutorial experiences, distance-learning, or other programs approved by the local board of education.

003.01C The school, class, or program for expelled students shall enable the student to continue academic work for credit, and shall also include the standard of student behavior and cooperation required of the student to complete the alternative learning program.

03.01 D If the student fails to meet any of the conditions of the learning program, the district may, without further obligation, terminate the program after a due process hearing, as required in statutory provisions for suspension and expulsion of students, unless waived by the parent or legal guardian.

03.02 The school district shall have a written policy or plan describing how credit is awarded to students participating in alternative schools, classes, or programs for expelled students.

03.03 The school district shall make known to expelled students what alternative school(s), class(es), or program(s) is (are) available. If the parent or guardian should refuse to participate, the district has no further obligation with regard to provision of an alternative school, class, or program.

03.04 Teachers assigned to an alternative school, class, or program for expelled students being provided on-site by a school district or an educational service unit shall hold a valid Nebraska Teaching or Administrative Certificate issued pursuant to 92 NAC 21. Community-based or other off-site programs shall be planned in cooperation with and monitored or supervised by a school district staff member holding a Nebraska Teaching or Administrative Certificate issued pursuant to 92 NAC 21.

03.05 Alternative schools, classes, or programs for expelled students may be conducted at times other than the regular school day.

Nebraska Admin. Code Title 92, Ch. 17-004. Reporting procedures.

004.02 Each school district shall annually report, in a manner prescribed by the Department, a description of the circumstances for any expelled student who knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. The report shall include:

004.02A The name of the school concerned.

004.02B The number of students expelled from the school.

004.02C The types of weapons concerned.

004.02D The types of programs to which students have been assigned.

Nebraska Admin. Code Title 92, Ch. 17-005. Procedures for schools not providing schools, classes, or programs.

005.01 Statutory Authority. These procedures are adopted pursuant to Section 79-266 (2) of the Revised Statutes of Nebraska which require that:

(2) If a district does not provide an alternative school, class or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-263. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

R.R.S. Neb. § 79-201. Compulsory education; attendance required; exceptions; reports required.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

- (a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;
- (b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;
- (c) The district's policy on excessive absenteeism; and
- (d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

R.R.S. Neb. § 79-206. Compulsory attendance; nonattendance lists; transmission to enforcement officers.

Each superintendent or administrator of a school district, upon the receipt of the list specified in section 79-205, shall (1) compare the names of the children enrolled with the last census report on file in his or her office from such district, (2) prepare a list of all children resident in such district under his or her jurisdiction who are not attending school as provided in section 79-201, and (3) transmit the list to the officer or officers in such district whose duty it is to enforce the provisions of such section.

R.R.S. Neb. § 79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.

Whenever any child enters or withdraws from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the superintendent as specified in section 79-206 and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher but shall in such case apply to the head teacher, principal, or superintendent who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

R.R.S. Neb. § 79-208. Compulsory attendance; attendance officers; powers and duties; compensation.

School boards shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 in the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district.

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of subsection (2) of section 79-201 shall within three days report such violation to the attendance officer of the school, who shall immediately investigate the case. When of his or her personal knowledge or by report or complaint from any resident of the district, the attendance officer believes that there is a violation of subsection (2) of section 79-201, the attendance officer shall immediately investigate such alleged violation.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall include, but not be limited to:

(a) Verbal or written communication by school officials with the person or persons who have legal or actual charge or control of any child; and

(b) One or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal or actual charge or control of the child, and the child, when appropriate, to attempt to address the barriers to attendance. The result of the meeting or meetings shall be to develop a collaborative plan to reduce barriers identified to improve regular attendance. The plan shall consider, but not be limited to:

(i) The physical, mental, or behavioral health of the child;

(ii) Educational counseling;

(iii) Educational evaluation;

(iv) Referral to community agencies for economic services;

(v) Family or individual counseling;

(vi) Assisting the family in working with other community services; and

(vii) Referral to restorative justice practices or services.

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and adjudication for educational neglect under subdivision (3)(a) of section 43-247 and habitual truancy under subdivision (3)(b) of section 43-247. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

(4) Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

R.R.S. Neb. § 79-259. Student suspension, expulsion, or exclusion; not a violation of compulsory attendance; compliance with other laws required.

If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes. Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

R.R.S. Neb. § 79-2114. Elementary learning center; services and programs; report required.

(1) Programs offered by an elementary learning center may be accessed by any elementary-age child who resides in the learning community or any family with an elementary-age child who resides in the learning community. Services to be provided by the elementary learning center shall comply with all applicable state regulations for such services, including, but not limited to, regulations requiring certification of teachers, safety provisions, and compliance with state standards. Such programs shall be designed to enhance the academic success of elementary students and may include, but are not limited to:

(g) Attendance advocates to assist in resolving issues that contribute to truancy.

R.R.S. Neb. § 79-2121. Plan to reduce excessive absenteeism; development and participation.

The superintendents of any school districts that are members of a learning community shall develop and participate in a plan by August 1, 2011, to reduce excessive absenteeism including a process to share information regarding at-risk youth with the goal of improving educational outcomes, providing effective interventions that impact risk factors, and reducing unnecessary penetration deeper into the juvenile justice system. For purposes of this section, at-risk youth means children who are under the supervision of the Office of Probation Administration, are committed to the care, custody, or supervision of the Department of Health and Human Services, are otherwise involved in the juvenile justice system, or have been absent from school for more than five days per quarter or the hourly equivalent except when excused by school authorities or when a documented illness makes attendance impossible or impracticable.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

R.R.S. Neb. § 71-5714. Tobacco prevention and control program; created.

The Tobacco Prevention and Control Program is created as a comprehensive statewide tobacco-related public health program administered by the Department of Health and Human Services. The program includes, but is not limited to (1) community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration.

The State Treasurer shall transfer, on July 1, 2016, the unobligated balance in the Tobacco Prevention and Control Cash Fund to the Nebraska Health Care Cash Fund.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

- (6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor.

R.R.S. Neb. § 79-296. Anabolic steroids; additional sanction.

(1) In addition to the penalties provided in the Uniform Controlled Substances Act and section 79-267, any person under nineteen years of age who is a student at any public elementary, secondary, or postsecondary educational institution in this state who possesses, dispenses, delivers, or administers anabolic steroids as defined in section 28-401 in violation of the Uniform Controlled Substances Act may be prohibited from participating in any extracurricular activities for not more than thirty consecutive days for the first offense. For the second or any subsequent offense, the student may be barred from participation in such activities for any period of time the institution deems appropriate pursuant to the written policy of the institution.

(2) Any sanction imposed pursuant to this section shall be in accordance with a written policy of the institution. The institution shall post the written policy in a conspicuous place and shall make a copy of the policy available to any student upon request.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

R.R.S. Neb. § 28-311.06. Hazing, defined; penalty.

(1) For purposes of this section, hazing means any activity by which a person intentionally or recklessly endangers the physical or mental health or safety of an individual for the purpose of initiation into, admission into, affiliation with, or continued membership with any organization. Such hazing activity

includes whipping, beating, branding, an act of sexual penetration, an exposure of the genitals of the body done with intent to affront or alarm any person, a lewd fondling or caressing of the body of another person, forced and prolonged calisthenics, prolonged exposure to the elements, forced consumption of any food, liquor, beverage, drug, or harmful substance not generally intended for human consumption, prolonged sleep deprivation, or any brutal treatment or the performance of any unlawful act which endangers the physical or mental health or safety of any person or the coercing of any such activity.

(2) It is unlawful to commit the offense of hazing. Any person who commits the offense of hazing is guilty of a Class II misdemeanor.

(3) If the offense of hazing is committed for the purpose of initiation into, admission into, affiliation with, or continued membership with an organization of student members operating under the sanction of a postsecondary educational institution and such offense is committed by members of such organization, such organization shall be punished by a fine of not more than ten thousand dollars. Such organization shall not include the alumni organization or any corporation which owns the house or real estate of such organization.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(8) Engaging in bullying as defined in section 79-2,137.

R.R.S. Neb. § 79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(1) The Legislature finds and declares that:

(a) Bullying disrupts a school's ability to educate students; and

(b) Bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

(3) On or before July 1, 2009, each school district as defined in section 79-101 shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

R.R.S. Neb. § 79-2,144. State school security director; duties.

The state school security director appointed pursuant to section 79-2,143 shall be responsible for providing leadership and support for safety and security for the public schools. Duties of the director include, but are not limited to:

(10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues.

REGULATIONS

Nebraska Admin. Code Title 92, Ch. 10-011. School Environment.

011.01 Quality Indicator: The school facilities and the general environment are safe, orderly, and supportive of quality learning for all students. A positive atmosphere for learning supports and reflects the work of students.

011.01F Each school system shall develop and adopt a policy concerning bullying prevention and education for all students. The school system shall review the policy annually.

Dating and Relationship Violence

LAWS

R.R.S. Neb. § 79-2,138. Act, how cited.

Sections 79-2,138 to 79-2,142 shall be known and may be cited as the Lindsay Ann Burke Act.

R.R.S. Neb. § 79-2,139. Legislative findings and intent.

The Legislature finds and declares that all students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation, and violence. The Legislature further finds that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The Legislature therefor finds and declares that a policy to create a better understanding and awareness of dating violence shall be adopted by each school district. It is the intent of the Legislature to require each school district to establish a policy for educating staff and students about dating violence.

R.R.S. Neb. § 79-2,140. Terms, defined.

For purposes of the Lindsay Ann Burke Act, unless the context otherwise requires:

- (1) Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term;
- (2) Dating violence means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner;
- (3) Department means the State Department of Education; and
- (4) School district has the same meaning as in section 79-101.

R.R.S. Neb. § 79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.

(2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated.

(3) To ensure notice of a school district's dating violence policy, the policy shall be published in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

(6) This section does not prevent a victim of dating violence from seeking redress under any other available law, either civil or criminal, and does not create or alter any existing tort liability.

R.R.S. Neb. § 79-2,142. School district; incorporate dating violence education.

Each school district shall incorporate dating violence education that is age-appropriate into the school program. Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs, and identifying characteristics of healthy dating relationships.

REGULATIONS

Nebraska Admin. Code Title 92, Ch. 10-011. School Environment.

011.01 Quality Indicator: The school facilities and the general environment are safe, orderly, and supportive of quality learning for all students. A positive atmosphere for learning supports and reflects the work of students.

011.01G Pursuant to 79-2,141 (2) R.R.S., each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school. This policy shall include a statement that dating violence will not be tolerated.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

R.R.S. Neb. § 79-2,144. State school security director; duties.

The state school security director appointed pursuant to section 79-2,143 shall be responsible for providing leadership and support for safety and security for the public schools. Duties of the director include, but are not limited to:

- (10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues.

R.R.S. Neb. § 79-2,703. Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.

(1) On or before December 1, 2019, the department shall develop and distribute a model memorandum of understanding that includes the policies required by section 79-2704. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district pursuant to this section that has not developed and adopted a different written memorandum of understanding shall adopt the model memorandum of understanding developed by the department.

(2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security guards to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

R.R.S. Neb. § 79-2,704. Memorandum of understanding; contents.

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

(1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

R.R.S. Neb. § 71-3001. Act, how cited.

Sections 71-3001 to 71-3007 shall be known and may be cited as the Nebraska Mental Health First Aid Training Act.

R.R.S. Neb. § 71-3002. Legislative findings.

The Legislature finds that:

(1) National statistics show that one in four Americans will face a mental illness in his or her lifetime;

(2) Mental health first aid builds an understanding of how mental illness affects Nebraskans, provides an overview of common treatments, and teaches basic skills for providing assistance to a person who may be developing symptoms or experiencing a crisis;

(3) A mental health first aid program is an education program recognized on the Substance Abuse and Mental Health Services Administration's National Registry of Evidence-based Programs and Practices; and

(4) The Behavioral Health Education Center administered by the University of Nebraska Medical Center has conducted a series of mental health first aid training courses and the experience of providing such courses may be utilized regarding the implementation of a mental health first aid training program as prescribed by the Nebraska Mental Health First Aid Training Act.

R.R.S. Neb. § 71-3003. Terms, defined.

For purposes of the Nebraska Mental Health First Aid Training Act:

(1) Behavioral health regions means the behavioral health regions established pursuant to section 71- 807; and

(2) Mental health first aid means the help provided to a person who is experiencing a mental health or substance abuse problem or in a mental health crisis before appropriate professional assistance or other supports are secured.

R.R.S. Neb. § 71-3004. Mental health first aid training program; Division of Behavioral Health of Department of Health and Human Services; duties.

(1) The Division of Behavioral Health of the Department of Health and Human Services shall establish a mental health first aid training program, using contracts through the behavioral health regions, to help the public identify and understand the signs of a mental illness or substance abuse problem or a mental health crisis and to provide the public with skills to help a person who is developing or experiencing a mental health or substance abuse problem or a mental health crisis and to de-escalate crisis situations if needed. The training program shall provide an interactive mental health first aid training course administered by the state's regional behavioral health authorities. Instructors in the training program shall be certified by a national authority for Mental Health First Aid USA or a similar organization. The training program shall work cooperatively with local entities to provide training for individuals to become instructors.

(2) The mental health first aid training program shall be designed to train individuals to accomplish the following objectives as deemed appropriate considering the trainee's age:

(a) Help the public identify, understand, and respond to the signs of mental illness and substance abuse;

(b) Emphasize the need to reduce the stigma of mental illness; and

(c) Assist a person who is believed to be developing or has developed a mental health or substance abuse problem or who is believed to be experiencing a mental health crisis.

R.R.S. Neb. § 71-3005. Efficacy of mental health first aid training program; behavioral health regions; report.

The Division of Behavioral Health of the Department of Health and Human Services shall ensure that evaluative criteria are established which measure the efficacy of the mental health first aid training program, including trainee feedback, with the objective of helping the public identify, understand, and respond to the signs of mental illness and alcohol and substance abuse. The behavioral health regions shall submit an aggregated annual report electronically to the Legislature on trainee demographics and outcomes of the established criteria.

R.R.S. Neb. § 71-3006. Behavioral health regions; duties.

The behavioral health regions shall offer services to and work with agencies and organizations, including, but not limited to, schools, universities, colleges, the State Department of Education, the Department of Veterans' Affairs, law enforcement agencies, and local health departments, to develop a program that offers grants to implement the Nebraska Mental Health First Aid Training Act in ways that are representative and inclusive with respect to the economic and cultural diversity of this state.

R.R.S. Neb. § 71-3007. Legislative intent.

It is the intent of the Legislature to appropriate one hundred thousand dollars annually to the Department of Health and Human Services to carry out the Nebraska Mental Health First Aid Training Act.

R.R.S. Neb. § 79-2,146. Suicide awareness and prevention training.

(2) The department, in consultation with organizations including, but not limited to, the Nebraska State Suicide Prevention Coalition, the Nebraska chapter of the American Foundation for Suicide Prevention, the Behavioral Health Education Center of Nebraska, the National Alliance on Mental Illness Nebraska, and other organizations and professionals with expertise in suicide prevention, shall develop a list of approved training materials to fulfill the requirements of subsection (1) of this section. Such materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services. Such materials may include programs that can be completed through self-review of suitable suicide prevention materials.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

R.R.S. Neb. § 68-907. Terms, defined.

For purposes of the Medical Assistance Act:

- (6) School-based health center means a health center that:
 - (a) Is located in or is adjacent to a school facility;
 - (b) Is organized through school, school district, learning community, community, and provider relationships;
 - (c) Is administered by a sponsoring facility;
 - (d) Provides school-based health services onsite during school hours to children and adolescents by health care professionals in accordance with state and local laws, rules, and regulations, established standards, and community practice;
 - (e) Does not perform abortion services or refer or counsel for abortion services and does not dispense, prescribe, or counsel for contraceptive drugs or devices; and
 - (f) Does not serve as a child's or an adolescent's medical or dental home but augments and supports services provided by the medical or dental home;
- (7) School-based health services may include any combination of the following as determined in partnership with a sponsoring facility, the school district, and the community:
 - (a) Medical health;

- (b) Behavioral and mental health;
- (c) Preventive health; and
- (d) Oral health.

R.R.S. Neb. § 68-968. School-based health centers; School health center advisory council; members.

(1) To ensure that the interests of the school district, community, and health care provider are reflected within the policies, procedures, and scope of services of school-based health centers, each school district shall establish a School Health Center Advisory Council for each school in the district hosting a school-based health center.

(2) The School Health Center Advisory Council shall include:

- (a) At least one representative of the school administration or school district administration;
- (b) At least one representative of the sponsoring facility; and
- (c) At least one parent recommended by a school administrator or school district administrator and approved by a majority vote of the school board. Any parent serving on a School Health Center Advisory Council shall have at least one child enrolled in the school through which the school-based health center is organized.

(3) If another institution or organization sponsors the school-based health center, at least one representative of each sponsoring institution or organization shall be included on the School Health Center Advisory Council.

(4) School Health Center Advisory Councils may also include students enrolled in the school district through which the school-based health center is organized. Any such students must be appointed by a school administrator or school district administrator.

R.R.S. Neb. § 79-2114. Elementary learning center; services and programs; report required.

(1) Programs offered by an elementary learning center may be accessed by any elementary-age child who resides in the learning community or any family with an elementary-age child who resides in the learning community. Services to be provided by the elementary learning center shall comply with all applicable state regulations for such services, including, but not limited to, regulations requiring certification of teachers, safety provisions, and compliance with state standards. Such programs shall be designed to enhance the academic success of elementary students and may include, but are not limited to:

- (k) Mental health services.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

R.R.S. Neb. § 79-201. Compulsory education; attendance required; exceptions; reports required.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

- (a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;
- (b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;
- (c) The district's policy on excessive absenteeism; and
- (d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

R.R.S. Neb. § 79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.

Whenever any child enters or withdraws from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the superintendent as specified in section 79-206 and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher but shall in such case apply to the head teacher, principal, or superintendent who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of subsection (2) of section 79-201 shall within three days report such violation to the attendance officer of the school, who shall immediately investigate the case. When of his or her personal knowledge or by report or complaint from any resident of the district, the attendance officer believes that there is a violation of subsection (2) of section 79-201, the attendance officer shall immediately investigate such alleged violation.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall include, but not be limited to:

(a) Verbal or written communication by school officials with the person or persons who have legal or actual charge or control of any child. [...]

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and adjudication for educational neglect under subdivision (3)(a) of section 43-247 and habitual truancy under subdivision (3)(b) of section 43-247. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

R.R.S. Neb. § 79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

R.R.S. Neb. § 79-260. Notice; when given.

Any statement, notice, recommendation, determination, or similar action specified in the Student Discipline Act shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(4) Within twenty-four hours or such additional time as is reasonably necessary following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school.

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(2) If a district does not provide an alternative school, class, or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

R.R.S. Neb. § 79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

- (1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;
- (2) Such written notice shall include the following:
 - (a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;
 - (b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;
 - (c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;
 - (d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;
 - (e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and
 - (f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections 79-271 and 79-272; and
- (3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the

date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.

R.R.S. Neb. § 79-271. Hearing; not requested within five days; recommended punishment; effect.

If a hearing is not requested under sections 79-268 and 79-269 by the student or the student's parent or guardian within five school days following receipt of the written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian as required in section 79-268.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-282 shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect.

R.R.S. Neb. § 79-294. Removal of minor from school premises; release to peace officer; principal or other school official; duties; peace officer; duties; juvenile court review; when.

When a principal or other school official releases a minor student to a peace officer as defined in section 49-801 for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, in which case the principal or other school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the peace officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held or that the disclosure would cause the custody of the minor to be disturbed, the peace officer may refuse to disclose the place where the minor is being held for a period not to exceed twenty-four hours. The peace officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at any subsequent detention hearing.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

- (2) Each school district shall provide annually to the State Department of Education:
- (a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and
 - (b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:
 - (i) The name of the school concerned;
 - (ii) The number of students expelled from the school; and
 - (iii) The types of weapons concerned.

REGULATIONS

Nebraska Admin. Code Title 92, Ch. 17-004. Reporting procedures.

04.01 Effective with the 1997-98 school year, each school district shall assure, in a manner prescribed by the Department, that the district is in compliance with the requirements of this Chapter.

04.02 Each school district shall annually report, in a manner prescribed by the Department, a description of the circumstances for any expelled student who knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. The report shall include:

004.02A The name of the school concerned.

004.02B The number of students expelled from the school.

004.02C The types of weapons concerned.

004.02D The types of programs to which students have been assigned.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

R.R.S. Neb. § 79-293. Nebraska Criminal Code violation; principal or principal's designee; notify law enforcement authorities; immunity.

(1) The principal of a school or the principal's designee shall notify as soon as possible the appropriate law enforcement authorities, of the county or city in which the school is located, of any act of the student as provided in subsection (1) of section 79-262 which the principal or designee knows or suspects is a violation of the Nebraska Criminal Code.

(2) The principal, the principal's designee, or any other school employee reporting an alleged violation of the Nebraska Criminal Code shall not be civilly or criminally liable as a result of any report authorized by this section unless (a) such report was false and the person making such report knew or should have known it was false or (b) the report was made with negligent disregard for the truth or falsity of the report.

R.R.S. Neb. § 79-294. Removal of minor from school premises; release to peace officer; principal or other school official; duties; peace officer; duties; juvenile court review; when.

When a principal or other school official releases a minor student to a peace officer as defined in section 49-801 for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, in which case the principal or other school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the peace officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held or that the disclosure would cause the custody of the minor to be disturbed, the peace officer may refuse to disclose the place where the minor is being held for a period not to exceed twenty-four hours. The peace officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at any subsequent detention hearing.

R.R.S. Neb. § 79-2,704. Memorandum of understanding; contents.

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

- (6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

R.R.S. Neb. § 79-2,704. Memorandum of understanding; contents.

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

- (1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;
- (2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

R.R.S. Neb. § 79-2,701. Legislative findings and declarations.

The Legislature finds and declares that:

- (1) Our public school children, faculty, and staff are entitled to be safe in schools when they attend school and study or work;
- (2) Schools have an interest in keeping students safe;
- (3) The interest of schools in keeping students safe may include the presence of school resource officers or security guards if a school district determines such resources are necessary to keep schools safe;
- (4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted in response to a possible law violation, questioned, searched, cited, or arrested by a peace officer working with school officials;
- (5) A comprehensive and clear memorandum of understanding between law enforcement and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, with the goal that an increased law enforcement presence at schools will not result in a disparate impact on students in federally identified demographic categories; and
- (6) Schools have a duty to respond to and manage disciplinary issues. The primary role of school resource officers and security officers should be to enhance safety with the understanding that school

resource officers also work to prevent and respond to law violations and serve as a community resource for students, parents, and school staff.

R.R.S. Neb. § 79-2,702. Terms, defined.

For purposes of sections 79-2701 to 79-2704, unless the context otherwise requires:

- (1) Department means the State Department of Education;
- (2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106;
- (3) Peace officer has the same meaning as in section 28-109;
- (4) School resource officer means any peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary school and does not mean a peace officer responding to a call for service, providing proactive enforcement, providing law enforcement or traffic direction for a school-related event, or providing temporary services as a school resource officer when the assigned school resource officer is not available;
- (5) Security agency means a contractor that employs security guards used by a school district; and
- (6) Security guard means a person who is contracted or employed by a security agency to protect buildings and people and who does not have law enforcement authority or the power to arrest under any apparent authority in the jurisdiction where such person is contracted or employed as a security guard. A security guard may be an off-duty peace officer.

R.R.S. Neb. § 79-2,703. Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.

- (1) On or before December 1, 2019, the department shall develop and distribute a model memorandum of understanding that includes the policies required by section 79-2704. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district pursuant to this section that has not developed and adopted a different written memorandum of understanding shall adopt the model memorandum of understanding developed by the department.
- (2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security guards to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and provisions the school district and the law enforcement agency or security agency mutually deem appropriate.
- (3) The superintendent of a school district required to adopt a memorandum of understanding under this section shall, within three months after its adoption, provide a copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.
- (4) On or before January 1, 2021, and each January 1 thereafter, when any school district required to adopt a memorandum of understanding under this section has made any change to its memorandum of understanding, in conjunction with the law enforcement agency or security agency, in the preceding year, the superintendent of such school district shall provide an updated copy of such memorandum of

understanding to the department or publicly post such memorandum of understanding on the school district web site.

R.R.S. Neb. § 79-2,704. Memorandum of understanding; contents.

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

- (1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;
- (2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;
- (3) Ensure records are kept on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:
 - (a) The reason for such referral; and
 - (b) Federally identified demographic characteristics of such student;
- (4) Identify school policies that address when a parent or guardian will be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;
- (5) Identify the school or law enforcement agency policies that address under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;
- (6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and
- (7) Identify a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the law enforcement agency or security agency.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Nebraska provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Policy Development, Nebraska Department of Education (NDE)	Components of an anti-bullying policy.	https://www.education.ne.gov/safety/bullying%20policy%20development/
Bullying Prevention, NDE	Describes bullying prevention efforts in Nebraska schools and provides links to resources for schools to address the issue of bullying in schools.	https://www.education.ne.gov/safety/bullying-prevention/
Nebraska Positive Behavioral Interventions and Support (PBIS), NDE	Provides program information and links to resources for the Positive Behavioral Interventions and Support program in Nebraska schools.	https://www.education.ne.gov/NPBIS/Index.html
Creating Trauma-Sensitive Schools	Provides information and resources to support educators in creating trauma-sensitive schools.	https://www.education.ne.gov/csss/creating-trauma-sensitive-schools/
Nebraska School Safety Center, NDE	Provides an overview on School Safety and links to subtopics including bullying prevention and school safety training.	www.education.ne.gov/safety
NeMTSS Framework	Provides resource and informative presentations on MTSS framework. Provides information and background on the use and implementation of MTSS in Nebraska.	http://nemtss.unl.edu/
Response to Intervention Framework (RtI) in Nebraska, NDE	Provides information and additional resources on Nebraska's RtI framework including essential elements of RtI, instruction, and parental involvement.	https://www.education.ne.gov/nemts/rti-framework-in-nebraska/

Social and Emotional Learning (SEL), NDE	Provides an overview of SEL and additional resources to organizations and programs to help guide schools and educators in implementation of SEL.	https://www.education.ne.gov/socialstudies/social-and-emotional-learning/
Title	Description	Website address (if applicable)
<i>Documents</i>		
Agents of Change for Equity Playbook, NDE	Provides guidance and resources on achieving an equal system of support and services for each student.	https://ndeday.education.ne.gov/wp-content/uploads/2019/08/2019AdminDaysKeynoteHandout.pdf
Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools (June 2010), NDE	Technical assistance document for Nebraska School districts to create or revise policies and procedures related to the use of physical restraint and seclusion in school settings.	http://www.education.ne.gov/documents/Restraint-Seclusion_final_guidance_document_6-22-10.pdf
The Four Elements of Bullying Flowchart, NDE	A visual guide of understanding the four elements of bullying. Document also contains additional bullying prevention resources for educators, students, and families.	https://cdn.education.ne.gov/wp-content/uploads/2017/07/Bullying_Flowchart.pdf
<i>Other Resources</i>		
Nebraska MTSS 2020 Summit Presentations	Various presentations from the 2020 NeMTSS Summit to serve as additional resources and guidance for MTSS implementation.	http://nemtss.unl.edu/nebraska-mtss-summit/#wk1
School Climate Surveys, NDE	Resource library with links to national school climate surveys which cover topics such as student behavior and school safety.	https://www.education.ne.gov/safety/school-climate-survey/
Student Safety and Student Success Video Series (2021), NDE	Video series developed on school safety for school staff covering topics such as mental health, student behavior and school climate data.	https://www.education.ne.gov/safety/school-safety-and-student-success/



Nevada Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 62E. Disposition of Cases by Juvenile Court

[NRS 62E.030.](#) Court to provide certain information to school district concerning certain offenses

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Provision of Safe and Respectful Learning Environment

General Provisions

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Chapter 389. Academics and Textbooks

- [NAC 389.195.](#) Elementary school

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

NRS 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the governing bodies, educational personnel, local associations and organizations of parents whose children are enrolled in schools throughout this State, and individual parents and legal guardians whose children are enrolled in schools throughout this State, prescribe by regulation a policy for all school districts and schools to provide a safe and respectful learning environment that is free of discrimination based on race, bullying and cyber-bullying.
2. The policy must include, without limitation:
 - (a) Requirements and methods for reporting violations of NRS 388.135, including, without limitation, violations among teachers and violations between teachers and administrators, coaches and other personnel of a school district or school;
 - (b) Requirements and methods for addressing the rights and needs of persons with diverse gender identities or expressions;
 - (c) Requirements and methods for restorative disciplinary practices that align with the statewide framework for restorative justice if such a framework is developed pursuant to section 2 of this act; and
 - (d) A policy for use by school districts and schools to train members of the governing body and all administrators, teachers and all other personnel employed by the governing body. The policy must include, without limitation:
 - (1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of discrimination based on race, bullying and cyber-bullying so that pupils may realize their full academic and personal potential;
 - (2) Training in methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying;
 - (3) Training concerning the needs of persons with diverse gender identities or expressions;
 - (4) Training concerning the needs of pupils with disabilities and pupils with autism spectrum disorder;
 - (5) Methods to promote a positive learning environment;
 - (6) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and
 - (7) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

NRS 388.134. Policy by governing bodies for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to governing bodies and school personnel; posting of policies on Internet website; annual review and update of policies.

Each governing body shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The governing body may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.
2. Provide for the appropriate training of members of the governing body and all administrators, teachers and all other personnel employed by the governing body in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520. For members of the governing body who have not previously served on the governing body or for employees of the school district or school who have not previously been employed by the district or school, the training required by this subsection must be provided within 180 days after the member begins his or her service or after the employee begins his or her employment, as applicable.
3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district or school.
4. Ensure that the parents and legal guardians of pupils enrolled in the school district or school have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district or school. Upon the request of a parent or legal guardian, the school district or school shall provide the parent or legal guardian with a written copy of the policies.
5. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the governing body updates the policies, the governing body must submit a copy of the updated policies to the Department within 30 days after the update.

NRS 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

1. Each school district shall adopt a plan to ensure that the public schools within the school district are safe and free of controlled substances. The plan must comply with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.
2. Each school district shall prescribe written rules of behavior required of and prohibited for pupils attending school within their district and shall prescribe appropriate punishments for violations of the rules. If suspension or expulsion is used as a punishment for a violation of the rules, the school district shall follow the procedures in NRS 392.467.
3. A copy of the plan adopted pursuant to subsection 1 and the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments prescribed pursuant to subsection 2 must be distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year. Copies must also be made available for inspection at each school located in that district in an area on the grounds of the school which is open to the public.

NRS 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.
2. The policy established pursuant to subsection 1 may include, without limitation:
 - (a) The provision of training for the prevention of the activities of criminal gangs on school property.
 - (b) If the policy includes training:
 - (1) A designation of the grade levels of the pupils who must receive the training.
 - (2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.
 - (c) Provisions which prohibit:
 - (1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and
 - (2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.
 - (d) Provisions which provide for the suspension or expulsion pursuant to NRS 392.466 and 392.467 of pupils who violate the policy.
3. The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:
 - (a) Local law enforcement agencies;
 - (b) School police officers, if any;
 - (c) Persons who have experience regarding the actions and activities of criminal gangs;
 - (d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and
 - (e) Any other person deemed necessary by the board of trustees.
4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

NRS 392.4637. Policy concerning use and possession of pagers, cellular telephones and other electronic devices.

1. The board of trustees of each school district shall adopt a policy concerning the use and possession by pupils of a pager, cellular telephone or any other similar electronic device used for communication while on the premises of a public school or while at an activity sponsored by a public school.
2. The policy adopted pursuant to subsection 1 must:
 - (a) Prescribe appropriate measures for disciplining a pupil who violates the policy.
 - (b) Be included within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

NRS 392.4638. Board of trustees authorized to adopt policy for pupils to report unlawful activity being conducted on school property, activity sponsored by public school or on school bus.

1. The board of trustees of each school district may adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy may include, without limitation:
 - (a) The types of unlawful activities which a pupil may report; and
 - (b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist the board of trustees in the implementation of a policy adopted pursuant to subsection 1.
3. If the board of trustees of a school district adopts a policy pursuant to subsection 1, each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods by which a report may be made. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.
4. If the board of trustees of a school district adopts a policy pursuant to subsection 1, the board of trustees shall post the policy on the Internet website maintained by the school district.

NRS 392.464. Adoption and enforcement by trustees of disciplinary measures for pupil in possession of alcoholic beverage or controlled substance on premises of school.

1. The board of trustees of each school district shall adopt and enforce measures for disciplining any pupil who is found in possession of an alcoholic beverage or a controlled substance, while on the premises of any public school in its district.
2. As used in this section, "alcoholic beverage" has the meaning ascribed to it in NRS 202.015.

NRS 392.4644. Plan for restorative discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and distribution of plan; written reports by board of trustees concerning compliance with section.

1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:
 - (a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, pupils who are enrolled in schools within the school district and the parents and guardians of pupils who are enrolled in schools within the school district.
 - (b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.
 - (c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.
 - (d) Provide restorative disciplinary practices which include, without limitation:
 - (1) Holding a pupil accountable for his or her behavior;
 - (2) Restoration or remedies related to the behavior of the pupil;
 - (3) Relief for any victim of the pupil; and
 - (4) Changing the behavior of the pupil.
 - (e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.
 - (f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.
 - (g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.
 - (h) Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.

- (i) Be posted on the Internet website maintained by the school district.
2. On or before September 15 of each year, the principal of each public school shall:
- (a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;
- (b) Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;
- (c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;
- (d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and
- (e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.
- (f) On or before November 15 of each year, the board of trustees of each school district shall: Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section, including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250; and
- (g) Post a copy of the report on the Internet website maintained by the school district.
3. As used in this section, "restorative justice" has the meaning ascribed to it in NRS 392.472.

REGULATIONS

No relevant regulations found.

Scope

LAWS

NRS 388.135. Bullying and cyber-bullying prohibited.

A member of a governing body, any employee of a governing body, including, without limitation, an administrator, teacher or other staff member, a member of a club or organization which uses the facilities of any school, regardless of whether the club or organization has any connection to the school, or any pupil shall not engage in discrimination based on race, bullying or cyber-bullying on the premises of any school, at an activity sponsored by a school or on any school bus.

NRS 391.270. Teachers: Holding pupils to account for conduct.

Every teacher in the public schools shall hold pupils to a strict account of their conduct on and in close proximity to the school grounds, on the play ground, and during any intermission.

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:

(a) The employee feels any actions taken pursuant to such plan are inappropriate; and

(b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.

5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
- (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.
8. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
9. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.
10. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:
- (a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
 - (b) Permanently expelled from school pursuant to this section.
11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or

school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is in enrolled or the school counselor of the pupil.

12. As used in this section:

- (a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.
- (b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.
- (c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.
- (d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
- (e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).
- (f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.
- (g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

NRS 388.134. Policy by governing bodies for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to governing bodies and school personnel; posting of policies on Internet website; annual review and update of policies.

Each governing body shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The governing body may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.
2. Provide for the appropriate training of members of the governing body and all administrators, teachers and all other personnel employed by the governing body in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520. For members of the governing body who have not previously served on the governing body or for employees of the

3. school district or school who have not previously been employed by the district or school, the training required by this subsection must be provided within 180 days after the member begins his or her service or after the employee begins his or her employment, as applicable.
4. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district or school.
5. Ensure that the parents and legal guardians of pupils enrolled in the school district or school have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district or school. Upon the request of a parent or legal guardian, the school district or school shall provide the parent or legal guardian with a written copy of the policies.
6. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the governing body updates the policies, the governing body must submit a copy of the updated policies to the Department within 30 days after the update.

NRS 388.1341. Development of informational pamphlet by Department; annual review and update; posting on Internet website; development of tutorial.

1. The Department, in consultation with persons who possess knowledge and expertise in discrimination based on race, bullying and cyber-bullying, shall, to the extent money is available, develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in schools in this State in resolving incidents of discrimination based on race, bullying or cyber-bullying. If developed, the pamphlet must include, without limitation:
 - (a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6;
 - (b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for discrimination based on race, bullying and cyber-bullying; and
 - (c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by a governing body.
2. If the Department develops a pamphlet pursuant to subsection 1, the Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.
3. If the Department develops a pamphlet pursuant to subsection 1, the Department shall post a copy of the pamphlet on the Internet website maintained by the Department.
4. To the extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1, if such a pamphlet is developed by the Department.

NRS 388.139. Text of certain provisions required to be included in rules of behavior.

Each school district shall include the text of the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading " Discrimination Based on Race, Bullying and Cyber-Bullying Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

NRS 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

1. Each school district shall adopt a plan to ensure that the public schools within the school district are safe and free of controlled substances. The plan must comply with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.
2. Each school district shall prescribe written rules of behavior required of and prohibited for pupils attending school within their district and shall prescribe appropriate punishments for violations of the rules. If suspension or expulsion is used as a punishment for a violation of the rules, the school district shall follow the procedures in NRS 392.467.
3. A copy of the plan adopted pursuant to subsection 1 and the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments prescribed pursuant to subsection 2 must be distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year. Copies must also be made available for inspection at each school located in that district in an area on the grounds of the school which is open to the public.

NRS 392.464. Plan for restorative discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and distribution of plan; written reports by board of trustees concerning compliance with section.

1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:
 - (a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, pupils who are enrolled in schools within the school district and the parents and guardians of pupils who are enrolled in schools within the school district.
 - (b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.
 - (c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.
 - (d) Provide restorative disciplinary practices which include, without limitation:
 - (1) Holding a pupil accountable for his or her behavior;
 - (2) Restoration or remedies related to the behavior of the pupil;
 - (3) Relief for any victim of the pupil; and
 - (4) Changing the behavior of the pupil.
 - (e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.
 - (f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.
 - (g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.
 - (h) Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.
 - (i) Be posted on the Internet website maintained by the school district.

2. On or before September 15 of each year, the principal of each public school shall:

(a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;

(b) Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;

(c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;

(d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and

(e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.

3. On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section, including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250; and

(b) Post a copy of the report on the Internet website maintained by the school district.

4. As used in this section, "restorative justice" has the meaning ascribed to it in NRS 392.472.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

NRS 392.4644. Plan for restorative discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and distribution of plan; written reports by board of trustees concerning compliance with section.

1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:
 - (a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, pupils who are enrolled in schools within the school district and the parents and guardians of pupils who are enrolled in schools within the school district.
 - (b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.
 - (c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.
 - (d) Provide restorative disciplinary practices which include, without limitation:
 - (1) Holding a pupil accountable for his or her behavior;
 - (2) Restoration or remedies related to the behavior of the pupil;
 - (3) Relief for any victim of the pupil; and
 - (4) Changing the behavior of the pupil.
 - (e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.
 - (f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.
 - (g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.
 - (h) Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.
 - (i) Be posted on the Internet website maintained by the school district.
2. On or before September 15 of each year, the principal of each public school shall:
 - (a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;
 - (b) Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;
 - (c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;

(d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and

(e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.

3. On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section, including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250; and

(b) Post a copy of the report on the Internet website maintained by the school district.

4. As used in this section, "restorative justice" has the meaning ascribed to it in NRS 392.472.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

NRS 392.4645. Removal of pupil: Notice; assignment to temporary alternative placement; exceptions.

1. Except as otherwise in subsection 5, the plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom or other premises of a public school if, in the judgment of the teacher or other staff member responsible for the classroom or other premises, as applicable, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn or with the ability of the staff member to discharge his or her duties. The plan must provide that, upon the removal of a pupil from a classroom or any other premises of a public school pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

2. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom or any other premises of a public school pursuant to this section may be assigned to a temporary alternative placement pursuant to which the pupil:

(a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;

(b) Studies or remains under the supervision of appropriate personnel of the school district; and

(c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

3. The principal shall not assign a pupil to a temporary alternative placement if the suspension or expulsion of a pupil who is removed from the classroom pursuant to this section is:

(a) Required by NRS 392.466; or

(b) Authorized by NRS 392.467 and the principal decides to proceed in accordance with that section.

If the principal proceeds in accordance with NRS 392.466 or 392.467, the pupil must be removed from school in accordance with those sections and the provisions of NRS 392.4642 to 392.4648, inclusive, do not apply to the pupil.

4. A public school must offer a pupil who is removed from a classroom or any other premises of the public school pursuant to this section for more than 2 school days:

(a) Education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period the pupil is removed from a classroom or any other premises of the public school; and

(b) Appropriate positive behavioral interventions and support, trauma-informed support and a referral to a school social worker or school counselor.

5. Before removing a pupil from a classroom or any other premises of a public school pursuant to this section for more than 1 school day, the principal of the school must contact the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker, to make a determination of whether the pupil is a homeless pupil.

6. As used in this section, "homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.4646. Removal of pupil: Conference; recommendation of principal.

1. Except as otherwise provided in this section, not later than 3 school days after a pupil is removed from a classroom or any other premises of a public school pursuant to NRS 392.4645, a conference must be held with:

(a) The pupil;

(b) A parent or legal guardian of the pupil, unless the pupil is an unaccompanied pupil;

(c) The principal of the school; and

(d) The teacher or other staff member who removed the pupil.

The principal shall give an oral and written notice of the conference to each person who is required to participate.

2. After receipt of the notice required pursuant to subsection 1, the parent or legal guardian of the pupil may, not later than 3 school days after the removal of the pupil, request that the date of the conference be postponed. The principal shall accommodate such a request. If the date of the conference is postponed pursuant to this subsection, the principal shall send written notice to the parent or legal guardian confirming that the conference has been postponed at the request of the parent or legal guardian.

3. If a parent or legal guardian of a pupil refuses to attend a conference, the principal of the school shall send a written notice to the parent or legal guardian confirming that the parent or legal guardian has waived the right to a conference provided by this section and authorized the principal to recommend the placement of the pupil pursuant to subsection 6.

4. Except as otherwise provided in this subsection, a pupil must not return to the classroom or other premises of the public school from which the pupil was removed before the conference is held. If the conference is not held within 3 school days after the removal of the pupil, the pupil, including, without limitation, an unaccompanied pupil or a pupil in foster care, must be allowed to return to the classroom or other premises unless:

(a) The parent or legal guardian of the pupil refuses to attend the conference;

(b) The failure to hold a conference is attributed to the action or inaction of the pupil, including, without limitation, an unaccompanied pupil or a pupil in foster care, or the parent or legal guardian of the pupil; or

(c) The parent or legal guardian requested that the date of the conference be postponed.

5. During the conference, the teacher who removed the pupil from the classroom, the staff member who removed the pupil from the other premises of the public school or the principal shall provide the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian with an explanation of the reason for the removal of the pupil from the classroom or other premises. The pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian must be granted an opportunity to

respond to the explanation of the pupil's behavior and to indicate whether the removal of the pupil from the classroom or other premises was appropriate in their opinion based upon the behavior of the pupil. If the pupil is a homeless pupil, the conference must include consideration of and interventions to mitigate the impact of homelessness on the behavior of the pupil.

6. Upon conclusion of the conference or, if a conference is not held pursuant to subsection 3 not later than 3 school days after the removal of a pupil from a classroom or other premises of a public school, the principal shall recommend whether to return the pupil to the classroom or other premises or continue the temporary alternative placement of the pupil if the pupil has been assigned to a temporary alternative placement.

7. As used in this section:

(a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(c) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

NRS 392.4648. Powers and duties of committee to review temporary alternative placement of pupils; principal to report to school district when committee convened; submission of compiled reports.

1. If the teacher or other staff member who removed a pupil from the classroom or other premises of a public school does not agree with the recommendation of the principal pursuant to subsection 6 of NRS 392.4646, the principal shall continue the temporary alternative placement of the pupil and shall immediately convene a meeting of the committee created pursuant to NRS 392.4647. The principal shall inform the parent or legal guardian of the pupil that the committee will be conducting a meeting. The committee shall review the circumstances of the pupil's removal from the classroom or other premises of the public school and the pupil's behavior that caused the pupil to be removed from the classroom or other premises. Based upon its review, the committee shall assess the best placement available for the pupil and shall, without limitation:

(a) Direct that the pupil be returned to the classroom or other premises from which he or she was removed;

(b) Assign the pupil to another appropriate classroom or other premises;

(c) Assign the pupil to an alternative program of education, if available;

(d) Recommend the suspension or expulsion of the pupil in accordance with NRS 392.467; or

(e) Take any other appropriate disciplinary action against the pupil that the committee deems necessary.

2. A principal shall report to the school district each time a committee created pursuant to NRS 392.4647 is convened and, upon the conclusion of the committee's review of a placement, shall supplement the report with the result of the assessment of the committee.

3. Each school district shall compile the reports submitted to the school district pursuant to subsection 2 and, on or before July 1 of each year, submit an annual report to the Legislative Committee on Education containing such information for all schools located in the school district.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

NRS 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the governing bodies, educational personnel, local associations and organizations of parents whose children are enrolled in schools throughout this State, and individual parents and legal guardians whose children are enrolled in schools throughout this State, prescribe by regulation a policy for all school districts and schools to provide a safe and respectful learning environment that is free of discrimination based on race, bullying and cyber-bullying.
2. The policy must include, without limitation:
 - (c) Requirements and methods for restorative disciplinary practices that align with the statewide framework for restorative justice if such a framework is developed pursuant to section 2 of this act.

NRS 392.4644. Plan for restorative discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and distribution of plan; written reports by board of trustees concerning compliance with section.

1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:
 - (a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, pupils who are enrolled in schools within the school district and the parents and guardians of pupils who are enrolled in schools within the school district.
 - (b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.
 - (c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.
 - (d) Provide restorative disciplinary practices which include, without limitation:
 - (1) Holding a pupil accountable for his or her behavior;
 - (2) Restoration or remedies related to the behavior of the pupil;
 - (3) Relief for any victim of the pupil; and
 - (4) Changing the behavior of the pupil.
 - (e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.
 - (f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.
 - (g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.
 - (h) Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.
 - (i) Be posted on the Internet website maintained by the school district.
2. On or before September 15 of each year, the principal of each public school shall:
 - (a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;

(b) Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;

(c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;

(d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and

(e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.

3. On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section, including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250; and

(b) Post a copy of the report on the Internet website maintained by the school district.

4. As used in this section, "restorative justice" has the meaning ascribed to it in NRS 392.472.

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be suspended or expelled from the school, in which case the pupil shall:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program. [...]

4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.

5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, based on the seriousness of the acts which were the basis for the discipline, the pupil may be:

- (a) Suspended from the school;
- (a) Expelled from the school under extraordinary circumstances as determined by the principal of the school. [..7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.

NRS 392.472. Requirement to provide plan of action before expelling pupil; example plans of action; approval of plans of action; guidance document; regulations.

1. Except as otherwise provided in NRS 392.466 and to the extent practicable, a public school shall provide a plan of action based on restorative justice before removing a pupil from a classroom or other premises of the public school or suspending or expelling a pupil from school.
2. The Department shall develop one or more examples of a plan of action which may include, without limitation:
 - (a) Positive behavioral interventions and support;
 - (b) A plan for behavioral intervention;
 - (c) A referral to a team of student support;
 - (d) A referral to an individualized education program team;
 - (e) A referral to appropriate community-based services; and
 - (f) A conference with the principal of the school or his or her designee and any other appropriate personnel.
3. The Department may approve a plan of action based on restorative justice that meets the requirements of this section submitted by a public school.
4. The Department shall post on its Internet website a guidance document that includes, without limitation:
 - (a) A description of the statewide framework for restorative justice developed pursuant to section 2 of this act and the requirements of this section and NRS 392.462;
 - (b) A timeline for implementation of the requirements of this section and NRS 392.462 by a public school;
 - (c) One or more models of restorative justice and best practices relating to restorative justice;
 - (d) A curriculum for professional development relating to restorative justice and references for one or more consultants or presenters qualified to provide additional information or training relating to restorative justice; and
 - (e) One or more examples of a plan of action based on restorative justice developed pursuant to subsection 2.
5. The Department shall adopt regulations necessary to carry out the provisions of this section.
6. As used in this section:
 - (a) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).
 - (b) "Restorative Justice" means nonpunitive intervention and support provided by the school to a pupil to improve the behavior of the pupil and remedy any harm caused by the pupil.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

NRS 388.478. “Corporal punishment” defined”.

“Corporal punishment” means the intentional infliction of physical pain, including, without limitation, hitting, pinching or striking.

NRS 392.303. Employee of or volunteer for school required to make report; timing of and entity to be notified of report; investigation of reports.

1. In addition to the reporting required by NRS 432B.220, if, in his or her capacity as an employee of or volunteer for a public school or private school, such an employee or volunteer knows or has reasonable cause to believe that a child has been subjected to:
 - (a) Abuse or neglect, sexual conduct in violation of NRS 201.540 or luring in violation of NRS 201.560 by another employee of or volunteer for a public school or private school, the employee or volunteer who has such knowledge or reasonable cause to believe shall report the abuse or neglect, sexual conduct or luring to the agency which provides child welfare services in the county in which the school is located and a law enforcement agency.
 - (b) Corporal punishment in violation of NRS 392.4633 or 394.366 by another employee of or volunteer for a public school or private school, the employee or volunteer who has such knowledge or reasonable cause to believe shall report the corporal punishment to the agency which provides child welfare services in the county in which the school is located.
2. A report pursuant to subsection 1 must be made as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been subjected to abuse or neglect or a violation of NRS 201.540, 201.560, 392.4633 or 394.366.
3. If a law enforcement agency that receives a report pursuant to paragraph (a) of subsection 1 concludes that there is not probable cause to believe that the person allegedly responsible for the abuse or neglect or who allegedly violated NRS 201.540 or 201.560 committed the act of which he or she is accused, the law enforcement agency shall notify the agency which provides child welfare services of that determination.
4. If a school police officer receives a report pursuant to this section of an offense that is punishable as a category A felony, the school police officer shall notify the local law enforcement agency that has jurisdiction over the school.
5. A law enforcement agency, other than a school police officer, shall notify a school police officer, if such an officer is employed in the school district, if the law enforcement agency receives a report pursuant to this section of an offense that is punishable as a felony and:
 - (a) Allegedly occurred:
 - (1) On the property of a public school for which the board of trustees of the school district has employed or appointed school police officers;
 - (2) At an activity sponsored by such a school; or
 - (3) On a school bus while the school bus was being used by such a school for an official school-related purpose; or
 - (b) Was allegedly committed by a person who the law enforcement agency has reasonable cause to believe is an employee or volunteer of such a school.

6. An agency which provides child welfare services shall assess all allegations contained in any report made pursuant to this section and, if the agency deems appropriate, assign the matter for investigation.
7. Nothing in NRS 392.275 to 392.365, inclusive, shall be construed to prohibit an agency which provides child welfare services and a law enforcement agency from undertaking simultaneous investigations of the abuse or neglect of a child or a violation of NRS 201.540 or 201.560.

NRS 392.305. Method of making report; content.

1. A person may make a report pursuant to NRS 392.303 by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable.
2. The report must contain the following information, if obtainable and to the extent applicable:
 - (a) The name, address, age and sex of the child and the school in which the child is enrolled;
 - (b) The name and address of the child's parents or other person responsible for the care of the child;
 - (c) The nature and extent of the abuse or neglect of the child or the sexual conduct, luring or corporal punishment to which the child was subjected;
 - (d) The name, address and relationship, if known, of the person who is alleged to have abused or neglected, engaged in sexual contact with, lured or administered corporal punishment to, the child; and
 - (e) Any other information known to the person making the report that the agency which provides child welfare services considers necessary.

NRS 392.4633. Corporal punishment prohibited.

1. Corporal punishment must not be administered upon a pupil in any public school.
2. Subsection 1 does not prohibit any person from defending himself or herself if attacked by a pupil.
3. As used in this section, "corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:
 - (a) To quell a disturbance that threatens physical injury to any person or the destruction of property;
 - (b) To obtain possession of a weapon or other dangerous object within a pupil's control;
 - (c) For the purpose of self-defense or the defense of another person; or
 - (d) To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

NRS 388.471. Definitions.

As used in NRS 388.471 to 388.515, inclusive, unless the context otherwise requires, the words and terms defined in NRS 388.473 to 388.495, inclusive, have the meanings ascribed to them in those sections.

NRS 388.473. “Aversive intervention” defined.

“Aversive intervention” means any of the following actions if the action is used to punish a pupil with a disability or to eliminate, reduce or discourage maladaptive behavior of a pupil with a disability:

1. The use of noxious odors and tastes;
2. The use of water and other mists or sprays;
3. The use of blasts of air;
4. The use of corporal punishment;
5. The use of verbal and mental abuse;
6. The use of electric shock;
7. The administration of chemical restraint to a person;
8. The placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room;
9. Requiring a person to perform exercise under forced conditions if the:
 - (a) Person is required to perform the exercise because he or she exhibited a behavior that is related to his or her disability;
 - (b) Exercise is harmful to the health of the person because of his or her disability; or
 - (c) Nature of the person’s disability prevents him or her from engaging in the exercise; or
10. The deprivation of necessities needed to sustain the health of a person, regardless of the length of the deprivation, including, without limitation, the denial or unreasonable delay in the provision of:
 - (a) Food or liquid at a time when it is customarily served; or
 - (b) Medication.

NRS 388.476. “Chemical restraint” defined.

“Chemical restraint” means the administration of drugs for the specific and exclusive purpose of controlling an acute or episodic aggressive behavior when alternative intervention techniques have failed to limit or control the behavior. The term does not include the administration of drugs on a regular basis, as prescribed by a physician, to treat the symptoms of mental, physical, emotional or behavioral disorders and for assisting a person in gaining self-control over his or her impulses.

NRS 388.478. “Corporal punishment” defined.

“Corporal punishment” means the intentional infliction of physical pain, including, without limitation, hitting, pinching or striking.

NRS 388.48“. **“Electric shock” define“.**

“Electric shock” means the application of electric current to a person’s skin or body. The term does not include electroconvulsive therapy.

NRS 388.48“. **“Emergency” define“.**

“Emergency” means a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage.

NRS 388.49“. **“Mechanical restraint” define“.**

“Mechanical restraint” means the use of devices, including, without limitation, mittens, straps and restraint chairs to limit a person’s movement or hold a person immobile.

NRS 388.49“. **“Physical restraint” define“.**

“Physical restraint” means the use of physical contact to limit a person’s movement or hold a person immobile.

NRS 388.49“. **“Verbal and mental abuse” define“.**

“Verbal and mental abuse” means actions or utterances that are intended to cause and actually cause severe emotional distress to a person.

NRS 388.497. Aversive intervention prohibited.

A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.

NRS 388.499. Physical restraint and mechanical restraint prohibited; exceptions.

A person employed by the board of trustees of a school district or any other person shall not:

1. Except as otherwise provided in NRS 388.501, use physical restraint on a pupil with a disability.
2. Except as otherwise provided in NRS 388.503, use mechanical restraint on a pupil with a disability.

NRS 388.501. Conditions under which physical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:
 - (a) An emergency exists that necessitates the use of physical restraint;
 - (b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to the pupil or to others or causing severe property damage; and
 - (c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.
2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:
 - (a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if the pupil’s resistance is minimal in intensity and duration;
 - (b) Escort or carry the pupil to safety if the pupil is in danger in his or her present location; or
 - (c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.513.

4. If a pupil with a disability has three reports of the use of physical restraint in his or her record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

NRS 388.503. Conditions under which mechanical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

- (a) An emergency exists that necessitates the use of mechanical restraint;
- (b) A medical order authorizing the use of mechanical restraint from the pupil's treating physician or advanced practice registered nurse is included in the pupil's individualized education program before the application of the mechanical restraint;
- (c) The physician or advanced practice registered nurse who signed the order required pursuant to paragraph (b) or the attending physician or attending advanced practice registered nurse examines the pupil as soon as practicable after the application of the mechanical restraint;
- (d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;
- (e) The pupil is given the opportunity to move and exercise the parts of his or her body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician or advanced practice registered nurse who signed the order;
- (f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop injury to himself or herself without the use of the restraint;
- (g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;
- (h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and
- (i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or herself.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

- (a) Treat the medical needs of the pupil;
- (b) Protect a pupil who is known to be at risk of injury to himself or herself because he or she lacks coordination or suffers from frequent loss of consciousness;
- (c) Provide proper body alignment to a pupil; or
- (d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.513.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, t limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

NRS 388.505. Mandatory education and training for staff.

1. The Department shall develop a model program of education for use by the school districts to train the members of the staff of the schools within the school districts who are identified in the individualized education programs of pupils with disabilities to provide services to those pupils. The model program of education must provide instruction in positive behavioral interventions and positive behavioral supports that:

- (a) Includes positive methods to modify the environment of pupils with disabilities to promote adaptive behavior and reduce the occurrence of inappropriate behavior;
- (b) Includes methods to teach skills to pupils with disabilities so that the pupils can replace inappropriate behavior with adaptive behavior;
- (c) Includes methods to enhance the independence and quality of life for pupils with disabilities;
- (d) Includes the use of the least intrusive methods to respond to and reinforce the behavior of pupils with disabilities; and
- (e) Offers a process for designing interventions based upon the pupil that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the pupil.

2. The board of trustees of each school district shall provide for appropriate training for the members of the staff of the schools within the school district who are authorized to carry out and monitor physical

restraint and mechanical restraint to ensure that those members of the staff are qualified to carry out the procedures in accordance with NRS 388.471 to 388.515, inclusive.

NRS 388.506. Disciplinary action against person for intentional violation.

In addition to any penalty prescribed by specific statute, a person who intentionally uses aversive intervention on a pupil with a disability or intentionally violates NRS 388.499 is subject to disciplinary action pursuant to NRS 391.330 or 391.750, or both.

NRS 388.508. Report of violation; corrective plan required; appointment of administrator to oversee school under certain circumstances.

1. A school where a violation of NRS 388.471 to 388.515, inclusive, occurs shall report the violation to the board of trustees of the school district not later than 24 hours after the violation occurred, or as soon thereafter as the violation is discovered.
2. The board of trustees of the school district where the violation occurred shall develop, in cooperation with the superintendent of schools of the school district, a corrective plan to ensure that within 30 calendar days after the violation occurred, appropriate action is taken by the school and the board of trustees to prevent future violations.
3. The superintendent of schools of the school district shall submit the plan to the Department. The Department shall review the plan to ensure that it complies with applicable federal law and the statutes and regulations of this state. The Department may require appropriate revision of the plan to ensure compliance.
4. If the school where the violation occurred does not meet the requirements of the plan to the satisfaction of the Department, the Department may appoint a licensed administrator to oversee the school to ensure that the school meets the requirements of the plan. An administrator serves at the pleasure of the Superintendent of Public Instruction and is entitled to receive such compensation as may be set by the superintendent. A school district that contains a school for which an administrator is appointed pursuant to this subsection shall reimburse the Department for any expenses incurred by the Department pursuant to this subsection.

NRS 388.511. Retaliation for reporting violation prohibited.

An officer, administrator or employee of a public school shall not retaliate against any person for having:

1. Reported a violation of NRS 388.471 to 388.515, inclusive; or
2. Provided information regarding a violation of NRS 388.471 to 388.515, inclusive, by a public school or a member of the staff of the public school.

NRS 388.513. Reporting of denial of rights; investigation and resolution of disputes by Department.

1. A denial of rights of a pupil with a disability pursuant to NRS 388.471 to 388.515, inclusive, must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district or its designee.
2. If the board of trustees of a school district or its designee receives notice of a denial of rights pursuant to subsection 1, the board of trustees or its designee shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.
3. The Department:
 - (a) Shall receive reports made pursuant to subsection 2;
 - (b) May investigate apparent violations of the rights of pupils with disabilities; and

May act to resolve disputes relating to apparent violation

(c) s.

NRS 388.515. Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.471 to 388.515, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:
 - (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall

5. explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.

6. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:

(a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.

7. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

8. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.

9. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

10. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

11. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Permanently expelled from school pursuant to this section.

11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care.

The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.

12. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other

object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

(d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.

(g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

NRS 392.467. Suspension or expulsion of pupil: Procedure; limitations.

1. Except as otherwise provided in subsections 5 and 6 and NRS 392.466, the board of trustees of a school district may authorize the suspension or expulsion of any pupil who is at least 11 years of age from any public school within the school district. Except as otherwise provided in NRS 392.466, a pupil who is not more than 10 years of age must not be permanently expelled from school.

2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The board of trustees of a school district may authorize the expulsion, suspension or removal of a pupil who has been charged with a crime from the school at which the pupil is enrolled regardless of the outcome of any criminal or delinquency proceedings brought against the pupil only if the school:

(a) Conducts an independent investigation of the conduct of the pupil; and

(b) Gives notice of the charges brought against the pupil by the school to the pupil.

4. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

5. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely for offenses related to attendance or because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

6. A pupil who is participating in a program of special education pursuant to NRS 388.419, other than a pupil who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days for each occurrence.

(b) Permanently expelled from school pursuant to this section.

7. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.

8. As used in this section:

(a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.4603. "Expel" or "expulsion" defined.

"Expel" or "expulsion" means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled for more than one school semester with the possibility of:

1. Except as otherwise provided in subsection 2, returning to the school in which the pupil is currently enrolled or another public school within the school district after the expulsion; and

2. Enrolling in a program or public school for alternative education for pupils who are expelled or permanently expelled during the period of expulsion.

NRS 392.4605. Pupil with disability defined.

"Pupil with a disability" has the meaning ascribed to it in [NRS 388.417](#).

NRS 392.4607. "Suspend" or "suspension" defined.

"Suspend" or "suspension" means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled for not more than one school semester.

(Added to NRS by [2021, 2329](#))

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

NRS 388.900. Regulations concerning identification and consideration of certain social and environmental factors.

The State Board shall adopt regulations that require:

1. The board of trustees of each school district and the governing body of each charter school to identify the social and environmental factors that affect the educational experience of pupils at each school in the district or the charter school, as applicable, and provide a description of those factors to the Department; and
2. The Department, the board of trustees of each school district, the governing body of each charter school and the staff of each public school to consider the factors identified pursuant to subsection 1 for a school when making decisions concerning the school or interacting with and making decisions concerning the staff of the school or pupils enrolled at the school. Such decisions include, without limitation, decisions concerning the allocation of money, the provision of integrated student supports pursuant to NRS 388.885, evaluations of members of the staff of the school pursuant to NRS 391.650 to 391.826, inclusive, salaries of members of the staff of the school and the discipline of pupils.

NRS 392.46335. Prohibition against disciplining pupils based on race.

1. A pupil enrolled in a public school may not be disciplined, including, without limitation, pursuant to subsection 5 of [NRS 386.855](#) or [NRS 392.466](#) or [392.467](#), based on the race of the pupil.
2. As used in this section:

(a) "Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.

(b) "Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.

NRS 392.4634. Prohibition against disciplining certain pupils for simulating firearm or dangerous weapon or wearing clothing or accessories that depict firearm or dangerous weapon; exceptions; prohibition against adoption of conflicting policy, ordinance or regulation.

1. Except as otherwise provided in subsection 3, a pupil enrolled in kindergarten or grades 1 to 8, inclusive, may not be disciplined, including, without limitation, pursuant to NRS 392.466, for:
 - (a) Simulating a firearm or dangerous weapon while playing; or
 - (b) Wearing clothing or accessories that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, unless it substantially disrupts the educational environment.
2. Simulating a firearm or dangerous weapon includes, without limitation:
 - (a) Brandishing a partially consumed pastry or other food item to simulate a firearm or dangerous weapon;
 - (b) Possessing a toy firearm or toy dangerous weapon that is 2 inches or less in length;
 - (c) Possessing a toy firearm or toy dangerous weapon made of plastic building blocks which snap together;
 - (d) Using a finger or hand to simulate a firearm or dangerous weapon;
 - (e) Drawing a picture or possessing an image of a firearm or dangerous weapon; and
 - (f) Using a pencil, pen or other writing or drawing implement to simulate a firearm or dangerous weapon.
3. A pupil who simulates a firearm or dangerous weapon may be disciplined when disciplinary action is consistent with a policy adopted by the board of trustees of the school district and such simulation:

(a) Substantially disrupts learning by pupils or substantially disrupts the educational environment at the school;

(b) Causes bodily harm to another person; or

(c) Places another person in reasonable fear of bodily harm.

4. Except as otherwise provided in subsection 5, a school, school district, board of trustees of a school district or other entity shall not adopt any policy, ordinance or regulation which conflicts with this section.

5. The provisions of this section shall not be construed to prohibit a school from establishing and enforcing a policy requiring pupils to wear a school uniform as authorized pursuant to NRS 386.855.

6. As used in this section:

(a) "Dangerous weapon" has the meaning ascribed to it in NRS 392.466.

(b) "Firearm" has the meaning ascribed to it in NRS 392.466.

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:

(a) The employee feels any actions taken pursuant to such plan are inappropriate; and

(b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

- (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
 5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
 - (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
 6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
 7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.
 8. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
 9. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.
 10. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

- (a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
- (b) Permanently expelled from school pursuant to this section.

11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is in enrolled or the school counselor of the pupil.

12. As used in this section:

- (a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.
- (b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.
- (c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.
- (d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
- (e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).
- (f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.
- (g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

NRS 392.467. Suspension or expulsion of pupil: Procedure; limitations.

- 1. Except as otherwise provided in subsections 5 and 6 and NRS 392.466, the board of trustees of a school district may authorize the suspension or expulsion of any pupil who is at least 11 years of age from any public school within the school district. Except as otherwise provided in NRS 392.466, a pupil who is not more than 10 years of age must not be permanently expelled from school.
- 2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous

3. weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.
4. The board of trustees of a school district may authorize the expulsion, suspension or removal of a pupil who has been charged with a crime from the school at which the pupil is enrolled regardless of the outcome of any criminal or delinquency proceedings brought against the pupil only if the school:
 - (a) Conducts an independent investigation of the conduct of the pupil; and
 - (b) Gives notice of the charges brought against the pupil by the school to the pupil.
5. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.
6. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely for offenses related to attendance or because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.
7. A pupil who is participating in a program of special education pursuant to NRS 388.419, other than a pupil who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:
 - (a) Suspended from school pursuant to this section for not more than 5 days for each occurrence.
 - (b) Permanently expelled from school pursuant to this section.
8. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.
9. As used in this section:
 - (a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
 - (b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

REGULATIONS

No relevant regulations found.

Due Process

LAWS

NRS 388.13535. Deferral of required investigation of bullying or cyber-bullying; actions by administrator or designee if investigation is deferred; exemption from certain requirements if violation committed by certain pupils.

1. If a law enforcement agency is investigating a potential crime involving an alleged violation of NRS 388.135, the administrator or his or her designee may, after providing the notification required by paragraph (a) of subsection 3 of NRS 388.1351, defer the investigation required by that section until the completion of the criminal investigation by the law enforcement agency. If the administrator or his or her designee defers an investigation pursuant to this subsection, the administrator or designee shall:
 - (a) Immediately develop and carry out a plan to protect the safety of each pupil directly involved in the alleged violation of NRS 388.135; and
 - (b) To the extent that the law enforcement agency has provided the administrator or designee with information about the projected date for completion of its investigation, provide the parents or guardians of each pupil directly involved in the alleged violation of NRS 388.135 with that information.
2. Except as otherwise provided in this section, the deferral authorized by subsection 1 does not affect the obligations of the administrator or designee pursuant to NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.
3. Any plan developed pursuant to subsection 1 must be carried out in a manner that causes the least possible disruption for the reported victim or victims of discrimination based on race, bullying or cyber-bullying. When necessary, the administrator or his or her designee shall give priority to protecting the reported victim or victims over any interest of the reported perpetrator or perpetrators when determining how to carry out the plan.
4. If the administrator or designee determines that a violation of NRS 388.135 was caused by the disability of the pupil who committed the violation:
 - (a) The provisions of NRS 388.1351 do not apply to the same or similar behavior if the behavior is addressed in the pupil's individualized education program; and
 - (b) The administrator or designee shall take any measures necessary to protect the safety of the victim of the violation.
5. The provisions of NRS 388.1351 do not apply to a violation of NRS 388.135 committed by:
 - (a) A pupil who is enrolled in prekindergarten if the behavior is addressed through measures intended to modify the behavior of the pupil.
 - (b) An employee of a school or school district against another employee of a school or school district.
 - (c) An adult who is not a pupil or employee of a school or school district against another such adult.

NRS 392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem; appeal by parent or guardian concerning content of plan or action taken pursuant to plan.

1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:
 - (a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school two or more times or the pupil has a record of five suspensions from the school for any reason;

(b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 6; and
(c) The behavior of the pupil was not caused by homelessness, as determined in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker.

2. A principal of a school shall presume that the behavior of the pupil was caused by homelessness unless the principal determines the behavior was not caused by homelessness pursuant to subsection 1.

3. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.

4. If a pupil is suspended, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil that contains:

(a) A description of the act committed by the pupil and the date on which the act was committed;

(b) An explanation that if the pupil receives five suspensions on his or her record during the current school year and has not entered into and participated in a plan of behavior pursuant to subsection 6, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection 5 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:

(1) Suspended from school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(2) Expelled from school under extraordinary circumstances as determined by the principal of the school;

(d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.419, an explanation of the effect of subsection 10 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(e) A summary of the provisions of subsection 6.

5. A school shall provide the notice required by subsection 3 for each suspension on the record of a pupil during a school year. Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.

6. If a pupil is suspended, the school in which the pupil is enrolled shall develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. The parent or legal guardian or, if the pupil is an unaccompanied pupil, of the pupil may choose for the pupil not to participate in the plan of behavior. If the parent or legal guardian of the pupil, or the pupil chooses for the pupil not to participate, the school shall inform the parent or legal guardian or the pupil of the consequences of not participating in the plan of behavior. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation:

(a) A plan for graduating if the pupil is deficient in credits and not likely to graduate according to schedule.

(b) Information regarding schools with a mission to serve pupils who have been:

(1) Expelled or suspended from a public school, including, without limitation, a charter school; or

Deemed to be a habitual disciplinary problem pursuant to this section.

(2) n.

(c) A voluntary agreement by the parent or legal guardian to attend school with his or her child.

(d) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(e) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

7. If a pupil commits the same act for which notice was provided pursuant to subsection 4 after he or she enters into a plan of behavior pursuant to subsection 6, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.

8. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

9. The parent or legal guardian of a pupil or, if the pupil is not an unaccompanied pupil, a pupil who has entered into a plan of behavior with a school pursuant to this section may appeal to the board of trustees of the school district a determination made by the school concerning the contents of the plan of behavior or action taken by the school pursuant to the plan of behavior. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

10. As used in this section, "unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

11. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

12. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:

- (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
13. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
14. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
15. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
- (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
16. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
17. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.

18. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
19. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.
20. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:
- (a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
 - (b) Permanently expelled from school pursuant to this section.
11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is in enrolled or the school counselor of the pupil.
12. As used in this section:
- (h) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.
 - (i) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.
 - (j) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.
 - (k) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
 - (l) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(m) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.

(n) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

NRS 392.467. Suspension or expulsion of pupil: Procedure; limitations.

1. Except as otherwise provided in subsections 5 and 6 and NRS 392.466, the board of trustees of a school district may authorize the suspension or expulsion of any pupil who is at least 11 years of age from any public school within the school district. Except as otherwise provided in NRS 392.466, a pupil who is not more than 10 years of age must not be permanently expelled from school.

2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The board of trustees of a school district may authorize the expulsion, suspension or removal of a pupil who has been charged with a crime from the school at which the pupil is enrolled regardless of the outcome of any criminal or delinquency proceedings brought against the pupil only if the school:

(a) Conducts an independent investigation of the conduct of the pupil; and

(b) Gives notice of the charges brought against the pupil by the school to the pupil.

4. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

5. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely for offenses related to attendance or because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

6. A pupil who is participating in a program of special education pursuant to NRS 388.419, other than a pupil who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days for each occurrence.

(b) Permanently expelled from school pursuant to this section.

A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school,

including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is in enrolled or the school counselor of the pupil.

8. As used in this section:

(a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.4671. Suspension or expulsion of pupil: appeals.

1. The board of trustees of each school district and the governing body of each charter school or university school for profoundly gifted pupils, as applicable, shall adopt a policy for appealing the suspension or expulsion of a pupil enrolled in the school district, charter school or university school, as applicable. The policy must provide, without limitation, that:

(a) The board of trustees of a school district, the governing body of a charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, may authorize the suspension or expulsion of a pupil within the timeline established by the Department pursuant to [NRS 392.4609](#);

(b) Within the timeline established by the Department pursuant to [NRS 392.4609](#), the board of trustees of a school district, the governing body of a charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, shall notify the pupil and, if the pupil is under 18 years of age, the parent or legal guardian of the pupil who is suspended or expelled of:

(1) The suspension or expulsion;

(2) The right to appeal the suspension or expulsion; and

(3) Information on the appeal policy adopted by the board of trustees of the school district or the governing body of the charter school or university school, as applicable;

(c) A pupil or, if the pupil is under 18 years of age, the parent or legal guardian of the pupil, who is suspended or expelled may file an appeal with the board of trustees of the school district, the governing body of the charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, within the timeline established by the Department pursuant to [NRS 392.4609](#);

(d) The board of trustees of a school district, the governing body of a charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, shall schedule a hearing on an appeal of a suspension or expulsion of a pupil within the timeline established by the Department pursuant to [NRS 392.4609](#); and

(e) After conducting a hearing pursuant to this subsection, the board of trustees of a school district, the governing body of a charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, may not increase the initial suspension or expulsion of a pupil.

2. The board of trustees of a school district, the governing body of a charter school or university school for profoundly gifted pupils or the designee of the board of trustees or governing body, as applicable, shall post the appeal policy on the Internet website of the school district and each school within the district or of the charter school or university school, as applicable.

3. The provisions of [chapter 241](#) of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

NRS 392.4672 Suspension or expulsion of pupil: notice of appeal policy.

The Department shall, to the extent practicable, provide guidance to the board of trustees of each school district on the appeal policy adopted by the board of trustees of each school district pursuant to [NRS 392.4671](#) in as many languages as possible for the benefit of pupils and parents or legal guardians of pupils.

REGULATIONS

NAC 388.915. Complaint concerning outcome of appeal or violation of provisions of law; preliminary report concerning whether to conduct further investigation; final report when further investigation is conducted; Department authorized to request school district to prepare plan of corrective action; employee subject to disciplinary action prohibited from administrative appeal of such action.

1. Not later than 30 days after receiving notification of the final resolution of an appeal made pursuant to the policy adopted pursuant to NAC 388.910, the parent or guardian of a pupil directly involved in the reported violation of NRS 388.135 may submit a complaint to the Department concerning the outcome of the appeal or a violation of any provision of NRS 388.121 to 388.1395, inclusive, or NAC 388.870 to 388.920, inclusive, or criminal conduct by a teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district. Each complaint must be in writing and must include, without limitation:

(a) Contact information for the parent or guardian;

(b) A copy of the written report of the findings and conclusions of the investigation conducted pursuant to NRS 388.1351 and NAC 388.900;

(c) Any written record of the appeal prepared by or at the direction of the school district or school regarding the violation or, if there is not a written record, a narrative summation provided

by the parent or guardian, including any contact information that will assist the Department in verifying the accuracy of the narrative summation;

(d) If the complaint concerns the outcome of an appeal, the outcome that the parent or guardian would have preferred;

(e) If the complaint alleges that a teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district has violated any provision of NRS 388.121 to 388.1395, inclusive, or NAC 388.870 to 388.920, inclusive, the specific provision that was allegedly violated and a description of the alleged violation;

(f) If the complaint alleges that a teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district has engaged in criminal conduct, a description of the alleged crime; and

(g) Any other information that the parent or guardian determines would be useful to the Department when resolving the complaint.

2. The Department shall not provide legal advice, including, without limitation, advice concerning whether a statute or regulation has been violated or whether a crime has been committed.

3. After a complaint is submitted pursuant to this section, the Department may request any additional information necessary to conduct an investigation. The Department shall make any such request for additional information within 5 working days after receipt of the initial complaint. The Department shall notify a parent or guardian who submits a complaint when the Department determines that the complaint is complete and requires no additional information for the purposes of making a preliminary determination pursuant to subsection 4.

4. After receiving a complaint that is complete, the Department shall determine whether it will conduct further investigation into the complaint and issue to the parent or guardian of each pupil directly involved in the incident described in the complaint, any other person involved in that incident and the

5. superintendent of the school district a preliminary report containing that determination. The Department shall issue the preliminary report not later than 10 working days after receipt of the completed complaint pursuant to subsection 3.
6. If the Department conducts further investigation after issuing a preliminary report pursuant to subsection 4, the Department shall issue to the parent or guardian of each pupil directly involved in the incident, any other person involved in that incident and the superintendent of the school district a final report concerning the findings and conclusions of the investigation. The Department shall issue the final report not later than 45 working days after the preliminary report is issued unless the Department notifies the parent or guardian of each pupil directly involved in the incident, any other person involved in the incident and the superintendent of the school district that the Department needs more time to conduct the investigation.
7. As a result of a complaint submitted pursuant to this section, the Department may request that a school district prepare a plan of corrective action, including any recommendations made by the Department.
8. An employee who is subject to disciplinary action pursuant to NRS 388.1354 may not appeal that disciplinary action to the Department pursuant to this section.

Return to School Following Removal

LAWS

NRS 392.4646. Removal of pupil: Conference; recommendation of principal.

4. Except as otherwise provided in this subsection, a pupil must not return to the classroom or other premises of the public school from which the pupil was removed before the conference is held. If the conference is not held within 3 school days after the removal of the pupil, the pupil, including, without limitation, an unaccompanied pupil or a pupil in foster care must be allowed to return to the classroom or other premises unless:

- (a) The parent or legal guardian of the pupil refuses to attend the conference;
- (b) The failure to hold a conference is attributed to the action or inaction of the pupil, including, without limitation, an unaccompanied pupil or a pupil in foster care, or the parent or legal guardian of the pupil; or
- (c) The parent or legal guardian requested that the date of the conference be postponed. [...]

6. Upon conclusion of the conference or, if a conference is not held pursuant to subsection 3 not later than 3 school days after the removal of a pupil from a classroom or other premises of a public school, the principal shall recommend whether to return the pupil to the classroom or other premises or continue the temporary alternative placement of the pupil if the pupil has been assigned to a temporary alternative placement.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

NRS 385A.620. Regulations governing inclusion of pupils enrolled in certain alternative programs within statewide system.

1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

- (b) An alternative program for the education of pupils at risk of dropping out of school pursuant to NRS 388.537.

NRS 388.537. Alternative programs for pupils at risk of dropping out of school.

1. The board of trustees of a school district may, subject to the approval of the Superintendent of Public Instruction, operate an alternative program for the education of pupils at risk of dropping out of school, including pupils who are enrolled in kindergarten or grades 1 to 12, inclusive.
2. The board of trustees of a school district may submit to the Department, in the form prescribed by the Department, a plan to operate an alternative program.
3. The Superintendent of Public Instruction shall review each plan to operate an alternative program submitted to the Department and approve or deny the plan. Approval by the Superintendent constitutes approval of each component of the plan for the alternative program.
4. If a plan for an alternative program is denied by the Superintendent of Public Instruction, the board of trustees of a school district may appeal the decision of the Superintendent to the State Board. The State Board may approve or deny the plan for the alternative program upon appeal.
5. An alternative program may include:
 - (a) A shorter school day or an opportunity for pupils to attend a longer school day than that regularly provided in the school district. The alternative program must provide for a number of minutes of instruction that is equal to or greater than that which would be provided under a program consisting of 180 school days.
 - (b) An opportunity for pupils to attend classes of instruction during any part of the calendar year.
 - (c) A comprehensive curriculum that includes elective classes of instruction and career and technical education.
 - (d) An opportunity for pupils to obtain academic credit through experience gained at work or while engaged in other activities.
 - (e) An opportunity for pupils to satisfy either:
 - (1) The requirements for a regular high school diploma; or
 - (2) The requirements for an adult standard diploma.
 - (f) The provision of child care for the children of pupils.
 - (g) The transportation of pupils to and from classes of instruction.

(h) The placement of pupils for independent study pursuant to NRS 389.155, if the board of trustees of the school district determines that the pupil would benefit from such placement.

6. The board of trustees of a school district may operate an alternative program pursuant to this section through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

NRS 392.264. Offender prohibited from attending school victim attends without court approval; duty of superintendent of school district to negotiate agreement for attendance in another school district; termination of agreement.

1. If a superintendent of a school district receives notification and a victim identified in the notification is a pupil in the school district, the superintendent shall not permit an offender who is subject to the provisions of NRS 62F.100 to 62F.150, inclusive, to attend a public school that a victim is attending unless:

(a) An alternative plan of supervision is approved by the court pursuant to NRS 62F.130; or

(b) An alternative plan of attendance is approved by the court pursuant to NRS 62F.140.

2. If the court does not approve an alternative plan of supervision or an alternative plan of attendance for the offender and the school district in which the offender resides does not have another public school in the district for the offender to attend, the superintendent of the school district shall negotiate an agreement with:

(a) The superintendent of an adjoining school district within this state for the offender to attend a public school in that adjoining school district; or

(b) The superintendent, or another appropriate administrator, of an adjoining school district in an adjoining state for the offender to attend a public school in that adjoining school district.

3. The superintendent of the school district in which the offender resides shall inform the person with whom the superintendent is negotiating that the offender has been adjudicated delinquent for a sexual offense or a sexually motivated act, but the superintendent shall not disclose the name of a victim.

4. An agreement which is made pursuant to this section and which is presented to a board of trustees for approval:

(a) Must not contain the name of a victim;

(b) Must comply with the provisions of subsections 2 and 3 of NRS 392.010; and

(c) Must be approved by the Superintendent of Public Instruction.

5. A board of trustees may terminate an agreement entered into pursuant to this section if, because of a change in circumstances, the offender is able to attend a public school in the school district in which the offender resides without violating subsection 1.

NRS 392.4645. Removal of pupil: Notice; assignment to temporary alternative placement; exceptions.

1. Except as otherwise provided in subsection 5, the plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom or other premises of a public school if, in the judgment of the teacher or other staff member responsible for the classroom or other premises, as applicable, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn or with the ability of the staff member to discharge his or her duties. The plan must provide that, upon the removal of a pupil from a classroom or any other premises of a public school pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil

2. pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

3. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom or any other premises of a public school pursuant to this section may be assigned to a temporary alternative placement pursuant to which the pupil:

(a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;

(b) Studies or remains under the supervision of appropriate personnel of the school district; and

(c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

4. The principal shall not assign a pupil to a temporary alternative placement if the suspension or expulsion of a pupil who is removed from the classroom pursuant to this section is:

(a) Required by NRS 392.466; or

(b) Authorized by NRS 392.467 and the principal decides to proceed in accordance with that section.

If the principal proceeds in accordance with NRS 392.466 or 392.467, the pupil must be removed from school in accordance with those sections and the provisions of NRS 392.4642 to 392.4648, inclusive, do not apply to the pupil.

4. A public school must offer a pupil who is removed from a classroom or any other premises of the public school pursuant to this section for more than 2 school days:

(a) Education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period the pupil is removed from a classroom or any other premises of the public school; and (b) Appropriate positive behavioral interventions and support, trauma-informed support and a referral to a school social worker or school counselor.

5. Before removing a pupil from a classroom or any other premises of a public school pursuant to this section for more than 1 school day, the principal of the school must contact the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker, to make a determination of whether the pupil is a homeless pupil.

6. As used in this section, "homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

21. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

- (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
22. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:
- (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
23. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
24. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
25. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
- (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
26. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

27. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.

28. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

29. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

30. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Permanently expelled from school pursuant to this section.

11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is in enrolled or the school counselor of the pupil.

12. As used in this section:

(o) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(p) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other

object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(q) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

- (r) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
- (s) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).
- (t) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.
- (u) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

NRS 392.4673. Suspended or expelled pupil entitled to appropriate education.

A pupil who is suspended or expelled or is being considered for suspension or expulsion is entitled to receive an appropriate education in the least restrictive environment possible.

NRS 392.4675. Certain suspended or expelled pupils ineligible to attend public school; authority for school district or charter school to enroll ineligible pupil in alternative programs, independent study, distance education, charter school designated for pupils with disciplinary problems or challenge school.

1. Except as otherwise provided in this section, a pupil who is suspended or expelled from:

- (a) Any public school in this State pursuant to NRS 392.466; or
- (b) Any school outside of this State for the commission of any act which, if committed within this State, would be a ground for suspension or expulsion from public school pursuant to NRS 392.466, is ineligible to attend any public school in this State during the period of that suspension or expulsion.

2. A school district or a charter school, if the charter school offers the applicable program, may allow a pupil who is ineligible to attend a public school pursuant to this section to enroll in:

- (a) An alternative program for the education of pupils at risk of dropping out of school provided pursuant to NRS 388.537;
- (b) A program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school;
- (c) A program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive;
- (d) Any program of instruction offered pursuant to the provisions of NRS 388.550; or
- (e) A challenge school,

if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable school or program. A school district or charter school may conduct an investigation of the background of any such pupil to determine if the educational needs of the pupil may be satisfied without undue disruption to the school or program. If an investigation is conducted, the board of trustees of the school district or the governing body of the charter school shall, based on the results of the investigation, determine if the pupil will be allowed to enroll in such a school or program.

3. The provisions of subsections 1 and 2 do not prohibit a pupil from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

REGULATIONS

NAC 388.500. "Alternative program" defined.

As used in NAC 388.510 and 388.520, unless the context otherwise requires, "alternative program" means a program operated by a school district in accordance with NRS 388.537 for the education of pupils at risk of dropping out of school.

NAC 388.510. General requirements; effective period.

1. A plan for an alternative program submitted for approval pursuant to NRS 388.537 must be on a form approved by the Department of Education and must address the considerations set forth in NRS 388.537.
2. A plan for an alternative program that is approved pursuant to NRS 388.537 remains in effect for 5 years after the date of approval. The board of trustees of a school district shall update its plan for an alternative program at least once annually if a substantive change is made to the plan.

NAC 388.520. Plan to provide for independent study.

1. An alternative program may include a plan to provide for independent study pursuant to NAC 389.710 to 389.750, inclusive.
2. A plan to provide for independent study must include:
 - (a) A description of the pupils targeted for enrollment in courses of independent study.
 - (b) A list of the intended instructors, including an identification of the subject areas that each instructor will teach.
 - (c) The names of the courses of independent study to be taught.
 - (d) A plan for maintaining the records of each pupil placed for independent study in accordance with the requirements set forth in NAC 389.720.
 - (e) A statement of the maximum period allowed to complete the courses of independent study.
 - (f) A statement of the maximum number of credits that a pupil may earn in courses of independent study.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

NRS 202.265. Possession of dangerous weapon on property or in vehicle of school or child care facility; penalty; exceptions.

1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:
 - (a) An explosive or incendiary device;
 - (b) A dirk, dagger or switchblade knife;
 - (c) A nunchaku or trefoil;
 - (d) A blackjack or billy club or metal knuckles;
 - (e) A pneumatic gun;
 - (f) A pistol, revolver or other firearm; or
 - (g) Any device used to mark any part of a person with paint or any other substance.
2. Any person who violates subsection 1 is guilty of a gross misdemeanor.
3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:
 - (a) A private or public school or child care facility by a:
 - (1) Peace officer;
 - (2) School security guard; or
 - (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.
 - (b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.
4. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.
5. For the purposes of this section:
 - (a) "Child care facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.
 - (b) "Nunchaku" has the meaning ascribed to it in NRS 202.350.
 - (c) "Pneumatic gun" means any implement designed as a gun that may expel a ball bearing or a pellet by action of pneumatic pressure. The term includes, without limitation, a paintball gun that expels plastic balls filled with paint for the purpose of marking the point of impact.
 - (d) "Switchblade knife" means a spring-blade knife, snap-blade knife or any other knife having the appearance of a pocketknife, any blade of which is 2 or more inches long and which can be released automatically by a flick of a button, pressure on the handle or other mechanical device, or is released by any type of mechanism. The term does not include a knife which has a blade that is held in place by a spring if the blade does not have any type of automatic release.

(e) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(f) "Vehicle" has the meaning ascribed to "school bus" in NRS 484A.230.

NRS 392.4634. Prohibition against disciplining certain pupils for simulating firearm or dangerous weapon or wearing clothing or accessories that depict firearm or dangerous weapon; exceptions; prohibition against adoption of conflicting policy, ordinance or regulation.

1. Except as otherwise provided in subsection 3, a pupil enrolled in kindergarten or grades 1 to 8, inclusive, may not be disciplined, including, without limitation, pursuant to NRS 392.466, for:

(a) Simulating a firearm or dangerous weapon while playing; or

(b) Wearing clothing or accessories that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, unless it substantially disrupts the educational environment.

2. Simulating a firearm or dangerous weapon includes, without limitation:

(a) Brandishing a partially consumed pastry or other food item to simulate a firearm or dangerous weapon;

(b) Possessing a toy firearm or toy dangerous weapon that is 2 inches or less in length;

(c) Possessing a toy firearm or toy dangerous weapon made of plastic building blocks which snap together;

(d) Using a finger or hand to simulate a firearm or dangerous weapon;

(e) Drawing a picture or possessing an image of a firearm or dangerous weapon; and

(f) Using a pencil, pen or other writing or drawing implement to simulate a firearm or dangerous weapon.

3. A pupil who simulates a firearm or dangerous weapon may be disciplined when disciplinary action is consistent with a policy adopted by the board of trustees of the school district and such simulation:

(a) Substantially disrupts learning by pupils or substantially disrupts the educational environment at the school;

(b) Causes bodily harm to another person; or

(c) Places another person in reasonable fear of bodily harm.

4. Except as otherwise provided in subsection 5, a school, school district, board of trustees of a school district or other entity shall not adopt any policy, ordinance or regulation which conflicts with this section.

5. The provisions of this section shall not be construed to prohibit a school from establishing and enforcing a policy requiring pupils to wear a school uniform as authorized pursuant to NRS 386.855.

6. As used in this section:

(a) "Dangerous weapon" has the meaning ascribed to it in NRS 392.466.

(b) "Firearm" has the meaning ascribed to it in NRS 392.466.

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on

the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:
- (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:
- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
- (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.

6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.
8. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
9. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.
10. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:
 - (a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
 - (b) Permanently expelled from school pursuant to this section.
11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.
12. As used in this section:
 - (a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.
 - (b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or

any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

- (c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.
- (d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
- (e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).
- (f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.
- (g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

NRS 392.467. Suspension or expulsion of pupil: Procedure; limitations.

2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

NRS 392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem; appeal by parent or guardian concerning content of plan or action taken pursuant to plan.

- 1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:
 - (a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school two or more times or the pupil has a record of five suspensions from the school for any reason;
 - (b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 6; and
 - (c) The behavior of the pupil was not caused by homelessness, as determined in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker.

2. A principal of a school shall presume that the behavior of the pupil was caused by homelessness unless the principal determines the behavior was not caused by homelessness pursuant to subsection
3. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.
4. If a pupil is suspended, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil that contains:
 - (a) A description of the act committed by the pupil and the date on which the act was committed;
 - (b) An explanation that if the pupil receives five suspensions on his or her record during the current school year and has not entered into and participated in a plan of behavior pursuant to subsection 6, the pupil will be deemed a habitual disciplinary problem;
 - (c) An explanation that, pursuant to subsection 5 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:
 - (1) Suspended from school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (2) Expelled from school under extraordinary circumstances as determined by the principal of the school;
 - (d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.419, an explanation of the effect of subsection 10 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and
 - (e) A summary of the provisions of subsection 6.
5. A school shall provide the notice required by subsection 3 for each suspension on the record of a pupil during a school year. Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.
6. If a pupil is suspended, the school in which the pupil is enrolled shall develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. The parent or legal guardian or, if the pupil is an unaccompanied pupil, of the pupil may choose for the pupil not to participate in the plan of behavior. If the parent or legal guardian of the pupil, or the pupil chooses for the pupil not to participate, the school shall inform the parent or legal guardian or the pupil of the consequences of not participating in the plan of behavior. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation:
 - (a) A plan for graduating if the pupil is deficient in credits and not likely to graduate according to schedule.
 - (b) Information regarding schools with a mission to serve pupils who have been:
 - (1) Expelled or suspended from a public school, including, without limitation, a charter school; or

Deemed to be a habitual disciplinary problem pursuant to this section.

(2) n.

- (c) A voluntary agreement by the parent or legal guardian to attend school with his or her child.
- (d) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.
- (e) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

7. If a pupil commits the same act for which notice was provided pursuant to subsection 4 after he or she enters into a plan of behavior pursuant to subsection 6, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.

8. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

10. As used in this section, "unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:
 - (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not

less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
- (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
 - (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.
8. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
9. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

10. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

- (a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
- (b) Permanently expelled from school pursuant to this section.

11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.

12. As used in this section:

- (a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.
- (b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.
- (c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.
- (d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
- (e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).
- (f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.
- (g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

NRS 392.040. Attendance required for child between 7 and 18 years of age; minimum age required for kindergarten and first grade; waiver from attendance available for child 6 years of age; developmental screening test required to determine placement; effect of military transfer of parent of child.

1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 18 years shall send the child to a public school during all the time the public school is in session in the school district in which the child resides unless the child has graduated from high school.
2. A child who is 5 years of age on or before September 30 of a school year may be admitted to kindergarten at the beginning of that school year, and the child's enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.
3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year must:
 - (a) If the child has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or
 - (b) If the child has completed kindergarten, be admitted to the first grade at the beginning of that school year, and the child's enrollment must be counted for purposes of apportionment. If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following the child's sixth birthday.
4. The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.
5. Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send the child to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil who elects to enroll his or her child in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school district acknowledging that he or she has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.
6. A child who is 7 years of age on or before September 30 of a school year must:
 - (a) If the child has completed kindergarten and the first grade, be admitted to the second grade.
 - (b) If the child has completed kindergarten, be admitted to the first grade.

(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, the child must be admitted to the first grade. If the district determines that the child is not so prepared, he or she must be admitted to kindergarten.

The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

7. Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:

- (a) Who is 7 years of age on or before September 30 of the next school year; and
- (b) Whose parents waived the child's attendance from kindergarten pursuant to subsection 4, to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.

8. Except as otherwise provided in subsection 9, a child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade the child was attending or would be attending had he or she remained a resident of the other state regardless of his or her age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.

9. Pursuant to the provisions of NRS 388F.010, a child who transfers to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the child must be admitted to:

- (a) The grade, other than kindergarten, the child was attending or would be attending had he or she remained a resident of the other state, regardless of the child's age.
- (b) Kindergarten, if the child was enrolled in kindergarten in another state in accordance with the laws of that state, regardless of the child's age.

10. As used in this section, "kindergarten" includes:

- (a) A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;
- (b) A kindergarten established by the governing body of a charter school; and
- (c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.

NRS 392.128. Duties of advisory boards; division into subcommittees; provision of assistance in conjunction with community service providers; use and accounting of available money by advisory board.

1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

- (a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district or the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385A.240;
- (b) Identify factors that contribute to the truancy of pupils in the school district;
- (c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;
- (d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

NRS 392.130. Conditions under which pupil deemed truant; approval required for absence; notice of unapproved absence to parent; applicability.

1. Within the meaning of this chapter, a pupil shall be deemed a truant who is absent from school without the written approval of the pupil's teacher or the principal of the school, unless the pupil is physically or mentally unable to attend school. The teacher or principal shall give his or her written approval for a pupil to be absent if an emergency exists or upon the request of a parent or legal guardian of the pupil. Before a pupil may attend or otherwise participate in school activities outside the classroom during regular classroom hours, the pupil must receive the approval of the teacher or principal.

2. An unapproved absence for at least one period, or the equivalent of one period for the school, of a school day may be deemed a truancy for the purposes of this section.

3. If a pupil is physically or mentally unable to attend school, the parent or legal guardian or other person having control or charge of the pupil shall notify the teacher or principal of the school orally or in writing, in accordance with the policy established by the board of trustees of the school district, within 3 days after the pupil returns to school.

4. An absence which has not been approved pursuant to subsection 1 or 3 shall be deemed an unapproved absence. In the event of an unapproved absence, the teacher, attendance officer or other school official shall deliver or cause to be delivered a written notice of truancy to the parent, legal guardian or other person having control or charge of the child. The written notice must be delivered to the parent, legal guardian or other person who has control of the child. The written notice must inform the parents or legal guardian of such absences in a form specified by the Department.

5. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

6. As used in this section, "physically or mentally unable to attend" does not include a physical or mental condition for which a pupil is excused pursuant to NRS 392.050.

NRS 392.140. Conditions under which pupil declared habitual truant; applicability.

1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.
2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:
 - (a) Approval of the child's teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or
 - (b) Notice of his or her parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 of NRS 392.130, may again be declared a habitual truant.
3. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

NRS 392.144. Duties of school if pupil is truant; habitual truant must be reported to attendance officer or law enforcement, referred to advisory board or referred for imposition of administrative sanctions.

1. If a pupil has one or more unapproved absences from school, the school in which the pupil is enrolled shall take reasonable actions designed, as applicable, to encourage, enable or convince the pupil to attend school.
2. If a pupil is a habitual truant pursuant to NRS 392.140, or if a pupil who is a habitual truant pursuant to NRS 392.140 is again declared truant pursuant to NRS 392.130 in the same school year after being declared a habitual truant, the principal of the school shall:
 - (a) Report the pupil to an attendance officer, a school police officer or the local law enforcement agency for investigation and issuance of a citation, if warranted, in accordance with NRS 392.149;
 - (b) If the parent or legal guardian of a pupil has signed a written consent pursuant to subsection 4, submit a written referral of the pupil to the advisory board to review school attendance in the county in accordance with NRS 392.146; or
 - (c) Refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148.
3. The board of trustees of each school district shall adopt criteria to determine whether the principal of a school shall:
 - (a) Report a pupil to an attendance officer, a school police officer or the law enforcement agency pursuant to paragraph (a) of subsection 2;
 - (b) Refer a pupil to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2; or
 - (c) Refer a pupil for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2.
4. If the principal of a school makes an initial determination to submit a written referral of a pupil to the advisory board to review school attendance, the principal shall notify the parent or legal guardian of the pupil and request the parent or legal guardian to sign a written consent that authorizes the school and, if applicable, the school district to release the records of the pupil to the advisory board to the extent that such release is necessary for the advisory board to carry out its duties pursuant to NRS 392.146 and 392.147. The written consent must comply with the applicable requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent or legal guardian refuses to sign the consent, the principal shall:
 - (a) Report the pupil to an attendance officer, a school police officer or the local law enforcement agency pursuant to paragraph (a) of subsection 2; or
 - (b) Refer the pupil for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2.

NRS 392.146. Contents of written referral to advisory board; notice to parents or guardian.

A written referral of a pupil to an advisory board to review school attendance must include the dates on which the pupil was truant from school and all action taken by the school to assist the pupil to attend school. The advisory board may request clarification of any information contained in the written referral or any additional information that the advisory board considers necessary. The school shall provide written notice of the referral to the parents or legal guardian of the pupil. The written notice must include, without limitation:

1. The name and address of the pupil referred;
2. A written explanation of the reason for the referral;
3. A summary of the provisions of NRS 392.147; and
4. The address and telephone number of the advisory board to review school attendance.

NRS 392.147. Hearing by advisory board; written agreement for participation of pupil in certain programs; reporting of pupil to attendance officer or law enforcement agency or referral for administrative sanctions under certain circumstances; appeal by parent; confidentiality of information.

1. If an advisory board to review school attendance receives a written referral of a pupil pursuant to NRS 392.146, the advisory board shall set a date, time and place for a hearing. The pupil and the pupil's parents or legal guardian shall attend the hearing held by the advisory board. The hearing must be closed to the public. The chair of an advisory board to review school attendance may request that subpoenas for a hearing conducted pursuant to this section be issued to:

- (a) The parent or legal guardian of a pupil who has been referred to the advisory board or any other person that the advisory board considers necessary to the hearing.
- (b) A pupil who has been referred to the advisory board.

2. If a pupil and the pupil's parents or legal guardian do not attend the hearing, the chair of the advisory board shall:

- (a) Report the pupil to an attendance officer, a school police officer or the appropriate local law enforcement agency for investigation and issuance of a citation, if warranted in accordance with NRS 392.149; or
- (b) Refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148.

3. If an advisory board to review school attendance determines that the status of a pupil as a habitual truant can be adequately addressed through participation by the pupil in programs and services available in the community, the advisory board shall order the pupil to participate in such programs and services. If the pupil does not agree to participate in such programs and services, the chair of the advisory board shall report the pupil to an attendance officer, a school police officer or the appropriate local law enforcement agency for investigation and issuance of a citation, if warranted in accordance with NRS 392.149, or refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148. If the pupil agrees to participate in such programs and services, the advisory board, the pupil and the parents or legal guardian of the pupil shall enter into a written agreement that:

- (a) Sets forth the findings of the advisory board;
- (b) Sets forth the terms and conditions of the pupil's participation in the programs and services designated by the advisory board; and
- (c) Adequately informs the pupil and the pupil's parents or legal guardian that if the pupil or his or her parents or legal guardian do not comply with the terms of the written agreement, the chair of the advisory board is legally obligated to report the pupil to an attendance officer, a school police officer or

the appropriate local law enforcement agency for investigation and issuance of a citation, if warranted in accordance with NRS 392.149, or refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148.

The parents or legal guardian of the pupil shall, upon the request of the advisory board, provide proof satisfactory to the advisory board that the pupil is participating in the programs and services set forth in the written agreement.

4. The chair of an advisory board to review school attendance shall report a pupil to an attendance officer, a school police officer or the appropriate local law enforcement agency or refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148 if:

(a) The pupil and the pupil's parents or legal guardian fail to attend a hearing set by the advisory board pursuant to subsection 1;

(b) The advisory board determines that the status of a pupil as a habitual truant cannot be adequately addressed by requiring the pupil to participate in programs and services available in the community;

(c) The pupil does not consent to participation in programs and services pursuant to subsection 3; or

(d) The pupil or the pupil's parents or legal guardian violates the terms of the written agreement entered into pursuant to subsection 3.

5. If the chair of an advisory board makes a report to an attendance officer, a school police officer or the local law enforcement agency pursuant to subsection 4, the chair shall:

(a) Submit to the attendance officer, school police officer or law enforcement agency, as applicable, written documentation of all efforts made by the advisory board to address the status of the pupil as a habitual truant; and

(b) Make recommendations to the attendance officer, school police officer or law enforcement agency, as applicable, regarding the appropriate disposition of the case.

6. If the chair of an advisory board refers a pupil for the imposition of administrative sanctions pursuant to subsection 4, the chair shall:

(a) Provide written documentation of all efforts made by the advisory board to address the status of the pupil as a habitual truant; and

(b) Make recommendations regarding the appropriate disposition of the case.

7. If the parents or legal guardian of a pupil enter into a written agreement pursuant to this section, the parents or legal guardian may appeal to the board of trustees of the school district a determination made by the advisory board concerning the contents of the written agreement. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

8. The board of trustees of each school district shall adopt policies and rules to protect the confidentiality of the deliberations, findings and determinations made by an advisory board and information concerning a pupil and the family of a pupil. An advisory board shall not disclose information concerning the records of a pupil or services provided to a pupil or the pupil's family unless the disclosure is specifically authorized by statute or by the policies and rules of the board of trustees and is necessary for the advisory board to carry out its duties.

NRS 392.148. Administrative sanctions against habitual truant after investigation and hearing; suspension or delay in issuance of driver's license; appeal by parent or guardian.

1. Upon receipt of a report pursuant to NRS 392.144 or 392.147, a school police officer or a person designated pursuant to subsection 6 shall conduct an investigation, set a date for a hearing and provide a written notice of the hearing to the parent or legal guardian of the pupil. If it appears after investigation

and a hearing that a pupil is a habitual truant, a school police officer or a person designated pursuant to subsection 6 may issue an order imposing the following administrative sanctions against a pupil:

(a) If it is the first time that administrative sanctions have been issued pursuant to this section because the pupil is a habitual truant, and the pupil is 14 years of age or older, order the suspension of the driver's license of the pupil for at least 30 days but not more than 6 months. If the pupil does not possess a driver's license, the order must provide that the pupil is prohibited from applying for a driver's license for 30 days:

(1) Immediately following the date of the order if the pupil is eligible to apply for a driver's license; or

(2) After the date the pupil becomes eligible to apply for a driver's license if the pupil is not eligible to apply for a driver's license.

(b) If it is the second time or any subsequent time that administrative sanctions have been issued pursuant to this section because the pupil is a habitual truant, and the pupil is 14 years of age or older, order the suspension of the driver's license of the pupil for at least 60 days but not more than 1 year. If the pupil does not possess a driver's license, the order must provide that the pupil is prohibited from applying for a driver's license for 60 days immediately following:

(1) The date of the order if the pupil is eligible to apply for a driver's license; or

(2) The date the pupil becomes eligible to apply for a driver's license if the pupil is not eligible to apply for a driver's license.

2. If a pupil applies for a driver's license, the Department of Motor Vehicles shall:

(a) Notify the pupil of the provisions of this section that authorize the suspension of the driver's license of the pupil; and

(b) Require the pupil to sign an affidavit acknowledging that the pupil is aware that his or her driver's license may be suspended pursuant to this section.

3. If an order is issued pursuant to this section delaying the ability of the pupil to receive a driver's license, a copy of the order must be forwarded to the Department of Motor Vehicles not later than 5 days after the order is issued.

4. If an order is issued pursuant to this section suspending the driver's license of a pupil:

(a) The pupil shall surrender his or her driver's license to the school police officer or the person designated pursuant to subsection 6.

(b) Not later than 5 days after issuing the order, the school police officer or the designated person shall forward to the Department of Motor Vehicles a copy of the order and the driver's license of the pupil.

(c) The Department of Motor Vehicles:

(1) Shall report the suspension of the driver's license of the pupil to an insurance company or its agent inquiring about the pupil's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

(2) Shall not treat the suspension in the manner statutorily required for moving traffic violations.

(3) Shall not require the pupil to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement or reissuance after the suspension of a driver's license.

5. The parent or legal guardian of a pupil may request a hearing before a person designated by the board of trustees of the school district in which the pupil is enrolled to appeal the imposition of any administrative sanctions pursuant to this section. The person designated by the board of trustees shall, not later than 30 days after receipt of the request, hold a hearing to review the reason for the imposition of any administrative sanctions. Not later than 30 days after the hearing, the person designated by the board

of trustees shall issue a written decision affirming, denying or modifying the decision to impose administrative sanctions and mail a copy of the decision to the parent or legal guardian of the pupil.

6. If a public school does not have a school police officer assigned to it, the principal of the school may designate a qualified person to carry out the requirements of this section.

NRS 392.149. Issuance of citation to habitual truant; applicability.

1. Upon receipt of a report pursuant to NRS 392.144 or 392.147, if it appears after investigation that a pupil is a habitual truant, the attendance officer, school police officer or law enforcement agency to whom the report is made shall prepare manually or electronically a citation directing the pupil to appear in the proper juvenile court.

2. A copy of the citation must be delivered to the pupil and to the parent, guardian or any other person who has control or charge of the pupil by:

- (a) The local law enforcement agency;
- (b) A school police officer employed by the board of trustees of the school district; or
- (c) An attendance officer appointed by the board of trustees of the school district.

3. The citation must be in the form prescribed for misdemeanor citations in NRS 171.1773.

4. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

NRS 392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk.

1. The board of trustees of a school district may appoint an attendance officer for the school district, who need not be a licensed employee of the school district, except that in any school district where a system of classified employment is in effect, attendance officers must be classified employees of the school district. If the board of trustees appoints an attendance officer for the school district, the board of trustees may:

- (a) Fix the compensation of the attendance officer;
- (b) Prescribe the duties of the attendance officer; and
- (c) Adopt regulations not inconsistent with law for the performance of the duties of the attendance officer.

2. The board of trustees of each school district shall:

- (a) Establish procedures to monitor the attendance and truancy of pupils, including, without limitation, a standard method for reporting the truancy of pupils and a standard method for reporting excessive absences of pupils throughout the school district;
- (b) Coordinate efforts to refer pupils who are truant to appropriate providers of community services; and
- (c) Determine, based on the attendance and truancy of pupils at each school within the school district, whether to employ an attendance clerk for a particular school or group of schools whose primary responsibility is to monitor the attendance and truancy of pupils.

NRS 392.160. Taking into custody child reported absent from school; persons or counseling agency to whom child may be delivered.

1. Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant:

- (a) Any child between the ages of 7 and 18 years; and

(b) Any child who has arrived at the age of 6 years but not at the age of 7 years and is enrolled in a public school, who has been reported to the officer by the teacher, superintendent of schools or other school officer as an absentee from instruction upon which the child is lawfully required to attend.

2. Except as otherwise provided in subsection 3:

(a) During school hours, the officer having custody shall forthwith deliver the child to the superintendent of schools, principal or other school officer at the child's school of attendance.

(b) After school hours, the officer having custody shall deliver the child to the parent, guardian or other person having control or charge of the child.

3. The board of trustees of a school district or the governing body of a charter school may enter into an agreement with a counseling agency to permit delivery of the child to the agency. For the purposes of this subsection, "counseling agency" means an agency designated by the school district in which the child is enrolled to provide counseling for the child and the parent, guardian or other person having control or charge of the child.

NRS 392.467. Suspension or expulsion of pupil: Procedure; limitations.

1. Except as otherwise provided in subsections 5 and 6 and NRS 392.466, the board of trustees of a school district may authorize the suspension or expulsion of any pupil who is at least 11 years of age from any public school within the school district. Except as otherwise provided in NRS 392.466, a pupil who is not more than 10 years of age must not be permanently expelled from school.

2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The board of trustees of a school district may authorize the expulsion, suspension or removal of a pupil who has been charged with a crime from the school at which the pupil is enrolled regardless of the outcome of any criminal or delinquency proceedings brought against the pupil only if the school:

(a) Conducts an independent investigation of the conduct of the pupil; and

(b) Gives notice of the charges brought against the pupil by the school to the pupil.

4. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

5. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely for offenses related to attendance or because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

6. A pupil who is participating in a program of special education pursuant to NRS 388.419, other than a pupil who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days for each occurrence.

(b) Permanently expelled from school pursuant to this section.

7. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The

8. person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.
9. As used in this section:
 - (a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.
 - (b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.900. Interference with pupil attending school; penalty.

1. It is unlawful for any person, against the will of a pupil attending any public school, to beat, whip, detain or otherwise interfere with the pupil while the pupil is on his or her way to and from school.

Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

NRS 202.2491. Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking.

1. Except as otherwise provided in subsections 5 and 6 and NRS 202.24915, the smoking of tobacco in any form is prohibited if done in any:

- (h) School bus. [...]

A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.

NRS 388.532. Development of programs.

1. The State Board in cooperation with the board of trustees of the various county school districts shall develop for pupils in the first through eighth grades:

- (a) Programs designed to reduce the number of pupils who drop out of school; and
- (b) Programs for the prevention of alcohol and other substance use disorders.

2. The State Board in cooperation with the board of trustees of the various county school districts may seek the cooperation of private industry in developing for pupils in all grades programs and activities designed to reduce the number of pupils who participate in the activities of criminal gangs, as defined in NRS 213.1263.

NRS 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

1. Each school district shall adopt a plan to ensure that the public schools within the school district are safe and free of controlled substances. The plan must comply with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.
2. Each school district shall prescribe written rules of behavior required of and prohibited for pupils attending school within their district and shall prescribe appropriate punishments for violations of the rules. If suspension or expulsion is used as a punishment for a violation of the rules, the school district shall follow the procedures in NRS 392.467.
3. A copy of the plan adopted pursuant to subsection 1 and the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments prescribed pursuant to subsection 2 must be distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year. Copies must also be made available for inspection at each school located in that district in an area on the grounds of the school which is open to the public.

NRS 392.464. Adoption and enforcement by trustees of disciplinary measures for pupil in possession of alcoholic beverage or controlled substance on premises of school.

1. The board of trustees of each school district shall adopt and enforce measures for disciplining any pupil who is found in possession of an alcoholic beverage or a controlled substance, while on the premises of any public school in its district.
2. As used in this section, "alcoholic beverage" has the meaning ascribed to it in NRS 202.015.

NRS 392.466. Plan of action for pupil who engages in battery on employee of school, possession of firearm or dangerous weapon or sale or distribution of controlled substance or is deemed a habitual disciplinary problem; appeal by employee who is victim of battery; suspension or expulsion of such pupils; modification to suspension or expulsion; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
2. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:
 - (a) The employee feels any actions taken pursuant to such plan are inappropriate; and
 - (b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

3. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.
5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, the pupil may be:
 - (a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.
6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:
 - (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
 - (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.
7. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to a suspension or expulsion pursuant to subsections 1 to 5, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.
8. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.
9. Except as otherwise provided in this section, a pupil who is not more than 10 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age

may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

10. A pupil who is at least 11 years of age and who is participating in a program of special education pursuant to NRS 388.419 may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., be:

(a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Permanently expelled from school pursuant to this section.

11. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.

12. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

(d) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(e) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.

(g) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

13. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

- (a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
- (b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

NRS 388.532. Development of programs.

2. The State Board in cooperation with the board of trustees of the various county school districts may seek the cooperation of private industry in developing for pupils in all grades programs and activities designed to reduce the number of pupils who participate in the activities of criminal gangs, as defined in NRS 213.1263.

NRS 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.
2. The policy established pursuant to subsection 1 may include, without limitation:
 - (a) The provision of training for the prevention of the activities of criminal gangs on school property.
 - (b) If the policy includes training:
 - (1) A designation of the grade levels of the pupils who must receive the training.
 - (2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).

The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

- (c) Provisions which prohibit:
 - (1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and
 - (2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.
 - (d) Provisions which provide for the suspension or expulsion pursuant to NRS 392.466 and 392.467 of pupils who violate the policy.
3. The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:
 - (a) Local law enforcement agencies;
 - (b) School police officers, if any;
 - (c) Persons who have experience regarding the actions and activities of criminal gangs;
 - (d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and
 - (e) Any other person deemed necessary by the board of trustees.
4. As used in this section "criminal gang" has the meaning ascribed to it in NRS 213.1263.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

NRS 62C.400. Department of juvenile services to provide certain information to juvenile court and school district concerning child who engaged in bullying or cyber-bullying.

1. If a department of juvenile services determines that a child who is currently enrolled in school unlawfully engaged in discrimination based on race, bullying or cyber-bullying, the department shall provide the information specified in subsection 2 to the juvenile court in the judicial district in which the child resides and to the school district in which the child is currently enrolled.
2. The information required to be provided pursuant to subsection 1 must include:
 - (a) The name of the child;
 - (b) The name of the person who was the subject of the discrimination based on race, bullying or cyber-bullying; and
 - (c) A description of any discrimination based on race, bullying or cyber-bullying committed by the child against the other person.
3. As used in this section:
 - (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
 - (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
 - (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 62E.030. Court to provide certain information to school district concerning certain offenses.

3. If a court determines that a child who is currently enrolled in school unlawfully engaged in discrimination based on race, bullying or cyber-bullying, the court shall provide the information specified in subsection 4 to the school district in which the child is currently enrolled.
4. The information required to be provided pursuant to subsection 3 must include:
 - (a) The name of the child;
 - (b) The name of the person who was the subject of the discrimination based on race, bullying or cyber-bullying; and
 - (c) A description of any discrimination based on race, bullying or cyber-bullying committed by the child against the other person.
5. As used in this section:
 - (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
 - (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
 - (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 200.605. Penalties; definition.

1. A person who engages in hazing is guilty of:
 - (a) A misdemeanor, if no substantial bodily harm results.
 - (b) A gross misdemeanor, if substantial bodily harm results.
2. Consent of a victim of hazing is not a valid defense to a prosecution conducted pursuant to this section.
3. For the purposes of this section, an activity shall be deemed to be "forced" if initiation into or affiliation with a student organization, academic association or athletic team is directly or indirectly conditioned upon participation in the activity.
4. As used in this section, "hazing" means an activity in which a person intentionally or recklessly endangers the physical health of another person for the purpose of initiation into or affiliation with a

student organization, academic association or athletic team at a high school, college or university in this state. The term:

(a) Includes, without limitation, any physical brutality or brutal treatment, including, without limitation, whipping, beating, branding, forced calisthenics, exposure to the elements or forced consumption of food, liquor, drugs or other substances.

(b) Does not include any athletic, curricular, extracurricular or quasi-military practice, conditioning or competition that is sponsored or approved by the high school, college or university.

NRS 236.073. Week of Respect.

1. The Governor shall annually proclaim the first week in October to be "Week of Respect."

2. The proclamation may call upon:

(a) News media, educators and appropriate government offices to bring to the attention of the residents of Nevada factual information regarding discrimination based on race, bullying and cyber-bullying, including, without limitation:

(1) Statistical information regarding the number of pupils who experience discrimination based on race or are bullied or cyber-bullied each year;

(2) The methods to identify and assist pupils who are at risk of discrimination based on race bullying or cyber-bullying; and

(3) The methods to prevent discrimination based on race, bullying and cyber-bullying; and

(b) Governing bodies to provide instruction on the ways in which pupils can prevent discrimination based on race, bullying and cyber-bullying during the Week of Respect and throughout the school year that is appropriate for the grade level of pupils who receive the instruction.

3. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

(d) "Governing body" has the meaning ascribed to it in NRS 388.126.

NRS 385A.250. Discipline of pupils.

1. The annual report of accountability prepared pursuant to NRS 385A.070 must include information on the discipline of pupils, including, without limitation (e) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act:

(1) The number of reported violations of NRS 388.135 occurring at a school or otherwise involving a pupil enrolled at a school, regardless of the outcome of the investigation conducted pursuant to NRS 388.1351;

(2) The number of incidents determined to be discrimination based on race, bullying or cyber-bullying after an investigation is conducted pursuant to NRS 388.1351;

(3) The number of incidents resulting in suspension or expulsion, or both, for discrimination based on race, bullying or cyber-bullying; and

(4) Any actions taken to reduce the number of incidents of discrimination based on race, bullying or cyber-bullying including, without limitation, training that was offered or other policies, practices and programs that were implemented.

3. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.13.
- (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 385A.460. Discipline of pupils.

1. The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on the discipline of pupils, including, without limitation:

(e) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act:

- (1) The number of reported violations of NRS 388.135 occurring at a school or otherwise involving a pupil enrolled at a school, regardless of the outcome of the investigation conducted pursuant to NRS 388.1351;
- (2) The number of incidents determined to be discrimination based on race, bullying or cyber-bullying after an investigation is conducted pursuant to NRS 388.1351;
- (3) The number of incidents resulting in suspension or expulsion for discrimination based on race, bullying or cyber-bullying; and
- (4) Any actions taken to reduce the number of incidents of discrimination based on race, bullying or cyber-bullying, including, without limitation, training that was offered or other policies, practices and programs that were implemented.

3. As used in this section

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 388.077. Right of pupils to constitutional expression; limitation; adoption of policy for pupil publications; resolution of complaint by pupil of violation of right.

1. Each pupil of a public school, including, without limitation, each pupil of a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution.

2. Any expression described in subsection 1 must not be disruptive of instruction at a public school, including, without limitation, a university school for profoundly gifted pupils, must not be used to engage in discrimination based on race, bullying or cyber-bullying or intimidate any person and must not be organized, broadcast or endorsed by a public school, including, without limitation, a university school for profoundly gifted pupils.

3. The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils shall adopt a written policy for pupil publications which:

- (a) Establishes reasonable provisions governing the time, place and manner for the distribution of pupil publications;
- (b) Protects the right of expression described in subsection 1 for pupils working on pupil publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the pupil publications;

(c) Prohibits, without limitation, the following:

- (1) Restricting the publication of any content in pupil publications unless the content would substantially disrupt the ability of the public school to perform its educational mission;
- (2) Dismissing, suspending, disciplining or retaliating against an employee or other person acting as an adviser for a pupil publication or as an adviser for pupils working as journalists on a pupil publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a pupil engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and
- (3) Expelling, suspending or otherwise disciplining a pupil for engaging in conduct in accordance with the policy, unless such conduct substantially disrupts the ability of the public school to perform its educational mission and the disruption was intentional; and

(d) Includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school.

4. The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils shall adopt a policy prescribing procedures for the resolution of a complaint by a pupil of the school district, charter school or university school for profoundly gifted pupils that the rights of the pupil described in subsection 1 or 3 have been violated. The policy required by this subsection may be part of a comprehensive discrimination grievance policy of the school district, charter school or university school for profoundly gifted pupils or may be a separate policy.

5. As used in this section

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 388.121. Definitions.

As used in NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act, unless the context otherwise requires, the words and terms defined in NRS 388.1215 to 388.127, inclusive, have the meanings ascribed to them in those sections.

NRS 388.122 "Bullying" defined.

1. "Bullying" means written, verbal or electronic expressions or physical acts or gestures, or any combination thereof, that are directed at a person or group of persons, or a single severe and willful act or expression that is directed at a person or group of persons, and:

- (a) Have the effect of:
 - (1) Physically harming a person or damaging the property of a person; or
 - (2) Placing a person in reasonable fear of physical harm to the person or damage to the property of the person;
- (b) Interfere with the rights of a person by:
 - (1) Creating an intimidating or hostile educational environment for the person; or
 - (2) Substantially interfering with the academic performance of a pupil or the ability of the person to participate in or benefit from services, activities or privileges provided by a school; or
- (c) Are acts or conduct described in paragraph (a) or (b) and are based upon the:
 - (1) Actual or perceived race, color, national origin, ancestry, religion, gender identity or expression,

sexual orientation, physical or mental disability of a person, sex or any other distinguishing characteristic or background of a person; or

(2) Association of a person with another person having one or more of those actual or perceived characteristics.

2. The term includes, without limitation:

(a) Repeated or pervasive taunting, name-calling, belittling, mocking or use of put-downs or demeaning humor regarding the actual or perceived race, color, national origin, ancestry, religion, gender identity or expression, sexual orientation, physical or mental disability of a person, sex or any other distinguishing characteristic or background of a person;

(b) Behavior that is intended to harm another person by damaging or manipulating his or her relationships with others by conduct that includes, without limitation, spreading false rumors;

(c) Repeated or pervasive nonverbal threats or intimidation such as the use of aggressive, menacing or disrespectful gestures;

(d) Threats of harm to a person, to his or her possessions or to other persons, whether such threats are transmitted verbally, electronically or in writing;

(e) Blackmail, extortion or demands for protection money or involuntary loans or donations;

(f) Blocking access to any property or facility of a school;

(g) Stalking; and

(h) Physically harmful contact with or injury to another person or his or her property.

NRS 388.123. "Cyber-bullying" defined.

"Cyber-bullying" means bullying through the use of electronic communication. The term includes the use of electronic communication to transmit or distribute a sexual image of a minor. As used in this section, "sexual image" has the meaning ascribed to it in NRS 200.737.

NRS 388.1235. "Discrimination based on race" defined

Discrimination based on race" means any single or repeated or pervasive act or acts, whether targeted to a specific person or targeted in general to any demographic identified in subsection 1:

1. Regarding the race, color, culture, religion, language, ethnicity or national origin of a person that causes harm or creates a hostile work or learning environment, which may include, without limitation, jokes, threats, physical altercations or intimidation; and
2. That occurs in person, online or in any other setting including, without limitation, in a course of distance education

NRS 388.124. "Electronic communication" defined

"Electronic communication " means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.

NRS 388.132. Legislative declaration concerning safe and respectful learning environment.

The Legislature declares that:

1. Pupils are the most vital resource to the future of this State;
2. A learning environment that is safe and respectful is essential for the pupils enrolled in the schools in this State and is necessary for those pupils to achieve academic success and meet this State's high academic standards;
3. Every classroom, hallway, locker room, cafeteria, restroom, gymnasium, playground, athletic field, school bus, parking lot and other areas on the premises of a school in this State must be maintained as

a safe and respectful learning environment, and no form of discrimination based on race, bullying or cyber-bullying will be tolerated within the system of public education in this State;

4. Any form of discrimination based on race, bullying or cyber-bullying seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

5. The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;

6. It will ensure that:

(a) The schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, races, colors, national origins, ancestries, religions, gender identities or expressions, sexual orientations, physical or mental disabilities, sexes or any other distinguishing characteristics or backgrounds can realize their full academic and personal potential;

(b) All administrators, teachers and other personnel of the school districts and schools in this State demonstrate appropriate and professional behavior on the premises of any school by treating other persons, including, without limitation, pupils, with civility and respect, by refusing to tolerate discrimination based on race, bullying and cyber-bullying, and by taking immediate action to protect a victim or target of discrimination based on race, bullying or cyber-bullying when witnessing, overhearing or being notified that discrimination based on race, bullying or cyber-bullying is occurring or has occurred;

(c) The quality of instruction is not negatively impacted by poor attitudes or interactions among administrators, teachers, coaches or other personnel of a school district or school;

(d) All persons in a school are entitled to maintain their own beliefs and to respectfully disagree without resorting to discrimination based on race, bullying, cyber-bullying or violence; and

(e) Any teacher, administrator, coach or other staff member or pupil who tolerates or engages in an act of discrimination based on race, bullying or cyber-bullying or violates a provision of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act regarding a response to discrimination based on race, bullying or cyber-bullying against a pupil will be held accountable; and

7. By declaring this mandate that the schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils be free from physical, emotional or mental abuse while at school and that pupils be provided with an environment that allows them to learn.

NRS 388.1321. Legislative declaration concerning duty of governing body, administrators and teachers to create and provide safe and respectful learning environment; authority of parent or guardian of pupil to petition court to compel performance of duty; remedy not exclusive.

1. The Legislature hereby declares that the members of a governing body and all administrators and teachers have a duty to create and provide a safe and respectful learning environment for all pupils that is free of discrimination based on race, bullying and cyber-bullying.

2. A parent or guardian of a pupil may petition a court of competent jurisdiction for a writ of mandamus to compel the performance of any duty imposed by the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.

3. Nothing in this section shall be deemed to preclude a parent or guardian of a pupil from seeking any remedy available at law or in equity.

NRS 388.1323. Office for a Safe and Respectful Learning Environment: Creation; appointment and duties of Director.

1. The Office for a Safe and Respectful Learning Environment is hereby created within the Department.
2. The Superintendent of Public Instruction shall appoint a Director of the Office, who shall serve at the pleasure of the Superintendent.
3. The Director of the Office shall ensure that the Office:
 - (a) Maintains a 24-hour, toll-free statewide hotline and Internet website by which any person can report a violation of the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act and obtain information about antidiscrimination and anti-bullying efforts and organizations; and
 - (b) Provides outreach and antidiscrimination and anti-bullying education and training for pupils, parents and guardians, teachers, administrators, coaches and other staff members and the members of a governing body. The outreach and training must include, without limitation:
 - (1) Training regarding methods, procedures and practice for recognizing discrimination based on race, bullying and cyber-bullying behaviors;
 - (2) Training regarding effective intervention and remediation strategies regarding discrimination based on race, bullying and cyber-bullying;
 - (3) Training regarding methods for reporting violations of NRS 388.135; and
 - (4) Information on and referral to available resources regarding suicide prevention and the relationship between discrimination based on race, bullying or cyber-bullying and suicide, including, without limitation, resources for pupils who are members of groups at a high risk of suicide. Such groups include, without limitation, the groups described in subsection 3 of NRS 388.256.
4. The Director of the Office shall establish procedures by which the Office may receive reports of discrimination based on race, bullying and cyber-bullying and complaints regarding violations of the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.
5. The Director of the Office or his or her designee shall investigate any complaint that a teacher, administrator, coach or other staff member or member of a governing body has violated a provision of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act. If a complaint alleges criminal conduct or an investigation leads the Director of the Office or his or her designee to suspect criminal conduct, the Director of the Office may request assistance from the Investigation Division of the Department of Public Safety.

NRS 388.1327. Regulations.

The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the Department for a grant of money from the Discrimination and Bullying Prevention Account pursuant to NRS 388.1325.
2. As are necessary to carry out the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.

NRS 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the governing bodies, educational personnel, local associations and organizations of parents whose children are enrolled in schools throughout this State, and individual parents and legal guardians whose children are enrolled in schools throughout this State, prescribe by regulation a policy for all school districts and schools to provide a safe and respectful learning environment that is free of discrimination based on race, bullying and cyber-bullying.

2. The policy must include, without limitation:

- (a) Requirements and methods for reporting violations of NRS 388.135, including, without limitation, violations among teachers and violations between teachers and administrators, coaches and other personnel of a school district or school;
- (b) Requirements and methods for addressing the rights and needs of persons with diverse gender identities or expressions;
- (c) Requirements and methods for restorative disciplinary practices that align with the statewide framework for restorative justice if such a framework is developed pursuant to section 2 of this act; and
- (d) A policy for use by school districts and schools to train members of the governing body and all administrators, teachers and all other personnel employed by the governing body. The policy must include, without limitation:
 - (1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of discrimination based on race, bullying and cyber-bullying so that pupils may realize their full academic and personal potential;
 - (2) Training in methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying;
 - (3) Training concerning the needs of persons with diverse gender identities or expressions;
 - (4) Training concerning the needs of pupils with disabilities and pupils with autism spectrum disorder;
 - (5) Methods to promote a positive learning environment;
 - (6) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and
 - (7) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

NRS 388.134. Policy by governing bodies for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to governing bodies and school personnel; posting of policies on Internet website; annual review and update of policies.

Each governing body shall:

- 1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The governing body may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.
- 2. Provide for the appropriate training of members of the governing body and all administrators, teachers and all other personnel employed by the governing body in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520. For members of the governing body who have not previously served on the governing body or for employees of the school district or school who have not previously been employed by the district or school, the training required by this subsection must be provided within 180 days after the member begins his or her service or after the employee begins his or her employment, as applicable.
- 3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district or school.
- 4. Ensure that the parents and legal guardians of pupils enrolled in the school district or school have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the

5. school district or school. Upon the request of a parent or legal guardian, the school district or school shall provide the parent or legal guardian with a written copy of the policies.
6. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the governing body updates the policies, the governing body must submit a copy of the updated policies to the Department within 30 days after the update.

NRS 388.1341. Development of informational pamphlet by Department; annual review and update; posting on Internet website; development of tutorial.

1. The Department, in consultation with persons who possess knowledge and expertise in discrimination based on race, bullying and cyber-bullying, shall, to the extent money is available, develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in schools in this State in resolving incidents of discrimination based on race, bullying or cyber-bullying. If developed, the pamphlet must include, without limitation:
 - (a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6;
 - (b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.134 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for discrimination based on race, bullying and cyber-bullying; and
 - (c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by a governing body.
2. If the Department develops a pamphlet pursuant to subsection 1, the Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.
3. If the Department develops a pamphlet pursuant to subsection 1, the Department shall post a copy of the pamphlet on the Internet website maintained by the Department.
4. To the extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1, if such a pamphlet is developed by the Department.

NRS 388.1342. Establishment of programs of training by Department; completion of program by members of State Board of Education and governing bodies; completion of certain programs by school district and school personnel; annual review and update of programs of training.

1. The Department, in consultation with persons who possess knowledge and expertise in discrimination based on race, bullying and cyber-bullying, shall establish a program of training:
 - (a) On methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying for members of the State Board.
 - (b) On methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying for the members of a governing body.
 - (c) For school district and school personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6.

(d) For school district and school personnel in the prevention of violence and suicide, including, without limitation, violence and suicide associated with discrimination based on race, bullying and cyber-bullying, and appropriate methods to respond to incidents of violence or suicide. Such training must include, without limitation, instruction concerning the identification of:

- (1) Appropriate mental health services at the school and in the community in which the school is located and how and when to refer pupils and their families for such services; and
- (2) Other persons and organizations in the community in which the school is located, including, without limitation, religious and other nonprofit organizations, that may be able to assist with the response to a suicide.

(e) For school district and school personnel concerning the needs of persons with diverse gender identities or expressions.

(f) For school district and school personnel concerning the needs of pupils with disabilities and pupils with autism spectrum disorder.

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on discrimination based on race, bullying and cyber-bullying established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. Except as otherwise provided in NRS 388.134, each member of a governing body shall, within 1 year after the member begins his or her service on the governing body, complete the program of training on discrimination based on race, bullying and cyber-bullying established pursuant to paragraph (b) of subsection 1 and undergo the training at least one additional time while the person is a member of the governing body.

4. Each administrator of a school shall complete the program of training established pursuant to paragraphs (d), (e) and (f) of subsection 1:

- (a) Within 90 days after becoming an administrator;
- (b) Except as otherwise provided in paragraph (c), at least once every 3 years thereafter; and
- (c) At least once during any school year within which the program of training is revised or updated.

5. Each program of training established pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

6. The governing body may allow school personnel to attend the program established pursuant to paragraph (c), (d), (e) or (f) of subsection 1 during regular school hours.

7. The Department shall review each program of training established pursuant to subsection 1 on an annual basis to ensure that the program contains current information.

NRS 388.1343. Establishment by administrator of each school; duties of administrator.

The administrator of each school or his or her designee shall:

1. Establish a school safety team to develop, foster and maintain a school environment which is free from discrimination based on race, bullying and cyber-bullying;
2. Conduct investigations of violations of NRS 388.135 occurring at the school; and
3. Collaborate with the governing body and the school safety team to prevent, identify and address reported violations of NRS 388.135 at the school.

NRS 388.1344. Membership; chair; duties.

3. The school safety team shall:

- (a) Meet at least two times each year;
- (b) Identify and address patterns of discrimination based on race, bullying or cyber-bullying;
- (c) Review and strengthen school policies to prevent and address discrimination based on race, bullying or cyber-bullying;
- (d) Provide information to school personnel, pupils enrolled in the school and parents and legal guardians of pupils enrolled in the school on methods to address bullying and cyber-bullying;
- (e) To the extent practicable, work with members of the community with expertise in cultural competency; and
- (f) To the extent money is available, participate in any training conducted by the school district or school regarding bullying and cyber-bullying.

4. To the extent practicable, the school safety team must consist of members who are representative of the demographic groups identified in subsection 1 of section 4 of this act.

NRS 388.135. Bullying and cyber-bullying prohibited.

A member of a governing body, any employee of a governing body, including, without limitation, an administrator, teacher or other staff member, a member of a club or organization which uses the facilities of any school, regardless of whether the club or organization has any connection to the school, or any pupil shall not engage in discrimination based on race, bullying or cyber-bullying on the premises of any school, at an activity sponsored by a school or on any school bus.

NRS 388.1351. Staff member required to report violation to administrator; required actions and investigation; notification to parent or guardian; written report of findings and conclusions of investigation; follow-up with victim; list of resources to be provided to parent or guardian; appeal of disciplinary action; reassignment of pupil who is victim of bullying or cyber-bullying; reports.

1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. Except as otherwise provided in this subsection, upon receiving a report required by subsection 1, the administrator or designee shall immediately take any necessary action to stop the discrimination based on race, bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the discrimination based on race, bullying or cyber-bullying and shall begin an investigation into the report. If the administrator or designee does not have access to the reported victim of the alleged violation of NRS 388.135, the administrator or designee may wait until the next school day when he or she has such access to take the action required by this subsection.

3. The investigation conducted pursuant to subsection 2 must include, without limitation:

- (a) Except as otherwise provided in subsection 4, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported discrimination based on race, bullying or cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the discrimination based on race, bullying or cyber-bullying. The notification must be provided:

- (1) If the discrimination based on race, bullying or cyber-bullying is reported before the end of school hours on a school day, before the school's administrative office closes on the day on which the discrimination based on race, bullying or cyber-bullying is reported; or

(2) If the discrimination based on race, bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, before the school's administrative office closes on the school day following the day on which the discrimination based on race, bullying or cyber-bullying is reported.

(b) Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.

4. If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection 3.

Except as otherwise provided in this subsection, an investigation required by this section must be completed not later than 2 school days after the administrator or designee receives a report required by subsection 1. If extenuating circumstances prevent the administrator or designee from completing the investigation required by this section within 2 school days after making a good faith effort, 1 additional school day may be used to complete the investigation. The time for completing an investigation into a report of cyber-bullying may also be extended to not more than 5 school days after the report is received with the consent of each reported victim of the cyber-bullying or, if a reported victim is under 18 years of age and is not emancipated, the parent or guardian of the re

ported victim.

6. An administrator or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred:

(a) The report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all parents or guardians who must be notified pursuant to paragraph (a) of subsection 3 as part of the investigation; and

(b) Any action taken after the completion of the investigation to address the discrimination based on race, bullying or cyber-bullying must be based on restorative disciplinary practices and carried out in a manner that causes the least possible disruption for the victim or victims. When necessary, the administrator or his or her designee shall give priority to ensuring the safety and well-being of the victim or victims over any interest of the perpetrator or perpetrators when determining the actions to take.

7. If a violation is found not to have occurred, information concerning the incident must not be included in the record of the reported aggressor.

8. Not later than 10 school days after receiving a report required by subsection 1, the administrator or designee shall meet with each reported victim of the discrimination based on race, bullying or cyber-bullying to inquire about the well-being of the reported victim and to ensure that the reported discrimination based on race, bullying or cyber-bullying, as applicable, is not continuing.

9. To the extent that information is available, the administrator or his or her designee shall provide a list of any resources that may be available in the community to assist a pupil to each parent or guardian of a pupil to whom notice was provided pursuant to this section as soon as practicable. Such a list may include, without limitation, resources available at no charge or at a reduced cost and may be provided in person or by electronic or regular mail. If such a list is provided, the administrator, his or her designee, or any employee of the school or the school district is not responsible for providing such resources to the pupil or ensuring the pupil receives such resources.

10. The parent or guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the administrator or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Not later than 30 days after receiving a response provided in accordance with such a policy, the parent or guardian may submit a complaint to the Department. The Department shall consider and respond to the complaint pursuant to procedures and standards prescribed in regulations adopted by the Department.

11. If a violation of NRS 388.135 is found to have occurred, the parent or guardian of a pupil who is a victim of discrimination based on race, bullying or cyber-bullying may request that the board of trustees of the school district in which the pupil is enrolled to assign the pupil to a different school in the school district. Upon receiving such a request, the board of trustees shall, in consultation with the parent or guardian of the pupil, assign the pupil to a different school.

A principal or his or her designee shall submit a monthly report to the direct supervisor of the principal that includes for the school

12. the number of:

- (a) Reports received pursuant to subsection 1 concerning incidents of bullying or cyber-bullying;
- (b) Reports received pursuant to subsection 1 concerning incidents of discrimination based on race;
- (c) Times in which a violation of NRS 388.135 is found to have occurred; and
- (d) Times in which no violation of NRS 388.135 is found to have occurred.

13. A direct supervisor who receives a monthly report pursuant to subsection 12 shall, each calendar quarter, submit a report to the Office for a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act, the:

- (a) Total number of reports received pursuant to subsection 1 concerning bullying or cyber-bullying;
- (b) Total number of reports received pursuant to subsection 1 concerning incidents of discrimination based on race;
- (c) Number of times in which a violation of NRS 388.135 is found to have occurred; and
- (d) Number of times in which no violation of NRS 388.135 is found to have occurred.

14. The Office for a Safe and Respectful Learning Environment, in consultation with the direct supervisor of a principal, shall, after reviewing a report submitted pursuant to subsection 12 or 13, as applicable, make any recommendations based on identified trends and patterns the Office determines to be appropriate regarding interventions or training to address discrimination based on race, bullying and cyber-bullying at the school.

15. School hours and school days are determined for the purposes of this section by the schedule established by the governing body for the school.

16. The provisions of this section must not be construed to place any limit on the time within which an investigation concerning any alleged act that constitutes sexual assault must be completed.

NRS 388.1352. Establishment of policy by governing body for employees to report violations to law enforcement.

A governing body, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district or school, shall establish a policy for the procedures which must be followed by an employee of the school district or school when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

NRS 388.13535. Deferral of required investigation of bullying or cyber-bullying; actions by administrator or designee if investigation is deferred; exemption from certain requirements if violation committed by certain pupils.

1. If a law enforcement agency is investigating a potential crime involving an alleged violation of NRS 388.135, the administrator or his or her designee may, after providing the notification required by paragraph (a) of subsection 3 of NRS 388.1351, defer the investigation required by that section until the completion of the criminal investigation by the law enforcement agency. If the administrator or his or her designee defers an investigation pursuant to this subsection, the administrator or designee shall:
 - (a) Immediately develop and carry out a plan to protect the safety of each pupil directly involved in the alleged violation of NRS 388.135; and
 - (b) To the extent that the law enforcement agency has provided the administrator or designee with information about the projected date for completion of its investigation, provide the parents or guardians of each pupil directly involved in the alleged violation of NRS 388.135 with that information.
2. Except as otherwise provided in this section, the deferral authorized by subsection 1 does not affect the obligations of the administrator or designee pursuant to NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.
3. Any plan developed pursuant to subsection 1 must be carried out in a manner that causes the least possible disruption for the reported victim or victims of discrimination based on race, bullying or cyber-bullying. When necessary, the administrator or his or her designee shall give priority to protecting the reported victim or victims over any interest of the reported perpetrator or perpetrators when determining how to carry out the plan.
4. If the administrator or designee determines that a violation of NRS 388.135 was caused by the disability of the pupil who committed the violation:
 - (a) The provisions of NRS 388.1351 do not apply to the same or similar behavior if the behavior is addressed in the pupil's individualized education program; and
 - (b) The administrator or designee shall take any measures necessary to protect the safety of the victim of the violation.
5. The provisions of NRS 388.1351 do not apply to a violation of NRS 388.135 committed by:
 - (a) A pupil who is enrolled in prekindergarten if the behavior is addressed through measures intended to modify the behavior of the pupil.
 - (b) An employee of a school or school district against another employee of a school or school district.
 - (c) An adult who is not a pupil or employee of a school or school district against another such adult.

NRS 388.136. School officials prohibited from interfering with disclosure of violations.

1. A school official shall not directly or indirectly interfere with or prevent the disclosure of information concerning a violation of NRS 388.135.
2. As used in this section "school official" means:
 - (a) A member of a governing body; or
 - (b) A licensed or unlicensed employee of a school district or school.

NRS 388.137. Immunity for reporting of violations; exceptions; recommendation for disciplinary action if person who made report acted with malice, intentional misconduct, gross negligence or violation of law.

1. No cause of action may be brought against a pupil or an employee or volunteer of a school who reports a violation of NRS 388.135 unless the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.

2. If an administrator determines that a report of a violation of NRS 388.135 is false and that the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law, the administrator may recommend the imposition of disciplinary action or other measures against the person in accordance with the policy governing disciplinary action adopted by the governing body.

NRS 388.139. Text of certain provisions required to be included in rules of behavior.

Each school district shall include the text of the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Discrimination Based on Race, Bullying and Cyber-Bullying Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

NRS 388.1395. Requirements for delivery of information during annual "Week of Respect."

The governing body of each school shall determine the most effective manner for the delivery of information to the pupils of the school during the "Week of Respect" proclaimed by the Governor each year pursuant to NRS 236.073. The information delivered during the "Week of Respect" must focus on:

1. Methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying;
2. Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and
3. Methods to facilitate positive human relations among pupils by eliminating the use of discrimination based on race, bullying and cyber-bullying.

NRS 389.520. Establishment of standards; periodic review of standards; adoption of standards by State Board; establishment of policy for ethical, safe and secure use of computers.

2. The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:

- (a) The ethical use of computers and other electronic devices, including, without limitation:
 - (1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and
 - (2) Methods to ensure the prevention of:
 - (I) Cyber-bullying;
 - (II) Plagiarism; and
 - (III) The theft of information or data in an electronic form;
- (b) The safe use of computers and other electronic devices, including, without limitation, methods to:
 - (1) Avoid cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;
 - (2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and
 - (3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

9. As used in this section:

- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

NRS 392.915. Threatening to cause bodily harm or death to pupil or school employee by means of oral, written or electronic communication; penalties.

1. A person shall not, through the use of any means of oral, written or electronic communication, including, without limitation, through the use of cyber-bullying, knowingly threaten to cause bodily harm or death to a pupil or employee of a school district or charter school with the intent to:

- (a) Intimidate, harass, frighten, alarm or distress a pupil or employee of a school district or charter school;
- (b) Cause panic or civil unrest; or
- (c) Interfere with the operation of a public school, including, without limitation, a charter school.

2. Unless a greater penalty is provided by specific statute, a person who violates the provisions of subsection 1 is guilty of:

- (a) A misdemeanor, unless the provisions of paragraph (b) apply to the circumstances.
- (b) A gross misdemeanor, if the threat causes:
 - (1) Any pupil or employee of a school district or charter school who is the subject of the threat to be intimidated, harassed, frightened, alarmed or distressed;
 - (2) Panic or civil unrest; or
 - (3) Interference with the operation of a public school, including, without limitation, a charter school.

3. As used in this section:

- (a) "Cyber-bullying" has the meaning ascribed to it NRS 388.12".
- (b) "Oral, written or electronic" communication" includes, without limitation, any of the following:
 - (1) A letter, note or any other type of written correspondence.
 - (2) An item of mail or a package delivered by any person or postal or delivery service.
 - (3) A telegraph or wire service, or any other similar means of communication.

A telephone, cellular phone, satellite phone, page or facsimile machine, or any other similar means of

- (4) communication.
- (5) A radio, television, cable, closed-circuit, wire, wireless, satellite or other audio or video broadcast or transmission, or any other similar means of communication.
- (6) An audio or video recording or reproduction, or any other similar means of communication.
- (7) An item of electronic mail, a modem or computer network, or the Internet, or any other similar means of communication.

REGULATIONS

NAC 388.890. Reporting of information regarding bullying or cyber-bullying by pupils; actions of principal or designee when ensuring safety and well-being of reported victim.

1. A pupil who is a victim of discrimination based on race, bullying or cyber-bullying in violation of NRS 388.135, witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred may report the violation:

- (a) To any employee or volunteer in the public school or school district in which the pupil is enrolled, including, without limitation, a teacher, counselor, coach or administrator;
- (b) Through the 24-hour, toll-free statewide hotline or Internet website maintained by the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1323; or
- (c) Through a hotline or Internet website maintained by the school district in which the pupil is enrolled, if the school district maintains such a hotline or website.

2. When ensuring the safety and well-being of a reported victim of discrimination based on race, bullying or cyber-bullying as required by NRS 388.1351, the principal or his or her designee:

(a) Shall not take any action that may cause harm to the reported victim, including, without limitation, requiring the reported victim to change classrooms or isolating the reported victim from his or her peers.

(b) Shall, to the extent practicable, talk privately and discreetly about the violation with the reported victim, without bringing undue attention to the reported victim.

NAC 388.900. Requirements of investigation of report; documentation of interviews conducted as part of investigation.

1. Each investigation of a report of discrimination based on race, bullying or cyber-bullying conducted pursuant to NRS 388.1351 must be conducted thoroughly and impartially in a manner that does not retraumatize or further traumatize the reported victim and must include, without limitation, an interview with:

(a) Each person involved in the reported discrimination based on race, bullying or cyber-bullying, including, without limitation, the reported aggressor, the reported victim and any relevant witnesses.

(b) The parent or guardian of the reported aggressor and the reported victim.

To the extent practicable, the identities of the persons interviewed and the content of the interviews must remain confidential.

2. Each administrator or designee of an administrator who conducts an investigation pursuant to this section and NRS 388.1351 shall document the date, time, subject and content of each interview conducted and maintain such documentation in a manner that is consistent with the policy governing maintenance of disciplinary records for the school district in which the school is located or charter school, as applicable.

3. Each administrator or designee of an administrator who conducts an investigation must complete the investigation within the time prescribed by NRS 388.1351.

NAC 388.905. Requirements of written report if violation found to have occurred; administrator or designee to develop and carry out plan to support well-being of victim and aggressor; follow-up with victim and aggressor.

2. The administrator or designee of the administrator shall develop and carry out a plan to support the physical and emotional well-being of the reported victim and the reported aggressor which is designed to ensure that the reported victim and the reported aggressor are not further harmed by the discrimination based on race, bullying or cyber-bullying, including, without limitation, by allowing the reported victim to make up any test or homework assignment that he or she missed or failed to submit as a result of the discrimination based on race, bullying or cyber-bullying.

3. The administrator or the designee of the administrator shall meet with each reported victim of discrimination based on race, bullying or cyber-bullying as required by subsection 8 of NRS 388.1351 and with each reported aggressor, regardless of the outcome of the investigation, to ensure that the discrimination based on race, bullying or cyber-bullying is not continuing. Each meeting must be conducted in a private and discreet manner that does not draw unnecessary attention to the reported victim.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

NRS 388.505. Mandatory education and training for staff.

1. The Department shall develop a model program of education for use by the school districts to train the members of the staff of the schools within the school districts who are identified in the individualized education programs of pupils with disabilities to provide services to those pupils. The model program of education must provide instruction in positive behavioral interventions and positive behavioral supports that:

- (a) Includes positive methods to modify the environment of pupils with disabilities to promote adaptive behavior and reduce the occurrence of inappropriate behavior;
- (b) Includes methods to teach skills to pupils with disabilities so that the pupils can replace inappropriate behavior with adaptive behavior;
- (c) Includes methods to enhance the independence and quality of life for pupils with disabilities;
- (d) Includes the use of the least intrusive methods to respond to and reinforce the behavior of pupils with disabilities; and
- (e) Offers a process for designing interventions based upon the pupil that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the pupil.

2. The board of trustees of each school district shall provide for appropriate training for the members of the staff of the schools within the school district who are authorized to carry out and monitor physical restraint and mechanical restraint to ensure that those members of the staff are qualified to carry out the procedures in accordance with NRS 388.471 to 388.515, inclusive.

NRS 388.1341. Development of informational pamphlet by Department; annual review and update; posting on Internet website; development of tutorial.

1. The Department, in consultation with persons who possess knowledge and expertise in discrimination based on race, bullying and cyber-bullying, shall, to the extent money is available, develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in schools in this State in resolving incidents of discrimination based on race, bullying or cyber-bullying. If developed, the pamphlet must include, without limitation:

- (a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6;
- (b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for discrimination based on race, bullying and cyber-bullying; and
- (c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by a governing body.

2. If the Department develops a pamphlet pursuant to subsection 1, the Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.

3. If the Department develops a pamphlet pursuant to subsection 1, the Department shall post a copy of the pamphlet on the Internet website maintained by the Department.

4. To the extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1, if such a pamphlet is developed by the Department.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

NRS 388.885. Establishment of statewide framework for integrated student supports; requirements for framework; board of trustees and governing body of charter school required to take certain actions; requirements for requests for proposals for integrated student supports.

1. The Department shall, to the extent money is available, establish a statewide framework for providing and coordinating integrated student supports for pupils enrolled in public schools and the families of such pupils. The statewide framework must:

(a) Establish minimum standards for the provision of integrated student supports by school districts and charter schools. Such standards must be designed to allow a school district or charter school the flexibility to address the unique needs of the pupils enrolled in the school district or charter school.

(b) Establish a protocol for providing and coordinating integrated student supports. Such a protocol must be designed to:

(1) Support a school-based approach to promoting the success of all pupils by establishing a means to identify barriers to academic achievement and educational attainment of all pupils and methods for intervening and providing integrated student supports which are coordinated to reduce those barriers, including, without limitation, methods for:

(I) Engaging the parents and guardians of pupils;

(II) Assessing the social, emotional and academic development of pupils;

(III) Attaining appropriate behavior from pupils; and

(IV) Screening, intervening and monitoring the social, emotional and academic progress of pupils;

(2) Encourage the provision of education in a manner that is centered around pupils and their families and is culturally and linguistically appropriate;

(3) Encourage providers of integrated student supports to collaborate to improve academic achievement and educational attainment, including, without limitation, by:

(I) Engaging in shared decision-making;

(II) Establishing a referral process reduces duplication of services and increases efficiencies in the manner in that which barriers to academic achievement and educational attainment are addressed by such providers; and

(III) Establishing productive working relationships between such providers;

(4) Encourage collaboration between the Department and local educational agencies to develop training regarding:

(I) Best practices for providing integrated student supports;

(II) Establishing effective integrated student support teams comprised of persons or governmental entities providing integrated student supports;

Effective communication between providers of integrated student

(III) supports; and

(IV) Compliance with applicable state and federal law; and

(5) Support statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development and advocacy to improve access to integrated student supports and expand upon existing integrated student supports that address the physical, emotional and educational needs of pupils.

(c) Include integration and coordination across school- and community-based providers of integrated student support services through the establishment of partnerships and systems that support this framework.

(d) Establish accountability standards for each administrator of a school to ensure the provision and coordination of integrated student supports.

2. The board of trustees of each school district and the governing body of each charter school shall:

(a) Annually conduct a needs assessment for pupils enrolled in the school district or charter school, as applicable, to identify the academic and nonacademic supports needed within the district or charter school. The board of trustees of a school district or the governing body of a charter school shall be deemed to have satisfied this requirement if the board of trustees or the governing body has conducted such a needs assessment for the purpose of complying with any provision of federal law or any other provision of state law that requires the board of trustees or governing body to conduct such a needs assessment.

(b) Ensure that mechanisms for data-driven decision-making are in place and the academic progress of pupils for whom integrated student supports have been provided is tracked.

(c) Ensure integration and coordination between providers of integrated student supports.

(d) To the extent money is available, ensure that pupils have access to social workers, mental health workers, counselors, psychologists, nurses, speech-language pathologists, audiologists and other school-based specialized instructional support personnel or community-based medical or behavioral providers of health care.

3. Any request for proposals issued by a local educational agency for integrated student supports must include provisions requiring a provider of integrated student supports to comply with the protocol established by the Department pursuant to subsection 1.

4. As used in this section, integrated student support means any measure designed to assist a pupil in:

(a) Improving his or her academic achievement and educational attainment and maintaining stability and positivity in his or her life; and

(b) His or her social, emotional and academic development.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

NRS 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the governing bodies, educational personnel, local associations and organizations of parents whose children are enrolled in schools throughout this State, and individual parents and legal guardians whose children are enrolled in schools throughout this State,

prescribe by regulation a policy for all school districts and schools to provide a safe and respectful learning environment that is free of discrimination based on race, bullying and cyber-bullying.

2. The policy must include, without limitation:

- (a) Requirements and methods for reporting violations of NRS 388.135, including, without limitation, violations among teachers and violations between teachers and administrators, coaches and other personnel of a school district or school;
- (b) Requirements and methods for addressing the rights and needs of persons with diverse gender identities or expressions;
- (c) Requirements and methods for restorative disciplinary practices that align with the statewide framework for restorative justice if such a framework is developed pursuant to section 2 of this act; and
- (d) A policy for use by school districts and schools to train members of the governing body and all administrators, teachers and all other personnel employed by the governing body. The policy must include, without limitation:
 - (1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of discrimination based on race, bullying and cyber-bullying so that pupils may realize their full academic and personal potential;
 - (2) Training in methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying;
 - (3) Training concerning the needs of persons with diverse gender identities or expressions;
 - (4) Training concerning the needs of pupils with disabilities and pupils with autism spectrum disorder;
 - (5) Methods to promote a positive learning environment;
 - (6) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and
 - (7) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

NRS 388.1333. Development of Statewide Framework for Restorative Justice by Department.

1. To the extent that money is available, the Department shall develop a statewide framework for restorative justice. The statewide framework must, without limitation:

- (a) In accordance with [NRS 392.472](#), establish standards for a plan of action based on restorative justice to enable a public school to address the unique needs of pupils enrolled in the school;
- (b) Provide for the identification of and address the needs of homeless pupils, unaccompanied pupils or pupils in foster care;
- (c) Address the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of [NRS 385A.250](#);
- (d) Provide for the improvement of school climate, culture and safety and pupil outcomes by providing information on, without limitation:
 - (1) Multi-tiered systems of support;
 - (2) Early warning systems;
 - (3) Positive behavioral interventions and support;
 - (4) The provision of school social workers;
 - (5) Curriculum on social and emotional learning; and
 - (6) Trauma-informed practices; and
- (e) Provide for training for teachers, administrators and other school staff in:
 - (1) Child and adolescent development;
 - (2) Restorative justice, including, without limitation, positive behavioral interventions and support, conflict resolution and de-escalation techniques; and
 - (3) Psychology, trauma and chronic stress, the effect of trauma and chronic stress on pupils and learning and effective responses to trauma and chronic stress.

2. The Department may apply for grants, gifts and donations of money to carry out the objectives of the statewide framework for restorative justice.

3. As used in this section:

(a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.

(b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(c) "Restorative justice" has the meaning ascribed to it in [NRS 392.472](#).

(d) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

(Added to NRS by [2021, 3558](#), effective July 1, 2022)

NRS 388.1337. Development of restorative practices for victims and perpetrators of discrimination based on race.

A governing body shall develop restorative practices in accordance with the provisions of [NRS 388.133](#) for both victims and perpetrators of discrimination based on race.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

NAC 389.195. Elementary school.

1. The State Board of Education prescribes the following courses of study for elementary schools:

(a) Reading.

(b) Language.

(c) Social studies.

(d) Mathematics.

(e) Science.

(f) Art.

(g) Music.

(h) Health.

(i) Physical education.

(j) Computers.

2. In addition to the courses prescribed by subsection 1, a course of study in:

(a) Introduction to technology is prescribed for pupils in sixth, seventh or eighth grade.

(b) Academic achievement, career exploration, and personal and social development is prescribed for pupils in seventh or eighth grade.

3. A local school board may offer:

(a) A course in a world language as an elective course for pupils in kindergarten through the eighth grade.

(b) A course in home and career skills as an elective course for pupils in seventh and eighth grades.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

NRS 388.256. Development and contents of policy for prevention of suicide in certain grades; duty of Department to develop model policy; posting of link to Internet website of Coordinator of Statewide Program for Suicide Prevention.

1. The board of trustees of each school district, the governing body of each charter school that provides instruction to pupils in grades 7 to 12, inclusive, and the governing body of each university school for profoundly gifted pupils shall, in consultation with pupils, parents or guardians of pupils, school employees, persons who provide mental health services to pupils, persons and organizations with expertise in the prevention of suicide and other interested persons and entities:
 - (a) Adopt a policy for the prevention of suicide in grades 7 to 12, inclusive; and
 - (b) Review the policy at least once every 5 years and update the policy as necessary.
2. The policy adopted pursuant to subsection 1 must include, without limitation:
 - (c) Required training for teachers and pupils concerning the prevention of suicide. Such training:
 - (1) Must include, without limitation, instruction concerning the identification of:
 - (I) Appropriate mental health services at the school and in the community in which the school is located and when and how to refer pupils and their families for such services; and
 - (II) Other persons and organizations in the community in which the school is located, including, without limitation, religious and other nonprofit organizations, that may be able to assist with the response to a suicide.
 - (2) May include, without limitation, the review of appropriate materials concerning the prevention of suicide or participation in the program of training established pursuant to paragraph (d) of subsection 1 of NRS 388.1342.

NRS 388.910. Appointment and duties of school safety specialist.

1. The superintendent of schools of each school district shall designate an employee at the district level to serve as the school safety specialist for the district. The principal of each charter school shall designate an employee to serve as the school safety specialist for the charter school. Not later than 1 year after being designated pursuant to this subsection, a school safety specialist shall complete the training provided by the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1323.
2. A school safety specialist shall:
 - (a) Review policies and procedures of the school district or charter school, as applicable, that relate to school safety to determine whether those policies and procedures comply with state laws and regulations;
 - (b) Ensure that each school employee who interacts directly with pupils as part of his or her job duties receives information concerning mental health services available in the school district or charter school, as applicable, and persons to contact if a pupil needs such services;
 - (c) Ensure the provision to school employees and pupils of appropriate training concerning:

(1) Mental health;

(2) Emergency procedures, including, without limitation, the plan developed pursuant to NRS 388.243; and

(3) Other matters relating to school safety and security;

(d) Annually conduct a school security risk assessment and submit the school security risk assessment to the Office for a Safe and Respectful Learning Environment for review pursuant to NRS 388.1323;

(e) Present a summary of the school security risk assessment conducted pursuant to paragraph (d) and any recommendations to improve school safety and security based on the assessment at a public meeting of the board of trustees of the school district or governing body of the charter school, as applicable;

(f) Not later than 30 days after the meeting described in paragraph (e), provide to the Director a summary of the school security risk assessment, any recommendations to improve school safety and security based on the assessment and any actions taken by the board of trustees or governing body, as applicable, based on those recommendations;

(g) Serve as the liaison for the school district or charter school, as applicable, with local public safety agencies, other governmental agencies, nonprofit organizations and the public regarding matters relating to school safety and security;

(h) At least once every 3 years, provide a tour of each school in the district or the charter school, as applicable, to employees of public safety agencies that are likely to be first responders to a crisis, emergency or suicide at the school; and

(i) Provide a written record to the board of trustees of the school district or the governing body of the charter school, as applicable, of any recommendations made by an employee of a public safety agency as a result of a tour provided pursuant to paragraph (h). The board of trustees or governing body, as applicable, shall maintain a record of such recommendations.

3. In a school district in a county whose population is 100,000 or more, the school safety specialist shall collaborate with the emergency manager designated pursuant to NRS 388.262 where appropriate in the performance of the duties prescribed in subsection 2.

4. As used in this section:

(a) "Crisis" has the meaning ascribed to it in NRS 388.231.

(b) "Emergency" has the meaning ascribed to it in NRS 388.233.

NRS 388.1342. Establishment of programs of training by Department; completion of program by members of State Board of Education and governing bodies; completion of certain programs by school district and school personnel; annual review and update of programs of training.

1. The Department, in consultation with persons who possess knowledge and expertise in discrimination based on race, bullying and cyber-bullying, shall establish a program of training:

(a) On methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying for members of the State Board.

(b) On methods to prevent, identify and report incidents of discrimination based on race, bullying and cyber-bullying for the members of a governing body.

(c) For school district and school personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.1395, inclusive, and sections 4, 5 and 6 of this act.

(d) For school district and school personnel in the prevention of violence and suicide, including, without limitation, violence and suicide associated with discrimination based on race, bullying and cyber-bullying, and appropriate methods to respond to incidents of violence or suicide. Such training must include, without limitation, instruction concerning the identification of:

(1) Appropriate mental health services at the school and in the community in which the school is located and how and when to refer pupils and their families for such services; and

(2) Other persons and organizations in the community in which the school is located, including, without limitation, religious and other nonprofit organizations, that may be able to assist with the response to a suicide.

(e) For school district and school personnel concerning the needs of persons with diverse gender identities or expressions.

(f) For school district and school personnel concerning the needs of pupils with disabilities and pupils with autism spectrum disorder.

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on discrimination based on race, bullying and cyber-bullying established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. Except as otherwise provided in NRS 388.134, each member of a governing body shall, within 1 year after the member begins his or her service on the governing body, complete the program of training on discrimination based on race, bullying and cyber-bullying established pursuant to paragraph (b) of subsection 1 and undergo the training at least one additional time while the person is a member of the governing body.

4. Each administrator of a school shall complete the program of training established pursuant to paragraphs (d), (e) and (f) of subsection 1:

(a) Within 90 days after becoming an administrator;

(b) Except as otherwise provided in paragraph (c), at least once every 3 years thereafter; and

(c) At least once during any school year within which the program of training is revised or updated.

5. Each program of training established pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

6. The governing body may allow school personnel to attend the program established pursuant to paragraph (c), (d), (e) or (f) of subsection 1 during regular school hours.

7. The Department shall review each program of training established pursuant to subsection 1 on an annual basis to ensure that the program contains current information.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

NRS 388.266. Block grants to employ or contract with social workers and other mental health workers.

To the extent that money is available for the purpose, the Department shall:

1. Develop and carry into effect a program of block grants for the purposes described in subsection 2; and

2. Make and administer block grants to school districts and charter schools to employ or contract with social workers and other mental health workers in schools with identified needs.

NRS 388.885. Establishment of statewide framework for integrated student supports; requirements for framework; board of trustees and governing body of charter school required to take certain actions; requirements for requests for proposals for integrated student supports.

2. The board of trustees of each school district and the governing body of each charter school shall:

(d) To the extent money is available, ensure that pupils have access to social workers, mental health workers, counselors, psychologists, nurses, speech-language pathologists, audiologists and other school-based specialized instructional support personnel or community-based medical or behavioral providers of health care.

NRS 388.910. Appointment and duties of school safety specialist.

1. The superintendent of schools of each school district shall designate an employee at the district level to serve as the school safety specialist for the district. The principal of each charter school shall designate an employee to serve as the school safety specialist for the charter school. Not later than 1 year after being designated pursuant to this subsection, a school safety specialist shall complete the training provided by the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1323.

2. A school safety specialist shall:

(a) Review policies and procedures of the school district or charter school, as applicable, that relate to school safety to determine whether those policies and procedures comply with state laws and regulations;

(b) Ensure that each school employee who interacts directly with pupils as part of his or her job duties receives information concerning mental health services available in the school district or charter school, as applicable, and persons to contact if a pupil needs such services;

(c) Ensure the provision to school employees and pupils of appropriate training concerning:

(1) Mental health;

(2) Emergency procedures, including, without limitation, the plan developed pursuant to NRS 388.243; and

(3) Other matters relating to school safety and security.

NRS 391.294. Authority and supervision of school psychologist.

1. A school psychologist may, through consultation or collaboration with other educational personnel or by providing direct services:

(a) Deliver mental and behavioral health services to pupils in a school;

(b) Collaborate with the school, community and parents or legal guardians of pupils to promote a safe and supportive learning environment;

(c) Provide preventative, intervention and post intervention services through integrated systems of support;

(d) Collect and analyze data on the mental and behavioral health of pupils;

(e) Administer applicable assessments to pupils;

(f) Monitor the progress of the academic, mental and behavioral health of pupils;

(g) Assist with the development and implementation of school-wide practices to promote learning;

(h) Analyze resilience and risk factors of pupils;

- (i) Provide instructional support to other educational personnel;
- (j) Evaluate and make recommendations for the improvement of special education services;
- (k) Promote diversity in development and learning;
- (l) Conduct research and evaluate programs related to the mental and behavioral health of pupils; and
- (m) Participate in planning for and implementing a response to a crisis at the school.

2. In a school district in which more than 50,000 pupils were enrolled during the preceding school year, each school psychologist must be supervised by a psychologist licensed pursuant to chapter 391 of NRS who is a licensed administrator.

3. In a school district in which not more than 50,000 pupils were enrolled during the preceding school year, each school psychologist must be supervised by a licensed administrator.

NRS 388.14538. Handle with Care Program: Establishment; notification of exposure of child to traumatic event or certain other events; training; regulations.

1. The Director shall establish the Handle with Care Program within the Office for a Safe and Respectful Learning Environment. The Handle with Care Program must enable a law enforcement officer or agency to notify the Program when a child who may attend a public school is exposed to a traumatic event or other event that may affect his or her ability to succeed at school as described in NRS 289.840. [...]

6. The Director shall provide training regarding:

- (d) Collaboration with teachers and other members of the staff of a school, pupils, family members of pupils and other persons, as appropriate, to reduce the negative impact of the traumatic event on the affected pupil and appropriate interventions that may be available to assist the pupil.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

NRS 388.13505. Reporting and categorization of incident of discrimination based on race.

1. A pupil or the parent or legal guardian of a pupil who witnesses an incident of discrimination based on race may report the incident to an administrator or his or her designee.
2. A governing body shall categorize an incident of discrimination based on race as a racially motivated or hate incident on the appropriate system to track pupil information used by a school.

NRS 388.1351. Staff member required to report violation to administrator; required actions and investigation; notification to parent or guardian; written report of findings and conclusions of investigation; follow-up with victim; list of resources to be provided to parent or guardian; appeal of disciplinary action; reassignment of pupil who is victim of bullying or cyber-bullying; reports.

1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation. [...]
12. A principal or his or her designee shall submit a monthly report to the direct supervisor of the principal that includes for the school the number of:
 - (a) Reports received pursuant to subsection 1 concerning incidents of bullying or cyber-bullying;
 - (b) Reports received pursuant to subsection 1 concerning incidents of discrimination based on race;
 - (c) Times in which a violation of NRS 388.135 is found to have occurred; and
 - (d) Times in which no violation of NRS 388.135 is found to have occurred.
13. A direct supervisor who receives a monthly report pursuant to subsection 12 shall, each calendar quarter, submit a report to the Office for a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act, the:
 - (a) Total number of reports received pursuant to subsection 1 concerning bullying or cyber-bullying;
 - (b) Total number of reports received pursuant to subsection 1 concerning incidents of discrimination based on race;
 - (c) Number of times in which a violation of NRS 388.135 is found to have occurred; and
 - (d) Number of times in which no violation of NRS 388.135 is found to have occurred.
14. The Office for a Safe and Respectful Learning Environment, in consultation with the direct supervisor of a principal, shall, after reviewing a report submitted pursuant to subsection 12 or 13, as applicable, make any recommendations based on identified trends and patterns the Office determines to be appropriate regarding interventions or training to address discrimination based on race, bullying and cyber-bullying at the school.

NRS 388.1454. Legislative findings and declarations concerning SafeVoice Program.

The Legislature hereby finds and declares that a SafeVoice Program is necessary because it is the intent of the Legislature to enable the people of this State to easily and anonymously provide to appropriate state or local public safety agencies and to school administrators information about dangerous, violent or

unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school.

NRS 388.1455. Establishment of SafeVoice Program; requirements of Program; support center for initial reports; training regarding Program and support center; duties of Director; reports, policies and regulation.

1. The Director shall establish the SafeVoice Program within the Office for a Safe and Respectful Learning Environment. The Program must enable any person to report to the Program any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school. Any information relating to any such dangerous, violent or unlawful activity, or threat thereof, received by the Program is confidential and, except as otherwise authorized pursuant to subsection 2 and NRS 388.1458, must not be disclosed to any person.
2. The SafeVoice Program must include, without limitation, methods and procedures to ensure that:
 - (a) Information reported to the Program is promptly forwarded to the appropriate public safety agencies, the Department and other appropriate state agencies, school administrators and other school employees, including, without limitation, the teams appointed pursuant to NRS 388.14553;
 - (b) The identity of a person who reports information to the Program may remain anonymous, unless the policies established and regulations adopted pursuant to subsection 6 require the identity of such a person to be disclosed; and
 - (c) The appropriate public safety agencies may access personally identifiable information concerning a pupil:
 - (1) To take the appropriate action in response to an activity or threat reported pursuant to this section;
 - (2) Twenty-four hours a day; and
 - (3) Subject to the confidentiality required pursuant to this section.
3. On behalf of the SafeVoice Program, the Director or his or her designee shall establish and operate a support center that meets the requirements of NRS 388.14557, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application or enter into an agreement with an organization that the Director determines is appropriately qualified and experienced, pursuant to which the organization will establish and operate such a support center, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application. The support center shall receive initial reports made to the Program through the hotline, Internet website, mobile telephone application and text messaging application and forward the information contained in the reports in the manner required by subsection 2.
4. The Director shall provide training regarding:
 - (a) The Program to employees and volunteers of each public safety agency, public safety answering point, board of trustees of a school district, governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program.
 - (b) Properly responding to a report received from the support center, including, without limitation, the manner in which to respond to reports of different types of dangerous, violent and unlawful activity and threats of such activity, to each member of a team appointed pursuant to NRS 388.14553.
 - (c) The procedure for making a report to the support center using the hotline, Internet website, mobile telephone application and text messaging application and collaborating to prevent dangerous, violent and unlawful activity directed at teachers and other members of the staff of a school, pupils, family members of pupils and other persons.

5. The Director shall:
 - (a) Post information concerning the SafeVoice Program on an Internet website maintained by the Director;
 - (b) Provide to each public school educational materials regarding the SafeVoice Program, including, without limitation, information about the telephone number, address of the Internet website, mobile telephone application, text messaging application and any other methods by which a report may be made; and
 - (c) On or before July 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education a report containing a summary of the information reported to the Director pursuant to NRS 388.14557 during the immediately preceding 12 months and any other information that the Director determines would assist the Committee to evaluate the SafeVoice Program.
6. The Department shall establish policies and adopt regulations pursuant to subsection 2 relating to the disclosure of the identity of a person who reports information to the Program. The regulations must include, without limitation, the disclosure of the identity of a person who reported information to the Program:
 - (a) To ensure the safety and well-being of the person who reported information to the Program;
 - (b) To comply with the provisions of NRS 388.1351; or
 - (c) If the person knowingly reported false information to the Program.
7. As used in this section:
 - (a) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.
 - (b) "Public safety answering point" has the meaning ascribed to it in NRS 707.500.

NRS 388.14553. Appointment of team to receive notification of certain activity; certain information regarding Program to appear on identification cards of pupils and be posted conspicuously; member of team to take appropriate action upon receipt of notification.

1. The board of trustees of a school district or the governing body of a charter school shall:
 - (a) Appoint a team of at least three members of the staff of each public school, other than a charter school, that is located in the school district or of the charter school, as applicable, including, without limitation, a school counselor, psychologist, social worker or a similar person, if the school employs such a person on a full- time basis, and a school administrator. The team must receive notification if the support center receives:
 - (1) A report through the SafeVoice Program of any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on the property of the school, at an activity sponsored by the school, on a school bus of the school or by a pupil enrolled at the school; or
 - (2) Notification through the Handle with Care Program of a pupil who was exposed to a traumatic event.
 - (b) Ensure that information concerning the SafeVoice Program, including, without limitation, the telephone number for the hotline established pursuant to NRS 388.1455:
 - (1) Appears on the back of any identification card issued to pupils and staff at the school; and
 - (2) Is posted in conspicuous locations around the school, which may include, without limitation, the front office, the cafeteria or a school bus.
2. Upon receiving notification from the support center through the SafeVoice Program or the Handle with Care Program, a member of the appropriate team appointed pursuant to paragraph (a) of subsection 1 shall take appropriate action in accordance with the training he or she has received pursuant to NRS 388.1455 or 388.14538 to respond to the activity, threat or traumatic event, as applicable.
3. The team appointed pursuant to paragraph (a) of subsection 1 may:

- (a) Include a person appointed by the public school pursuant to NRS 388.247 to a committee to review the plan developed for the school pursuant to NRS 388.243.
- (b) Allow another person to temporarily serve on the team if a member of the team is unavailable.

REGULATIONS

NAC 388.890. Reporting of information regarding bullying or cyber-bullying by pupils; actions of principal or designee when ensuring safety and well-being of reported victim.

1. A pupil who is a victim of bullying or cyber-bullying in violation of NRS 388.135, witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred may report the violation:
 - (a) To any employee or volunteer in the public school or school district in which the pupil is enrolled, including, without limitation, a teacher, counselor, coach or administrator;
 - (b) Through the 24-hour, toll-free statewide hotline or Internet website maintained by the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1323; or
 - (c) Through a hotline or Internet website maintained by the school district in which the pupil is enrolled, if the school district maintains such a hotline or website.
2. When ensuring the safety and well-being of a reported victim of bullying or cyber-bullying as required by NRS 388.1351, the principal or his or her designee:
 - (a) Shall not take any action that may cause harm to the reported victim, including, without limitation, requiring the reported victim to change classrooms or isolating the reported victim from his or her peers.
 - (b) Shall, to the extent practicable, talk privately and discreetly about the violation with the reported victim, without bringing undue attention to the reported victim.

NAC 388.905. Requirements of written report if violation found to have occurred; administrator or designee to develop and carry out plan to support well-being of victim and aggressor; follow-up with victim and aggressor.

1. If an administrator or the designee of an administrator determines that a violation of NRS 388.135 has occurred, the written report of the findings and conclusions of the investigation completed pursuant to NRS 388.1351 and NAC 388.900 must include recommendations for the imposition of restorative disciplinary actions or other measures to be imposed as a result of the violation that the administrator or designee determines will assist the reported aggressor to see the harm that his or her actions have caused, to repair that harm and to not engage in discrimination based on race, bullying or cyber-bullying in the future. Such other measures may include, without limitation, the development of a plan to support the physical and emotional well-being of the reported aggressor that is aligned with the training provided by the Office for a Safe and Respectful Learning Environment.

Parental Notification

LAWS

NRS 388.1351. Staff member required to report violation to administrator; required actions and investigation; notification to parent or guardian; written report of findings and conclusions of investigation; follow-up with victim; list of resources to be provided to parent or guardian; appeal of disciplinary action; reassignment of pupil who is victim of bullying or cyber-bullying; reports.

1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but

not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. Except as otherwise provided in this subsection, upon receiving a report required by subsection 1, the administrator or designee shall immediately take any necessary action to stop the discrimination based on race, bullying or cyber- bullying and ensure the safety and well-being of the reported victim or victims of the discrimination based on race, bullying or cyber- bullying and shall begin an investigation into the report. If the administrator or designee does not have access to the reported victim of the alleged violation of NRS 388.135, the administrator or designee may wait until the next school day when he or she has such access to take the action required by this subsection.

3. The investigation conducted pursuant to subsection 2 must include, without limitation:

(a) Except as otherwise provided in subsection 4, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported discrimination based on race, bullying or cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the discrimination based on race, bullying or cyber-bullying. The notification must be provided:

(1) If the discrimination based on race, bullying or cyber-bullying is reported before the end of school hours on a school day, before the school's administrative office closes on the day on which the discrimination based on race, bullying or cyber-bullying is reported; or

(2) If the discrimination based on race, bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, before the school's administrative office closes on the school day following the day on which the discrimination based on race, bullying or cyber-bullying is reported.

(b) Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.

4. If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection 3.

NRS 392.140. Conditions under which pupil declared habitual truant; applicability.

1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.

2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:

(a) Approval of the child's teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or

(b) Notice of his or her parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 of NRS 392.130, may again be declared a habitual truant.

3. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

NRS 392.144. Duties of school if pupil is truant; habitual truant must be reported to attendance officer or law enforcement, referred to advisory board or referred for imposition of administrative sanctions.

1. If a pupil has one or more unapproved absences from school, the school in which the pupil is enrolled shall take reasonable actions designed, as applicable, to encourage, enable or convince the pupil to attend school.

2. If a pupil is a habitual truant pursuant to NRS 392.140, or if a pupil who is a habitual truant pursuant to NRS 392.140 is again declared truant pursuant to NRS 392.130 in the same school year after being declared a habitual truant, the principal of the school shall:

(a) Report the pupil to an attendance officer, a school police officer or the local law enforcement agency for investigation and issuance of a citation, if warranted, in accordance with NRS 392.149;

(b) If the parent or legal guardian of a pupil has signed a written consent pursuant to subsection 4, submit a written referral of the pupil to the advisory board to review school attendance in the county in accordance with NRS 392.146; or

(c) Refer the pupil for the imposition of administrative sanctions in accordance with NRS 392.148.

3. The board of trustees of each school district shall adopt criteria to determine whether the principal of a school shall:

- (a) Report a pupil to an attendance officer, a school police officer or the law enforcement agency pursuant to paragraph (a) of subsection 2;
- (b) Refer a pupil to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2; or

Refer a pupil for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2.

4. If the principal of a school makes an initial determination to submit a written referral of a pupil to the advisory board to review school attendance, the principal shall notify the parent or legal guardian of the pupil and request the parent or legal guardian to sign a written consent that authorizes the school and, if applicable, the school district to release the records of the pupil to the advisory board to the extent that such release is necessary for the advisory board to carry out its duties pursuant to NRS 392.146 and 392.147. The written consent must comply with the applicable requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent or legal guardian refuses to sign the consent, the principal shall:

- (a) Report the pupil to an attendance officer, a school police officer or the local law enforcement agency pursuant to paragraph (a) of subsection 2; or
- (b) Refer the pupil for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2.

NRS 392.146. Contents of written referral to advisory board; notice to parents or guardian.

A written referral of a pupil to an advisory board to review school attendance must include the dates on which the pupil was truant from school and all action taken by the school to assist the pupil to attend school. The advisory board may request clarification of any information contained in the written referral or any additional information that the advisory board considers necessary. The school shall provide written notice of the referral to the parents or legal guardian of the pupil. The written notice must include, without limitation:

- 1. The name and address of the pupil referred;
- 2. A written explanation of the reason for the referral;
- 3. A summary of the provisions of NRS 392.147; and
- 4. The address and telephone number of the advisory board to review school attendance.

NRS 392.149. Issuance of citation to habitual truant; applicability.

- 1. Upon receipt of a report pursuant to NRS 392.144 or 392.147, if it appears after investigation that a pupil is a habitual truant, the attendance officer, school police officer or law enforcement agency to whom the report is made shall prepare manually or electronically a citation directing the pupil to appear in the proper juvenile court.
- 2. A copy of the citation must be delivered to the pupil and to the parent, guardian or any other person who has control or charge of the pupil by:
 - (a) The local law enforcement agency;
 - (b) A school police officer employed by the board of trustees of the school district; or
 - (c) An attendance officer appointed by the board of trustees of the school district.
- 3. The citation must be in the form prescribed for misdemeanor citations in NRS 171.1773.
- 4. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

NRS 392.4645. Removal of pupil: Notice; assignment to temporary alternative placement; exceptions.

1. Except as otherwise in subsection 5, the plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom or other premises of a public school if, in the judgment of the teacher or other staff member responsible for the classroom or other premises, as applicable, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn or with the ability of the staff member to discharge his or her duties. The plan must provide that, upon the removal of a pupil from a classroom or any other premises of a public school pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

2. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom or any other premises of a public school pursuant to this section may be assigned to a temporary alternative placement pursuant to which the pupil:

- (a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;
- (b) Studies or remains under the supervision of appropriate personnel of the school district; and
- (c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

3. The principal shall not assign a pupil to a temporary alternative placement if the suspension or expulsion of a pupil who is removed from the classroom pursuant to this section is:

- (a) Required by NRS 392.466; or
- (b) Authorized by NRS 392.467 and the principal decides to proceed in accordance with that section.

If the principal proceeds in accordance with NRS 392.466 or 392.467, the pupil must be removed from school in accordance with those sections and the provisions of NRS 392.4642 to 392.4648, inclusive, do not apply to the pupil.

4. A public school must offer a pupil who is removed from a classroom or any other premises of the public school pursuant to this section for more than 2 school days:

- (a) Education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period the pupil is removed from a classroom or any other premises of the public school; and
- (b) Appropriate positive behavioral interventions and support, trauma-informed support and a referral to a school social worker or school counselor.

5. Before removing a pupil from a classroom or any other premises of a public school pursuant to this section for more than 1 school day, the principal of the school must contact the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker, to make a determination of whether the pupil is a homeless pupil.

6. As used in this section, "homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

NRS 392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem; appeal by parent or guardian concerning content of plan or action taken pursuant to plan.

1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:
 - (a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school two or more times or the pupil has a record of five suspensions from the school for any reason;
 - (b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 6; and
 - (c) The behavior of the pupil was not caused by homelessness, as determined in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker.
2. A principal of a school shall presume that the behavior of the pupil was caused by homelessness unless the principal determines the behavior was not caused by homelessness pursuant to subsection 1.
3. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.
4. If a pupil is suspended, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil or, if the pupil is an unaccompanied pupil, the pupil that contains:
 - (a) A description of the act committed by the pupil and the date on which the act was committed;
 - (b) An explanation that if the pupil receives five suspensions on his or her record during the current school year and has not entered into and participated in a plan of behavior pursuant to subsection 6, the pupil will be deemed a habitual disciplinary problem;
 - (c) An explanation that, pursuant to subsection 5 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:
 - (1) Suspended from school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or
 - (2) Expelled from school under extraordinary circumstances as determined by the principal of the school;
 - (d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.419, an explanation of the effect of subsection 10 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and
 - (e) A summary of the provisions of subsection 6.
5. A school shall provide the notice required by subsection 3 for each suspension on the record of a pupil during a school year. Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.

6. If a pupil is suspended, the school in which the pupil is enrolled shall develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. The parent or legal guardian or, if the pupil is an unaccompanied pupil, of the pupil may choose for the pupil not to participate in the plan of behavior. If the parent or legal guardian of the pupil, or the pupil chooses for the pupil not to participate, the school shall inform the parent or legal guardian or the pupil of the consequences of not participating in the plan of behavior. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation:
 - (a) A plan for graduating if the pupil is deficient in credits and not likely to graduate according to schedule.
 - (b) Information regarding schools with a mission to serve pupils who have been:
 - (1) Expelled or suspended from a public school, including, without limitation, a charter school; or Deemed to be a habitual disciplinary problem pursuant to this section.
 - (2) .
 - (c) A voluntary agreement by the parent or legal guardian to attend school with his or her child.
 - (d) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.
 - (e) A voluntary agreement by the pupil and, if the pupil is not an unaccompanied pupil, the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.
7. If a pupil commits the same act for which notice was provided pursuant to subsection 4 after he or she enters into a plan of behavior pursuant to subsection 6, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.
8. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.
10. As used in this section, "unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

REGULATIONS

NAC 388.895. Initial notification to parents or guardians of pupils; maintenance of record regarding notification

1. The initial notification provided pursuant to [NRS 388.1351](#) to the parents and guardians of pupils directly involved in a reported violation of [NRS 388.135](#):
 - (a) Must include, without limitation, a statement that the administrator or the designee of the administrator will be conducting an investigation of the reported violation and that the parent or guardian may discuss with the administrator or designee any counseling or intervention services that are available to the pupil.
 - (b) Must not include any personally identifiable information of a pupil other than the pupil to whose parent or guardian the notification is provided.
2. An administrator or the designee of an administrator shall maintain a record of each notification made pursuant to subsection 1, including all good faith efforts to notify a parent or guardian if the contact information for the parent or guardian is not correct.

NAC 388.910. Required actions by principal upon completion of written report of investigation; adoption of policy by school district that prescribes procedures to appeal outcome of investigation

1. Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, an administrator or designee of an administrator who completes a

written report of the findings and conclusions of an investigation of reported discrimination based on race, bullying or cyber-bullying pursuant to NRS 388.1351 and NAC 388.900 shall, within 24 hours after completing the report:

(a) Provide to the parent or guardian of the reported aggressor a copy of the written report that does not contain the personally identifiable information of any other pupil;

(b) Notify the parent or guardian of any other pupil directly involved in the incident of the outcome of the investigation and make available upon request to any such parent or guardian a copy of the report that does not contain the personally identifiable information of any pupil other than the pupil to whose parent or guardian the report is provided; and

(c) Notify the parent or guardian of each pupil directly involved in the incident that the parent or guardian may:

(1) Submit to the administrator or designee a complaint or concern regarding the conduct or outcome of the investigation;

(2) Request a meeting with the administrator or designee to discuss the outcome of the investigation;

(3) Appeal the outcome of the investigation in the manner prescribed pursuant to subsection 2; and

(4) Appeal a disciplinary decision of the administrator or designee made against the pupil as a result of the incident.

2. The governing body of each school shall adopt a policy that prescribes procedures by which the parent or guardian of any pupil directly involved in a reported violation of NRS 388.135 may appeal the outcome of the investigation conducted pursuant to NRS 388.1351 and NAC 388.900 and any disciplinary decision made against the pupil.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

NRS 385.175. Designation as educational leader for system of K-12 public education; general duties.

The Superintendent of Public Instruction is the educational leader for the system of K-12 public education in this State. The Superintendent of Public Instruction shall:

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.

2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.

3. Organize the Department in a manner which will assure efficient operation and service.

4. Maintain liaison and coordinate activities with other state agencies performing educational functions.

5. Enforce the observance of this title and all other statutes and regulations governing K-12 public education.

6. Request a plan of corrective action from the board of trustees of a school district or the governing body of a charter school if the Superintendent of Public Instruction determines that the school district or charter school, or any other entity which provides education to a pupil with a disability for a school district or charter school, has not complied with a requirement of this title or any other statute or regulation governing K-12 public education. The plan of corrective action must provide a timeline approved by the Superintendent of Public Instruction for compliance with the statute or regulation.

7. Report to the State Board on a regular basis the data on the discipline of pupils and trends in the data on the discipline of pupils collected pursuant to NRS 385A.840.
8. Perform such other duties as are prescribed by law.

NRS 385.230. Annual report of the state of public education; contents of report; presentation and submission of report.

1. The Department shall, in conjunction with the State Board, prepare an annual report of the state of public education in this State. The report must include, without limitation:
 - (p) An analysis of data on the discipline of pupils collected pursuant to NRS 385A.840, including, without limitation:
 - (1) Trends in the data measuring changes in the discipline of pupils; and
 - (2) Areas identified by the Department where the Department will provide support to a public school to address trends in the data on the discipline of pupils.
2. In odd-numbered years, the Superintendent of Public Instruction shall present the report prepared pursuant to subsection 1 in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.
3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report prepared pursuant to subsection 1 to the Governor and to the Legislative Committee on Education.

NRS 385A.240. Attendance, truancy and transiency of pupils.

1. The annual report of accountability prepared pursuant to NRS 385A.070 must include information on the attendance, truancy and transiency of pupils, including, without limitation:

(a) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school sponsored by the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(b) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033, 392.125 or 392.760, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(c) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(d) The number of habitual truants reported for each school in the district and for the district as a whole, including, without limitation, the number who are:

(1) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;

(2) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

(3) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.

2. The information included pursuant to subsection 1 must allow such information to be disaggregated by:

(a) Pupils who are economically disadvantaged;

(b) Pupils from major racial and ethnic groups;

(c) Pupils with disabilities;

(d) Pupils who are English learners;

(e) Pupils who are migratory children;

(f) Gender;

(g) Pupils who are homeless;

(h) Pupils in foster care; and

(i) Pupils whose parent or guardian is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard.

3. On or before September 30 of each year:

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required by paragraph (a) of subsection 1.

(b) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3 of NRS 385A.070.

NRS 385A.250. Discipline of pupils.

1. The annual report of accountability prepared pursuant to NRS 385A.070 must include information on the discipline of pupils, including, without limitation:

(a) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school sponsored by the district.

(b) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school sponsored by the district.

(c) Records of the suspension or expulsion, or both, of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(d) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(e) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act::

(1) The number of reported violations of NRS 388.135 occurring at a school or otherwise involving a pupil enrolled at a school, regardless of the outcome of the investigation conducted pursuant to NRS 388.1351;

(2) The number of incidents determined to be discrimination based on race, bullying or cyber-bullying after an investigation is conducted pursuant to NRS 388.1351;

(3) The number of incidents resulting in suspension or expulsion, or both, for discrimination based on race, bullying or cyber-bullying; and

(4) Any actions taken to reduce the number of incidents of discrimination based on race, bullying or cyber-bullying including, without limitation, training that was offered or other policies, practices and programs that were implemented.

(f) For each high school in the district, including, without limitation, each charter school sponsored by the district that operates as a high school, and for high schools in the district as a whole:

(1) The number and percentage of pupils whose violations of the code of honor relating to cheating prescribed pursuant to NRS 392.461 or any other code of honor applicable to pupils enrolled in high school were reported to the principal of the high school, reported by the type of violation;

(2) The consequences, if any, to the pupil whose violation is reported pursuant to subparagraph (1), reported by the type of consequence;

(3) The number of any such violations of a code of honor in a previous school year by a pupil whose violation is reported pursuant to subparagraph (1), reported by the type of violation; and

(4) The process used by the high school to address violations of a code of honor which are reported to the principal.

2. The information included pursuant to subsection 1 must allow such information to be disaggregated by:
 - (a) Pupils who are economically disadvantaged;
 - (b) Pupils from major racial and ethnic groups;
 - (c) Pupils with disabilities;
 - (d) Pupils who are English learners;
 - (e) Pupils who are migratory children;
 - (f) Gender;
 - (g) Pupils who are homeless;
 - (h) Pupils in foster care; and
 - (i) Pupils whose parent or guardian is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard.
3. As used in this section:
 - (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
 - (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
 - (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 385A.400. Requirements for report; public dissemination of report.

1. The State Board shall, on or before January 15 of each year, prepare for the immediately preceding school year a single annual report of accountability that includes, without limitation, the information prescribed by NRS 385A.400 to 385A.520, inclusive.
2. A separate reporting for a group of pupils must not be made pursuant to NRS 385A.400 to 385A.520, inclusive, if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.
3. The annual report of accountability must:
 - (a) Be prepared in a concise manner; and
 - (b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.
4. On or before January 15 of each year, the State Board shall provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department.
5. Upon the request of the Governor, the Attorney General, the Committee, the Bureau, the Board of Regents of the University of Nevada, the board of trustees of a school district, the State Public Charter School Authority, a college or university within the Nevada System of Higher Education, the governing body of a charter school or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

NRS 385A.450. Attendance, truancy and transiency of pupils.

The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on the attendance, truancy and transiency of pupils, including, without limitation:

1. For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

2. The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033, 392.125 or 392.760, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

3. The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this subsection, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

4. The number of habitual truants reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, including, without limitation, the number who are:

(a) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;

(b) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

(c) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.

NRS 385A.460. Discipline of pupils.

1. The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on the discipline of pupils, including, without limitation:

(a) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(c) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(d) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, and categorized by types of incidents and the demographics identified in subsection 1 of section 4 of this act:

(1) The number of reported violations of NRS 388.135 occurring at a school or otherwise involving a pupil enrolled at a school, regardless of the outcome of the investigation conducted pursuant to NRS 388.1351;

(2) The number of incidents determined to be discrimination based on race, bullying or cyber-bullying after an investigation is conducted pursuant to NRS 388.1351;

(3) The number of incidents resulting in suspension or expulsion for discrimination based on race, bullying or cyber-bullying; and

(4) Any actions taken to reduce the number of incidents of discrimination based on race, bullying or cyber-bullying, including, without limitation, training that was offered or other policies, practices and programs that were implemented.

(f) For each high school in each school district, including, without limitation, each charter school that operates as a high school, and for the high schools in this State as a whole:

- (1) The number and percentage of pupils whose violations of the code of honor relating to cheating prescribed pursuant to NRS 392.461 or any other code of honor applicable to pupils enrolled in high school were reported to the principal of the high school, reported by the type of violation;
- (2) The consequences, if any, to the pupil whose violation is reported pursuant to subparagraph (1), reported by the type of consequence;
- (3) The number of any such violations of a code of honor in a previous school year by a pupil whose violation is reported pursuant to subparagraph (1), reported by the type of violation; and
- (4) The process used by the high school to address violations of a code of honor which are reported to the principal.

2. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 385A.840. Collection and reporting of data on discipline of pupils.

1. Each public school in this State shall collect data on the discipline of pupils. Such data must:

- (a) Be reported annually to the Department through the automated system of accountability information established pursuant to NRS 385A.800;
- (b) Be disaggregated into subgroups of pupils; and
- (c) Include occurrences of suspension and expulsion as separate offenses.

2. The Department shall:

- (a) Develop and provide guidance to each school district in this State on methods and procedures for the collection of data on the discipline of pupils pursuant to subsection 1;
- (b) Establish standard definitions of an offense for which a pupil may be disciplined and any related sanctions; and
- (c) Provide training and professional development to educational personnel relating to the reporting and analysis of data on the discipline of pupils. Such training must, without limitation, provide educational personnel with the ability to create a report of any data on the discipline of pupils, interpret the results of such a report and develop a responsive plan of action based on the results of such a report.

3. As used in this section:

- (a) "Expulsion" has the meaning ascribed to it in section 12 of this act.
- (b) "Suspension" has the meaning ascribed to it in section 15 of this act.

NRS 388.134. Policy by governing bodies for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to governing bodies and school personnel; posting of policies on Internet website; annual review and update of policies.

Each governing body shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The governing body may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of members of the governing body and all administrators, teachers and all other personnel employed by the governing body in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520. For members of the governing body who have not previously served on the governing body or for employees of the school district or school who have not previously been employed by the district or school, the training required by this subsection must be provided within 180 days after the member begins his or her service or after the employee begins his or her employment, as applicable.
3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district or school.
4. Ensure that the parents and legal guardians of pupils enrolled in the school district or school have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district or school. Upon the request of a parent or legal guardian, the school district or school shall provide the parent or legal guardian with a written copy of the policies.
5. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the governing body updates the policies, the governing body must submit a copy of the updated policies to the Department within 30 days after the update.

NRS 388.513. Reporting of denial of rights; investigation and resolution of disputes by Department.

1. A denial of rights of a pupil with a disability pursuant to NRS 388.471 to 388.515, inclusive, must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district or its designee.
2. If the board of trustees of a school district or its designee receives notice of a denial of rights pursuant to subsection 1, the board of trustees or its designee shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.
3. The Department:
 - (a) Shall receive reports made pursuant to subsection 2;
 - (b) May investigate apparent violations of the rights of pupils with disabilities; and
 - (c) May act to resolve disputes relating to apparent violations.

NRS 388.515. Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:
 - (a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;
 - (b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.471 to 388.515, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

NRS 388.14557. Requirements of support center.

The support center must:

1. Be capable of receiving reports made through the SafeVoice Program and notification provided through the Handle with Care Program;

2. Be available to receive reports and notifications and staffed with trained personnel 24 hours a day, 7 days a week, including holidays and other days when school is not in session;

3. Establish a process for handling a report or notification if personnel at the support center are unable to determine the location of the school or the person about whom the report or notification is made, or if the report or notification concerns a private school or an entity other than a school;

4. Train personnel at the support center who are involved in responding to reports and notifications to follow up on each report or notification by gathering information necessary to determine the validity of the report or notification and the severity of any threat;

5. Use a software system that is resistant to hacking and copying of information to protect the anonymity of persons who submit reports and notifications;

6. Develop and implement a standardized procedure for tracking the outcome of reports and notifications;

7. Compile statistics to determine:

(a) The most frequent days of the week on which reports and notifications are made;

(b) The most frequent times of the day for making reports and providing notifications;

(c) The types of dangerous, violent or unlawful activity that are reported and the frequency of reports of each type of dangerous, violent or unlawful activity;

(d) The frequency with which reports are submitted using the hotline, Internet website, mobile telephone application and text messaging application, respectively; and

(e) The outcome of reports and notifications;

8. Submit to the Director a quarterly report that contains the information compiled pursuant to subsection 7 and any other information necessary for the Director to evaluate the Programs or that is requested by the Director; and

9. Provide each report received through the SafeVoice Program to the appropriate law enforcement agency.

NRS 392.462. Collection by public school of data on discipline of pupils.

Each public school shall collect data on the discipline of pupils. Such data must include, without limitation, the number of expulsions and suspensions of pupils and the number of placements of pupils in another school. Such data must be disaggregated into the subgroups of pupils listed in subsection 2 of NRS 385A.250 and the types of offense. The principal of each public school shall:

1. Review the data and take appropriate action;
2. Report the data to the board of trustees of the school district each quarter; and
3. To the extent allowed by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, post the data on the Internet website maintained by the public school.

NRS 392.4644. Plan for restorative discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and distribution of plan; written reports by board of trustees concerning compliance with section.

1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:

- (a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, pupils who are enrolled in schools within the school district and the parents and guardians of pupils who are enrolled in schools within the school district.
- (b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.
- (c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.
- (d) Provide restorative disciplinary practices which include, without limitation:
 - (1) Holding a pupil accountable for his or her behavior;
 - (2) Restoration or remedies related to the behavior of the pupil;
 - (3) Relief for any victim of the pupil; and
 - (4) Changing the behavior of the pupil.
- (e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.
- (f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.
- (g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.
- (h) Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.
- (i) Be posted on the Internet website maintained by the school district.

2. On or before September 15 of each year, the principal of each public school shall:

- (a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;

(b) Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;

(c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;

(d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and

(e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.

3. On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section, including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250; and

(b) Post a copy of the report on the Internet website maintained by the school district.

4. As used in this section, "restorative justice" has the meaning ascribed to it in NRS 392.472.

REGULATIONS

NAC 388.920. Annual report of accountability to exclude personally identifiable information of pupil involved in reported violation; certain persons not to interfere with reporting of statistics concerning violations.

1. The annual report of accountability prepared pursuant to NRS 385A.070 must not include the personally identifiable information of any pupil involved in a reported violation of NRS 388.135 or any other incident of discrimination based on race, bullying or cyber-bullying.

2. A teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district shall not interfere with the reporting of statistics concerning violations of NRS 388.135.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

NRS 62E.030. Court to provide certain information to school district concerning certain offenses.

1. If a court determines that a child who is currently enrolled in school unlawfully caused or attempted to cause serious bodily injury to another person, the court shall provide the information specified in subsection 2 to the school district in which the child is currently enrolled.
2. The information required to be provided pursuant to subsection 1 must include:
 - (a) The name of the child;
 - (b) A description of any injury sustained by the other person;
 - (c) A description of any weapon used by the child; and
 - (d) A description of any threats made by the child against the other person before, during or after the incident in which the child injured or attempted to injure the person.
3. If a court determines that a child who is currently enrolled in school unlawfully engaged in discrimination based on race, bullying or cyber-bullying, the court shall provide the information specified in subsection 4 to the school district in which the child is currently enrolled.
4. The information required to be provided pursuant to subsection 3 must include:
 - (a) The name of the child;
 - (b) The name of the person who was the subject of the discrimination based on race, bullying or cyber-bullying; and
 - (c) A description of any discrimination based on race, bullying or cyber-bullying committed by the child against the other person.
5. As used in this section:
 - (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
 - (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
 - (c) "Discrimination based on race" has the meaning ascribed to it in section 4 of this act.

NRS 388.880. Immunity from civil liability for reporting threat of violence against school official, school employee or pupil; exceptions.

1. Except as otherwise provided in subsection 2, if any person who knows or has reasonable cause to believe that another person has made a threat of violence against a school official, school employee or pupil reports in good faith that threat of violence to a school official, teacher, school police officer, local law enforcement agency or potential victim of the violence that is threatened, the person who makes the report is immune from civil liability for any act or omission relating to that report. Such a person is not immune from civil liability for any other act or omission committed by the person as a part of, in connection with or as a principal, accessory or conspirator to the violence, regardless of the nature of the other act or omission.
2. The provisions of this section do not apply to a person who:
 - (a) Is acting in his or her professional or occupational capacity and is required to make a report pursuant to NRS 200.5093, 392.303 or 432B.220.
 - (b) Is required to make a report concerning the commission of a violent or sexual offense against a child pursuant to NRS 202.882.
3. As used in this section:
 - (a) "Reasonable cause to believe" means, in light of all the surrounding facts and circumstances which are known, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

- (b) "School employee" means a licensed or unlicensed person who is employed by:
- (1) A board of trustees of a school district pursuant to NRS 391.100 or 391.281; or
 - (2) The governing body of a charter school.
- (c) "School official" means:
- (1) A member of the board of trustees of a school district.
 - (2) A member of the governing body of a charter school.
 - (3) An administrator employed by the board of trustees of a school district or the governing body of a charter school.
- (d) "Teacher" means a person employed by the:
- (1) Board of trustees of a school district to provide instruction or other educational services to pupils enrolled in public schools of the school district.
 - (2) Governing body of a charter school to provide instruction or other educational services to pupils enrolled in the charter school.

NRS 388.1352. Establishment of policy by governing body for employees to report violations to law enforcement.

A governing body, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district or school, shall establish a policy for the procedures which must be followed by an employee of the school district or school when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

NRS 388.1454. Legislative findings and declarations concerning SafeVoice Program.

The Legislature hereby finds and declares that a SafeVoice Program is necessary because it is the intent of the Legislature to enable the people of this State to easily and anonymously provide to appropriate state or local public safety agencies and to school administrators information about dangerous, violent or unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school.

NRS 391.281. Fingerprinting and investigation into the background of applicant for employment or appointment as school police officer and certain nonlicensed employees; use of certain information; disqualification of certain applicants, employees and volunteers; acceptance of gifts, grants and donations; immunity from liability; employment of school police officers; contract for police services; training in prevention of suicide.

5. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer, including any school police officer that provides services to a charter school pursuant to a contract entered into with the board of trustees pursuant to NRS 388A.384. In addition, persons who provide police services pursuant to subsection 6 or 7 shall be deemed school police officers.

6. The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district and on property therein that is owned or occupied by a charter school if the board of trustees has entered into a contract with the charter school for the provision of school police officers pursuant to NRS 388A.384. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of

trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district, including, without limitation, any charter school with which the school district has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property owned by the school district and, if applicable, the property owned or occupied by the charter school, but outside the jurisdiction of the metropolitan police department.

7. The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district, including, without limitation, in any charter school with which the board of trustees has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property therein that is owned by the school district and, if applicable, the property owned or occupied by the charter school.

8. The board of trustees of a school district shall ensure that each school police officer receives training in the prevention of suicide before beginning his or her service as a school police officer.

NRS 391.282. Jurisdiction of school police officers; law enforcement agency to respond to request for assistance by school district which does not have school police according to agency protocol.

1. The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district and, if the board of trustees has entered into a contract with a charter school for the provision of school police officers pursuant to NRS 388A.384, all property, buildings and facilities in which the charter school is located, for the purpose of:

- (a) Protecting school district personnel, pupils, or real or personal property; or
- (b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:

- (a) Beyond the school property, buildings and facilities:
 - (1) When in hot pursuit of a person believed to have committed a crime; or
 - (2) While investigating matters that originated within the jurisdiction of the school police officer relating to personnel, pupils or real or personal property of the school district;
- (b) At activities or events sponsored by the school district that are in a location other than the school property, buildings or facilities within the school district; and
- (c) On the streets that are adjacent to the school property, buildings and facilities within the school district to enforce violations of traffic laws and ordinances.

3. A law enforcement agency that is contacted for assistance by a public school or private school which does not have school police shall respond according to the protocol of the law enforcement agency established for responding to calls for assistance from the general public.

NRS 391.283. Policy for procedures to be followed by peace officers in arresting pupil on school grounds during school hours.

1. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by a peace officer in arresting a pupil on school grounds during school hours. The policy must include the circumstances under which the chief administrative officer of a school must be notified of the arrest of a pupil.

2. Each law enforcement agency that has jurisdiction over any part of a school district shall adopt the policy which is established pursuant to subsection 1.

NRS 392.850. Provision of information to certain employees regarding unlawful conduct of pupil; immunity from liability under certain circumstances; confidentiality of information.

1. The board of trustees of a county school district, or its designee, shall inform each employee of the district, including teachers, other licensed employees, drivers of school buses, instructional aides and office managers, who may have consistent contact with a pupil if that pupil has, within the preceding 3 years, unlawfully caused or attempted to cause serious bodily injury to any person. The district shall provide this information based upon any written records that the district maintains or which it receives from a law enforcement agency or a court. The district need not initiate a request for such information from any source.
2. A school district and the members of its board of trustees are not liable for failure strictly to comply with this section if a good faith effort to comply is made.
3. Except as otherwise provided in NRS 239.0115, any information received by an employee pursuant to this section is confidential and must not be further disseminated by the employee.

NRS 392.4633. Corporal punishment prohibited.

1. Corporal punishment must not be administered upon a pupil in any public school.
2. Subsection 1 does not prohibit any person from defending himself or herself if attacked by a pupil.
3. As used in this section, "corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:
 - (a) To quell a disturbance that threatens physical injury to any person or the destruction of property;
 - (b) To obtain possession of a weapon or other dangerous object within a pupil's control;
 - (c) For the purpose of self-defense or the defense of another person; or
 - (d) To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

NRS 392.4638. Board of trustees authorized to adopt policy for pupils to report unlawful activity being conducted on school property, activity sponsored by public school or on school bus.

1. The board of trustees of each school district may adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy may include, without limitation:
 - (a) The types of unlawful activities which a pupil may report; and
 - (b) The manner in which a pupil may report the unlawful activities.
2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist the board of trustees in the implementation of a policy adopted pursuant to subsection 1.
3. If the board of trustees of a school district adopts a policy pursuant to subsection 1, each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods by which a report may be made. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.
4. If the board of trustees of a school district adopts a policy pursuant to subsection 1, the board of trustees shall post the policy on the Internet website maintained by the school district.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

NRS 280.287. Contract for provision and supervision of police services in public schools and charter schools; qualifications and training for officers assigned to school police unit.

1. The department may enter into a contract with the board of trustees of the school district located in the county served by the department for the provision and supervision of police services in the public schools within the school district and any charter school with which the board of trustees has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property owned by the school district and, if applicable, on property owned or operated by a charter school. If the department enters into a contract pursuant to this section, the department shall create a separate unit designated as the school police unit for this purpose.
2. The department may establish different qualifications and training requirements for officers assigned to the school police unit than those generally applicable to officers of the department.

NRS 388.2565. Training for school resource officers in prevention of suicide.

The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils shall:

1. Ensure that each school resource officer receives training in the prevention of suicide; and
2. Allow a school resource officer to complete the training required by subsection 1 electronically and during working hours.

NRS 388.14538. Handle with Care Program: Establishment; notification of exposure of child to traumatic event or certain other events; training; regulations.

6. The Director shall provide training regarding:
 - (a) The Handle with Care Program to law enforcement agencies and employees of law enforcement agencies that may respond to a traumatic event involving a child, the board of trustees of a school district, the governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program.

NRS 391.281. Fingerprinting and investigation into the background of applicant for employment or appointment as school police officer and certain nonlicensed employees; use of certain information; disqualification of certain applicants, employees and volunteers; acceptance of gifts, grants and donations; immunity from liability; employment of school police officers; contract for police services; training in prevention of suicide.

8. The board of trustees of a school district shall ensure that each school police officer receives training in the prevention of suicide before beginning his or her service as a school police officer.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

NRS 280.287. Contract for provision and supervision of police services in public schools and charter schools; qualifications and training for officers assigned to school police unit.

1. The department may enter into a contract with the board of trustees of the school district located in the county served by the department for the provision and supervision of police services in the public schools within the school district and any charter school with which the board of trustees has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property owned by

the school district and, if applicable, on property owned or operated by a charter school. If the department enters into a contract pursuant to this section, the department shall create a separate unit designated as the school police unit for this purpose.

2. The department may establish different qualifications and training requirements for officers assigned to the school police unit than those generally applicable to officers of the department.

NRS 388.243. Development committee: Development of plan to be used by schools in responding to crisis, emergency or suicide; submission of plan to board of trustees or governing body of charter school and Division of Emergency Management of Department of Public Safety; compliance with plan required.

1. Each development committee established by the board of trustees of a school district shall develop one plan, which constitutes the minimum requirements of a plan, to be used by all the public schools other than the charter schools in the school district in responding to a crisis, emergency or suicide. Each development committee established by the governing body of a charter school shall develop a plan, which constitutes the minimum requirements of a plan, to be used by the charter school in responding to a crisis, emergency or suicide. Each development committee shall, when developing the plan:

(a) Consult with local social service agencies and local public safety agencies in the county in which its school district or charter school is located.

(b) If the school district has an emergency manager designated pursuant to NRS 388.262, consult with the emergency manager.

(c) If the school district has school resource officers, consult with the school resource officer or a person designated by him or her.

(d) If the school district has school police officers, consult with the chief of school police of the school district or a person designated by him or her.

(e) Consult with the director of the local organization for emergency management or, if there is no local organization for emergency management, with the Chief of the Division of Emergency Management of the Department of Public Safety or his or her designee.

(f) Consult with the State Fire Marshal or his or her designee and a representative of a local government responsible for enforcement of the ordinances, codes or other regulations governing fire safety.

(g) Determine which persons and organizations in the community, including, without limitation, a provider of mental health services which is operated by a state or local agency, that could be made available to assist pupils and staff in recovering from a crisis, emergency or suicide.

2. The plan developed pursuant to subsection 1 must include, without limitation:

(a) The plans, procedures and information included in the model plan developed by the Department pursuant to NRS 388.253;

(b) A procedure for responding to a crisis or an emergency and for responding during the period after a crisis or an emergency has concluded, including, without limitation, a crisis or an emergency that results in immediate physical harm to a pupil or employee of a school in the school district or the charter school;

(c) A procedure for enforcing discipline within a school in the school district or the charter school and for obtaining and maintaining a safe and orderly environment during a crisis or an emergency;

(d) The names of persons and organizations in the community, including, without limitation, a provider of mental health services which is operated by a state or local agency, that are available to provide counseling and other services to pupils and staff of the school to assist them in recovering from a crisis, emergency or suicide;

(e) A plan for making the persons and organizations described in paragraph (d) available to pupils and staff after a crisis, emergency or suicide;

(f) A procedure for responding to a crisis or an emergency that occurs during an extracurricular activity which takes place on school grounds;

- (g) A plan which includes strategies to assist pupils and staff at a school in recovering from a suicide; and
- (h) A description of the organizational structure which ensures there is a clearly defined hierarchy of authority and responsibility used by the school for the purpose of responding to a crisis, emergency or suicide.

3. Each development committee shall provide a copy of the plan that it develops pursuant to this section to the board of trustees of the school district that established the committee or the governing body of the charter school that established the committee.

4. The board of trustees of the school district that established the committee or the governing body of the charter school that established the committee shall submit for approval to the Division of Emergency Management of the Department of Public Safety the plan developed pursuant to this section.

5. Except as otherwise provided in NRS 388.249 and 388.251, each public school must comply with the plan developed for it pursuant to this section.

NRS 388.14538. Handle with Care Program: Establishment; notification of exposure of child to traumatic event or certain other events; training; regulations.

1. The Director shall establish the Handle with Care Program within the Office for a Safe and Respectful Learning Environment. The Handle with Care Program must enable a law enforcement officer or agency to notify the Program when a child who may attend a public school is exposed to a traumatic event or other event that may affect his or her ability to succeed at school as described in NRS 289.840.

2. The Handle with Care Program must use the support center established for the SafeVoice Program and teams appointed pursuant to NRS 388.14553 or a similar program designated by a school district.

The support center shall establish a separate hotline and any other appropriate method to allow a law enforcement officer or agency to provide the notification described in subsection 1.

3. Notification submitted by a law enforcement officer or employee of a law enforcement agency must include only identifying information about the child. Such information must include, to the extent that it is available, the name of the child, the grade and school where the child is enrolled and the date of birth of the child.

4. The notification may include basic information about the traumatic event if the law enforcement officer or employee reasonably believes that disclosing such information is in the best interest of the child or necessary for reasons related to school safety.

5. Upon receiving notification from a law enforcement officer or employee of a law enforcement agency, the support center shall determine whether the child attends a public school in this State. If so, the team appointed pursuant to NRS 388.14553 must be notified that the child has been exposed to a traumatic event.

6. The Director shall provide training regarding:

(a) The Handle with Care Program to law enforcement agencies and employees of law enforcement agencies that may respond to a traumatic event involving a child, the board of trustees of a school district, the governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program;

(b) The procedure for notifying the support center when a child who may attend a public school is exposed to a traumatic event or other event that may affect his or her ability to succeed at school and the information to include in the notification;

(c) Properly responding to notification received from the support center, including, without limitation, the manner in which to respond to notification through the Handle with Care Program, to each member of a team appointed pursuant to NRS 388.14553; and

(d) Collaboration with teachers and other members of the staff of a school, pupils, family members of pupils and other persons, as appropriate, to reduce the negative impact of the traumatic event on the affected pupil and appropriate interventions that may be available to assist the pupil.

7. The State Board shall adopt regulations necessary to carry out the provisions of this section.

NRS 388.2358. "School resource officer" defined.

"School resource officer" means a school police officer, deputy sheriff or other peace officer employed by a local law enforcement agency who is assigned to duty at one or more schools, interacts directly with pupils and whose responsibilities include, without limitation, providing guidance and information to pupils, families and educational personnel concerning the avoidance and prevention of crime.

NRS 391.281. Fingerprinting and investigation into the background of applicant for employment or appointment as school police officer and certain nonlicensed employees; use of certain information; disqualification of certain applicants, employees and volunteers; acceptance of gifts, grants and donations; immunity from liability; employment of school police officers; contract for police services; training in prevention of suicide.

5. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer, including any school police officer that provides services to a charter school pursuant to a contract entered into with the board of trustees pursuant to NRS 388A.384. In addition, persons who provide police services pursuant to subsection 6 or 7 shall be deemed school police officers.

6. The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district and on property therein that is owned or occupied by a charter school if the board of trustees has entered into a contract with the charter school for the provision of school police officers pursuant to NRS 388A.384. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district, including, without limitation, any charter school with which the school district has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property owned by the school district and, if applicable, the property owned or occupied by the charter school, but outside the jurisdiction of the metropolitan police department.

7. The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district, including, without limitation, in any charter school with which the board of trustees has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property therein that is owned by the school district and, if applicable, the property owned or occupied by the charter school.

8. The board of trustees of a school district shall ensure that each school police officer receives training in the prevention of suicide before beginning his or her service as a school police officer.

NRS 391.282. Jurisdiction of school police officers; law enforcement agency to respond to request for assistance by school district which does not have school police according to agency protocol.

1. The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district and, if the board of trustees has entered into a contract with a charter school for the provision of school police officers pursuant to NRS 388A.384, all property, buildings and facilities in which the charter school is located, for the purpose of:

- (a) Protecting school district personnel, pupils, or real or personal property; or

(b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:

(a) Beyond the school property, buildings and facilities:

(1) When in hot pursuit of a person believed to have committed a crime; or

(2) While investigating matters that originated within the jurisdiction of the school police officer relating to personnel, pupils or real or personal property of the school district;

(b) At activities or events sponsored by the school district that are in a location other than the school property, buildings or facilities within the school district; and

(c) On the streets that are adjacent to the school property, buildings and facilities within the school district to enforce violations of traffic laws and ordinances.

3. A law enforcement agency that is contacted for assistance by a public school or private school which does not have school police shall respond according to the protocol of the law enforcement agency established for responding to calls for assistance from the general public.

NRS 391.283. Policy for procedures to be followed by peace officers in arresting pupil on school grounds during school hours.

1. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by a peace officer in arresting a pupil on school grounds during school hours. The policy must include the circumstances under which the chief administrative officer of a school must be notified of the arrest of a pupil.

2. Each law enforcement agency that has jurisdiction over any part of a school district shall adopt the policy which is established pursuant to subsection 1.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

NRS 388.1455. Establishment of SafeVoice Program; requirements of Program; support center for initial reports; training regarding Program and support center; duties of Director; reports, policies and regulation.

1. The Director shall establish the SafeVoice Program within the Office for a Safe and Respectful Learning Environment. The Program must enable any person to report to the Program any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school. Any information relating to any such dangerous, violent or unlawful activity, or threat thereof, received by the Program is confidential and, except as otherwise authorized pursuant to subsection 2 and NRS 388.1458, must not be disclosed to any person.

2. The SafeVoice Program must include, without limitation, methods and procedures to ensure that:

(a) Information reported to the Program is promptly forwarded to the appropriate public safety agencies, the Department and other appropriate state agencies, school administrators and other school employees, including, without limitation, the teams appointed pursuant to NRS 388.14553;

(b) The identity of a person who reports information to the Program may remain anonymous, unless the policies established and regulations adopted pursuant to subsection 6 require the identity of such a person to be disclosed; and

- (c) The appropriate public safety agencies may access personally identifiable information concerning a pupil:
 - (1) To take the appropriate action in response to an activity or threat reported pursuant to this section;
 - (2) Twenty-four hours a day; and
 - (3) Subject to the confidentiality required pursuant to this section.

3. On behalf of the SafeVoice Program, the Director or his or her designee shall establish and operate a support center that meets the requirements of NRS 388.14557, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application or enter into an agreement with an organization that the Director determines is appropriately qualified and experienced, pursuant to which the organization will establish and operate such a support center, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application. The support center shall receive initial reports made to the Program through the hotline, Internet website, mobile telephone application and text messaging application and forward the information contained in the reports in the manner required by subsection 2.

4. The Director shall provide training regarding:

- (a) The Program to employees and volunteers of each public safety agency, public safety answering point, board of trustees of a school district, governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program.
- (b) Properly responding to a report received from the support center, including, without limitation, the manner in which to respond to reports of different types of dangerous, violent and unlawful activity and threats of such activity, to each member of a team appointed pursuant to NRS 388.14553.
- (c) The procedure for making a report to the support center using the hotline, Internet website, mobile telephone application and text messaging application and collaborating to prevent dangerous, violent and unlawful activity directed at teachers and other members of the staff of a school, pupils, family members of pupils and other persons.

5. The Director shall:

- (a) Post information concerning the SafeVoice Program on an Internet website maintained by the Director;
- (b) Provide to each public school educational materials regarding the SafeVoice Program, including, without limitation, information about the telephone number, address of the Internet website, mobile telephone application, text messaging application and any other methods by which a report may be made; and
- (c) On or before July 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education a report containing a summary of the information reported to the Director pursuant to NRS 388.14557 during the immediately preceding 12 months and any other information that the Director determines would assist the Committee to evaluate the SafeVoice Program.

6. The Department shall establish policies and adopt regulations pursuant to subsection 2 relating to the disclosure of the identity of a person who reports information to the Program. The regulations must include, without limitation, the disclosure of the identity of a person who reported information to the Program:

- (a) To ensure the safety and well-being of the person who reported information to the Program;
- (b) To comply with the provisions of NRS 388.1351; or
- (c) If the person knowingly reported false information to the Program.

7. As used in this section:

- (a) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.
- (b) "Public safety answering point" has the meaning ascribed to it in NRS 707.500.

NRS 388.14553. Appointment of team to receive notification of certain activity; certain information regarding Program to appear on identification cards of pupils and be posted conspicuously; member of team to take appropriate action upon receipt of notification.

1. The board of trustees of a school district or the governing body of a charter school shall:
 - (a) Appoint a team of at least three members of the staff of each public school, other than a charter school, that is located in the school district or of the charter school, as applicable, including, without limitation, a school counselor, psychologist, social worker or a similar person, if the school employs such a person on a full- time basis, and a school administrator. The team must receive notification if the support center receives:
 - (1) A report through the SafeVoice Program of any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on the property of the school, at an activity sponsored by the school, on a school bus of the school or by a pupil enrolled at the school; or
 - (2) Notification through the Handle with Care Program of a pupil who was exposed to a traumatic event.
 - (b) Ensure that information concerning the SafeVoice Program, including, without limitation, the telephone number for the hotline established pursuant to NRS 388.1455:
 - (1) Appears on the back of any identification card issued to pupils and staff at the school; and
 - (2) Is posted in conspicuous locations around the school, which may include, without limitation, the front office, the cafeteria or a school bus.
2. Upon receiving notification from the support center through the SafeVoice Program or the Handle with Care Program, a member of the appropriate team appointed pursuant to paragraph (a) of subsection 1 shall take appropriate action in accordance with the training he or she has received pursuant to NRS 388.1455 or 388.14538 to respond to the activity, threat or traumatic event, as applicable.
3. The team appointed pursuant to paragraph (a) of subsection 1 may:
 - (a) Include a person appointed by the public school pursuant to NRS 388.247 to a committee to review the plan developed for the school pursuant to NRS 388.243.
 - (b) Allow another person to temporarily serve on the team if a member of the team is unavailable.

NRS 388.14555. Immunity from liability for team and team members.

The team appointed pursuant to NRS 388.14553 and each member of the team are immune from civil liability for any damages resulting from an act or omission of the team or the member or another member of the team in performing the duties set forth in NRS 388.14538, 388.1455 and 388.14553.

NRS 388.14557. Requirements of support center.

The support center must:

1. Be capable of receiving reports made through the SafeVoice Program and notification provided through the Handle with Care Program;
2. Be available to receive reports and notifications and staffed with trained personnel 24 hours a day, 7 days a week, including holidays and other days when school is not in session;
3. Establish a process for handling a report or notification if personnel at the support center are unable to determine the location of the school or the person about whom the report or notification is made, or if the report or notification concerns a private school or an entity other than a school;
4. Train personnel at the support center who are involved in responding to reports and notifications to follow up on each report or notification by gathering information necessary to determine the validity of the report or notification and the severity of any threat;
5. Use a software system that is resistant to hacking and copying of information to protect the anonymity of persons who submit reports and notifications;
6. Develop and implement a standardized procedure for tracking the outcome of reports and notifications;

7. Compile statistics to determine:

- (a) The most frequent days of the week on which reports and notifications are made;
- (b) The most frequent times of the day for making reports and providing notifications;
- (c) The types of dangerous, violent or unlawful activity that are reported and the frequency of reports of each type of dangerous, violent or unlawful activity;
- (d) The frequency with which reports are submitted using the hotline, Internet website, mobile telephone application and text messaging application, respectively; and
- (e) The outcome of reports and notifications;

8. Submit to the Director a quarterly report that contains the information compiled pursuant to subsection 7 and any other information necessary for the Director to evaluate the Programs or that is requested by the Director; and

9. Provide each report received through the SafeVoice Program to the appropriate law enforcement agency.

NRS 388.253. Department: Development of model plan for management of a suicide or a crisis or emergency; requirements for model plan; authorized dissemination of plans prepared by Department and development committee; annual review and update of model plan.

1. The Department shall, with assistance from other state agencies, including, without limitation, the Division of Emergency Management, the Investigation Division, and the Nevada Highway Patrol Division of the Department of Public Safety, develop a model plan for the management of:

- (a) A suicide; or
- (b) A crisis or emergency that involves a public school or a private school and that requires immediate action.

2. The model plan must include, without limitation, a procedure for:

- (a) In response to a crisis or emergency:
 - (1) Coordinating the resources of local, state and federal agencies, officers and employees, as appropriate;
 - (2) Accounting for all persons within a school;
 - (3) Assisting persons within a school in a school district, a charter school or a private school to communicate with each other;
 - (4) Assisting persons within a school in a school district, a charter school or a private school to communicate with persons located outside the school, including, without limitation, relatives of pupils and relatives of employees of such a school, the news media and persons from local, state or federal agencies that are responding to a crisis or an emergency;
 - (5) Assisting pupils of a school in the school district, a charter school or a private school, employees of such a school and relatives of such pupils and employees to move safely within and away from the school, including, without limitation, a procedure for evacuating the school and a procedure for securing the school;
 - (6) Reunifying a pupil with his or her parent or legal guardian;
 - (7) Providing any necessary medical assistance;
 - (8) Recovering from a crisis or emergency;
 - (9) Carrying out a lockdown at a school;
 - (10) Providing shelter in specific areas of a school; and
 - (11) Providing disaster behavioral health related to a crisis, emergency or suicide;
- (b) Providing specific information relating to managing a crisis or emergency that is a result of:
 - (1) An incident involving hazardous materials;
 - (2) An incident involving mass casualties;

- (3) An incident involving an active shooter;
 - (4) An incident involving a fire, explosion or other similar situation;
 - (5) An outbreak of disease;
 - (6) Any threat or hazard identified in the hazard mitigation plan of the county in which the school district is located, if such a plan exists; or
 - (7) Any other situation, threat or hazard deemed appropriate;
- (c) Providing pupils and staff at a school that has experienced a crisis or emergency with access to counseling and other resources to assist in recovering from the crisis or emergency;
- (d) Evacuating pupils and employees of a charter school to a designated space within an identified public middle school, junior high school or high school in a school district that is separate from the general population of the school and large enough to accommodate the charter school, and such a space may include, without limitation, a gymnasium or multipurpose room of the public school;
- (e) Selecting an assessment tool which assists in responding to a threat against the school by a pupil or pupils;
- (f) On an annual basis, providing drills to instruct pupils in the appropriate procedures to be followed in response to a crisis or an emergency. Such drills must occur:
- (1) At different times during normal school hours; and
 - (2) In cooperation with other state agencies, pursuant to this section.
- (g) Responding to a suicide or attempted suicide to mitigate the effects of the suicide or attempted suicide on pupils and staff at the school, including, without limitation, by making counseling and other appropriate resources to assist in recovering from the suicide or attempted suicide available to pupils and staff;
- (h) Providing counseling and other appropriate resources to pupils and school staff who have contemplated or attempted suicide;
- (i) Outreach to persons and organizations located in the community in which a school that has had a suicide by a pupil, including, without limitation, religious and other nonprofit organizations, that may be able to assist with the response to the suicide;
- (j) Addressing the needs of pupils at a school that has experienced a crisis, emergency or suicide who are at a high risk of suicide, including, without limitation, pupils who are members of the groups described in subsection 3 of NRS 388.256; and
- (k) Responding to a pupil who is determined to be a person in mental health crisis, as defined in NRS 433A.0175, including, without limitation:
- (1) Utilizing mobile mental health crisis response units, where available, before transporting the pupil to a public or private mental health facility pursuant to subparagraph (2); and
 - (2) Transporting the pupil to a public or private mental health facility or hospital for admission pursuant to NRS 433A.150.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Nevada provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Chronic Absenteeism, Nevada Department of Education	Provides information and resources on chronic absenteeism including definitions, highlighted programs such as MTSS, and roles for school districts, educators, and families to prevent chronic absenteeism.	https://doe.nv.gov/SafeRespectfulLearning/Chronic_Absenteeism/
Discipline and Restorative Practices, Nevada Department of Education	Provides information on Restorative Practices (RP) including definition of terms, best practices, MTSS alignment, and equity and disproportionate discipline.	https://doe.nv.gov/SafeRespectfulLearning/Discipline_and_Restorative_Practices/
Multi-Tiered System of Supports (MTSS) in Nevada, Nevada Department of Education	Provides an overview of MTSS in Nevada including resources for MTSS and contact information for Nevada's MTSS Project staff.	https://doe.nv.gov/SafeRespectfulLearning/MTSS/
The Nevada Positive Behavior Support Technical Assistance Center (PBISTA)	Provides information for school districts and families on Nevada Positive Behaviors Support (PBS-NV) including guides for implementation and workshops.	https://www.unr.edu/nced/projects/nvpbista
School Climate in Nevada, Nevada Department of Education	Provides information on the state's school climate surveys, including links to online resources and websites where survey results are available for all years of the survey administrations.	https://doe.nv.gov/SafeRespectfulLearning/School_Climate/
Supporting Sex/Gender Diverse Students	Provides information a state regulations which requires the Model Policy for safe and respectful learning environments to include: "requirements and methods for addressing the rights and needs of persons of diverse gender identities or expressions"; also provides a list of online best practice resources and supports for students, families, and educators.	https://doe.nv.gov/SafeRespectfulLearning/Supporting_Sex_Gender_Diverse_Students/
Documents		

Title	Description	Website address (if applicable)
Nevada Department of Education Guidance Memo (2018), Nevada Department of Education	Guidance memo for schools on chronic absenteeism prevention from the Nevada Department of Education.	https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/News_Media/Guidance_Memos/2018/18-06GuidanceMemoonChronicAbsenteeism.pdf
Nevada's Framework for Equitable Integrated System of Student Supports (2018), Nevada Department of Education	Guidance document for school districts on best practices of implementing MTSS in schools. Document includes systemic implementation guides and progress monitoring, problem-solving models and data-based decisions, and information on evidence-based interventions.	https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/SafeRespectfulLearning/MTSSGuidanceDoc508.pdf
The Intersection of MTSS and Chronic Absenteeism, Nevada Department of Education	One-page visual document outlining how chronic absenteeism and MTSS may intersect to help further guide implementation.	https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/SafeRespectfulLearning/TheIntersectionMTSSandChronicAbsenteeism.pdf
Other Resources		
Annual Reports of Accountability, Nevada Department of Education	Reports on student attendance, discipline, bullying and cyberbullying incidents, disaggregated by school year, school, district, or state, and incident type.	http://www.nevadareportcard.com/di/
Nevada's Anti-Bullying Laws, Nevada Department of Education	Presents information on bullying and includes bullying data from 2014 to 2017, summary incident reporting process, definition of bullying, reporting procedures for staff, actions upon receiving a report, and contact information to the Office for a Safe and Respectful Learning Environment.	http://www.doe.nv.gov/uploadedFiles/ndedoenvgov/content/Boards_Commissions_Councils/State_Board_of_Education/2017/December/Item11NevadasAnti-BullyingLaws2017.pdf
Nevada School Climate/Social Emotional Learning (NV-SCSEL) Survey School Reports, Nevada Department of Education	Reports of annual administrations of the Nevada School Climate/Social Emotional Learning Survey, disaggregated by subgroups about school climate and social emotional skills, which could be used to inform decisions about how to adjust support services, and to evaluate the services and supports provided to students in Nevada schools.	http://reports.nevadaschoolclimate.org/
SafeVoice Nevada, Nevada Department of Education	Anonymous reporting system used by students, parents and faculty to report threats to the safety or well-being of students.	http://safevoicenv.org/



New Hampshire Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

RSA 193-D:2. State board rulemaking authority; public school district policies.

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

- (a) Disciplinary proceedings, including procedures assuring due process.

RSA 193-F:4. Pupil safety and violence prevention.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. [...]

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

REGULATIONS

Ed 306.04. Policy Development.

(a) In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to:

- (3) Discipline.

Ed 317.01. Purpose.

(b) These rules also provide a standard that local school boards shall use in adopting and implementing a policy relative to pupil conduct and disciplinary procedures under RSA 193-D:2, II.

Scope

LAWS

RSA 193-F:4. Pupil safety and violence prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

- (a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
- (b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

REGULATIONS

Ed 306.04. Policy Development.

(d) The policy relative to promoting school safety shall require school administrators to implement procedures which relate to safe practices:

- (1) On school buses and on the school grounds, including playgrounds;
- (2) During authorized school activities, such as field trips;
- (3) Within the school building, including classrooms and laboratories;
- (4) Off school grounds during school-sanctioned activities, including, but not limited to, work-based learning and internships;
- (5) In the use of online resources; and
- (6) In managing the behavior of children including, describing how and under what circumstances restraint shall be used pursuant to RSA 126-U.

Communication of Policy

LAWS

RSA 126-U:2. Written policies required.

Each facility and school shall have a written policy and procedures for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion or restraint is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.

RSA 193:13. Suspension and expulsion of pupils.

XII. Each school district and chartered public school shall make its policy on school discipline:

- (a) Available to parents at the beginning of each school year;
- (b) Publicly available on the district, school administrative unit, or chartered public school website and in the student handbook; and
- (c) Available to parents via a manner designed to ensure parental notification if the school district, school administrative unit, or chartered public school does not maintain a website and/or student handbook.

RSA 193-F:4. Pupil safety and violence prevention.

II. (e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

REGULATIONS

Ed 306.04. Policy Development.

(f) The policy relative to student discipline shall:

- (1) Include provisions regarding:
 - a. Student rights and responsibilities;
 - b. Rules of conduct; and
 - c. Penalties for misbehavior;

- (2) Be written in age-appropriate language;
- (3) Be disseminated to parents and guardians; and
- (4) Be available in written or oral form for students, parents, and guardians for whom English is a second language, whenever practical. [...]

(g) The local school board shall review with the superintendent or chief administering officer the conditions and methods for suspension and expulsion of students developed and implemented by the superintendent or chief administering officer and the local school board in accordance with RSA 193:13. The superintendent, chief administering officer, or designee shall keep students, parents, educators, and all other school personnel informed about school rules. Such information shall be readily available.

Ed 317.03. Standard for expulsion by local school board.

(b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D and RSA 193:13 through announced, posted, or printed school rules.

Ed 317.04. Disciplinary procedures.

(d) Prior to the imposition of any suspension or expulsion, each school board shall adopt a policy under RSA 189:15 which prescribes the manner in which the student body shall be informed concerning the content of RSA 193:13 through announced, posted, or printed school rules.

Ed 1202.01. Written policies required.

(f) The policies shall be provided annually to the parent, guardian, or legal representative of each child enrolled in or receiving services from the school or provider pursuant to RSA 126-U:2.

In-School Discipline

Discipline Frameworks

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (a) A superintendent or chartered public school director, or a representative designated in writing by the superintendent or chartered public school director, may suspend pupils from school for a period not to exceed 10 consecutive school days for:

- (1) Behavior that is detrimental to the health, safety, or welfare of pupils or school personnel; or
- (2) Repeated and willful disregard of the reasonable rules of the school that is not remediated through imposition of the district's graduated sanctions under paragraph X. [...]

XI. School boards and chartered public schools shall establish policies on school discipline that contain a system of supports and consequences designed to correct student misconduct and promote behavior within acceptable norms. Such policies shall:

- (a) Include a graduated set of age appropriate responses to misconduct that may include, but are not limited to, parent conferences, counseling, peer mediation, instruction in conflict resolution and anger management, parent counseling and training, community service, rearranging class schedules, restriction from extra curricular activities, detention, in-school supports and consequences, out-of-school suspension, and expulsion.

REGULATIONS

Ed 317.04. Disciplinary procedures.

(a) There shall be the following levels of discipline available to school officials enforcing RSA 193:13 relative to the suspension and expulsion of pupils:

- (1) A short-term suspension pursuant to RSA 193:13, I(a) is for a period not to exceed 10 school days;
- (2) A long-term suspension pursuant to RSA 193:13, I(b)-(c) is for more than 10 days;
- (3) An expulsion by the local school board is for a period determined in writing by the board under RSA 193:13, II; and
- (4) An expulsion by the local school board is for a period of not less than 12 months under RSA 193:13, III.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

RSA 627:6. Physical force by persons with special responsibilities.

II. (a) A teacher or person otherwise entrusted with the care or supervision of a minor for special purposes is justified on the premises in using necessary force against any such minor, when the minor creates a disturbance, or refuses to leave the premises or when it is necessary for the maintenance of discipline.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

RSA 126-U:1. Definitions.

In this chapter:

IV. "Restraint" means bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms, or legs. It includes mechanical restraint, physical restraint, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors, or otherwise under the control or direction of a school or facility.

- (a) "Medication restraint" occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.
- (b) "Mechanical restraint" occurs when a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body.
- (c) "Physical restraint" occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.
- (d) Restraint shall not include:
 - (1) Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.
 - (2) The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a child to stand, if necessary, and then walk to a safe location, so long as the child is in an upright position and moving toward a safe location.

(3) Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.

(4) The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.

(5) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.

V-a. "Seclusion" means the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.

RSA 126-U:1-a. Limitations of Child Restraint Practices.

The department of education and the department of labor shall work cooperatively to develop consistent definitions and applications of this chapter in order to inform school administrators and employees across the state of best practices regarding restraints in schools. The department of education may utilize grant funds that are available through the department's office of student wellness for trauma-responsive training, consultation on de-escalating violent situations, and proper uses of restraint.

RSA 126-U:2. Written policies required.

Each facility and school shall have a written policy and procedures for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion or restraint is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.

RSA 126-U:3. Post admission planning in facilities.

I. As soon as possible after admission to a facility, the treatment staff of the facility, the child, and the child's parent or guardian shall develop a plan to:

- (a) Identify the child's history of physical, sexual, or emotional trauma, if any.
- (b) Identify effective responses to potential behavior or situations which will avoid the use of seclusion and restraint.
- (c) Identify health conditions which may make the child vulnerable to injury while at the facility.

II. The plan described in this section is not required if the child is expected to be at the facility for fewer than 72 hours and, after conducting a reasonable inquiry, the staff of the facility is not informed of any history of the use of seclusion or restraint of the child.

RSA 126-U:4. Prohibition of dangerous restraint techniques.

No school or facility shall use or threaten to use any of the following restraint and behavior control techniques:

- I. Any physical restraint or containment technique that:
 - (a) Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
 - (b) Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;
 - (c) Obstructs the circulation of blood;
 - (d) Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or
 - (e) Endangers a child's life or significantly exacerbates a child's medical condition.
- II. The intentional infliction of pain, including the use of pain inducement to obtain compliance.
- III. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.
- IV. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

RSA 126-U:5. Limitation of the use of restraint to emergencies only.

- I. Restraint shall only be used in a school or facility to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to the child or others. The determination of whether the use of restraint is justified under this section may be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others. Restraint shall be used only by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate.
- II. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a child.

RSA 126-U:5-a. Limitation on the use of seclusion.

- I. Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.
- II. Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.
- III. Seclusion shall not be used in a manner that that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

RSA 126-U:5-b. Conditions of seclusion.

- I. When permitted by this chapter, seclusion may only be imposed in rooms which:
 - (a) Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.
 - (b) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.

- (c) Are equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which they are located.
- (d) Are free of any object that poses a danger to the children being placed in the rooms.
- (e) Have doors which are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency. For the purposes of this subparagraph, an "emergency" includes, but is not limited to:
 - (1) The need to provide direct and immediate medical attention to a child;
 - (2) Fire;
 - (3) The need to remove a child to a safe location during a building lockdown; or
 - (4) Other critical situations that may require immediate removal of a child from seclusion to a safe location.
- (f) Are equipped with unbreakable observation windows or equivalent devices to allow the safe, direct, and uninterrupted observation of every part of the room.

II. Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

RSA 126-U:5-c. Room confinement at the youth development center.

Notwithstanding any other provision of this chapter, the youth development center may confine children in their rooms when such confinement is part of a routine practice applicable to substantial portions of the population at the center and not imposed as a consequence in response to the behavior of one or more children. Such confinement is not subject to the notice and reporting requirements of RSA 126-U:7.

RSA 126-U:6. Schools limited to physical restraint.

Use of restraint in schools shall be limited to physical restraint as permitted by this chapter. Schools shall not use medication restraint and shall not use mechanical restraint except as otherwise permitted in the transportation of children pursuant to RSA 126-U:12.

RSA 126-U:7. Notice and record-keeping requirements.

I. Unless prohibited by court order, the facility or school shall, make reasonable efforts to verbally notify the child's parent or guardian and guardian ad litem whenever seclusion or restraint has been used on the child. Such notification shall be made as soon as practicable and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

II. A facility employee or school employee who uses seclusion or restraint, or if the facility employee or school employee is unavailable, a supervisor of such employee, shall, within 5 business days after the occurrence, submit a written notification containing the following information to the director or his or her designee:

- (a) The date, time, and duration of the use of seclusion or restraint.
- (b) A description of the actions of the child before, during, and after the occurrence.
- (c) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint.
- (d) The names of the persons involved in the occurrence.
- (e) A description of the actions of the facility or school employees involved before, during, and after the occurrence.

- (f) A description of any interventions used prior to the use of the seclusion or restraint.
- (g) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary.
- (h) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint.
- (i) A description of any property damage associated with the occurrence.
- (j) A description of actions taken to address the emotional needs of the child during and following the incident.
- (k) A description of future actions to be taken to control the child's problem behaviors.
- (l) The name and position of the employee completing the notification.
- (m) The anticipated date of the final report.

III. Unless prohibited by court order, the director or his or her designee shall, within 2 business days of receipt of the notification required in paragraph II, send or transmit by first class mail or electronic transmission to the child's parent or guardian and the guardian ad litem the information contained in the notification. Each notification prepared under this section shall be retained by the school or facility for review in accordance with rules adopted under RSA 541-A by the state board of education and the department of health and human services.

IV. Whenever a facility or school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a representative of the school or facility shall make reasonable efforts to promptly notify the child's parent or guardian. Such notification shall be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

V. In any case requiring notification under paragraph IV, the school or facility shall, within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:

- (a) The date and time of the incident.
- (b) A brief description of the actions of the child before, during, and after the occurrence.
- (c) The names of the persons involved in the occurrence.
- (d) A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (e) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.

VI. The notification and record-keeping requirements of paragraphs IV and V shall not apply in the following circumstances:

- (a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the requirements of paragraphs IV and V shall apply.
- (b) When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- (c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the requirements.

(d) When an incident is subject to the requirements of paragraphs I-III.

RSA 126-U:8. Review of restraint records by Department of Education.

I. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Periodic, regular review by the department of education of records maintained by schools relative to the use of seclusion and restraint.

(b) A process for the department of education's receipt of complaints and its conduct of investigations of improper use of seclusion and restraint in schools. The process shall provide for:

(1) Investigation of complaints regarding any violation of this chapter, regardless of whether injury results.

(2) Investigation by persons not affiliated with the school district which is the subject of the complaint.

(3) Resolution of complaints and completion of investigations within 30 days, with provision for limited extensions for good cause.

(4) Protection of children before and after completion of the investigation.

(5) Appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of this chapter.

II. Beginning November 1, 2010, and each November 1 thereafter, the state board of education shall provide an annual report to the chairpersons of the education committees of the senate and house of representatives regarding the use of seclusion and restraint in schools. The annual report shall be prepared from the periodic, regular review of such records, and shall include the number and location of reported incidents and the status of any outstanding investigations.

RSA 126-U:10. Injury or death during incidents of restraint or seclusion.

II. In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the school shall, in addition to the provisions of RSA 126-U:7, notify the commissioner of the department of education, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the written notification required in RSA 126-U:7, II. The department of education shall annually notify schools of their responsibilities under this section and provide contact information for the persons to be notified.

RSA 126-U:11. Authorization and monitoring of extended restraint.

In a school or facility:

I. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm.

II. Children in restraint shall be the subject of continuous direct observation by personnel trained in the safe use of restraint.

III. No period of restraint of a child may exceed 15 minutes without the approval of the director or a supervisory employee designated by the director to provide such approval.

IV. No period of restraint of a child may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the child is conducted by the facility or school director or by a supervisory employee designated by the director who is trained to conduct such assessments. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by this chapter. Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by the facility or school as part of the written notification required in RSA 126-U:7, II.

RSA 126-U:12. Restriction of the use of mechanical restraint during the transport of children.

I. A school or facility shall not use mechanical restraints during the transportation of children unless case-specific circumstances dictate that such methods are necessary.

II. Whenever a child is transported to a location outside a school or facility, the director shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the child in a manner which:

- (a) Prevents physical and psychological trauma;
- (b) Respects the privacy of the child; and
- (c) Represents the least restrictive means necessary for the safety of the child.

III. Whenever a child is transported using mechanical restraints, the director shall document in writing the reasons for the use of mechanical restraints. Such documentation shall be treated as a notification of restraint under RSA 126-U:7.

RSA 126-U:14. School review following the use of restraint or seclusion.

Upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion. A parent or guardian of a child with a disability may request such a review at any time following an instance of restraint or seclusion and such request shall be granted if there have been multiple instances of restraint or seclusion since the last review.

REGULATIONS

Ed 306.04. Policy Development.

(d) The policy relative to promoting school safety shall require school administrators to implement procedures which relate to safe practices:

- (1) On school buses and on the school grounds, including playgrounds;
- (2) During authorized school activities, such as field trips;
- (3) Within the school building, including classrooms and laboratories;
- (4) Off school grounds during school-sanctioned activities, including, but not limited to, work-based learning and internships;
- (5) In the use of online resources; and
- (6) In managing the behavior of children including, describing how and under what circumstances restraint shall be used pursuant to RSA 126-U.

Ed 1113.04. Behavioral Interventions.

(a) Positive behavioral interventions based on the results of a behavioral assessment shall serve as the foundation of any program used to address the behavioral needs of students.

(b) An LEA, other public agency, private provider of special education or other non-LEA program shall not employ any of the following aversive behavioral interventions:

- (1) Any procedure intended to cause physical pain;
- (2) Aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation;
- (3) Any non-medical mechanical restraint that physically restricts a student's movement;

- (4) Contingent food or drink programs;
- (5) Electrical stimulation;
- (6) Placement of a child in an unsupervised or unobserved room from which the child cannot exit without assistance; and
- (7) Physical restraint, unless in response to a threat of imminent, serious, physical harm pursuant to RSA 126-U.

Ed 1201.01. Definitions.

- (a) "Child" means child as defined in RSA 126-U: 1, I.
- (b) "Improper restraint" and "improper seclusion" means any restraint or seclusion not allowed under RSA 126-U.
- (c) "Restraint" means restraint as defined in RSA 126-U:1, IV.
- (d) "Review of record" means a review of the record at the school, made pursuant to RSA 126-U:7.
- (e) "School" means school as defined by RSA 126-U:1, V.
- (f) "Seclusion" means seclusion as defined in RSA 126-U:1,V-a.
- (g) "Serious injury" means serious injury as defined in RSA 126-U:1,VI.

Ed 1202.01. Written policies required.

- (a) Each school shall have written policies for managing the behavior of children pursuant to RSA 126-U: 2 consistent with Ed 306.04(a)(18).
- (b) In addition to the requirements in (a) above, each nonpublic school shall have written policies for managing the behavior of children pursuant to RSA 126-U: 2 consistent with Ed 403.
- (c) In addition to the requirements of (a) above, a private provider of a special education program shall have written policies for managing the behavior of children pursuant to RSA 126-U:2 consistent with Ed 1114.
- (d) The written policies shall include a statement that, pursuant to RSA 126-U:14, the school shall review the individualized education program (IEP) or section 504 plan of a child with a disability following the first use of restraint or seclusion on the child, or upon request of the child's parent or guardian, and make adjustments to the IEP or 504 plan as indicated to reduce the future use of restraint or seclusion.
- (e) The written policies shall include a statement that a school employee has a duty to report a violation of RSA 126-U when that person has reason to believe that the action of another constituted a violation of RSA 126-U and misconduct or suspected misconduct, pursuant to Ed 510.
- (f) The policies shall be provided annually to the parent, guardian, or legal representative of each child enrolled in or receiving services from the school or provider pursuant to RSA 126-U:2.

Ed 1202.02. Duty to report.

- (a) Unless prohibited by court order, the superintendent, acting superintendent, superintendent's designee, acting superintendent's designee, or school administrator shall, as soon as possible, verbally notify the parent or guardian whenever seclusion or restraint has been used on a child.
- (b) Within 5 business days of the use of seclusion or restraint, the school employee that used seclusion or restraint shall submit a written notification to the school principal containing the following, pursuant to RSA 126:7, II:
 - (1) The date, time, and duration of the use of seclusion or restraint;
 - (2) A description of the actions of the child before, during, and after the occurrence;

- (3) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint;
- (4) The names of the persons involved in the occurrence;
- (5) A description of the actions of the facility or school employees involved before, during, and after the occurrence;
- (6) A description of any interventions used prior to the use of the seclusion or restraint;
- (7) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary;
- (8) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint;
- (9) A description of any property damage associated with the occurrence;
- (10) A description of actions taken to address the emotional needs of the child during and following the incident;
- (11) A description of future actions to be taken to control the child's problem behaviors;
- (12) The name and position of the employee completing the notification; and
- (13) The anticipated date of the final report.

(c) The superintendent, acting superintendent, superintendent's designee, acting superintendent's designee, or school administrator shall, as soon as possible, make an oral report of all incidents of restraint and seclusion within the school involving serious injury or death to a child subject to restraint or seclusion to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities, pursuant to RSA 126-U:10, II. Within 5 business days, a written report shall be provided to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities pursuant to RSA 126-U:7.

(d) No school nor any employee, contractor, consultant nor volunteer thereof, shall subject any individual to harassment or retaliation for filing, in good faith, a report under RSA 126-U or these rules.

(e) Schools shall document complaints that they determine do not meet the criteria for a violation of RSA 126-U. This documentation shall include the evidence relied upon. Such documentation shall be maintained and provided to the department of education when it does its review pursuant to RSA 126-U:8.

Ed 1202.03. Review of records.

(a) The department of education shall review records maintained by schools relative to the use of seclusion and restraint pursuant to RSA 126-U:8 no less than once every 3 years.

Ed 1203.01. Filing a complaint.

(a) Any individual may file a complaint with the commissioner alleging a violation of RSA 126-U.

(b) When filing a complaint the complainant shall provide the following information to the Commissioner:

- (1) The date or approximate date of the alleged incident;
- (2) The location of the alleged incident;
- (3) The name of the child or children subject to the alleged restraint or seclusion, if known;
- (4) The name of the school personnel alleged to have restrained or secluded the child, if known;
- (5) A description of the alleged restraint or seclusion;
- (6) The date of complaint; and
- (7) The name of complainant if the complainant is willing to disclose name.

- (c) Complaints may be submitted orally or in written form.
- (d) A complainant may request to keep his or her identity confidential throughout the complaint process. However, if the confidentiality of the complainant interferes with the investigation or the resolution of the complaint, the investigator shall notify the complainant that his or her request for confidentiality interferes with the investigation or resolution of the complaint and will not be maintained. The investigation shall then proceed.

Ed 1203.02. Review of complaint filed.

- (a) The commissioner or the commissioner's designee shall provide the information obtained in Ed 1203.01 to the investigator designated by the department of education. The investigator shall not be affiliated with the school or any person involved with the complaint.
- (b) If the complaint is filed by an individual other than a parent or guardian, the investigator shall notify the parent or guardian that a complaint has been filed on behalf of his or her child.
- (c) The commissioner or the commissioner's designee shall review the complaint and shall dismiss the complaint if:
 - (1) The alleged facts, if true, would not constitute a violation of RSA 126:U; or
 - (2) The alleged improper restraint or seclusion did not occur within 12 months of the date of filing of the complaint. However, such a complaint shall not be dismissed if the complainant could not have reasonably discovered the violation within 12 months of the filing of the complaint.
- (d) The department shall conduct investigations to determine if there were or were not violations of RSA 126-U.
- (e) The commissioner or the commissioner's designee will notify the complainant that the complaint has been dismissed and the basis for the dismissal.

Ed 1203.03. Investigative process.

- (a) If a complaint is not dismissed, the investigator shall:
 - (1) For cases involving serious injury, determine whether the allegations must be referred to law enforcement for investigation as mandated by RSA 161-F:51, II or 169-C:29;
 - (2) Pursuant to (1) above, make reports at any point during the investigation when he or she obtains information that he or she is required to report under RSA 161-F:51 or 169-C:29;
 - (3) Contact such persons and examine such records and other documents as are reasonably necessary to determine whether or not the allegations are true and whether any violation of 126-U occurred;
 - (4) Review findings of facts from other investigative agencies; and
 - (5) Review any and all protective measures for the child that the school has put in place before or after the complaint, and if no protective measures have been put in place, the investigator shall instruct the school to develop a procedure to protect the child.
- (b) Investigations shall not constitute a disciplinary hearing and shall not constitute an allegation of misconduct against an employee by the department of education;
- (c) Once the investigator completes the investigation, the following procedures shall apply:
 - (1) The investigator shall file a written report with the commissioner or the commissioner's designee including findings of fact specifying any of the following specific grounds listed in RSA 126-U upon which the findings are based:
 - a. Failure to implement written policy and procedures as required in RSA 126-U;
 - b. Failure to properly notify a parent, guardian, or guardian ad litem in a timely manner, in violation of RSA 126-U:7, IV;

- c. Retaliation against any individual involved in a complaint or proceeding under this chapter, pursuant to RSA 126-U:8;
- d. Repeated improper use of restraint, pursuant to RSA 126-U:8;
- e. Improper use of seclusion as punishment, pursuant to RSA 126-U:5-a, I;
- f. Restraint by personnel not trained to restrain a child, pursuant to RSA 126-U:5;
- g. Use of any restraint technique prohibited by RSA 126-U:4;
- h. Improper use of restraint when other interventions were appropriate, pursuant to RSA 126-U:5;
- i. Improper use of seclusion or restraint that unnecessarily subjects a child to a risk of ridicule, humiliation, or emotional or physical harm pursuant to RSA 126-U:4, IV and RSA 126-U:5-a;
- j. Improper seclusion under conditions that do not meet RSA 126-U:5-b;
- k. Failure to comply with the requirements for authorization and monitoring of extended restraint, pursuant to RSA 126-U:11;
- l. Failure to comply with the restriction on the use of mechanical restraint during the transport of children, pursuant to RSA 126-U:12; and
- m. Any other conduct in which a school or school personnel violate RSA 126-U, or this chapter;
- n. Written statements by any employees who are the subject of the complaint, if the employees choose to provide such statements; and
- o. A recommendation for further action, if necessary.

(d) The investigator shall file a report with the commissioner within 30 days of the filing of the complaint. The investigator may request a time extension from the commissioner for good cause shown, including, the coordination of investigations with other agencies or unavailability of a witness. If good cause is shown, the commissioner shall permit a time extension.

(e) The commissioner shall review the investigator's report and recommendation based on a review of the case in relation to the grounds listed in RSA 126-U to:

(1) Provide a written decision and recommendations which shall include, if necessary, based on the conclusions of the investigator's report:

- a. Appropriate remedial measures to address physical and other injuries;
- b. Appropriate remedial measures to address protection against retaliation; and
- c. Appropriate remedial measures to reduce the incidence of violations of RSA 126-U.

(2) Identify remedial measures necessary to remedy the problem. Such remedial measure may include but are not limited to:

- a. Training of an individual or a group of school employees;
- b. Revision of policies and procedures;
- c. Revision of notice and record keeping practices;
- d. Compliance with conditions of seclusion per 126-U:5-b; and
- e. Any other action designed to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of RSA 126-U; and

(3) The commissioner's decision and recommendations shall be provided to the superintendent, the school administrator, and any employee found to have performed or accused of performing a restraint or using seclusion. The commissioner's decision shall be provided to the child's parent or guardian. Copies of the decision which are provided to the parents, guardians or employees under this subsection shall be redacted as necessary, to comply with federal and state law.

(d) If the commissioner determines that disciplinary proceedings concerning credentialing are warranted, the commissioner shall notify the director of the division of program support.

(e) Disclosure of investigatory reports shall be made in compliance with state and federal law.

(f) In addition to any disclosure required by (e), above, the investigator's report and commissioner's decision shall be disclosed as follows:

(1) The investigator's report and commissioner's decision shall be made available, upon request, to the parties in any adjudicatory proceeding arising out of the same facts as the complaint alleging violations of RSA 126-U;

(2) If disciplinary proceedings are to be conducted as a result of the investigation, the commissioner or the commissioner's designee shall provide information gathered during an investigation to:

a. A law enforcement agency when the agency is conducting a criminal investigation related to the subject matter of the investigation;

b. A certifying agency of another jurisdiction for:

1. Purposes of certification of the credential holder in another jurisdiction; or

2. An investigation in another jurisdiction, when:

(i) The person was the subject of a formal investigation under Ed 1200; or

(ii) Disciplinary action was taken against the person by the state board of education under Ed 510;

c. Board investigators or prosecutors; and

d. Expert witnesses or assistants retained by board prosecutor or investigators in the same or related disciplinary matters; and

(4) Whether or not further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to persons to whom the person facing disciplinary proceedings has given a release.

(f) Prior to commencement of an adjudicatory proceeding, the person being investigated shall be notified promptly of the nature of any allegations that result in an adjudicatory proceeding under these rules unless notification is prohibited by law or will interfere with a criminal investigation.

(g) If further disciplinary proceedings are to be conducted as a result of an investigation, the person shall be given the opportunity to respond, in writing, to the investigator prior to the initiation of disciplinary proceedings.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (a) A superintendent or chartered public school director, or a representative designated in writing by the superintendent or chartered public school director, may suspend pupils from school for a period not to exceed 10 consecutive school days for:

- (1) Behavior that is detrimental to the health, safety, or welfare of pupils or school personnel; or
- (2) Repeated and willful disregard of the reasonable rules of the school that is not remediated through imposition of the district's graduated sanctions under paragraph X. [...]

II. Any pupil may be expelled from school by the local school board or board of trustees for an act that poses an ongoing threat to the safety of students or school personnel and that constitutes:

- (a) A repeated act under subparagraph I(b);
- (b) Any act of physical or sexual assault that would be a felony if committed by an adult;
- (c) Any act of violence pursuant to RSA 651:5, XIII; or
- (d) Criminal threatening pursuant to RSA 631:4, II(a). [...]

IV. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. Nothing in this section shall be construed to prevent the local school district or chartered public school that expelled the student from providing educational services to such student in an alternative setting.

REGULATIONS

Ed 317.02. Definitions.

(a) "Expulsion" means the permanent denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13, II and III.

(b) "Firearm" means "firearm" as defined in section 921 of Title 18 of the US Code;

(c) "Dangerous weapons " means dangerous weapons listed but not limited to those in RSA 159:16.

(d) "Gross misconduct" includes, but is not limited to an act which:

- (1) Results in injury to another's person or damage to property;
- (2) Poses a direct threat to the safety of others in a safe school zone; or
- (3) Is identified in RSA 193-D:1, I.

(e) "Neglect", in the context of RSA 193:13, I and II, means the failure of a pupil to pay attention to an announced, posted, or printed school rule.

(f) "Pupil" means a student in attendance at a school during the school day or during any school sponsored function.

(g) "Refusal", in the context of RSA 193:13, I and II means the failure of a pupil to comply with an announced, posted, or printed school rule.

(h) "Safe school zone" means "safe school zone" as defined in RSA 193-D:1, II.

(i) "School day" means:

(1) For a pupil who takes the school bus, the time period beginning when a pupil boards the bus in the morning to the time when a pupil disembarks from the bus in the afternoon; and

(2) For a pupil who walks to school or arrives by private car, the time period beginning when the pupil arrives on the school grounds to the time when the pupil leaves the school grounds.

(j) "Superintendent" means the school superintendent or chief administering officer, or a representative designated in writing as authorized under RSA 193:13, I.

(k) "Suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules.

Ed 317.03. Standard for expulsion by local school board.

(a) A school board which expels a pupil under RSA 193:13, II or III, shall state in writing its reasons, including the act leading to expulsion, and shall provide a procedure for review as allowed under RSA 193:13, II.

(b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D and RSA 193:13 through announced, posted, or printed school rules.

(c) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

(1) Whether a firearm is legally licensed under RSA 159; or

(2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

(d) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

(1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and

(2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 193:13, III and therefore is subject to expulsion.

Limitations or Conditions on Exclusionary Discipline

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (b) The school board or chartered public school board of trustees, or a representative designated in writing may, following a hearing, extend the suspension of a pupil up to 10 additional consecutive school days for an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun. The school board's or board of trustee's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district or chartered public school in which the pupil seeks to enroll. [...]

III-a. Before expelling a pupil under this section the local school board or chartered public school board of trustees shall consider each of the following factors:

- (a) The pupil's age.
- (b) The pupil's disciplinary history.
- (c) Whether the pupil is a student with a disability.
- (d) The seriousness of the violation or behavior committed by the pupil.
- (e) Whether the school district or chartered public school has implemented positive behavioral interventions under paragraph V.
- (f) Whether a lesser intervention would properly address the violation or behavior committed by the pupil. [...]

VII. The local school board or chartered public school shall adopt a policy which allows the superintendent or charter public school director to modify the expulsion and enrollment requirements under paragraphs IV and VI on a case by case basis.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (b) The school board or chartered public school board of trustees, or a representative designated in writing may, following a hearing, extend the suspension of a pupil up to 10 additional consecutive school days for an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun. The school board's or board of trustee's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district or chartered public school in which the pupil seeks to enroll.

(c) Any suspension in excess of 10 school days imposed under subparagraph (b) by any person other than the school board or board of trustees is appealable to the school board or board of trustees, provided that the superintendent, school board, or board of trustees received such appeal in writing within 10 days after the issuance of the decision being appealed. The school board or board of trustees shall hold a hearing on the appeal, but shall have discretion to hear evidence or to rely upon the record of a hearing conducted under subparagraph (b). The suspension under subparagraph (b) shall be enforced while that appeal is pending, unless the school board or board of trustees stays the suspension while the appeal is pending. [...]

III-b. Any expulsion shall be subject to review by the pupil's school board of attendance or the board of trustees of the chartered public school's board that issued the expulsion if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such expulsion by the local board or board of trustees to the state board of education at any time while the expulsion remains in effect. All appeals of final action by the state board of education shall be in accordance with RSA 541. [...]

VI. A pupil expelled from school in another state under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in a school district in New Hampshire for the period of such expulsion. If the out-of-state expulsion is for an indefinite period of time, such pupil or the pupil's parent or guardian

shall have the right to petition the pupil's local school board for enrollment upon establishing residency. If the pupil is denied enrollment, the pupil's expulsion shall be subject to review pursuant to paragraph III-b.

RSA 193-D:2. State board rulemaking authority; public school district policies.

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

- (a) Disciplinary proceedings, including procedures assuring due process.
- (b)(1) Standards and procedures for suspension and expulsion of pupils, including procedures assuring due process.
 - (2) Standards and procedures which shall require expulsion of a pupil for knowingly possessing a firearm in a safe school zone without written authorization from the superintendent or designee.
- (c) Procedures pertaining to discipline of pupils with special needs, including procedures assuring due process.
- (d) Procedures for reporting acts of theft, destruction, or violence under RSA 193-D:4.
- (e) Reporting acts of violence against school employees, volunteers, and visitors.
- (f) A complaint procedure for those asserting that a provision of this chapter has been violated, and possible sanctions and penalties for such violation.

II. Nothing in this chapter shall prohibit local school boards from adopting and implementing policies relative to pupil conduct and disciplinary procedures.

RSA 194-C:4. Superintendent Services.

Each school administrative unit or single school district shall provide the following superintendent services:

- II. Governance, organizational structure, and implementation of administrative services including, but not limited to:
 - (m) Pupil governance and discipline, including age-appropriate due process procedures.

REGULATIONS

Ed 317.01. Purpose.

(a) These rules provide the minimum requirements to assure due process and statewide uniformity in the enforcement of RSA 193:13 and 193-D relative to disciplinary action of a pupil for:

- (1) Gross misconduct;
- (2) Neglect or refusal to conform to the reasonable rules of the school; or
- (3) Possession of:
 - a. A pellet gun;
 - b. Paint ball gun;
 - c. B B gun;
 - d. Rifle;
 - e. A firearm as defined in 18USC 921; or
 - f. Other dangerous weapon.
- (4) An act of theft, destruction, or violence in violation of RSA 193-D:1, et seq.

(b) These rules also provide a standard that local school boards shall use in adopting and implementing a policy relative to pupil conduct and disciplinary procedures under RSA 193-D:2, II.

(c) These rules also link discipline and due process to the requirements of Ed 1109 relative to children with disabilities.

Ed 317.03. Standard for expulsion by local school board.

(a) A school board which expels a pupil under RSA 193:13, II or III, shall state in writing its reasons, including the act leading to expulsion, and shall provide a procedure for review as allowed under RSA 193:13, II.

(b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D and RSA 193:13 through announced, posted, or printed school rules.

(c) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

- (1) Whether a firearm is legally licensed under RSA 159; or
- (2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

(d) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

- (1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and
- (2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 193:13, III and therefore is subject to expulsion.

Ed 317.04. Disciplinary procedures.

(a) There shall be the following levels of discipline available to school officials enforcing RSA 193:13 relative to the suspension and expulsion of pupils:

- (1) A short-term suspension pursuant to RSA 193:13,I(a) is for a period not to exceed 10 school days;
- (2) A long-term suspension pursuant to RSA 193:13,I(b)-(c) is for more than 10 days;
- (3) An expulsion by the local school board is for a period determined in writing by the board under RSA 193:13, II; and
- (4) An expulsion by the local school board is for a period of not less than 12 months under RSA 193:13, III.

(b) The superintendent or the superintendent's designee shall be authorized to impose a short term suspension.

(c) The school board or its designee shall be authorized to impose a long term suspension, after the imposition of a short-term suspension provided that the designee shall not be the same person who suspended the pupil in (a)(1).

(d) Prior to the imposition of any suspension or expulsion, each school board shall adopt a policy under RSA 189:15 which prescribes the manner in which the student body shall be informed concerning the content of RSA 193:13 through announced, posted, or printed school rules.

(e) If the school and school board have met the requirements of paragraph (d) a pupil appealing a local decision to the state board shall not be allowed to claim lack of knowledge of the state law requiring expulsion for bringing or possessing a firearm or other dangerous weapon as defined in these rules.

(f) Due process in disciplinary proceedings shall include, at a minimum, the following:

- (1) In a short-term suspension:
 - a. The superintendent or designee shall inform the pupil at the outset of the meeting of the meeting's purpose including the possibility of a short-term suspension;

- b. Oral or written notice of the charges and an explanation of the evidence against the pupil, which may be provided at or before this meeting;
- c. An opportunity for the pupil to present his/her side of the story;
- d. A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the student;

(2) In a long-term suspension of a pupil:

- a. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, prior to the hearing, of the charges and an explanation of the evidence against the pupil;
- b. A hearing in accordance with (f)(3)g.;
- c. A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;
- d. If the hearing was conducted by the school board's designee, the decision may be appealed to the local school board under RSA 193:13, I; and
- e. If the hearing was conducted by the school board, the decision may be appealed to the state board;

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:

- a. A formal hearing shall be held before any expulsion;
- b. Such hearing may be held either before or after the short-term suspension has expired and pending the expulsion hearing;
- c. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing, unless the student is still serving a long-term suspension;
- d. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the local board;
- e. The written notice required by d. above shall include:
 - 1. A written statement of the charges and the nature of the evidence against the pupil; and
 - 2. A superintendent's written recommendation for school board action and a description of the process used by the superintendent to reach his/her recommendation;
- f. This notice shall be delivered to the pupil and at least one of the pupil's parents or guardian at least 5 days prior to the hearing;
- g. The following hearing procedures shall apply:
 - 1. The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;
 - 2. If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;
 - 3. Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;
 - 4. The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and

- 5. During the hearing, the pupil, parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses;
 - h. The decision of the school board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is imposed and that such acts are, in fact, a proper reason for expulsion;
 - i. The decision shall state whether the student is expelled and the length of the expulsion;
 - j. If the decision is to expel the pupil the decision shall include the legal and factual basis for the decision including the specific statutory reference prohibiting that act as listed in RSA 193:13, II;
 - k. If the student is expelled, the decision shall state that the expulsion runs until the local school board later reviews it and restores the student's permission to attend school;
 - l. The decision shall also state any action the student may take to be restored by the board; and
 - m. The decision shall include a statement that the pupil has the right to appeal the decision to the state board of education.
- (g) Notwithstanding any other deadline in Ed 200 all appeals to the state board from school board decisions under (f),(2) and (f)(3) shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 200.

Ed 1203.03. Investigative process.

- (a) If a complaint is not dismissed, the investigator shall:
- (1) For cases involving serious injury, determine whether the allegations must be referred to law enforcement for investigation as mandated by RSA 161-F:51, II or 169-C:29;
 - (2) Pursuant to (1) above, make reports at any point during the investigation when he or she obtains information that he or she is required to report under RSA 161-F:51 or 169-C:29;
 - (3) Contact such persons and examine such records and other documents as are reasonably necessary to determine whether or not the allegations are true and whether any violation of 126-U occurred;
 - (4) Review findings of facts from other investigative agencies; and
 - (5) Review any and all protective measures for the child that the school has put in place before or after the complaint, and if no protective measures have been put in place, the investigator shall instruct the school to develop a procedure to protect the child.
- (b) Investigations shall not constitute a disciplinary hearing and shall not constitute an allegation of misconduct against an employee by the department of education;
- (c) Once the investigator completes the investigation, the following procedures shall apply:
- (1) The investigator shall file a written report with the commissioner or the commissioner's designee including findings of fact specifying any of the following specific grounds listed in RSA 126-U upon which the findings are based:
 - a. Failure to implement written policy and procedures as required in RSA 126-U;
 - b. Failure to properly notify a parent, guardian, or guardian ad litem in a timely manner, in violation of RSA 126-U:7, IV;
 - c. Retaliation against any individual involved in a complaint or proceeding under this chapter, pursuant to RSA 126-U:8;
 - d. Repeated improper use of restraint, pursuant to RSA 126-U:8;
 - e. Improper use of seclusion as punishment, pursuant to RSA 126-U:5-a, I;
 - f. Restraint by personnel not trained to restrain a child, pursuant to RSA 126-U:5;
 - g. Use of any restraint technique prohibited by RSA 126-U:4;

- h. Improper use of restraint when other interventions were appropriate, pursuant to RSA 126-U:5;
 - i. Improper use of seclusion or restraint that unnecessarily subjects a child to a risk of ridicule, humiliation, or emotional or physical harm pursuant to RSA 126-U:4, IV and RSA 126-U:5-a;
 - j. Improper seclusion under conditions that do not meet RSA 126-U:5-b;
 - k. Failure to comply with the requirements for authorization and monitoring of extended restraint, pursuant to RSA 126-U:11;
 - l. Failure to comply with the restriction on the use of mechanical restraint during the transport of children, pursuant to RSA 126-U:12; and
 - m. Any other conduct in which a school or school personnel violate RSA 126-U, or this chapter;
 - n. Written statements by any employees who are the subject of the complaint, if the employees choose to provide such statements; and
 - o. A recommendation for further action, if necessary.
- (d) The investigator shall file a report with the commissioner within 30 days of the filing of the complaint. The investigator may request a time extension from the commissioner for good cause shown, including, the coordination of investigations with other agencies or unavailability of a witness. If good cause is shown, the commissioner shall permit a time extension.
- (e) The commissioner shall review the investigator's report and recommendation based on a review of the case in relation to the grounds listed in RSA 126-U to:
- (1) Provide a written decision and recommendations which shall include, if necessary, based on the conclusions of the investigator's report:
 - a. Appropriate remedial measures to address physical and other injuries;
 - b. Appropriate remedial measures to address protection against retaliation; and
 - c. Appropriate remedial measures to reduce the incidence of violations of RSA 126-U.
 - (2) Identify remedial measures necessary to remedy the problem. Such remedial measure may include but are not limited to:
 - a. Training of an individual or a group of school employees;
 - b. Revision of policies and procedures;
 - c. Revision of notice and record keeping practices;
 - d. Compliance with conditions of seclusion per 126-U:5-b; and
 - e. Any other action designed to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of RSA 126-U; and
 - (3) The commissioner's decision and recommendations shall be provided to the superintendent, the school administrator, and any employee found to have performed or accused of performing a restraint or using seclusion. The commissioner's decision shall be provided to the child's parent or guardian. Copies of the decision which are provided to the parents, guardians or employees under this subsection shall be redacted as necessary, to comply with federal and state law.
- (d) If the commissioner determines that disciplinary proceedings concerning credentialing are warranted, the commissioner shall notify the director of the division of program support.
- (e) Disclosure of investigatory reports shall be made in compliance with state and federal law.
- (f) In addition to any disclosure required by (e), above, the investigator's report and commissioner's decision shall be disclosed as follows:

(1) The investigator's report and commissioner's decision shall be made available, upon request, to the parties in any adjudicatory proceeding arising out of the same facts as the complaint alleging violations of RSA 126-U;

(2) If disciplinary proceedings are to be conducted as a result of the investigation, the commissioner or the commissioner's designee shall provide information gathered during an investigation to:

a. A law enforcement agency when the agency is conducting a criminal investigation related to the subject matter of the investigation;

b. A certifying agency of another jurisdiction for:

1. Purposes of certification of the credential holder in another jurisdiction; or

2. An investigation in another jurisdiction, when:

(i) The person was the subject of a formal investigation under Ed 1200; or

(ii) Disciplinary action was taken against the person by the state board of education under Ed 510;

c. Board investigators or prosecutors; and

d. Expert witnesses or assistants retained by board prosecutor or investigators in the same or related disciplinary matters; and

(4) Whether or not further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to persons to whom the person facing disciplinary proceedings has given a release.

(f) Prior to commencement of an adjudicatory proceeding, the person being investigated shall be notified promptly of the nature of any allegations that result in an adjudicatory proceeding under these rules unless notification is prohibited by law or will interfere with a criminal investigation.

(g) If further disciplinary proceedings are to be conducted as a result of an investigation, the person shall be given the opportunity to respond, in writing, to the investigator prior to the initiation of disciplinary proceedings.

Return to School Following Removal

LAWS

RSA 193:13. Suspension and expulsion of pupils.

III. A pupil who has been expelled shall not attend school until reinstated by the local board or chartered public school board of trustees. [...]

IX. Nothing in this section shall prevent the superintendent of the pupil's local school district or chartered public school director from reinstating a suspended or expelled pupil.

REGULATIONS

Ed 317.04. Disciplinary procedures.

(f) Due process in disciplinary proceedings shall include, at a minimum, the following:

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:

c. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing, unless the student is still serving a long-term suspension.

Alternative Placements

LAWS

RSA 193:13. Suspension and expulsion of pupils.

IV. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. Nothing in this section shall be construed to prevent the local school district or chartered public school that expelled the student from providing educational services to such student in an alternative setting.

V. School districts and chartered public schools shall make educational assignments available to the suspended pupil during periods of suspension. Except as provided in paragraphs II and IV, a school district or chartered public school shall provide alternative educational services to a suspended pupil whenever the pupil is suspended in excess of 20 cumulative days within any school year. The alternative educational services shall be designed to enable a pupil to advance from grade to grade. Any time a pupil is suspended more than 10 school days in any school year, upon the pupil's return to school the school district shall develop an intervention plan designed to proactively address the pupil's problematic behaviors. No pupil shall be penalized academically solely by virtue of missing class due to suspension.

REGULATIONS

Ed 306.21. Alternative Programs.

(a) "Alternative program" means the regular delivery of the majority of a student's instruction through classroom or other methods designed to address the needs of individual students or particular groups of students that might be different from the methods of instruction used by the standard schools of the district.

(b) An alternative program may be housed in the same facility as a standard school or at a different location.

(c) An alternative program shall be:

(1) Designed to address the personalized needs of students, including, but not limited to, dropout prevention; and

(2) Approved by the local school board in a plan that:

a. States the goals of the program and curriculum to be provided;

b. Specifies the procedures for assessing and implementing its program plan consistent with RSA 193-C:3, III;

c. Specifies when the program would be offered, which may be at a time other than during the regular school day;

d. Demonstrates how the alternative program will enable the participating students to achieve the same district and graduation competencies outlined for all students and consistent with RSA 193-C:3; and

e. Explicitly detail how extended learning opportunities will be incorporated as a learning option for all students.

(d) Alternative programs for students with disabilities shall meet the requirements of Ed 1119.

(e) Prior to implementing an alternative program, a school administrative unit shall submit to the department the following:

- (1) A copy of the local school board's approval, including the plan submitted;
 - (2) The location of the alternative program; and
 - (3) Copies of inspection reports from the municipal health officer and fire department if the alternative program is to be housed in a building other than an approved school.
- (f) Each student participating in an alternative program shall participate in the state assessment exam, when applicable.
- (g) Assignment of students to alternative programs shall be voluntary and shall require written approval from the parent or guardian.
- (h) Staff assigned to alternative programs shall meet the same certification requirements as staff assigned to standard schools in accordance with Ed 306.15.
- (i) Students in alternative programs shall be provided student services equivalent to those provided in standard schools including, but not limited to, food and nutrition services under Ed 306.11, health services under Ed 306.12, and guidance and counseling services under Ed 306.39.
- (j) The school year for alternative programs shall meet the requirements of Ed 306.18.
- (k) Alternative programs which result in the award of a high school diploma shall meet the requirements of Ed 306.27(q).
- (l) Alternative programs which are supervised by the principal of a standard school shall be considered part of that standard school for reporting purposes under Ed 306.23, for assessment under Ed 306.24, and for school approval under Ed 306.28.
- (m) Alternative programs which are supervised by a district level administrator shall be considered a separate school of the district for reporting purposes under Ed 306.23, for assessment under Ed 306.24, and for school approval under Ed 306.28.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (b) The school board or chartered public school board of trustees, or a representative designated in writing may, following a hearing, extend the suspension of a pupil up to 10 additional consecutive school days for an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun. The school board's or board of trustee's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district or chartered public school in which the pupil seeks to enroll. [...]

IV. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. Nothing in this section shall be construed to prevent the local school district or chartered public school that expelled the student from providing educational services to such student in an alternative setting.

RSA 193-D:1. Definitions.

In this chapter:

I. "Act of theft, destruction, or violence" means an act set forth in the following statutes regardless of the age of the perpetrator:

(d) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159.

RSA 193-D:2. State board rulemaking authority; public school district policies.

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

(b)(2) Standards and procedures which shall require expulsion of a pupil for knowingly possessing a firearm in a safe school zone without written authorization from the superintendent or designee.

REGULATIONS

Ed 317.01. Purpose.

(a) These rules provide the minimum requirements to assure due process and statewide uniformity in the enforcement of RSA 193:13 and 193-D relative to disciplinary action of a pupil for:

(1) Gross misconduct;

(2) Neglect or refusal to conform to the reasonable rules of the school; or

(3) Possession of:

a. A pellet gun;

b. Paint ball gun;

c. B B gun;

- d. Rifle;
- e. A firearm as defined in 18USC 921; or
- f. Other dangerous weapon.

(4) An act of theft, destruction, or violence in violation of RSA 193-D:1, et seq.

Ed 317.02. Definitions.

- (b) "Firearm" means "firearm" as defined in section 921 of Title 18 of the US Code;
- (c) "Dangerous weapons " means dangerous weapons listed but not limited to those in RSA 159:16.

Ed 317.03. Standard for expulsion by local school board.

(c) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

- (1) Whether a firearm is legally licensed under RSA 159; or
- (2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

(d) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

- (1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and
- (2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 193:13, III and therefore is subject to expulsion.

Ed 317.04. Disciplinary procedures.

(e) If the school and school board have met the requirements of paragraph (d) a pupil appealing a local decision to the state board shall not be allowed to claim lack of knowledge of the state law requiring expulsion for bringing or possessing a firearm or other dangerous weapon as defined in these rules.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

RSA 186:11. Duties of state board of education.

The state board of education shall, in addition to the duties assigned by RSA 21-N:11:

XV. Truant Officers. Report frequently to the chairman of the several school boards the relative efficiency of the several truant officers in the state. [...]

XVIII. School Attendance. Enforce the laws relative to school attendance and the employment of minors; and for this purpose the board and its deputies are vested with the power given by law to truant officers.

RSA 189:34. Appointment.

- I. School boards shall appoint truant officers for their districts.
- II. School board policies on truancy shall include but not be limited to:

(a) A definition of "excused absence" and a process for considering exceptions to absences not otherwise excused.

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The process shall consider whether school record keeping practices and notification provided to parents or guardians of the child's absences have an effect on the child's attendance. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

RSA 189:35-a. Truancy Defined.

I. For the purposes of this subdivision, "truancy" means an unexcused absence from school or class and "unexcused absence"; is an absence which has not been excused in accordance with RSA 189:34, II(a).

II. Ten half days of unexcused absence during a school year shall constitute habitual truancy.

III. A school district shall define the term "half day of absence."

IV. Nothing in this section shall affect or limit a school district's power to adopt bylaws concerning truancy pursuant to RSA 193:16.

V. Nothing in this section shall affect or limit the duties of a parent pursuant to RSA 193:1.

VI. School district attendance records shall be presumed to be true and accurate unless evidence to the contrary is presented.

RSA 189:36. Duties.

I. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h); and the laws relating to the attendance at school of children between the ages of 6 and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to child labor. No home school pupil nor any person between the ages of 6 and 18 who meets any of the requirements of RSA 193:1, I(c)-(h) shall be deemed a truant.

II. A truant officer or school official shall not file a petition alleging that the child is in need of services pursuant to RSA 169-D:2, II until all steps in the school district's intervention process under RSA 189:34, II have been followed.

RSA 193:15. Penalty for unauthorized attendance, etc.

Any pupil who, after notice, attends or visits a school which the pupil has no right to attend, or interrupts or disturbs such school, shall for the first offense be guilty of a violation, and shall for any subsequent offense be guilty of a misdemeanor.

RSA 193:16. Bylaws as to nonattendance.

Districts may make bylaws, not repugnant to law, concerning habitual truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h), and to compel the attendance of such children at school; failure to comply with such bylaws shall constitute a violation for each offense.

REGULATIONS

Ed 306.04. Policy Development.

(a) In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to:

(1) Absenteeism and attendance. [...]

(c) The policy relative to absenteeism and attendance shall specify procedures for the accountability and supervision of students. The policy relative to absenteeism shall not penalize students who miss class or a required school event because of a school scheduling conflict. Districts shall implement a cooperative approach which places responsibility for notification when a student is tardy, absent, or dismissed on both the parents/guardians and the school.

Substance Use

LAWS

RSA 189:11-d. Drug and alcohol education.

I. Each public school in the state, as part of the school board-approved kindergarten through grade 12 health education program, shall provide age and developmentally appropriate drug and alcohol education to pupils based upon the needs of the pupils and the community. The school board may authorize the use of an evidence-based prevention program.

II. School boards shall develop policies authorizing school district personnel to provide pupils, parents, and legal guardians with information and resources relative to existing drug and alcohol counseling and treatment for pupils. Nothing in this section shall require a school district to add additional programs or services, but only to provide information about available programs and services.

RSA 193-B:1. Definitions.

In this chapter:

I. "Controlled drug or its analog" means those drugs or substances included within the definitions provided in RSA 318-B:1, VI and VI-a.

II. "Drug-free school zone" means an area inclusive of any property used for school purposes by any school, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.

III. "School" means any public or private elementary, secondary, or secondary vocational-technical school or Head Start facility in New Hampshire.

IV. "School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

RSA 193-B:2. Drug-free school zones.

Except as otherwise provided by law, it shall be unlawful for any person to manufacture, sell, prescribe, administer, dispense, or possess with intent to sell, dispense, or compound any controlled drug or its analog, within a drug-free school zone at any time of the year.

RSA 193-B:3. Maps of drug-free zones; exemption.

I. Each school administrative unit within the state shall, in consultation with the local police authority having jurisdiction over drug enforcement where each drug-free zone is located, publish a map clearly indicating the boundaries of each permanent drug-free school zone in accordance with the provisions of RSA 193-B:1, II. Such map shall be posted in a prominent place in the district or municipal court of jurisdiction, the local police department, and in all schools existing in the drug-free school zone.

II. The mapping requirements under paragraph I shall not apply to Head Start facilities.

RSA 193-B:4. Rulemaking; notice; posting.

The state board of education, in consultation with the New Hampshire Police Chiefs' Association, shall adopt rules pursuant to RSA 541-A relative to:

I. Developing a procedure by which to mark drug-free zones, including the use of signs or other markings as appropriate. Such signs or other markings shall:

(a) Be posted in a prominent place:

(1) On or near each school;

(2) In each school bus; and

(3) On or near non-school-owned property serving as a temporary drug-free zone by virtue of its use for the school's instructional program, for the duration of such use;

(b) Indicate that the posted area is a drug-free zone which extends to 1,000 feet surrounding such property; and

(c) Warn that violation of this chapter shall subject the offender to severe penalties under the law.

II. Assisting each school administrative unit in providing for the posting required in this section.

RSA 193-B:5. Toll-free hotline; rulemaking; local hotlines; notice.

I. There is hereby established a toll-free statewide hotline for the purpose of reporting anonymous information on drug activity to local law enforcement agencies. The department of safety shall coordinate and adopt rules pursuant to RSA 541-A for the establishment and operation of the hotline.

II. The toll-free statewide telephone number established under paragraph I shall be displayed in the drug-free zone signs developed and posted pursuant to RSA 193-B:4, I. If a local police hotline telephone exists in a community, such telephone number shall be posted on relevant signs in lieu of the toll-free statewide telephone number.

RSA 193-B:6. Penalties.

I. It shall be a violation for any person to cover, remove, deface, alter or destroy any sign or other marking identifying a drug-free zone as provided in RSA 193-B:4, I.

II. Lack of knowledge that the prohibited act as defined in RSA 193-B:2 occurred on or within 1,000 feet of school property shall not be a defense.

III. A violation of RSA 193-B:2 shall not include an act which occurs entirely within a private residence wherein no person 17 years of age or under is present.

RSA 193-B:7. Penalty assessment.

In addition to the penalties imposed under RSA 193-B:6, I and RSA 318-B:26, V, every court shall levy a penalty assessment of \$100 for an offense in violation of RSA 193-B:2. The clerk of each court shall collect all penalty assessments and, notwithstanding RSA 6:11, shall transmit the amount collected to the general fund.

RSA 193-D:1. Definitions.

In this chapter:

I. "Act of theft, destruction, or violence" means an act set forth in the following statutes regardless of the age of the perpetrator:

- (i) Illegal sale or possession of a controlled drug under RSA 318-B.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

RSA 193:13. Suspension and expulsion of pupils.

I. (b) The school board or chartered public school board of trustees, or a representative designated in writing may, following a hearing, extend the suspension of a pupil up to 10 additional consecutive school days for an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun. The school board's or board of trustee's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district or chartered public school in which the pupil seeks to enroll.

RSA 193-F:1. Title.

This chapter shall be known, and may be cited as the "Pupil Safety and Violence Prevention Act of 2000."

RSA 193-F:2. Purpose and intent.

I. All pupils have the right to attend public schools, including chartered public schools, that are safe, secure, and peaceful environments. One of the legislature's highest priorities is to protect our children from physical, emotional, and psychological violence by addressing the harm caused by bullying and cyberbullying in our public schools.

II. Bullying in schools has historically included actions shown to be motivated by a pupil's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.

III. It is the intent of the legislature to protect our children from physical, emotional, and psychological violence by addressing bullying and cyberbullying of any kind in our public schools, for all of the historical reasons set forth in this section, and to prevent the creation of a hostile educational environment.

IV. The sole purpose of this chapter is to protect all children from bullying and cyberbullying, and no other legislative purpose is intended, nor should any other intent be construed from the enactment of this chapter.

RSA 193-F:3. Definitions.

In this chapter:

I. (a) "Bullying" means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

(b) "Bullying" shall include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

II. "Cyberbullying" means conduct defined in paragraph I of this section undertaken through the use of electronic devices.

III. "Electronic devices" include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

IV. "Perpetrator" means a pupil who engages in bullying or cyberbullying.

V. "School property" means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

VI. "Victim" means a pupil against whom bullying or cyberbullying has been perpetrated.

RSA 193-F:4. Pupil safety and violence prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

(a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

(b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

- (a) A statement prohibiting bullying or cyberbullying of a pupil.
- (b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.
- (c) A requirement that all pupils are protected regardless of their status under the law.
- (d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.
- (e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.
- (f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.
- (g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.
- (h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.
- (i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.
- (j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.
- (k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.
- (l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.
- (m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.
- (n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

RSA 193-F:5. Training and assessment.

I. Each school district and chartered public school shall provide:

(a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a company under contract to a school, school district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

RSA 193-F:6. Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

RSA 193-F:7. Immunity.

A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of

education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

RSA 193-F:8. School district discrimination or harassment policies.

A school district or chartered public school may establish separate discrimination or harassment policies that include categories of pupils, and nothing in this chapter shall prevent a school district or chartered public school from remediating any discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law.

RSA 193-F:9. Private right of action not permitted.

Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law, including criminal law, nor shall this chapter create a private right of action for enforcement of this chapter against any school district or chartered public school, or the state.

RSA 193-F:10. Public academies.

The provisions of this chapter shall apply to public academies as defined in RSA 194:23.

RSA 631:7. Student hazing.

I. For the purposes of this section:

- (a) "Educational institution" means any public or private high school, college, university, or other secondary or postsecondary educational establishment.
- (b) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, athletic group, cooperative, club, or service, social or similar group, whose members are or include students, operating at or in conjunction with an educational institution.
- (c) "Student" means any person regularly enrolled on a full-time or part-time basis as a student in an educational institution.
- (d) "Student hazing" means any act directed toward a student, or any coercion or intimidation of a student to act or to participate in or submit to any act, when:
 - (1) Such act is likely or would be perceived by a reasonable person as likely to cause physical or psychological injury to any person; and
 - (2) Such act is a condition of initiation into, admission into, continued membership in or association with any organization.

II.(a) A natural person is guilty of a class B misdemeanor if such person:

- (1) Knowingly participates as actor in any student hazing; or
- (2) Being a student, knowingly submits to hazing and fails to report such hazing to law enforcement or educational institution authorities; or
- (3) Is present at or otherwise has direct knowledge of any student hazing and fails to report such hazing to law enforcement or educational institution authorities.

(b) An educational institution or an organization operating at or in conjunction with an educational institution is guilty of a misdemeanor if it:

- (1) Knowingly permits or condones student hazing; or
- (2) Knowingly or negligently fails to take reasonable measures within the scope of its authority to prevent student hazing; or
- (3) Fails to report to law enforcement authorities any hazing reported to it by others or of which it otherwise has knowledge.

III. The implied or express consent of any person toward whom an act of hazing is directed shall not be a defense in any action brought under this section.

REGULATIONS

Ed 306.04. Policy Development.

(a) In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to:

- (7) Student hazing;
- (8) Student harassment, including bullying, as required by RSA 193-F;
- (9) Sexual harassment, as detailed in Ed 303.01(j) and (k).

Dating and relationship violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

RSA 135-F:5. Duties of Commissioner of the Department of Education.

The commissioner of the department of education shall:

- I. To the extent possible within existing statutory and budgetary constraints, support the system of care established under this chapter through:
 - (a) The development of a multi-tiered system of supports for New Hampshire schools and support for school districts implementing MTSS-B through technical assistance and professional development, including the use of external consultation training and coaching services.
 - (b) Alignment of federal funding to support local school districts implementing a multi-tiered system of support.
 - (c) Technical assistance to local school districts regarding the use of federal funds to implement and maintain MTSS-B.
 - (d) Technical assistance to local school districts on the use of research- and data-driven decision-making, organized and shared leadership, support for personnel through embedded professional development, and purposefully planned implementation cycles with continuous evaluation for improvement of outcomes.
- II. Develop a plan for full support and participation of the department of education in the establishment and maintenance of a system of care. Such plan shall be reviewed and amended annually. It shall include sufficient detail to allow compliance with the reporting requirements of RSA 135-F:6, and shall address at least the following elements:
 - (a) Development of a multi-tiered system of supports in all New Hampshire schools.
 - (b) System capacity, including workforce sufficiency.
 - (c) Applicable federal funding participation, shall include but not be limited to state set-aside funds received from the federal government under the Individuals with Disabilities Education Act (IDEA) and Titles I, II, IV-A, and IV-B under the Elementary and Secondary Education Act (ESEA).
 - (d) Changes to statutes, administrative rules, and structure of appropriations, and department policy, practice, and structure.
 - (e) Projections of cost savings from increased service effectiveness and reductions in costly forms of care and use of such savings to close existing gaps in children's behavioral health services.
 - (f) Coordination with the commissioner of the department of health and human services to implement the system of care.

RSA 186:11. Duties of state board of education.

The state board of education shall, in addition to the duties assigned by RSA 21-N:11:

- XXXVI. Pupil Safety and Violence Prevention. Develop and distribute to school districts a technical assistance advisory for the purpose of providing guidance to school districts on the implementation of pupil safety and violence prevention policies as required under RSA 193-F.

RSA 193-F:4. Pupil safety and violence prevention.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

RSA 193-F:5. Training and assessment.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

RSA 193-F:6. Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

RSA 135-F:3. Definition; System of Care.

III. The system of care shall have the following characteristics:

(I) Statewide use of the multi-tiered system of supports for behavioral health and wellness, or MTSS-B, in New Hampshire schools to address New Hampshire students' social, emotional, and behavioral health needs in order to improve students' educational outcomes and keep students in their home schools and communities. For the purposes of this chapter, a "multi-tiered system of supports for behavioral health and wellness" or "MTSS-B" shall include:

- (1) A school wide system of evidence-based behavioral practices for all students;
- (2) A targeted system of practices for youth who need additional support; and
- (3) A tertiary system of intensive and individualized interventions for students with the greatest behavioral needs.

RSA 135-F:5. Duties of Commissioner of the Department of Education.

The commissioner of the department of education shall:

- I. To the extent possible within existing statutory and budgetary constraints, support the system of care established under this chapter through:

(a) The development of a multi-tiered system of supports for New Hampshire schools and support for school districts implementing MTSS-B through technical assistance and professional development, including the use of external consultation training and coaching services.

(b) Alignment of federal funding to support local school districts implementing a multi-tiered system of support.

(c) Technical assistance to local school districts regarding the use of federal funds to implement and maintain MTSS-B.

(d) Technical assistance to local school districts on the use of research- and data-driven decision-making, organized and shared leadership, support for personnel through embedded professional development, and purposefully planned implementation cycles with continuous evaluation for improvement of outcomes.

II. Develop a plan for full support and participation of the department of education in the establishment and maintenance of a system of care. Such plan shall be reviewed and amended annually. It shall include sufficient detail to allow compliance with the reporting requirements of RSA 135-F:6, and shall address at least the following elements:

(a) Development of a multi-tiered system of supports in all New Hampshire schools.

REGULATIONS

Ed 306.04. Policy Development.

(a) In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to:

(18) Behavior management and intervention for students.

Ed 306.25. Comprehensive School Psychological Services.

(c) The school psychologist shall provide comprehensive psychological services throughout various learning environments to help children and youth develop academic, social, behavioral, and emotional competence through:

(6) Preventative and responsive services employing theories and research related to resilience, risk factors, and multi-tiered prevention, to support evidence based strategies for effective counseling, crisis response, and behavioral intervention.

Prevention

LAWS

RSA 186:11. Duties of state board of education.

The state board of education shall, in addition to the duties assigned by RSA 21-N:11:

XXXVI. Pupil Safety and Violence Prevention. Develop and distribute to school districts a technical assistance advisory for the purpose of providing guidance to school districts on the implementation of pupil safety and violence prevention policies as required under RSA 193-F.

RSA 193-F:4. Pupil safety and violence prevention.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

RSA 193-F:6. Reporting.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

REGULATIONS

Ed 318.15. Policy development.

The school shall develop policies in accordance with the following:

- (b) Promoting school safety including:
 - (3) RSA 193-F, pupil safety and violence prevention.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

Ed 306.04. Policy Development.

(a) In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to:

- (5) Character and citizenship. [...]

(i) The policy relative to character and citizenship development shall:

(1) Include those elements of character and citizenship to be incorporated in courses of study or instilled, by example, in a caring educational environment, including but not limited to:

- a. Self-discipline, self-respect, and self-control;
- b. Pursuant to Part 2, Article 83 of the New Hampshire Constitution, humanity, benevolence, and truth and honesty with self and others;
- c. Fairness, integrity, and justice;
- d. Respect, courtesy, and human worth;
- e. Responsibility to oneself and others;
- f. Community service; and
- g. Pursuant to RSA 186:13, the rights and responsibilities of citizenship; and

(2) Be developed in consultation with school staff, administration, parents, and other representatives of the community.

Ed 306.26. Kindergarten. Grade 8 school curriculum.

(e) If a co-curricular program is offered, it shall consist of those activities that are designed to supplement and enrich regular academic instruction, provide opportunities for social development, and encourage participation in clubs, athletics, performing groups, and service to school and community.

Ed 306.27. High school curriculum, credits, graduation requirements, and cocurricular program.

(b) The required curriculum content shall comply with the following:

(6) A co-curricular program shall be offered that provides opportunities for all students to participate in activities designed to meet their needs and interests, including, but not limited to:

a. Any other activities that:

2. Provide opportunities for social development.

Trauma-informed Practices

LAWS

RSA 126-U:1-a. Limitations of Child Restraint Practices.

The department of education and the department of labor shall work cooperatively to develop consistent definitions and applications of this chapter in order to inform school administrators and employees across the state of best practices regarding restraints in schools. The department of education may utilize grant funds that are available through the department's office of student wellness for trauma-responsive training, consultation on de-escalating violent situations, and proper uses of restraint.

RSA 135-F:3. Definition; System of Care.

III. The system of care shall have the following characteristics:

(e) Services that are family-driven, youth-guided, community-based, trauma-informed, and culturally and linguistically competent.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

RSA 135-F:3. Definition; System of Care.

III. The system of care shall have the following characteristics:

(j) Comprehensive children and youth behavioral health training for agency and system staff and interested parents and guardians.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

Ed 306.25. Comprehensive School Psychological Services.

(c) The school psychologist shall provide comprehensive psychological services throughout various learning environments to help children and youth develop academic, social, behavioral, and emotional competence through:

(4) Interventions and mental health services to develop social and life skills in collaboration with others, using assessment and data collection methods to implement and evaluate developmentally appropriate services that support socialization, learning, and mental health.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

RSA 126-U:7. Notice and record-keeping requirements.

II. A facility employee or school employee who uses seclusion or restraint, or if the facility employee or school employee is unavailable, a supervisor of such employee, shall, within 5 business days after the occurrence, submit a written notification containing the following information to the director or his or her designee:

- (a) The date, time, and duration of the use of seclusion or restraint.
- (b) A description of the actions of the child before, during, and after the occurrence.
- (c) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint.
- (d) The names of the persons involved in the occurrence.
- (e) A description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (f) A description of any interventions used prior to the use of the seclusion or restraint.
- (g) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary.
- (h) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint.
- (i) A description of any property damage associated with the occurrence.
- (j) A description of actions taken to address the emotional needs of the child during and following the incident.
- (k) A description of future actions to be taken to control the child's problem behaviors.
- (l) The name and position of the employee completing the notification.
- (m) The anticipated date of the final report. [...]

V. In any case requiring notification under paragraph IV, the school or facility shall, within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:

- (a) The date and time of the incident.
- (b) A brief description of the actions of the child before, during, and after the occurrence.
- (c) The names of the persons involved in the occurrence.
- (d) A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (e) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.

VI. The notification and record-keeping requirements of paragraphs IV and V shall not apply in the following circumstances:

(a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the requirements of paragraphs IV and V shall apply.

(b) When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.

(c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the requirements.

(d) When an incident is subject to the requirements of paragraphs I-III.

RSA 193-D:2. State board rulemaking authority; public school district policies.

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

(d) Procedures for reporting acts of theft, destruction, or violence under RSA 193-D:4.

RSA 193-D:4. Written report required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

RSA 193-F:4. Pupil safety and violence prevention.

II. (f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

REGULATIONS

Ed 317.05. Reporting procedures.

(a) In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized form #Ed 317.

(b) The report by a supervisor to a principal on Form #Ed 317 shall contain all the statutory information required by RSA 193-D:4.

(c) Form #Ed 317 shall be completed and filed with the local law enforcement authority within 48 hours of such incident.

(d) Form #Ed 317 shall contain the following information:

(1) School name;

(2) School address;

(3) School telephone number;

(4) Name of school principal;

- (5) Date of incident involving an act of theft, destruction, or violence, or the possession of a firearm;
- (6) Time of incident in (5) above;
- (7) Location of incident in (5) above;
- (8) Alleged offense;
- (9) Description of incident;
- (10) Name of suspect;
- (11) Grade in school of suspect;
- (12) Address of suspect;
- (13) Gender of suspect;
- (14) Name of victim;
- (15) Grade in school of victim;
- (16) Address of victim;
- (17) Gender of victim;
- (18) Name of employee reporting incident;
- (19) Date report was completed by employee;
- (20) Date report was filed with local law enforcement authority by school principal.

(e) A school district reporting a crime committed by a child with a disability shall ensure that copies of the relevant portions of the special education and disciplinary records of the child are made available in a manner that protects the privacy of student records for consideration by the appropriate authorities to whom it reports the crime.

(f) A school district shall complete and file Form Ed 317-Fed, Report on Students Disciplined Under the Gun Free School Act of 1994, with the commissioner on or before June 30 of each year.

(g) Form Ed 317-Fed shall contain the following information:

- (1) Name of school district;
- (2) School name;
- (3) Pupil's grade in school;
- (4) Type of firearm:
 - a. Handgun;
 - b. Rifle/shotgun; or
 - c. Other firearm;
- (5) Number of expulsions modified to less than 12 months;
- (6) Number of modifications for students who are not students with educational disabilities;
- (7) Number of expulsions which resulted in a referral to an alternative school or program;
- (8) Name of Reporting official; and
- (9) Signature and date.

Ed 1202.02. Duty to report.

(b) Within 5 business days of the use of seclusion or restraint, the school employee that used seclusion or restraint shall submit a written notification to the school principal containing the following, pursuant to RSA 126:7, II:

- (1) The date, time, and duration of the use of seclusion or restraint;

- (2) A description of the actions of the child before, during, and after the occurrence;
- (3) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint;
- (4) The names of the persons involved in the occurrence;
- (5) A description of the actions of the facility or school employees involved before, during, and after the occurrence;
- (6) A description of any interventions used prior to the use of the seclusion or restraint;
- (7) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary;
- (8) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint;
- (9) A description of any property damage associated with the occurrence;
- (10) A description of actions taken to address the emotional needs of the child during and following the incident;
- (11) A description of future actions to be taken to control the child's problem behaviors;
- (12) The name and position of the employee completing the notification; and
- (13) The anticipated date of the final report.

(c) The superintendent, acting superintendent, superintendent's designee, acting superintendent's designee, or school administrator shall, as soon as possible, make an oral report of all incidents of restraint and seclusion within the school involving serious injury or death to a child subject to restraint or seclusion to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities, pursuant to RSA 126-U:10, II. Within 5 business days, a written report shall be provided to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities pursuant to RSA 126-U:7.

Parental Notification

LAWS

RSA 126-U:7. Notice and record-keeping requirements.

I. Unless prohibited by court order, the facility or school shall, make reasonable efforts to verbally notify the child's parent or guardian and guardian ad litem whenever seclusion or restraint has been used on the child. Such notification shall be made as soon as practicable and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time. [...]

III. Unless prohibited by court order, the director or his or her designee shall, within 2 business days of receipt of the notification required in paragraph II, send or transmit by first class mail or electronic transmission to the child's parent or guardian and the guardian ad litem the information contained in the notification. Each notification prepared under this section shall be retained by the school or facility for review in accordance with rules adopted under RSA 541-A by the state board of education and the department of health and human services.

IV. Whenever a facility or school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a representative of the school or facility shall make reasonable efforts to promptly notify the child's parent or guardian. Such notification

shall be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

RSA 189:34. Appointment.

- I. School boards shall appoint truant officers for their districts.
- II. School board policies on truancy shall include but not be limited to:
 - (a) A definition of "excused absence" and a process for considering exceptions to absences not otherwise excused.
 - (b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The process shall consider whether school record keeping practices and notification provided to parents or guardians of the child's absences have an effect on the child's attendance. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

RSA 193-D:4. Written report required.

- I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

RSA 193-F:4. Pupil safety and violence prevention.

- II. (h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

REGULATIONS

Ed 306.04. Policy Development.

- (c) The policy relative to absenteeism and attendance shall specify procedures for the accountability and supervision of students. The policy relative to absenteeism shall not penalize students who miss class or a required school event because of a school scheduling conflict. Districts shall implement a cooperative approach which places responsibility for notification when a student is tardy, absent, or dismissed on both the parents/guardians and the school.

Ed 317.04. Disciplinary procedures.

- (f) Due process in disciplinary proceedings shall include, at a minimum, the following:
 - (1) In a short-term suspension:
 - d. A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the student. [...]

(2) In a long-term suspension of a pupil:

a. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, prior to the hearing, of the charges and an explanation of the evidence against the pupil. [...]

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:

d. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the local board.

Ed 1202.02. Duty to report.

(a) Unless prohibited by court order, the superintendent, acting superintendent, superintendent's designee, acting superintendent's designee, or school administrator shall, as soon as possible, verbally notify the parent or guardian whenever seclusion or restraint has been used on a child.

Ed 1203.02. Review of complaint filed.

(b) If the complaint is filed by an individual other than a parent or guardian, the investigator shall notify the parent or guardian that a complaint has been filed on behalf of his or her child.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

RSA 126-U:8. Review of restraint records by Department of Education.

II. Beginning November 1, 2010, and each November 1 thereafter, the state board of education shall provide an annual report to the chairpersons of the education committees of the senate and house of representatives regarding the use of seclusion and restraint in schools. The annual report shall be prepared from the periodic, regular review of such records, and shall include the number and location of reported incidents and the status of any outstanding investigations.

RSA 193-D:4. Written report required.

I. (e) All public schools shall provide an annual incident report to their local school boards. The report shall include all incidents of violence involving students, employees, volunteers, or visitors.

RSA 193-E:3. Delivery of an adequate education.

I. Annually, each school district shall report data to the department of education at the school and district levels on the indicators set forth in this paragraph. The report shall not contain personally identifiable information including but not limited to name, gender, or social security number. The department of education shall develop a reasonable schedule to collect the reporting of data required by state and federal law. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Indicators shall include the following areas:

(a) Attendance rates. [...]

(m) Expulsion and suspension rates, including in-school and out-of-school suspensions including data identifying the percentage of out-of-school suspensions of more than 10 days for each school year. This indicator shall be categorized by district, school, and grade level with each category disaggregated and broken down by gender, race, IEP, and eligibility for free and reduced-price meal programs.

RSA 193-F:6. Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

REGULATIONS

Ed 317.05. Reporting procedures.

(f) A school district shall complete and file Form Ed 317-Fed, Report on Students Disciplined Under the Gun Free School Act of 1994, with the commissioner on or before June 30 of each year.

(g) Form Ed 317-Fed shall contain the following information:

- (1) Name of school district;
- (2) School name;
- (3) Pupil's grade in school;
- (4) Type of firearm:
 - a. Handgun;
 - b. Rifle/shotgun; or
 - c. Other firearm;
- (5) Number of expulsions modified to less than 12 months;
- (6) Number of modifications for students who are not students with educational disabilities;
- (7) Number of expulsions which resulted in a referral to an alternative school or program;
- (8) Name of Reporting official; and
- (9) Signature and date.

Ed 1202.02. Duty to report.

(c) The superintendent, acting superintendent, superintendent's designee, acting superintendent's designee, or school administrator shall, as soon as possible, make an oral report of all incidents of restraint and seclusion within the school involving serious injury or death to a child subject to restraint or seclusion to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities, pursuant to RSA 126-U:10, II. Within 5 business days, a written report shall be provided to the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities pursuant to RSA 126-U:7.

Ed 1202.03. Review of records.

(a) The department of education shall review records maintained by schools relative to the use of seclusion and restraint pursuant to RSA 126-U:8 no less than once every 3 years.

(b) When the commissioner decides that a complaint is founded or the commissioner decides that the complaint is unfounded and there are 3 or more previous unfounded complaints, the department of education shall review the records of that school upon the completion of the investigation and annually for a period of 2 years following the most recent complaint.

(c) Pursuant to RSA 126-U:7, II, schools shall maintain the following records:

- (1) The date, time, and duration of the use of seclusion or restraint;
- (2) A description of the actions of the child before, during, and after the occurrence;
- (3) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint;
- (4) The names of the persons involved in the occurrence;
- (5) A description of the actions of the facility or school employees involved before, during, and after the occurrence;
- (6) A description of any interventions used prior to the use of the seclusion or restraint;
- (7) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary;
- (8) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint;
- (9) A description of any property damage associated with the occurrence;
- (10) A description of actions taken to address the emotional needs of the child during and following the incident;
- (11) A description of future actions to be taken to control the child's problem behaviors;
- (12) The name and position of the employee completing the notification; and
- (13) The anticipated date of the final report.

Ed 1203.03. Investigative process.

(d) The investigator shall file a report with the commissioner within 30 days of the filing of the complaint. The investigator may request a time extension from the commissioner for good cause shown, including, the coordination of investigations with other agencies or unavailability of a witness. If good cause is shown, the commissioner shall permit a time extension.

(e) The commissioner shall review the investigator's report and recommendation based on a review of the case in relation to the grounds listed in RSA 126-U to:

- (1) Provide a written decision and recommendations which shall include, if necessary, based on the conclusions of the investigator's report:
 - a. Appropriate remedial measures to address physical and other injuries;
 - b. Appropriate remedial measures to address protection against retaliation; and
 - c. Appropriate remedial measures to reduce the incidence of violations of RSA 126-U.
- (2) Identify remedial measures necessary to remedy the problem. Such remedial measure may include but are not limited to:
 - a. Training of an individual or a group of school employees;
 - b. Revision of policies and procedures;
 - c. Revision of notice and record keeping practices;
 - d. Compliance with conditions of seclusion per 126-U:5-b; and
 - e. Any other action designed to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of RSA 126-U.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

RSA 193-B:5. Toll-free hotline; rulemaking; local hotlines; notice.

I. There is hereby established a toll-free statewide hotline for the purpose of reporting anonymous information on drug activity to local law enforcement agencies. The department of safety shall coordinate and adopt rules pursuant to RSA 541-A for the establishment and operation of the hotline.

II. The toll-free statewide telephone number established under paragraph I shall be displayed in the drug-free zone signs developed and posted pursuant to RSA 193-B:4, I. If a local police hotline telephone exists in a community, such telephone number shall be posted on relevant signs in lieu of the toll-free statewide telephone number.

RSA 193-D:4. Written report required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

REGULATIONS

Ed 317.03. Standard for expulsion by local school board.

(c) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

- (1) Whether a firearm is legally licensed under RSA 159; or
- (2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

Ed 317.05. Reporting procedures.

(c) Form #Ed 317 shall be completed and filed with the local law enforcement authority within 48 hours of such incident.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

RSA 186:11. Duties of state board of education.

The state board of education shall, in addition to the duties assigned by RSA 21-N:11:

XXXVII. School Resource Officers. Require each school district in the state to which a school resource officer is assigned to develop and implement a policy which shall include, at a minimum, a requirement for a signed memorandum of understanding between the school district and the law enforcement agency from which the school resource officer is deployed.

RSA 193-D:4. Written report required.

I. (c) Each school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding for administering the provisions of RSA 193-D:4, I(a)-(c).

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Hampshire provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Bullying and Cyber Bullying, New Hampshire Department of Education (NHDOE)	Provides links to Bullying and Cyberbullying resources, including bullying reports, analysis of state bullying laws and other related resources.	https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-wellness/bullying-cyber-bullying
NH's Multi-Tiered System of Support for Behavioral Health and Wellness Model (MTSS-B), NHDOE	Provides an overview of NH's MTSS-B model that includes values, core features, MTSS-B strategies, and an introductory video.	https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-wellness/office-of-social-and-emotional-wellness/mtssb
School Discipline, NHDOE	Provides links to resources to support educators in implementing positive approaches to school discipline.	https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-wellness/school-discipline
School Safety, NHDOE	Provides information on New Hampshire School Safety Preparedness Task Force and related topics such as bullying. Contact information to report a bullying incident, abuse or misconduct is provided as well.	https://www.education.nh.gov/parents-and-students/school-safety
Documents		
Bullying Policy Checklist	A checklist for schools and districts to use when reviewing their policies for inclusion of all elements required by the New Hampshire statute, RSA 193-F, Pupil Safety and Violence Prevention as amended in July, 2010.	https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/doe-bullying-policy-checklist_1.docx
Other Resources		
School and District Profiles, NHDOE	New Hampshire school and district profiles with links to state reports on dropouts and enrollments.	http://my.doe.nh.gov/profiles/
School Safety Data Collection, NHDOE	Reports includes data concerning restraints and seclusions, harassment, bullying, student discipline, school safety and truancy.	https://www.education.nh.gov/who-we-are/division-of-educator-and-analytic-resources/bureau-of-education-statistics/school-safety-data-collection



New Jersey Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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[New Jersey Regulations](#)

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

18A:37-32.2. Policy against hazing for district with high school, middle school.

5. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall adopt a written policy against hazing.

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 [C.18A:40A-9] of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

REGULATIONS

6A:16-5.7. Assaults on district board of education members or employees.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school board employee, or district board of education member acting in the performance of his or her duties and in a situation where his or her

authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

(b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the student's parent of the removal action and the student's due process rights; and
5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

(e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

(f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

Scope

LAWS

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is

available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S. 2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection

r. of N.J.S. 2C:39-1, except a firearm as defined by N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-32.2. Policy against hazing for district with high school, middle school.

6a Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall provide a program for the enforcement of the policy against hazing required under section 5 of P.L.2021, c.208 (C.18A:37-32.2) and shall adopt appropriate penalties for violation of the policy.

c. A penalty imposed under this section shall be in addition to a penalty imposed for violation of any other school district or nonpublic school rule to which the violator may be subject.

d. A policy adopted under section 5 of P.L.2021, c.208 (C.18A:37-32.2) shall apply to each act conducted on or off campus if the acts are deemed to constitute hazing.

REGULATIONS

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Code of student conduct" means standards, policies, and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.1.

"School grounds" means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider. School grounds also includes school buses, school-sponsored functions, structures that support the buildings, such as school district wastewater treatment facilities; generating facilities; and other central service facilities including, but not limited to, kitchens and maintenance shops. School grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by municipalities, private entities or other individuals during times when the school district has exclusive use of a portion of the land.

"School-sponsored function" means any activity, event or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized and/or supported by the school.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

6A:16-7.5. Conduct away from school grounds.

(a) School authorities have the right to impose a consequence on a student for conduct away from school grounds that is consistent with the district board of education's code of student conduct, pursuant to

N.J.A.C. 6A:16-7.1.

1. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2.
2. This authority shall be exercised only when the conduct that is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school.
3. The consequence pursuant to (a) above shall be handled in accordance with the district board of education's approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, and as appropriate, in accordance with N.J.A.C. 6A:16-7.2, 7.3, or 7.4.

(b) School authorities shall respond to harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-14 and 15.3 and N.J.A.C. 6A:16-1.3, 7.1, and 7.7.

Communication of Policy

LAWS

18A:37-32.2. Policy against hazing for district with high school, middle school.

5. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall adopt a written policy against hazing.

b. board of education and governing board or chief school administrator shall ensure that students are informed of the anti-hazing policy, including the rules, penalties, and program of enforcement under the policy.

c. The board of education and governing board or chief school administrator shall post the policy on the district's or nonpublic school's publicly accessible Internet website.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate executive county superintendent of schools by September 1, 2003. A school district shall annually conduct a re-evaluation, reassessment, and review of its policy, making any necessary revisions and additions. The board shall include input from the school anti-bullying specialists in conducting its re-evaluation, reassessment, and review. The district shall transmit a copy of the revised policy to the appropriate executive county superintendent of schools within 30 school days of the revision. The first revised policy following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the executive county superintendent of schools by September 1, 2011. [...]

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

18A:37-36. Educational resources, recommendation, posting on website.

The Department of Education shall recommend educational resources on dating violence and shall post these materials on its website.

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

REGULATIONS

6A:16-4.2. Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse.

(a) Each district board of education shall establish a process for the annual review of the effectiveness of its policies and procedures regarding student alcohol and other drug abuse. The district board of education may solicit parent, student, and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.

(b) Each district board of education shall annually disseminate to all school staff, students and parents through its website or other means its adopted policies and procedures for implementing N.J.A.C. 6A:16- 4.

6A:16-5.7. Assaults on district board of education members or employees.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school board employee, or district board of education member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

(b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) above;

2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the student's parent of the removal action and the student's due process rights; and
5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

(e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

(f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

1. The code of student conduct may be based on parent, student, and community involvement that represents, where possible, the composition of the school district's schools and community.
2. The district board of education shall establish a process for the annual review and update of the code of student conduct.
3. The code of student conduct shall be disseminated annually to all school staff, students and parents.
4. The district board of education shall provide to all district board of education employees annual training on the code of student conduct, including training on the prevention, intervention, and remediation of student conduct that violates the district board of education's code of student conduct.
 - i. Information on the code of student conduct shall be incorporated into the orientation for new employees.
5. The district board of education shall provide for the code of student conduct's equitable application.
6. For students with disabilities subject to individualized education programs (IEPs) in accordance with 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act and accommodation plans under 29 U.S.C. §§ 794 and 705(20), the code of student conduct shall be implemented in accordance with the applicable plans.

6A:16-7.8. Harassment, intimidation, and bullying in approved private schools for students with disabilities (APSSDs).

(a) Each approved private school for students with disabilities (PSSD) shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds.

1. Each approved PSSD shall develop the policy to include approved PSSD school grounds, pursuant to N.J.A.C. 6A:16-1.3;
 - i. The policy shall include a provision for notifying the appropriate sending district board(s) of education personnel of the students involved when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of

education school bus, at a sending district board of education school-sponsored function and off school grounds;

2. Each approved PSSD shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students;

3. Each approved PSSD shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:

i. A statement prohibiting harassment, intimidation, or bullying of a student;

ii. A definition of harassment, intimidation, or bullying as set forth in the definition at N.J.A.C. 6A:16-1.3, except for incidents occurring on a sending district board of education bus, at a sending district board of education school-sponsored function, and off school grounds;

iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;

iv. A description of the type of behavior expected from all students;

v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior, the nature of the student's disability, the developmental age of the student, and the student's history of problem behaviors and performance, and that may include the following:

(1) A behavioral assessment or evaluation, including, but not limited to, a referral to the individualized education program team of the sending district board of education, as appropriate; and

(2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;

vi. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:

(1) Varied and graded according to the nature of the behavior, the nature of the student's disability to the extent relevant, the developmental age of the student, and the student's history of problem behaviors and performance; and

(2) Consistent with the provisions of this subchapter, as appropriate, and N.J.A.C. 6A:14-7.6(f);

vii. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;

viii. A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure shall also include a provision that permits a person to report anonymously.

(1) The approved PSSD shall not take formal disciplinary action based solely on the anonymous report;

(2) The full-time non-teaching principal shall take into account the circumstances of the incident when providing notification to parents and guardians of all students involved in the reported harassment, intimidation, or bullying incident and when conveying the nature of the incident, including the actual or perceived category motivating the alleged offense; and

(3) Disciplinary action shall be consistent with the provisions of N.J.A.C. 6A:14-7.6(f);

ix. A procedure for prompt investigation of violation and complaint reports.

(1) The full-time non-teaching principal, pursuant to N.J.A.C. 6A:14-7.6(d), or his or her designee, shall initiate the investigation within one school day of the initial report of the incident. The school anti-bullying specialist shall conduct the investigation and the full-time non-teaching principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10

school days from the date of the written report of the incident of harassment, intimidation, or bullying. If information relevant to the investigation is anticipated but not yet received by the end of the 10- school-day period, the school anti-bullying specialist may amend the initial report of the investigation results to reflect the information.

(2) The anti-bullying specialist shall report the investigation results to the full-time non-teaching principal within two school days of the investigation's completion.

(3) The full-time non-teaching principal may provide intervention services; establish training programs to reduce harassment, intimidation, or bullying and to enhance school climate; and, in consultation and conjunction with the sending district board of education pursuant to N.J.A.C. 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation findings, or take or recommend other appropriate action.

(4) The full-time non-teaching principal shall report to the appropriate sending district board(s) of education personnel of the students who are parties to the harassment, intimidation, or bullying investigation the results of each investigation no later than five school days following the investigation's completion, along with information on any service(s) provided; training established; and, pursuant to N.J.A.C. 6A:14-7.6(f), discipline imposed or other action taken or recommended by the full-time non-teaching principal.

(5) In accordance with Federal and State law and regulation, the full-time non-teaching principal shall provide parents or guardians of students who are parties to the harassment, intimidation, or bullying investigation with information about the investigation, including the nature of the investigation, the findings, and whether discipline was imposed or services were provided, as appropriate, to address the incident of harassment, intimidation, or bullying. The full-time non-teaching principal shall provide the information in writing within five school days following the investigation's completion.

(6) To protect the victim, the procedure also shall take into account the circumstances of the incident when communicating with parents.

(7) A full-time non-teaching principal who receives a report of harassment, intimidation, or bullying, or who determines a reported incident or complaint, assuming all facts presented are true, is a report of an act of harassment, intimidation, or bullying, pursuant to (a)3ix(8) below, and fails to initiate or conduct an investigation, or who has reason to believe an incident of harassment, intimidation, or bullying occurred and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

(8) The procedure set forth in the approved PSSD policy may include a process prior to initiating an investigation by which the full-time non-teaching principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint, assuming all facts presented are true, is a report of an act of harassment, intimidation, or bullying, pursuant to (a)3ii above.

(A) If a preliminary determination finds the incident or complaint is a report outside the scope of the harassment, intimidation, or bullying definition set forth at (a)3ii above, the determination may be appealed to the sending district board of education pursuant to district board of education policies and procedures governing pupil grievances, and thereafter to the Commissioner in accordance with N.J.A.C. 6A:3.

(9) The procedure shall also include a process by which the approved PSSD reports to the appropriate district board of education personnel any complaint or report of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:16-7.7(a)2ix, occurring on district board of education school buses, at district board of education school-sponsored functions, and off school grounds involving a student who attends an approved PSSD.

(A) When a complaint or report of harassment, intimidation, or bullying involves students from more than one school district, the sending district board(s) of education of the victim(s) involved shall initiate the investigation.

x. A requirement for the full-time non-teaching principal and school anti-bullying specialist to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs.

(1) The school district official shall ensure all responses take into account the circumstances of the incident when responding and, at a minimum, shall include support for a victim of harassment, intimidation, or bullying and corrective actions, pursuant to N.J.A.C. 6A:14-7.6, for documented systemic problems related to harassment, intimidation, or bullying;

(2) Once an incident of harassment, intimidation, or bullying is identified, the full-time non-teaching principal shall determine the appropriate response to address the individual circumstances in consultation and conjunction with appropriate sending district board of education personnel, pursuant to N.J.A.C. 6A:14-7.6(f), as necessary;

xi. A requirement that allows the parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about a investigation, pursuant to (a)3ix(5) above.

(1) Any request for a hearing before the sending district board of education shall be filed within 60 calendar days after the written information about the harassment, intimidation, or bullying investigation, pursuant to (a)3ix(4) and (5) above, is received by the sending district board of education and the parents or guardians.

(2) The hearing before the sending district board of education shall be scheduled in collaboration with the PSSD and held by the sending district board of education within 10 business days of the request. The approved PSSD and the sending district board of education shall coordinate the policies and procedures for conducting such hearings;

xii. A statement that prohibits an approved PSSD's employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

xiii. Consequences and appropriate remedial action identified in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f) for a student found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

xiv. A statement that a parent, student, guardian, or organization may file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the Law Against Discrimination, P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.);

xv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in approved PSSD-sponsored functions and on school buses operated by the approved PSSD.

(1) Notice of the approved PSSD's policy shall appear in any publication of the approved PSSD that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1;

xvi. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the approved PSSD's website;

xvii. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents; and

xviii. A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the approved PSSD's website.

(b) An approved PSSD employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying, shall report the incident to the full-time non-teaching principal, pursuant to (a)3viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the approved PSSD's procedures concerning harassment, intimidation, and bullying.

(c) The approved PSSD shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives and implement training programs for school employees and volunteers who have significant contact with students.

i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.

ii. Information regarding the approved PSSD's policy against harassment, intimidation, or bullying shall be incorporated into its training program.

(1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the approved PSSD to provide services to students;

2. Develop a process for annually discussing with students the approved PSSD's harassment, intimidation, and bullying policy;

3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The approved PSSD also shall make any necessary revision(s) to its policy, consistent with N.J.A.C. 6A:14- 7.3(a), to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students.

The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students;

4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in the approved PSSD.

i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students; and

5. Submit to the executive county superintendent a copy of its harassment, intimidation, and bullying policy in the 2018-2019 school year or within 30 days of revision.

(d) The full-time non-teaching principal shall appoint a school anti-bullying specialist from currently employed school staff to act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school and the functions identified pursuant to (a)3ix, ix(1), and x above.

(e) The approved PSSD shall form a school safety/school climate team to develop, foster, and maintain a positive school climate by focusing on the on-going systemic processes and practices in the school and

to address school climate issues, such as harassment, intimidation, or bullying and perform the following functions:

1. Meet two times per school year;
2. Receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal;
3. Receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;
4. Identify and address patterns of harassment, intimidation, or bullying of students in the school;
5. Review and strengthen school climate and school policies to prevent and address harassment, intimidation, or bullying of students;
6. Educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students; and
7. Execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal;

(f) The school safety/school climate team shall consist of the full-time non-teaching principal, or his or her designee, and the following members appointed by the full-time non-teaching principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

1. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.
2. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.
3. The approved PSSD shall provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches.

(g) The section's requirements shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

(c) The code of student conduct shall include, at a minimum:

1. A description of students' responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 12.1;
2. A description of behaviors that result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;
3. A description of students' rights to:
 - i. Advance notice of behaviors that result in suspensions and expulsions that have been identified pursuant to N.J.S.A. 18A:37-2;
 - ii. Education that supports students' development into productive citizens;
 - iii. Attendance in safe and secure school environments;
 - iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;
 - v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5;
 - vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8; and
 - vii. Protections pursuant to 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student protections;
4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education. The description of comprehensive behavioral supports may include:
 - i. Positive reinforcement for good conduct and academic success;

- ii. Supportive interventions and referral services;
- iii. Remediation of problem behavior that takes into account the behavior's nature, the students' developmental ages, and the students' histories of problem behaviors and performance; and
- iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to N.J.A.C. 6A:14;

5. A description of school responses to violations of behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:

- i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
- ii. Be consistent with other responses, pursuant to N.J.A.C. 6A:16-5.5 through 5.7;
- iii. Provide for the equitable application of the code of student conduct without regard to race; color; religion; ancestry; national origin; nationality; sex; gender; sexual orientation; gender identity or expression; marital, domestic-partnership, or civil-union; mental, physical, or sensory disability; or any other distinguishing characteristic, pursuant to N.J.S.A. 10:5-1 et seq.; and
- iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;

6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7; and

7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) A district board of education may deny participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment.

18A:37-32.3. Program for enforcement of policy against hazing.

6. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall provide a program for the enforcement of the policy against hazing required under section 5 of P.L.2021, c.208 (C.18A:37-32.2) and shall adopt appropriate penalties for violation of the policy.

b. The penalties for violations of the policy may include:

- (1) the withholding of diplomas or transcripts pending compliance with the rules;
- (2) the rescission of permission for the organization or group, whose student members are being penalized under the anti-hazing policy, to operate on campus or school property or to otherwise operate under the sanction or recognition of the school district or nonpublic school; and
- (3) the imposition of probation, suspension, dismissal, or expulsion.

c. A penalty imposed under this section shall be in addition to a penalty imposed for violation of any other school district or nonpublic school rule to which the violator may be subject.

d. A policy adopted under section 5 of P.L.2021, c.208 (C.18A:37-32.2) shall apply to each act conducted on or off campus if the acts are deemed to constitute hazing.

Teacher Authority to Remove Students From Classrooms

LAWS

18A:37-4. Suspension of pupils by teacher or principal.

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting.

Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

9:10-2. Incurable, insubordinate and disorderly children and habitual truants.

Children under the age of sixteen who shall be habitual truants from school or habitually insubordinate or incorrigible and disorderly during attendance at school and who have been complained against in accordance with subtitle 5 of this title (9:18-1 et seq.) shall be received by the school of detention.

All children under sixteen years of age arrested for any cause, except murder or manslaughter, and school children habitually truant or incorrigible may by order of the juvenile and domestic relations court be held in the detention school until final judgment.

18A:35-4.31. Recess period required; exceptions.

a. Beginning with the first full school year following the effective date of this act, a public school district shall provide a daily recess period of at least 20 minutes for students in grades kindergarten through 5. The recess period shall be held outdoors, if feasible. A student shall not be denied recess for any reason, except as a consequence of a violation of the district's code of student conduct, including a harassment, intimidation, or bullying investigation pursuant to P.L.2002, c.83 (C.18A:37-13 et seq.). If a student is denied recess, except under conditions set forth in subsection b. of this section, the student shall be provided restorative justice activities during the recess period. A student may not be denied recess more than twice per week.

A school district shall not be required to provide a recess period on a school day in which the day is substantially shortened due to a delayed opening or early dismissal.

The recess period shall not be used to meet the course requirements set forth in N.J.S.18A:35-5.

- b. Nothing in this section shall be construed to prohibit school staff from denying recess for a student on the advice of a medical professional, school nurse, or based on the provisions of a student's 504 plan.
- c. For purposes of this section, "restorative justice activities" means activities designed to improve the socioemotional and behavioral responses of students through the use of more appropriate, and less punitive, interventions thereby establishing a more supportive and inclusive school culture.

18A:37-38. Definitions relative to restorative justice.

As used in this act:

"Adverse childhood experiences" means severe childhood stressors that, when experienced prenatal to three years old, affect brain development and which are proven to be powerful determinants of physical, mental, social, and behavioral health across a lifespan. Adverse childhood experiences may include, but are not limited to, child physical or sexual abuse, child emotional abuse, child physical or emotional neglect, alcohol or other substance abuse in the home, mental illness or suicidal behaviors in the home, incarceration of a family member, exposure to violence in the home or community, and parental divorce or separation.

"Restorative justice" means a system of dispute resolution tools that allow all parties of a dispute to be involved in defining the harm and devising remedies while giving the necessary attention to community safety, victims' needs, and the need for offender accountability. Restorative justice practices shall include, but need not be limited to, student or community court, restorative circles, mediation, and conferencing.

"Trauma-informed approach" means an approach that recognizes the signs and symptoms of trauma in students, families, staff, and others, and which responds by fully integrating knowledge about trauma into policies, procedures, and practices for the purposes of promoting resiliency and healing, resisting the recurrence of trauma, and improving educational outcomes.

18A:37-39. "Restorative Justice in Education Pilot Program".

Within six months of the effective date of this act, the Commissioner of Education shall establish a three- year "Restorative Justice in Education Pilot Program" to implement restorative justice practices in the public schools. The program shall address school discipline issues through the implementation of restorative justice practices that include a trauma-informed approach. The goals of the pilot program shall be to:

- a. reduce racial disparities in school discipline which result in an inequitable loss of classroom time among certain student groups, thereby boosting the academic outcomes of these students;
- b. improve the socioemotional and behavioral responses of students through the use of more appropriate, and less punitive, interventions, thereby establishing a more supportive and inclusive school culture; and
- c. reduce recidivism rates among students who violate the school district code of conduct through the use of more effective and targeted restorative justice interventions.

18A:37-40. Application for participation by school district.

A school district that wants to participate in the pilot program shall submit an application to the commissioner. The application shall identify one school within the school district to implement the restorative justice model under the pilot program. The application shall include:

- a. a description of the school including the number of enrolled students; the in-school and out-of-school student suspension rates, and any other relevant data collected on student disciplinary actions; absenteeism rates; academic performance indicators, including the percentage of students not meeting expectations on State assessments; and the percentage of enrolled students who qualify for a free or reduced price lunch under the federal School Lunch Program;

- b. a description of which restorative justice practices will be implemented at the school and the trauma-informed approach to be utilized;
- c. a description of how school administrators plan to develop faculty and student support for the restorative justice model of school discipline to be implemented;
- d. a preliminary schedule and description of faculty trainings on the use of restorative justice practices including a trauma-informed approach, and a statement indicating the school district's commitment to collecting ongoing feedback from both students and faculty on the program's impact;
- e. the identification of a faculty member who shall serve as a school-based coordinator of the pilot program and who shall collect, analyze, and report on the program's implementation and outcomes to school district stakeholders and the commissioner; and
- f. any other information the commissioner deems appropriate.

18A:37-41. Selection of districts.

- a. After reviewing the applications submitted pursuant to section 3 [C.18A:37-40] of this act, the commissioner shall select five districts in each of the southern, central, and northern regions of the State to participate in the program.
- b. The commissioner shall provide such guidance, support, and training to participating schools as may be necessary to effectuate the purposes of this act [C.18A:37-38 et seq.].
- c. The commissioner shall award grants, within the limit of available State appropriations, to participating school districts to be used to support the development and implementation of restorative justice practices in the selected schools, including for any necessary trainings and materials. The commissioner shall determine the amount of each grant awarded under the program and may award multi-year grants.

18A:37-42. Limitation of number, duration of student expulsions, suspensions.

The principal of a school selected to participate in the pilot program shall be required to limit the number and duration of student expulsions and suspensions to the greatest extent practicable. The principal shall demonstrate a commitment to exhausting other forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions, unless otherwise required by law or unless a student's continuing presence in school poses a threat to school safety or a disruption to other students' learning opportunities.

18A:37-44. Application for grant, aid.

A school district selected to participate in the pilot program may seek and apply for any grant or aid from the federal government, or any appropriate nonprofit organization, foundation or trust, or any other public or private source that might be or may become available for programs in furtherance of the purposes of this act [C.18A:37-38 et seq.].

18A:37-46. "Restorative Justice Education Fund".

There is established within the Department of Education a fund to be known as the "Restorative Justice Education Fund." The fund shall be used to provide grants to participating schools pursuant to subsection

- c. of section 4 [C.18A:37-41] of this act. The fund shall be annually credited with the moneys appropriated by the Legislature.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

18A:6-1. Corporal punishment of pupils.

No person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution; but any such person may, within the scope of his employment, use and apply such amounts of force as is reasonable and necessary:

- (1) to quell a disturbance, threatening physical injury to others;
- (2) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;
- (3) for the purpose of self-defense; and
- (4) for the protection of persons or property;

and such acts, or any of them, shall not be construed to constitute corporal punishment within the meaning and intendment of this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

18A:36-19.2. School locker inspection.

The principal or other official designated by the local board of education may inspect lockers or other storage facilities provided for use by students so long as students are informed in writing at the beginning of each school year that inspections may occur.

18A:37-6.1. Strip, body cavity searches of pupil prohibited.

Any teaching staff member, principal or other educational personnel shall be prohibited from conducting any strip search or body cavity search of a pupil under any circumstances.

REGULATIONS

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests; [...]

5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.

- i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

- ii. Questions concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.
- iii. School officials may request that law enforcement authorities assume responsibility for conducting a search or seizure.
- iv. No school staff member shall impede a law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.
- v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting a search or seizure.
- vi. All inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines may be undertaken with only the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.
- vii. Questions concerning the legality of a contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds shall be directed to the county prosecutor or in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice's designee in the New Jersey Department of Law and Public Safety, to the assigned assistant attorney general.

Restraint and Seclusion

LAWS

18A:46-13.4. Definitions relative to use of physical restraint, seclusion techniques on students with disabilities.

As used in this act [C.18A:46-13.4 through 18A:46-13.7]:

"Physical restraint" means the use of a personal restriction that immobilizes or reduces the ability of a student to move all or a portion of his or her body.

"Seclusion technique" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, but does not include a timeout.

"Timeout" means a behavior management technique that involves the monitored separation of a student in a non-locked setting, and is implemented for the purpose of calming.

18A:46-13.5. Use of physical restraint on students with disabilities.

a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes physical restraint on students with disabilities shall ensure that:

- (1) physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;
- (2) a student is not restrained in the prone position, unless the student's primary care physician authorizes, in writing, the use of this restraint technique;
- (3) staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity determined by the board of education to be qualified to provide such training, and that the training is updated at least annually;
- (4) the parent or guardian of a student is immediately notified when physical restraint is used on that student, which notification may be by telephone or electronic communication. A full written report of the

incident of physical restraint shall be provided to the parent or guardian within 48 hours of the occurrence of the incident;

(5) each incident in which a physical restraint is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(6) each incident in which physical restraint is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

18A:46-13.6. Use of seclusion techniques on students with disabilities.

a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes seclusion techniques on students with disabilities shall ensure that:

(1) a seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(3) each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

18A:46-13.7. Guidelines, review process.

The department shall establish guidelines for school districts, educational services commissions, and approved private schools for students with disabilities to ensure that a review process is in place to examine the use of physical restraints or seclusion techniques in emergency situations, and for the repeated use of these methods for an individual child, within the same classroom, or by a single individual. The review process shall include educational, clinical, and administrative personnel.

Pursuant to the review process the student's individualized education plan team may, as deemed appropriate, determine to revise the behavior intervention plan or classroom supports, and a school district, educational services commission, or approved private school for students with disabilities may determine to revise a staff member's professional development plan.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school. Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

- a. Continued and willful disobedience;
- b. Open defiance of the authority of any teacher or person, having authority over him;
- c. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;
- d. Physical assault upon another pupil;
- e. Taking, or attempting to take, personal property or money from another pupil, or from his presence, by means of force or fear;
- f. Willfully causing, or attempting to cause, substantial damage to school property;
- g. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other building owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;
- h. Incitement which is intended to and does result in unauthorized occupation by any group of pupils or others of any part of a school or other facility owned by any school district;
- i. Incitement which is intended to and does result in truancy by other pupils;
- j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises; and
- k. Harassment, intimidation, or bullying.

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

- a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.
- b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or

employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-2a. Conditions for suspension, expulsion of certain students.

a. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995,

c.127 (C.18A:37-7 et seq.).

b. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not receive an out-of-school suspension, except when the suspension is based on conduct that is of a violent or sexual nature that endangers others.

c. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in preschool in a school district or charter school shall not be suspended, and shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995, c.127 (C.18A:37-7 et seq.).

18A:37-4. Suspension of pupils by teacher or principal.

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting.

Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by- case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-32.3. Program for enforcement of policy against hazing

6. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall provide a program for the enforcement of the policy against hazing required under section 5 of P.L.2021, c.208 (C.18A:37-32.2) and shall adopt appropriate penalties for violation of the policy.

b. The penalties for violations of the policy may include:

(3) the imposition of probation, suspension, dismissal, or expulsion.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

18A:37-2a. Conditions for suspension, expulsion of certain students.

a. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995,

c.127 (C.18A:37-7 et seq.).

b. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not receive an out-of-school suspension, except when the suspension is based on conduct that is of a violent or sexual nature that endangers others.

c. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in preschool in a school district or charter school shall not be suspended, and shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995, c.127 (C.18A:37-7 et seq.).

18A:37-42. Limitation of number, duration of student expulsions, suspensions.

The principal of a school selected to participate in the pilot program shall be required to limit the number and duration of student expulsions and suspensions to the greatest extent practicable. The principal shall demonstrate a commitment to exhausting other forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions, unless otherwise required by law or unless a student's continuing presence in school poses a threat to school safety or a disruption to other students' learning opportunities.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of

the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S. 2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection

r. of N.J.S. 2C:39-1, except a firearm as defined by N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-2.4. Hearing.

a. Any pupil removed pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2) shall be entitled to a hearing before the local board of education to determine if the pupil is guilty of committing an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function. If it is found that the pupil is not guilty of the offense the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no longer than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-10. Hearing.

a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision.

REGULATIONS

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Informal hearing" means a discussion between a school administrator and a student regarding the student's alleged misconduct, pursuant to N.J.A.C. 6A:16-7.2, Short-term suspensions, in which the student is informed of his or her alleged violation of the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, and the basis for the accusation. During the informal hearing, the student is given the opportunity to explain his or her version of the facts and events regarding the alleged violation.

6A:16-7.1. Code of student conduct.

(c) The code of student conduct shall include, at a minimum:

3. A description of students' rights to:

v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5.

6A:16-7.2. Short-term suspensions.

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for one, but not more than 10 consecutive school days by providing for the following:

1. As soon as practical, oral or written notice of charges to the student.

- i. When charges are denied, an explanation of the evidence forming the basis of the charges also shall be provided;
2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present his or her version of events regarding his or her actions leading to the short-term suspension and is provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5:
 - i. The informal hearing shall be conducted by a school administrator or his or her designee;
 - ii. To the extent that a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the student may be immediately removed from the student's educational program and the informal hearing shall be held as soon as practical after the suspension;
 - iii. The informal hearing shall take place even when a school staff member has witnessed the conduct forming the basis of the charge; and
 - iv. The informal hearing and the notice given may take place at the same time;
3. Oral or written notification to the student's parents of the student's removal from his or her educational program prior to the end of the school day on which the school administrator decides to suspend the student. The notification shall include an explanation of:
 - i. The specific charges;
 - ii. The facts on which the charges are based;
 - iii. The provision(s) of the code of student conduct the student is accused of violating;
 - iv. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and
 - v. The terms and conditions of the suspension.
4. Appropriate supervision of the student while waiting for the student's parent to remove the student from school during the school day; and
5. Academic instruction either in school or out of school that addresses the New Jersey Student Learning Standards.
 - i. The student's academic instruction shall be provided within five school days of the suspension.
 - ii. At the completion of a short-term suspension, the district board of education shall return a general education student to the general education program from which he or she was suspended.
 - iii. The academic instruction provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.

(b) The suspending principal shall immediately report the suspension to the chief school administrator, who shall report it to the district board of education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.

(c) An appeal of the district board of education's decision affecting the general education student's educational program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(d) For a student with a disability, the provisions of this section shall be provided in addition to all procedural protections set forth in N.J.A.C. 6A:14.

6A:16-7.3. Long-term suspensions.

(a) In each instance of a long-term suspension, the district board of education shall assure the rights of a student suspended for more than 10 consecutive school days by providing the following:

1. Notification to the student of the charges prior to his or her removal from school;
2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present his or her version of events regarding his or her actions leading to the long-term suspension and is provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;

3. Immediate notification to the student's parents of the student's removal from school;
4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;
5. Written notification to the parents by the chief school administrator or his or her designee within two school days of the initiation of the suspension, stating:
 - i. The specific charges;
 - ii. The facts on which the charges are based;
 - iii. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and
 - iv. Further engagement by the student in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37- 2, shall amount to a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to expel the student is made by the district board of education, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4.
 - (1) The district board of education shall request from the parent(s) and student written acknowledgement of the notification provided pursuant to (a)5iv above subsequent to the removal of the student from his or her educational program, pursuant to this section;
6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to (a)10 below;
7. For a student with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal rules incorporated by reference therein;
8. Information on the student's right to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)7;
9. Either in- or out-of-school educational services that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a public education program provided in accordance with N.J.A.C. 6A:16-9 or 10.
 - i. The student's educational services shall be provided within five school days of the suspension.
 - ii. The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student based on the New Jersey Student Learning Standards and the following considerations:
 - (1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate;
 - (2) The results of relevant testing, assessments, or evaluations of the student;
 - (3) The student's academic, health and behavioral records;
 - (4) The recommendation of the chief school administrator, principal or other relevant school or community resource;
 - (5) Considerations of parental input; or
 - (6) Consultation with the intervention and referral services team, in accordance with N.J.A.C. 6A:16- 8.
 - iii. Educational services provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.
10. A formal hearing before the district board of education that shall, at a minimum:
 - i. Be conducted by the district board of education or delegated by the board to a board committee, a school administrator, or an impartial hearing officer for the purpose of determining facts or making recommendations.
 - (1) Before taking final action, the district board of education as a whole shall receive and consider either a transcript or detailed report on the hearing;

- ii. Include the opportunity for the student to:
 - (1) Confront and cross-examine witnesses if there is a question of fact; and
 - (2) Present his or her own defense, and produce oral testimony or written supporting affidavits;
- iii. Take place no later than 30 calendar days following the day the student is suspended from the general education program; and
- iv. Result in the district board of education's decision that shall be based, at a minimum, on the preponderance of competent and credible evidence;

11. A written statement to the student's parents regarding the district board of education's decision within five school days after the close of the hearing. The statement shall include, at a minimum:

- i. The charges considered;
- ii. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the district board of education at the hearing;
- iii. Factual findings relative to each charge and the district board of education's determination of each charge;
- iv. Identification of the educational services to be provided to the student, pursuant to (a)9 above;
- v. The terms and conditions of the suspension; and
- vi. The right to appeal to the Commissioner the district board of education's decision regarding the student's general education program, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17;

12. If at any time it is found that the student did not commit the offense, the student shall be immediately returned to the program from which he or she was removed; and

13. At the completion of a long-term suspension, the district board of education shall return a general education student to the general education program.

(b) An appeal of the district board of education's decision regarding the general education student's program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(c) Suspension of a general education student shall not be continued beyond the district board of education's second regularly scheduled meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.

1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:

- i. The nature and severity of the offense;
- ii. Its removal decision;
- iii. The results of relevant testing, assessments, or evaluations of the student; and
- iv. The recommendation of the chief school administrator, after considering input from the principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed.

2. The district board of education shall develop and adopt policies and procedures providing for action on the continuation of student suspensions in the event of cancellation of the first or second regular board meeting pursuant to N.J.S.A. 18A:37-4 and 5.

(d) When the district board of education votes to continue a general education student's suspension, it shall review the case, in consultation with the chief school administrator, at each subsequent district board of education meeting for the purpose of determining:

1. The status of the student's suspension;
2. The appropriateness of the suspended student's current educational program; and
3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.

(e) When the district board of education votes to continue a general education student's suspension, it shall make, in consultation with the chief school administrator, the final determination on:

1. When the student is prepared to return to the general education program;
2. Whether the student will remain in an alternative education program or receive home or other in- or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or
3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16- 7.4.

(f) The district board of education shall provide a general education student suspended under this section with an appropriate educational program or services, based on the criteria set forth under (a)9ii above, until the student graduates from high school or reaches the age of 20, whichever comes first.

1. The educational program shall be consistent with N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever is applicable; or
2. The educational services provided, either in- or out-of-school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.

(g) For a student with a disability who receives a long-term suspension, the district board of education shall proceed in accordance with N.J.A.C. 6A:14 in determining or changing the student's educational placement to an interim or alternate educational setting.

1. All procedural protections set forth in N.J.A.C. 6A:14 and this section shall be afforded to a student with a disability who is subjected to a long-term suspension.
2. All decisions concerning the student's educational program or placement shall be made by the student's individualized education program team.
3. The provisions of (b) through (f) above shall not apply to students with disabilities.

6A:16-7.4. Expulsion.

(a) A district board of education may expel a general education student from school, pursuant to N.J.S.A. 18A:37-2, only after the district board of education has provided the following:

1. The procedural due process rights set forth at N.J.A.C. 6A:16-7.1(c)3 and 7.3, subsequent to a long- term suspension, pursuant to N.J.A.C. 6A:16-7.3; and
2. An appropriate educational program or service, based on the criteria set forth at N.J.A.C. 6A:16- 7.3(f).
 - i. The educational program or service shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever are applicable; or
 - ii. The educational services provided, either in or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.

(b) An appeal of the district board of education's decision regarding the cessation of the student's general education program shall be made to the Commissioner in accordance with N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3-1.3 through 1.17.

1. A district board of education shall continue to provide an appropriate educational program or service in accordance with (a)2 above until a final determination has been made on the appeal of the district board of education's action to expel a student.

(c) A student with a disability shall only be expelled from his or her current program in accordance with N.J.A.C. 6A:14.

Return to School Following Removal

LAWS

18A:37-2.5. Determination of pupil's preparedness to return.

The chief school administrator shall determine when the pupil is prepared to return to the regular education program in accordance with procedures to be established by the Commissioner of Education.

18A:37-4. Suspension of pupils by teacher or principal.

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-5. Continuation of suspension; reinstatement or expulsion.

No suspension of a pupil by a teacher or a principal shall be continued longer than the second regular meeting of the board of education of the district after such suspension unless the same is continued by action of the board, and the power to reinstate, continue any suspension reported to it or expel a pupil shall be vested in each board.

18A:37-10. Hearing.

a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined

pursuant to section 2 [C.18A:40A-9] of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

REGULATIONS

6A:16-4.3. Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs.

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

9. If the written report of the medical examination is not submitted to the parent, principal, and chief school administrator within 24 hours of the referral of the student for suspected alcohol or other drug use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other drug use is received from the examining physician, unless the student was also removed for violating the code of student conduct.

10. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.

11. If there is a positive determination from the medical examination indicating the student's alcohol or other drug use interferes with his or her physical or mental ability to perform in school:

- i. The student shall be returned as soon as possible to the care of a parent;
- ii. Attendance at school shall not resume until a written report has been submitted to the parent, the principal and chief school administrator from a physician licensed to practice medicine or osteopathy who has examined the student to determine whether alcohol or other drug use interferes with his or her physical or mental ability to perform in school;

(1) The report shall verify that the student's alcohol or other drug use no longer interferes with his or her physical and mental ability to perform in school.

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12. The policies and procedures shall apply to a student who is:

1. Convicted or adjudicated delinquent for possession of a firearm on school grounds;

2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
3. Found knowingly in possession of a firearm on school grounds.

(b) Each district board of education shall immediately remove from the school's general education program for a period of not less than one calendar year a student other than a student with a disability, as set forth in (a) above.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.

- i. The chief school administrator shall develop and maintain a written record of case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner upon request.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein. [...]

(h) If it is found that the removed student did not commit the offenses in (a) and (c) above, the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to

N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education's removal decision;
3. The results of relevant testing, assessment, or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

6A:16-5.6. Removal of students for assaults with weapons offenses.

(h) If it is found that the removed student did not commit the offense(s), the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or will remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education's removal decision;
3. The results of relevant testing, assessment or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

6A:16-7.2. Short-term suspensions.

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for one, but not more than 10 consecutive school days by providing for the following:

5. Academic instruction either in school or out of school that addresses the New Jersey Student Learning Standards.

ii. At the completion of a short-term suspension, the district board of education shall return a general education student to the general education program from which he or she was suspended.

6A:16-7.3. Long-term suspensions.

(a) In each instance of a long-term suspension, the district board of education shall assure the rights of a student suspended for more than 10 consecutive school days by providing the following:

12. If at any time it is found that the student did not commit the offense, the student shall be immediately returned to the program from which he or she was removed; and

13. At the completion of a long-term suspension, the district board of education shall return a general education student to the general education program. [...]

(d) When the district board of education votes to continue a general education student's suspension, it shall review the case, in consultation with the chief school administrator, at each subsequent district board of education meeting for the purpose of determining:

1. The status of the student's suspension;
2. The appropriateness of the suspended student's current educational program; and
3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.

(e) When the district board of education votes to continue a general education student's suspension, it shall make, in consultation with the chief school administrator, the final determination on:

1. When the student is prepared to return to the general education program;
2. Whether the student will remain in an alternative education program or receive home or other in- or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or
3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16- 7.4.

Alternative Placements

LAWS

18A:35-30. Definitions relative to alternative education programs.

As used in this act:

"Alternative education program" means a comprehensive educational program designed to address the individual learning, behavior, and health needs of students who are not succeeding in a general education program or who have been mandated for removal from general education. The alternative education program shall provide a variety of approaches to meet State-adopted standards, including non-traditional programs, services, and methodologies to ensure curriculum and instruction are delivered in a way that enables students to demonstrate the knowledge and skills specified for all students.

"Recovery high school alternative education program" means an alternative education program that serves students diagnosed with substance use disorder or dependency as defined by the most recent Diagnostic and Statistical Manual of Mental Disorders, and that provides a comprehensive four-year high school education in an alternative public school setting and a structured plan of recovery that is aligned with the national framework of evidence-based practices for recovery high schools.

18A:35-31. Operation of alternative education program permitted.

Any board of education may operate an alternative education program including, but not limited to, a recovery high school alternative education program, upon approval by the board of education. The Commissioner of Education shall approve any alternative education program within a State agency, public college operated program, or department-approved school.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S. 2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection

r. of N.J.S. 2C:39-1, except a firearm as defined by N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

REGULATIONS

6A:16-1.1. Purpose.

The rules specify minimum standards for district boards of education in establishing policies and procedures and in operating programs to support the social, emotional, and physical development of students. Programs to support student development include school health services; physical examinations; intervention and referral services; programs of substance use prevention, intervention, and treatment referral; school safety and security; student discipline; reporting of potentially missing, abused, or neglected child situations; and home instruction and approved alternative education programs.

Included in the rules are standards for the delivery of home instruction and school health services to nonpublic schools.

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Alternative education program" means a comprehensive educational program designed to address the individual learning, behavior, and health needs of students who are not succeeding in the general education program or who have been mandated for removal from general education, pursuant to N.J.A.C. 6A:16-5.5, 5.6 and, as appropriate, 5.7. The alternative education program shall provide a variety of approaches to meet the State-adopted standards, such as, through non-traditional programs, services, and methodologies to ensure curriculum and instruction are delivered in a way that enables students to demonstrate the knowledge and skills specified for all students in N.J.A.C. 6A:8.

6A:16-7.3. Long-term suspensions.

(c) Suspension of a general education student shall not be continued beyond the district board of education's second regularly scheduled meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.

1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:

iv. The recommendation of the chief school administrator, after considering input from the principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed. [...]

(e) When the district board of education votes to continue a general education student's suspension, it shall make, in consultation with the chief school administrator, the final determination on:

1. When the student is prepared to return to the general education program;
2. Whether the student will remain in an alternative education program or receive home or other in- or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or
3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16- 7.4.

6A:16-9.1. Establishment of alternative education programs.

(a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program.

(b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education.

1. The agency, pursuant to (b) above, shall submit an initial or renewal application, as appropriate, to the designated county office of education, in accordance with the format prescribed by the Commissioner of Education.
2. Each alternative education program established by an agency, pursuant to (b) above, shall be separate and distinct from the already existing programs operated by these agencies.
3. Annually, each agency, pursuant to (b) above, operating an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall obtain certificates of fire inspection and, if applicable, health, sewerage plant and health, ventilation, and air conditioning (HVAC) inspections.
 - i. These certificates shall be maintained and available upon request for review by the Department of Education.

6A:16-9.2. Program criteria.

(a) Each alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall fulfill the following program criteria for both high school and middle school programs, unless otherwise noted:

1. A maximum student-teacher ratio of 12:1 for high school programs shall be maintained;
2. A maximum student-teacher ratio of 10:1 for middle school programs shall be maintained;
3. An Individualized Program Plan (IPP) shall be developed for each general education student enrolled in the program.
 - i. The IPP shall be developed by the school district in which the student is enrolled, in consultation with the student's parent and the receiving school district, pursuant to N.J.A.C. 6A:16-9.1(a), or other agency, pursuant to N.J.A.C. 6A:16-9.1(b), as appropriate.
 - ii. The IPP shall be developed by a multidisciplinary team of professionals with knowledge of the student's educational, behavioral, emotional, social and health needs.
 - iii. The IPP shall identify the appropriate instructional and support services for addressing the student's identified needs.
 - iv. The IPP shall be developed in accordance with the format prescribed by the Commissioner of Education and implemented within 30 calendar days of the student's placement in the alternative education program.
 - (1) The IPP may, but need not, be developed prior to the student's placement.
 - v. A multidisciplinary team shall review and, as appropriate, revise the IPP prior to the completion of the student's anticipated enrollment in the alternative education program or prior to the end of the school year, whichever occurs first.
 - (1) The multidisciplinary team shall review and revise the IPP, as needed, at any time during the student's enrollment in the alternative education program.
 - (2) The multidisciplinary team that reviews the IPP shall include staff from the sending school and the alternative education program who have knowledge of the student's educational, behavioral, emotional, social and health needs.
 - (3) The student's parent shall be advised of revisions to the IPP.
4. For a student with a disability, the alternative education program shall be consistent with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14, Special Education.
5. Individualized instruction to students shall address the New Jersey Student Learning Standards, pursuant to N.J.A.C. 6A:8-3.1;
6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. 6A:9-3.3;
7. Compliance with attendance policies, pursuant to N.J.A.C. 6A:16-7.8 and 6A:32-8.3, shall be required;
8. Academic instruction sufficient to fulfill graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, shall be provided to high school students;
9. Comprehensive support services and programs shall address each student's health, social and emotional development and behavior;
10. Case management services including, but not limited to, monitoring and evaluating student progress and coordinating instructional and support services, pursuant to (a)5, 8, and 9 above, shall be provided;
11. Services to facilitate the transition of students returning to the general or special education program shall be provided; and
12. A minimum student enrollment period of not less than two complete marking periods shall be required.
 - i. If the student is enrolled with less than two complete marking periods remaining prior to the end of the school year, the decision regarding continued placement in the alternative education program shall be made in accordance with N.J.A.C. 6A:16-9.3(a).

ii. If the student is removed from the general education program and placed in an alternative education program as a result of a firearm or assault with a weapon offense, the chief school administrator may modify the term of removal or placement on a case-by-case basis, pursuant to

N.J.A.C. 6A:16-5.5(b)1 and 5.6(b)1.

iii. For the student with a disability, the enrollment period shall be determined by appropriate school personnel in accordance with the provisions of N.J.A.C. 6A:14, Special Education, and the Individuals with Disabilities Education Act of 2004, 20 U.S.C. §§ 1400 et seq.

6A:16-9.3. Student placements.

(a) Student placement in an alternative education program, pursuant to N.J.A.C. 6A:16-1.3 and 9.1(a) and (b), shall be made as follows:

1. For the general education student, the district board of education shall make a determination of the student's risk for school failure and a decision regarding the student's placement in an alternative education program, at a minimum, based on the following:

i. The review of the student's academic, health and behavioral records, including the student's IPP, if one has been developed in accordance with N.J.A.C. 6A:16-9.2(a)3i through v, and the results of available testing, assessment or evaluation of the student;

ii. Consultation with and notice to the student's parent; and

iii. Information provided by the school-based multidisciplinary team responsible to provide intervention and referral services, pursuant to N.J.A.C. 6A:16-8, or other multidisciplinary team, as appropriate.

2. Decisions regarding the placement of the student with a disability in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) and (b), shall be based on the recommendation of appropriate personnel in accordance with N.J.A.C. 6A:14.

3. The district board of education shall provide mandatory placement for a student in an alternative education program for removal due to a firearms offense, pursuant to N.J.A.C. 6A:16-5.5 or an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.

i. If placement in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) or (b), is not available in the instance of a mandatory student placement, the student shall be provided home or out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, until placement in an alternative education program is available.

ii. For the student with a disability, placement in an alternative education program for a firearm offense or an assault with a weapon offense shall occur only upon a determination by appropriate school personnel to place the student in accordance with the provisions of N.J.A.C. 6A:14, Special Education Programs and the Individuals with Disabilities Act of 2004, 20 U.S.C. §§ 1400 et seq.

(b) If a district board of education places a student in an alternative education program approved by another district board of education, pursuant to N.J.A.C. 6A:16-9.1(a)1, or another approved agency, pursuant to N.J.A.C. 6A:16-9.1(b), the district board of education of the sending school district shall be responsible for ensuring compliance with the requirements of this subchapter.

(c) Decisions regarding continued placement in an alternative education program or a change to a student's placement shall be made as follows:

1. For the general education student returning to the general education program, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, and (a)1 above.

2. For a student with disabilities, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, (a)2 above, and N.J.A.C. 6A:14, Special Education.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

2C:39-1. Definitions.

The following definitions apply to this chapter and to chapter 58:

- a. "Antique firearm" means any rifle or shotgun and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the rifle, shotgun or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.
- b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.
- c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.
- d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.
- e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.
- f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

- g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.
- h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.
- i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom. A machine gun also shall include, without limitation, any firearm with a trigger crank attached.
- j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.
- k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.
- l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.
- m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.
- n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.
- o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.
- p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.
- q. "Superintendent" means the Superintendent of the State Police.
- r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate

consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

v. "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm.

w. "Assault firearm" means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88

type Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types

FAMAS MAS223 types

FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

Franchi SPAS 12 and LAW 12 shotguns

G3SA type

Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

Intratec TEC 9 and 22 semi-automatic firearms

M1 carbine type

M14S type

MAC 10, MAC 11, MAC 11-9mm carbine type firearms

PJK M-68 carbine type

Plainfield Machine Company Carbine

Ruger K-Mini-14/5F and Mini-14/5RF

SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

SKS with detachable magazine type

Spectre Auto carbine type

Springfield Armory BM59 and SAR-48 type
Sterling MK-6, MK-7 and SAR types
Steyr A.U.G. semi-automatic firearms
USAS 12 semi-automatic type shotgun
Uzi type semi-automatic firearms
Valmet M62, M71S, M76, or M78 type semi-automatic firearms
Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 10 rounds. "Assault firearm" shall not include a semi-automatic rifle which has an attached tubular device and which is capable of operating only with .22 caliber rimfire ammunition.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

(6) A firearm with a bump stock attached.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 10 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm. The term shall not include an attached tubular device which is capable of holding only .22 caliber rimfire ammunition.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. "Trigger lock" means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.

cc. "Trigger locking device" means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

dd. "Personalized handgun" means a handgun which incorporates within its design a permanent programmable feature as part of its manufacture that cannot be deactivated and renders the personalized handgun reasonably resistant to being fired except when activated by the lawful owner or other authorized user. No make or model of a handgun shall be deemed to be a "personalized handgun" unless the Personalized Handgun Authorization Commission established pursuant to section 1 of P.L.2019, c.164 (C.2C:58-2.7) has determined in accordance with section 2 of P.L.2019, c.164

(C.2C:58-2.8), that the personalized handgun meets the performance standards and qualifying criteria established pursuant to section 2 of P.L.2019, c.164 (C.2C:58-2.8).

ee. "Bump stock" means any device or instrument for a firearm that increases the rate of fire achievable with the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

ff. "Trigger crank" means any device or instrument to be attached to a firearm that repeatedly activates the trigger of the firearm through the use of a lever or other part that is turned in a circular motion; provided, however, the term shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

gg. "Armor piercing ammunition" means: (1) a projectile or projectile core which may be used in a handgun and is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or (2) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. "Armor piercing ammunition" shall not include shotgun shot required by federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the United States Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the United States Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil gas well perforating device.

hh. "Covert firearm" means any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane.

ii. "Undetectable firearm" means a firearm that: (1) after removal of all parts other than major components, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or (2) includes a major component which, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component.

"Undetectable firearm" shall not be construed to include a firearm subject to the provisions of paragraphs (3) through (6) of subsection (p) of 18 U.S.C. § 922.

jj. "Major component" means the slide or cylinder or the frame or receiver of a firearm and, in the case of a rifle or shotgun, also includes the barrel.

kk. "Security Exemplar" means the Security Exemplar fabricated in accordance with subparagraph (C) of paragraph (2) of subsection (p) of 18 U.S.C. § 922.

ll. "Authorized user" means the lawful owner of a personalized handgun or a person to whom the owner has given consent to use the personalized handgun.

2C:39-5. Unlawful possession of weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the second degree.

b. Handguns. (1) Any person who knowingly has in his possession any handgun, including any antique handgun, without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the second degree. (2) If the handgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a

bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person it is a crime of the third degree.

c. Rifles and shotguns.

(1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

(2) Unless otherwise permitted by law, any person who knowingly has in his possession any loaded rifle or shotgun is guilty of a crime of the third degree.

d. Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

e. Firearms or other weapons in educational institutions.

(1) Any person who knowingly has in his possession any firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, is guilty of a crime of the third degree, irrespective of whether he possesses a valid permit to carry the firearm or a valid firearms purchaser identification card.

(2) Any person who knowingly possesses any weapon enumerated in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any components which can readily be assembled into a firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other weapon under circumstances not manifestly appropriate for such lawful use as it may have, while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution is guilty of a crime of the fourth degree.

(3) Any person who knowingly has in his possession any imitation firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, or while on any school bus is a disorderly person, irrespective of whether he possesses a valid permit to carry a firearm or a valid firearms purchaser identification card.

f. Assault firearms. Any person who knowingly has in his possession an assault firearm is guilty of a crime of the second degree except if the assault firearm is licensed pursuant to N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12); or rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13).

g. (1) The temporary possession of a handgun, rifle or shotgun by a person receiving, possessing, carrying or using the handgun, rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1) shall not be considered unlawful possession under the provisions of subsection b. or c. of this section.

(2) The temporary possession of a firearm by a person receiving, possessing, carrying or using the firearm under the provisions of section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered unlawful possession under the provisions of this section.

h. A person who is convicted of a crime under subsection a., b., f. or j. of this section shall be ineligible for participation in any program of intensive supervision; provided, however, that this provision shall not apply to a crime under subsection b. involving only a handgun which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

i. A person convicted of violating subsection a., b. or f. of this section shall be sentenced by the court to a term of imprisonment, which shall include the imposition of a minimum term during which the defendant shall be ineligible for parole, if the court finds that the aggravating circumstance set forth in paragraph (5)

of subsection a. of N.J.S.2C:44-1 applies. The minimum term of parole ineligibility shall be fixed at five years. The sentencing court shall make a finding on the record as to whether the aggravating circumstance set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, and the court shall presume that there is a substantial likelihood that the defendant is involved in organized criminal activity if there is a substantial likelihood that the defendant is a member of an organization or group that engages in criminal activity. The prosecution at the sentencing hearing shall have the initial burden of producing evidence or information concerning the defendant's membership in such an organization or group.

j. A violation of subsection a., b., c. or f. of this section by a person who has a prior conviction of any of the crimes enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) is a first degree crime.

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-2a. Conditions for suspension, expulsion of certain students.

a. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995,

c.127 (C.18A:37-7 et seq.).

b. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in grades kindergarten through two in a school district or charter school shall not receive an out-of-school suspension, except when the suspension is based on conduct that is of a violent or sexual nature that endangers others.

c. Notwithstanding the provisions of N.J.S.18A:37-2 or any other provision of law to the contrary, a student who is enrolled in preschool in a school district or charter school shall not be suspended, and

shall not be expelled from school, except as provided pursuant to the "Zero Tolerance for Guns Act," P.L.1995, c.127 (C.18A:37-7 et seq.).

18A:37-7. Short title.

This act shall be known as the "Zero Tolerance for Guns Act."

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by- case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S. 2C:39-1f and 18 U.S.C. 921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. 1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:37-10. Hearing.

a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

18A:37-12. Non-applicability of act.

This act shall not apply to any pupil who has obtained the written authorization of the chief school administrator to lawfully possess a firearm while participating in a school-sponsored function. The chief school administrator shall not provide such authorization to any pupil who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

REGULATIONS

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Firearms" means items enumerated in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921.

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12. The policies and procedures shall apply to a student who is:

1. Convicted or adjudicated delinquent for possession of a firearm on school grounds;
2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
3. Found knowingly in possession of a firearm on school grounds.

(b) Each district board of education shall immediately remove from the school's general education program for a period of not less than one calendar year a student other than a student with a disability, as set forth in (a) above.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.

- i. The chief school administrator shall develop and maintain a written record of case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner upon request.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) through (c) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:

- i. The removal action;
- ii. The law enforcement notification;
- iii. The change of custody, if it occurs; and
- iv. A general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a student with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

(e) A student, other than a student with a disability, removed from the general education program pursuant to this section shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) A student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.3 through 7.5.

(h) If it is found that the removed student did not commit the offenses in (a) and (c) above, the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to

N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education's removal decision;
3. The results of relevant testing, assessment, or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section shall not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, as long as the district board of education adopts appropriate safeguards to ensure student safety.

1. All students shall obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.

- i. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

(k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(d)1.

(l) Each district board of education shall annually disseminate to all school staff, students, and parents the adopted policies and procedures for implementing this section.

6A:16-5.6. Removal of students for assaults with weapons offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which

includes, but is not limited to, items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, upon a teacher, administrator, other school board employee, district

board of education member, or another student on school grounds, pursuant to N.J.S.A. 18A:37-2.2 through 2.5.

(b) A student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) through (c) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
 - i. The removal action;
 - ii. The law enforcement notification;
 - iii. The change of custody, if it occurs; and
 - iv. A general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.5 or a student with a disability's due process rights, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

(e) A student, other than a student with a disability, removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) A student removed pursuant to (b) above shall be entitled to an informal hearing, pursuant to N.J.A.C. 6A:16-7.2 and 7.3, and a hearing before the district board of education pursuant to N.J.A.C. 6A:16-7.3.

(h) If it is found that the removed student did not commit the offense(s), the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or will remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:

1. The nature and severity of the offense;

2. The district board of education's removal decision;
3. The results of relevant testing, assessment or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to a student who has obtained the chief school administrator's written authorization to lawfully possess a firearm or other weapon while participating in a school-sponsored function.

1. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.

(k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students pursuant to (b) above utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education annually shall disseminate to all school staff, students, and parents its adopted policies and procedures for implementing this section.

6A:16-6.1. Adoption of policies and procedures.

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution, and disposition of the following:
 - iv. Firearms, as defined in N.J.S.A. 2C:39-1f; and
 - v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1.r; and
2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including arrest procedures and undercover school operations.

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon; [...]
8. The procedures for and responsibilities of staff concerning the safe and proper handling of a seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of the items to appropriate law enforcement authorities in accordance with this subchapter;
9. The procedures for and responsibilities of staff in notifying authorities of a suspected violation of laws prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon; [...]
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon.

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(b) Whenever a school employee develops reason to believe a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds or a student or other person is in unlawful possession of a firearm or other deadly weapon on or off school grounds, or a student or other person has committed an offense with or while in

possession of a firearm on or off school grounds or during school operating hours, the matter shall be reported as soon

as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

Students with Chronic Disciplinary Issues

LAWS

18A:37-2c. Meeting relative to suspension, expulsion of student.

a. In the event a student has experienced multiple suspensions or may be subject to a proposed expulsion from public school, the principal shall convene a meeting, as soon as practicable, between the student and a school psychologist, a school counselor, a school social worker, a student assistance coordinator, or a member of the school's intervention and referral services team. The principal may convene such a meeting, if after the student has been suspended for the first time, the principal upon evaluation deems such a meeting appropriate. The purpose of the meeting shall be to identify any behavior or health difficulties experienced by the student and, where appropriate, to provide supportive interventions or referrals to school or community resources that may assist the student in addressing the identified difficulties.

b. The Department of Education, in consultation with the Department of Health, shall make available to school districts a list of current resources that may be of assistance as referral services for students under subsection a. of this section. The resources may include, but need not be limited to, the New Jersey MentalHealthCares information and referral service, and county or local programs that provide youth services for mental health or substance abuse.

c. The requirements of subsection a. of this section shall not apply when a student's immediate removal or suspension from the school's regular education program is required pursuant to the provisions of the "Zero Tolerance for Guns Act," P.L.1995, c.127 (C.18A:37-7 et seq.); section 2 of P.L.1979, c.189 (C.18A:37-2.1); or section 1 of P.L.1995, c.128 (C.18A:37-2.2); or in any other instance in which the safety and security of other students or school staff requires the student's immediate removal from school. In these instances, the meeting required pursuant to subsection a. of this section shall take place as soon as practicable following the student's removal from the school's regular education program.

d. The provisions of this section shall be construed in a manner consistent with the "Individuals with Disabilities Education Act," 20 U.S.C. § 1400 et seq.

e. The State Board of Education may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provision of this act.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

2A:4A-22. General definitions.

As used in this act:

- a. "Juvenile" means an individual who is under the age of 18 years.
- b. "Adult" means an individual 18 years of age or older.
- c. "Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition.
- d. "Shelter care" means the temporary care of juveniles in facilities without physical restriction pending court disposition.
- e. "Commit" means to transfer legal custody to an institution.
- f. "Guardian" means a person, other than a parent, to whom legal custody of the child has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.
- g. "Juvenile-family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in (1) a serious threat to the well-being and physical safety of a juvenile, or (2) a serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or (3) unauthorized absence by a juvenile for more than 24 hours from his home, or (4) a pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes, or
(5) an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.
- h. "Repetitive disorderly persons offense" means the second or more disorderly persons offense committed by a juvenile on at least two separate occasions and at different times.
- i. "Court" means the Superior Court, Chancery Division, Family Part unless a different meaning is plainly required.
- j. "Commission" means the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

18A:36-25.2. Investigation, reporting of certain pupil absences, transfers.

- a. If any child enrolled in a school district has an unexcused absence from school for five consecutive school days, the attendance officer of the district shall investigate the absence and notify the district superintendent of the absence. In the event the investigation leads the district superintendent to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974,
c.119 (C.9:6-8.21), the district superintendent shall then notify the Division of Child Protection and Permanency in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted.
- b. When a child's parent, guardian, or other person having charge and control of the child notifies a school district that the child will be withdrawing from the district and transferring to another school district, the principal of the school from which the child is withdrawing shall request that the parent, guardian, or other person having charge and control of the child provide the principal with the name and location of the school district in which the child will subsequently be enrolled and the expected date of enrollment.

The principal shall provide the information supplied by the parent, guardian, or other person having charge

and control of the child to the district superintendent. Five school days following the expected date of enrollment, the superintendent of the district of last attendance shall contact the school district in which the child is to be subsequently enrolled to determine if the child has enrolled in the district. If the child has not been so enrolled, the attendance officer of the transfer district shall investigate the failure to enroll and notify the superintendent of the transfer district of the failure to enroll. In the event the investigation leads the superintendent of the transfer district to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21), the superintendent of the transfer district shall then notify the Division of Child Protection and Permanency in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted. If the child has been so enrolled, the district of last attendance and the transfer district shall arrange for the transfer of the child's records in accordance with the provisions of section 1 of P.L.1986, c.160 (C.18A:36-19a) and subsection b. of section 4 of P.L.1995, c.395 (C.18A:36-25.1).

c. School district policies for the early detection of missing and abused children required pursuant to section 2 of P.L.1984, c.228 (C.18A:36-25) shall include provisions to implement the requirements of this section.

18A:38-25. Attendance required of children between six and 16; exceptions.

Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school.

18A:38-25.1. "Chronically absent" students, corrective action plan.

a. As used in this section, "chronically absent" shall be defined in rules and regulations promulgated by the Commissioner of Education within 90 days of the effective date of P.L.2018, c.23 (C.18A:38-25.1 et al.).

b. In the event that 10 percent or more of the students enrolled in a public school are chronically absent, the school shall develop a corrective action plan to improve absenteeism rates. The corrective action plan shall include, but need not be limited to, the following:

- (1) identifying problems and barriers to school attendance;
- (2) developing recommendations to address the problems and barriers to school attendance that have been identified;
- (3) outlining communication strategies to educate and inform parents on the importance of school attendance;
- (4) establishing protocols on informing and engaging parents when a child begins to show a pattern of absences; and
- (5) reviewing school policies to ensure that they support improved school attendance.

In developing the corrective action plan, the school shall solicit input from parents of students currently attending the school. The solicitation shall include, at a minimum, a parental survey that includes questions related to parents' beliefs regarding the reasons why students are chronically absent and recommendations on the best ways to improve attendance. In developing the corrective action plan, the school shall engage the school's parent organization, if one exists, in identifying the causes of the school's high absenteeism rate and possible solutions. If there is no parent organization at the school, the school shall hold a public meeting to provide parents with an opportunity to provide input during the development of the corrective action plan.

c. The school shall present the corrective action plan to the board of education. The school shall annually review and revise the corrective action plan, and present the revisions to the board, until the percentage of students who are chronically absent is less than 10 percent.

18A:38-26. Days when attendance required; exceptions.

Such regular attendance shall be during all the days and hours that the public schools are in session in the district, unless it is shown to the satisfaction of the board of education of the district that the mental condition of the child is such that he cannot benefit from instruction in the school or that the bodily condition of the child is such as to prevent his attendance at school, but nothing herein shall be construed as permitting the temporary or permanent exclusion from school by the board of education of any district of any child between the ages of five and 20, except as explicitly otherwise provided by law.

18A:38-27. Truancy and juvenile delinquency defined.

Any child between the ages of six and 16 years who shall repeatedly be absent from school, and any child of such age found away from school during school hours whose parent, guardian or other person having charge and control of the child is unable to cause him to attend school and any pupil who is incorrigible, actually vagrant, vicious, or immoral in conduct, shall be deemed to be a juvenile delinquent and shall be proceeded against as such.

18A:38-28. Truants; return to parents or school.

Any attendance officer who shall find any child between six and 16 years of age who is a truant from school, shall take the child and deliver him to the parent, guardian or other person having charge and control of the child, or to the teacher of the school which such child is lawfully required to attend.

18A:38-29. Warning and arrest of vagrants or habitual truants.

The attendance officer shall examine into all violations of this article, shall warn any child violating any of the provisions of this article and the parent, guardian or other person having charge and control of the child of the consequences of the violation if persisted in, and shall notify such person in writing to cause the child to attend school within five days from the date on which notice is served, and regularly thereafter. The attendance officer shall have full police power to enforce the provisions of this article and may arrest without warrant any vagrant child or habitual truant or any child who is habitually incorrigible or who is vicious or immoral in conduct or illegally absent from school.

REGULATIONS

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Truancy" means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.6(a)3 and the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3.

6A:16-7.6. Attendance.

(a) Each district board of education shall develop, adopt, and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 12.1, at the public schools of the school district or at day schools in which students are provided with equivalent instruction, pursuant to N.J.S.A. 18A:38-25. The policies and procedures shall include, at a minimum:

1. The expectations and consequences regarding students' timely arrival of students to school and classes;
2. The expectations and consequences regarding attendance at school and classes;

3. A definition of unexcused absence that counts toward truancy, for the purpose of this section, that, at a minimum, shall be consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3;
4. School staff responses for unexcused absences:
 - i. For up to four cumulative unexcused absences, the school district shall:
 - (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
 - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;
 - (3) Identify in consultation with the student's parents needed action designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;
 - (4) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11 if a potential missing or abused child situation is detected; and
 - (5) Cooperate with law enforcement and other authorities and agencies, as appropriate;
 - ii. For between five and nine cumulative unexcused absences, the school district shall:
 - (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
 - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;
 - (3) Evaluate the appropriateness of action taken pursuant to (a)4i(3) above;
 - (4) Develop an action plan to establish outcomes based upon the student's patterns of unexcused absences and to specify the interventions for supporting the student's return to school and regular attendance, which may include any or all of the following:
 - (A) Refer or consult with the building's intervention and referral services team, pursuant to N.J.A.C. 6A:16-8;
 - (B) Conduct testing, assessments or evaluations of the student's academic, behavioral and health needs;
 - (C) Consider an alternate educational placement;
 - (D) Make a referral to or coordinate with a community-based social and health provider agency or other community resource;
 - (E) Refer to a court or court program pursuant to (a)4iv below;
 - (F) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-10 if a potential missing or abused child situation is detected; and
 - (G) Engage the student's family.
 - (5) Cooperate with law enforcement and other authorities and agencies, as appropriate.
 - iii. For cumulative unexcused absences of 10 or more, a student between the ages of six and 16 is truant, pursuant to N.J.S.A. 18A:38-25, and the school district shall:
 - (1) Make a determination regarding the need for a court referral for the truancy, per (a)4iv below;
 - (2) Continue to consult with the parent and the involved agencies to support the student's return to school and regular attendance;
 - (3) Cooperate with law enforcement and other authorities and agencies, as appropriate; and
 - (4) Proceed in accordance with N.J.S.A. 18A:38-28 through 31, Article 3B, Compelling Attendance at School, and other applicable State and Federal statutes, as required; and

iv. A court referral may be made as follows:

(1) When unexcused absences are determined by school officials to be violations of the compulsory education law, pursuant to N.J.S.A. 18A:38-25, and the district board of education's policies, in accordance with (a) above, the parent may be referred to municipal court;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the municipal court; or

(2) When there is evidence of a juvenile-family crisis, pursuant to N.J.S.A. 2A:4A-22.g, the student may be referred to Superior Court, Chancery Division, Family Part;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the juvenile-family crisis intervention unit.

(b) For a student with a disability, the attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student's individualized education program, pursuant to 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plan under 29 U.S.C. §§ 794 and 705(20); and individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b)3xii.

(c) All receiving schools pursuant to N.J.A.C. 6A:14-7.1(a), shall act in accordance with (a)4i above for each student with up to four cumulative unexcused absences.

1. For each student attending a receiving school with five or more cumulative unexcused absences, the absences shall be reported to the sending school district.

i. The sending school district shall proceed in accordance with the district board of education policies and procedures pursuant to (a) above and the provisions of (a)4ii through iv and (b) above, as appropriate.

Substance Use

LAWS

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises.

18A:40A-2. Curriculum guidelines; annual review and updating; minimum requirements.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The

guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

- a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;
- b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;
- c. Decision making and coping skills; and,
- d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

18A:40A-3. Initial in-service training programs; curriculum; availability.

- a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.
- b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.
- c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

18A:40A-4. Preservice training.

In addition to the provisions for inservice training established pursuant to this act, the commissioner shall insure that the preservice training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

18A:40A-5. Loan of educational materials (to nonpublic schools).

The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-6. Evaluation (of instructional programs).

The Commissioner of Education, in consultation with the Commissioner of Health, shall establish and administer a system for the evaluation of the effectiveness of instructional programs established pursuant to this act. Programs which are shown to be effective shall be made available to other school districts throughout the State.

18A:40A-7.1. Confidentiality of certain information provided by pupil; exceptions.

- a. Except as provided by section 3 of P.L.1971, c.437 (C.9:6-8.10), if a public or private elementary or secondary school pupil who is participating in a school-based drug and alcohol abuse counseling program provides information during the course of a counseling session in that program which indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a substance as that term is defined in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. of this section.
- b. The information provided by a pupil pursuant to subsection a. of this section may be disclosed:
- (1) subject to the pupil's written consent, to another person or entity whom the pupil specifies in writing in the case of a secondary school pupil, or to a member of the pupil's immediate family or the appropriate school personnel in the case of an elementary school pupil;
 - (2) pursuant to a court order;
 - (3) to a person engaged in a bona fide research purpose, except that no names or other information identifying the pupil or the person with respect to whose substance abuse the information was provided, shall be made available to the researcher; or
 - (4) to the Division of Child Protection and Permanency or to a law enforcement agency, if the information would cause a person to reasonably suspect that the elementary or secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971, c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6- 8.21).
- c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in P.L.1997, c.362 (C.18A:40A-7.1 et seq.) shall be construed as prohibiting the Division of Child Protection and Permanency or a law enforcement agency from using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in P.L.1997, c.362 shall be construed as authorizing the violation of any federal law.
- d. The prohibition on the disclosure of information provided by a pupil pursuant to subsection a. of this section shall apply whether the person to whom the information was provided believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other public official, has obtained a subpoena, or asserts any other justification for the disclosure of this information.

18A:40A-7.2. Violations, penalties.

Except as provided by section 6 of P.L.1971, c.437 (C.9:6-8.13), a person who discloses or willfully permits the disclosure of information provided by a pupil in violation of the provisions of section 1 of this act is subject to a fine of not more than \$500 for a first offense and not more than \$5,000 for a second and each subsequent offense. The penalty shall be collected and enforced in summary proceedings under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

18A:40A-8. Findings, declarations.

The Legislature finds and declares that:

- a. A significant number of young people are unfortunately already involved in the abuse of alcohol and other drugs;
- b. Research indicates that particular groups of youngsters, such as the children of alcoholic parents, may in fact face an increased risk of developing alcohol and other substance abuse problems and that early intervention services can be critical in their prevention, detection and treatment; and,
- c. School-based initiatives have proven particularly effective in identifying and assisting students at a high risk of developing alcohol and other drug disturbances and in reducing absenteeism, decreasing the consumption of alcohol and other drugs, and in lessening the problems associated with such addictions.

18A:40A-9. Definitions.

For the purposes of this act:

"Substance" shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L.1970, c.266 (C.24:21-2), anabolic steroids or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in section 1 of P.L.1965, c.41 (C.2A:170-25.9).

"Substance abuse" shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 [C.18A:40A-9] of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 [C.18A:40A-9] of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the

pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

18A:40A-15. In-service training.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an inservice training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

- (1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;
- (2) Appropriate intervention strategies; and,
- (3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The inservice training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the inservice training program developed pursuant to this section. The inservice training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 [C.18A:40A-12] of this act.

18A:40A-16. Guidelines, materials for program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

- (1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;
- (2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and
- (3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

18A:40A-17. Outreach program.

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-18. Employment of student assistance coordinators in certain school districts.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act [C.18A:40A-8 et seq.], the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention, and treatment referral services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban, and rural districts from the north, central, and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers, and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall

submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

18A:40A-19. Pilot programs.

The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

- a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

- b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office of the Courts, to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

18A:40A-20. Annual report.

The Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, shall develop procedures for the evaluation of the impact of the programs established pursuant to this act and shall report annually to the Governor and the Legislature on the effects of these programs. That report shall include data concerning the incidence of substance abuse in the public schools; the nature and scope of intervention, prevention and treatment referral programs; an assessment of the impact of those programs on the problem of substance abuse; and, any recommendations for modifications in the programs established pursuant to this act.

18A:40A-22. Findings, declarations relative to substance abuse testing policies in public school districts.

The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

18A:40A-23. Adoption of policy for random testing of certain students.

A board of education may adopt a policy, pursuant to rules and regulations adopted by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S. 2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

26:2BB-7. Alliance to prevent alcoholism and drug abuse.

- a. There is created an Alliance to Prevent Alcoholism and Drug Abuse, hereinafter referred to as the "Alliance," in the Governor's Council on Alcoholism and Drug Abuse. The purpose of the Alliance is to create a network comprised of all the communities in New Jersey which is dedicated to a comprehensive and coordinated effort against alcoholism and drug abuse. The Alliance shall be a mechanism both for implementing policies to reduce alcoholism and drug abuse at the municipal level, and for providing funds, including moneys from mandatory penalties on drug offenders, to member communities to support appropriate county and municipal-based alcohol and drug abuse education and public awareness activities.
- b. The Governor's Council on Alcoholism and Drug Abuse shall adopt rules and regulations for participation in, and the operation of, the Alliance and for the awarding of grants to municipalities and counties from funds appropriated for such purposes pursuant to P.L.1989, c.51 (C.26:2BB-1 et al.), section 5 of P.L.1993, c.216 (C.54:43-1.3) and funds derived from the "Drug Enforcement and Demand Reduction Fund" established pursuant to N.J.S. 2C:35-15, for the purpose of developing:
- (1) Organized and coordinated efforts involving schools, law enforcement, business groups and other community organizations for the purpose of reducing alcoholism and drug abuse;
 - (2) In cooperation with local school districts, comprehensive and effective alcoholism and drug abuse education programs in grades kindergarten through 12;
 - (3) In cooperation with local school districts, procedures for the intervention, treatment and discipline of students abusing alcohol or drugs;
 - (4) Comprehensive alcoholism and drug abuse education, support and outreach efforts for parents in the community; and
 - (5) Comprehensive alcoholism and drug abuse community awareness programs.
- c. Funds disbursed under this section shall not supplant local funds that would have otherwise been made available for alcoholism and drug abuse initiatives. Communities shall provide matching funds when and to the extent required by the regulations adopted pursuant to this section.
- d. The county agency or individual designated by the governing body of each county pursuant to subsection a. of section 4 of P.L.1983, c.531 (C.26:2B-33), is authorized to receive from the Governor's Council on Alcoholism and Drug Abuse moneys made available pursuant to this section. The designated county agency or individual shall establish a separate fund for the receipt and disbursement of these moneys.

REGULATIONS

6A:16-3.1. Establishment of comprehensive alcohol, tobacco and other drug abuse programs.

- (a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment, and continuity of care for student alcohol, tobacco, and

other drug abuse in the school district's public elementary and secondary schools, in accordance with N.J.S.A. 18A:40A-3, 10, and 15.

1. The purpose of the prevention component of the program shall be to:
 - i. Keep students from using alcohol, tobacco or other drugs;
 - ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;
 - iii. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;
 - iv. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;
 - v. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and
 - vi. Actively involve staff, students, parents, and other community members in the development and implementation of prevention program plans.
2. The purpose of the intervention, referral for evaluation, and referral for treatment components of the program shall be to:
 - i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;
 - ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;
 - iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment that extends beyond the general school program by virtue of the use of alcohol, tobacco, or other drugs by the student or the student's parents;
 - iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco, or other drug treatment;
 - v. Help a student or a student's parents follow through on the recommendations resulting from an evaluation that has positively determined the harmful use of alcohol, tobacco, or other drugs by the student or the student's parents; and
 - vi. Assist a student or a student's parents with a referral for treatment.
3. The purpose of the continuity of care component of the program shall be to:
 - i. Assist with the provision of educational programs and services for students in treatment; and
 - ii. Plan and provide supportive services for students who are returning from treatment.
4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco, and other drug abuse prevention and intervention, in accordance with N.J.S.A. 18A:40A-3 and 15.
 - i. The in-service training shall be updated annually to ensure educational staff members have the most current information available on the subject of substance abuse and on the school district's comprehensive alcohol, tobacco, and other drug abuse program, policies, and procedures.
5. Student assistance coordinators employed by district boards of education shall assist school districts in the effective implementation of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9B-12.2.
6. When a student assistance coordinator is not employed or contracted by a district board of education, the board shall assign school staff with appropriate educational services certificates to perform the student assistance coordinator functions, pursuant to N.J.S.A. 18A:40A-18.c and (a)5

above, and to assist in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 17.

i. The district board of education shall maintain documentation of school staff with appropriate educational services certificates who will perform the student assistance coordinator functions.

7. Each district board of education shall establish educational programs on alcohol, tobacco, and other drug abuse for parents, pursuant to N.J.S.A. 18A:40A-16 and 17(a), and offered at times and places convenient to the parents of enrolled students.

8. Each district board of education shall make and enforce rules to prohibit any person from smoking or carrying lighted tobacco at any time on school grounds or on school buses or other vehicles owned or contracted by the board of education, pursuant to P.L. 2009, c. 182, P.L. 2005, c. 383, N.J.A.C. 13:28- 6.14, and N.J.A.C. 8:6.

6A:16-3.2. Confidentiality of student alcohol and other drug information.

(a) Each district board of education shall assure compliance with the following confidentiality requirements consistent with the implementation of 20 U.S.C. § 1232g, the Family Education Rights and Privacy Act, and 34 CFR Part 99:

1. Confidentiality of alcohol and drug abuse patient records, pursuant to 42 CFR Part 2; and
2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program that indicates the student's parent or other person residing in the student's household is dependent upon or illegally using substances pursuant to N.J.S.A. 18A:40A-7.1 and 7.2.

6A:16-4.1. Adoption of policies and procedures for the intervention of student alcohol and other drug abuse.

(a) Each district board of education shall adopt and implement policies and procedures for the assessment, intervention, referral for evaluation, referral for treatment, and enforcement of the code of student conduct, pursuant to N.J.A.C. 6A:16-7, for students whose use of alcohol or other drugs has affected their school performance, or for students who consume or who are suspected of being under the influence of or who possess or distribute the following substances on school grounds pursuant to N.J.S.A. 18A:40A-9, 10, and 11:

1. Alcoholic beverages;
2. Any controlled dangerous substance, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and 2C:35-2;
3. Any chemical or chemical compound that releases vapor or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes, as defined in N.J.S.A. 2C:35-10.4; and
4. Over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

(b) In adopting and implementing policies and procedures for assessment, intervention, referral for evaluation, and referral for treatment of alcohol or other drug-affected students, district boards of education shall consult with a local organization licensed by the New Jersey Department of Human Services, and may consult with out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate drug and alcohol licensing board, as appropriate, pursuant to N.J.S.A. 18A:40A-11.

(c) Each district board of education's policies for students using, possessing, or distributing alcohol and other drugs, as defined in (a) above, shall include the following components:

1. The role of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving students on school grounds;
2. Specific procedures, sanctions and due process provisions, consistent with N.J.A.C. 6A:16-4.4 and 7, as appropriate, for violations of the alcohol and other drug policy requiring action by the district board of education to apply the code of student conduct pursuant to N.J.A.C. 6A:16-7, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors;
3. Appropriate steps for ameliorating student problems related to alcohol and other drug use;
4. Appropriate steps for providing support for student transitions to and from health and social service agencies;
5. Specific procedures to govern instances where emergency room services are required in treating alcohol- or other drug-affected students;
6. Assessment or evaluation services for students who are affected by alcohol or other drug use. The services shall include one or more of the following:
 - i. Assessments by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse;
 - ii. Examinations by a physician for the purpose of determining whether alcohol or other drug use interferes with students' physical and mental abilities to perform in school or students are under the influence of alcohol or other drugs;
 - iii. Referrals for evaluation to community agencies, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate alcohol or other drug licensing board; or
 - iv. Evaluations by the child study team to determine students' eligibility for special education and related services, pursuant to N.J.A.C. 6A:14-3.5 and 3.6;
7. The provision of intervention, referral for evaluation, and referral for treatment services for students who are affected by alcohol or other drug use.
 - i. The intervention, referral for evaluation, and referral for treatment services shall be provided by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse intervention, assessment, referral for evaluation, and referral for treatment skills.
 - ii. The intervention, referral for evaluation, and referral for treatment services shall include one or more of the following:
 - (1) Provisions for a program of instruction, counseling, and related services provided by the district board of education while a student receives medical treatment for a diagnosed alcohol or other drug dependency problem;
 - (2) Referral to a community agency, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners authorized by the appropriate drug and alcohol licensing board;
 - (3) Provisions for support services for students who are in, or returning from, medical treatment for alcohol and other drug dependency; or

(4) A special class, course or educational program designed to meet the needs of students with alcohol or other drug use problems;

8. Provisions for assisting parents who believe their child might be involved with alcohol or other drug use, in accordance with N.J.S.A. 18A:40A-17(b);

9. Provisions, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i and 6.3(a)4, for when to contact law enforcement officials to disclose the identities of students reasonably believed to be in possession of a controlled dangerous substance, including anabolic steroids, or related paraphernalia or involved or implicated in distribution activities regarding controlled dangerous substances, including anabolic steroids.

i. Pursuant to N.J.A.C. 6A:16-4.3(a)3 and (b)3 and 6.3(a)4, the chief school administrator or designee may disclose to law enforcement authorities the identities of students suspected of being under the influence of alcohol or other drugs; and

10. Provisions for reporting to and cooperating with law enforcement authorities, pursuant to N.J.A.C. 6A:16-6, for the unlawful possession, distribution, and disposition of substances, as set forth in this section and N.J.A.C. 6A:16-6.1(a)1.

6A:16-4.2. Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse.

(a) Each district board of education shall establish a process for the annual review of the effectiveness of its policies and procedures regarding student alcohol and other drug abuse. The district board of education may solicit parent, student, and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.

(b) Each district board of education shall annually disseminate to all school staff, students and parents through its website or other means its adopted policies and procedures for implementing N.J.A.C. 6A:16- 4.

6A:16-4.3. Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs.

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

1. Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds shall report the matter as soon as possible to the principal or, in his or her absence, to his or her designee and either the certified school nurse, noncertified nurse, school physician, or student assistance coordinator, pursuant to N.J.S.A. 18A:40A-12.

i. In instances where the principal and either the certified school nurse, non-certified nurse, school physician, or student assistance coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.

2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, including instances when a report is made to law enforcement, the principal or his or her designee shall:

i. Immediately notify the parent and the chief school administrator or his or her designee; and

ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.

3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol or other drugs, pursuant to (a)1 above.

- i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of a controlled dangerous substance or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances.

6A:16-4.4. Voluntary policy for random testing of student alcohol or other drug use.

(a) Each district board of education that chooses to adopt policies and procedures for the random testing of students, pursuant to N.J.S.A. 18A:40A-22 et seq., for the use of controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 2C:35-2 and 24:21-2, or alcoholic beverages, as defined in N.J.S.A. 33:1-1, shall:

1. Hold a public hearing prior to the adoption of the alcohol or other drug testing policies and procedures.
 - i. The notice of the public hearing shall specifically identify the proposed alcohol or other drug testing policies and procedures as an agenda item; and
 - ii. Copies of the proposed alcohol or other drug testing policies and procedures shall be made available upon request prior to the public hearing;
2. Apply the alcohol or other drug testing policies and procedures only to students in grades nine through 12 who participate in extra-curricular activities, including interscholastic athletics, or who possess parking permits;
3. Be responsible for all costs of the alcohol or other drug testing, including any costs associated with the transportation of students;
4. Ensure that the voluntary alcohol or other drug testing conducted pursuant to this section is separate and distinct from any other alcohol or other drug testing that might be administered by the district board of education, including the required medical examination of students currently suspected of being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3;
5. Ensure that the policies and procedures for the alcohol or other drug testing program, pursuant to (b) below, are included in and are consistent with the policies and procedures for the intervention of student alcohol or other drug abuse, pursuant to N.J.S.A. 18A:40A-10 and 11 and N.J.A.C. 6A:16-4.1; and
6. Provide written notice to all ninth-through-12th-grade students and their parents at the beginning of each school year that the active written consent of students and parents for random student alcohol or other drug testing is required for students to participate in extracurricular activities, including interscholastic athletics, or to possess a school parking permit.

(b) Each district board of education's written alcohol or other drug testing policies and procedures, pursuant to this section, shall include, but need not be limited to, the following components:

1. A statement that the purposes of the alcohol and other drug testing policies are to deter alcohol and other drug use and to provide a means for the early detection of students with alcohol or other drug problems so referral for evaluation or referral for treatment, pursuant to (b)10 below and N.J.A.C. 6A:16-1.3 and 4.1, or other appropriate assistance may be offered;
2. A description of the procedures for randomly selecting students for alcohol or other drug testing, which shall include, at a minimum:
 - i. The manner in which students shall be randomly selected for alcohol or other drug testing;
 - ii. An explanation of the sampling statistical principles supporting the random selection process; and
 - iii. An explanation of how implementation of the random selection process shall be documented and verified;

3. A description of the procedures for the acquisition and management of student's alcohol or other drug test specimens, which shall address the following, at a minimum and as appropriate to the method selected under (c) below:
 - i. Student monitoring;
 - ii. Student transportation;
 - iii. The acquisition and handling of students' specimens;
 - iv. The chain of custody of students' specimens;
 - v. The testing and analysis of students' specimens; and
 - vi. The storage of students' specimens;
4. The standards for ensuring confidentiality and scope of authorized disclosure of alcohol or other drug testing information that protect, at a minimum:
 - i. The identities of students who have been selected to be tested or who have been tested;
 - ii. The results of alcohol or other drug tests;
 - iii. The billing and management reports associated with alcohol or other drug tests; and
 - iv. Information, prior to the time of an alcohol or other drug test, that a test is to take place;
5. A description of the consequences for violating confidentiality and disclosure standards, pursuant to (b)4 above;
6. The parent providing consent to alcohol or other drug testing, pursuant to (a)6 above, shall be notified each time his or her child has been tested under the alcohol or other drug testing policy, pursuant to this section.
 - i. The school district shall establish procedures ensuring confidentiality of the notification;
7. The procedures for reporting results of alcohol or other drug tests, including written notification to students and their parents concerning test findings, that are consistent with (b)4 above.
 - i. Law enforcement authorities shall not be notified of test results;
8. The specific actions pursuant to N.J.A.C. 6A:16-7.1, as appropriate, N.J.A.C. 6A:16-4.1, and this section to be taken against students who test positive for alcohol or other drug use.
 - i. Actions to be taken against students who test positive for alcohol or other drug use shall be limited to:
 - (1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or
 - (2) Disapproval or revocation of student parking permits.
 - ii. Prior to actions being taken pursuant to (b)8i(1) or (2) above, all positive alcohol or other drug test results shall be confirmed by the laboratory using a methodology recommended by the laboratory instrument's manufacturer;
9. The procedures for students or their parents to challenge a positive result from the alcohol or other drug tests;
10. The guidelines for referral for evaluation or referral for treatment, pursuant to N.J.A.C. 6A:16-1.3 and 4.1 and this section, or the provision of other appropriate assistance for students who test positive for alcohol or other drug use; and
11. The specific actions, pursuant to N.J.A.C. 6A:16-7.1, to be taken against students who refuse to consent to alcohol or other drug testing.
 - i. Actions to be taken against students who refuse to consent to alcohol or other drug testing shall be limited to:

(1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics: or

(2) Disapproval or revocation of student parking permits.

(c) Each district board of education shall provide for the collection and testing of alcohol or other drug specimens by implementing one of the following methods, in accordance with N.J.S.A. 45:9-42.26 et seq. and N.J.A.C. 8:44 and 8:45:

1. Transporting randomly selected students, pursuant to (b)2 and 3ii above, to a State-licensed clinical laboratory to perform specimen collection and alcohol or other drug testing;
2. Choosing a State-licensed clinical laboratory to operate an onsite licensed collection station and to transport the specimens to the offsite licensed laboratory for alcohol or other drug testing;
3. Choosing to obtain a State license to operate the school district's own collection station for the collection of specimens, pursuant to (a)3 above, as appropriate, and (b)3 and 4 above, and contract with a licensed clinical laboratory for transportation and alcohol or other drug testing of the specimens;
4. Choosing to obtain a State license to operate a clinical laboratory for onsite collection and alcohol or other drug testing of specimens; or
5. Choosing to contract with a State-licensed clinical laboratory to provide for both the onsite collection and alcohol or other drug testing of specimens.

(d) The district board of education shall limit the collection of specimens for alcohol or other drug testing in a State-licensed collection station or clinical laboratory, in accordance with N.J.S.A. 45:9-42.26 et seq.,

N.J.A.C. 8:44 and 8:45, and (c)1 above to the following persons:

1. A school physician;
2. A physician, other than the school physician, licensed to practice medicine or osteopathy other than the school physician;
3. A certified school nurse or noncertified nurse, pursuant to N.J.A.C. 6A:9B-12.3 and 12.4; or
4. The staff of a State-licensed clinical laboratory or health care facility, in accordance with (c) above, as designated by the district board of education.

6A:16-6.1. Adoption of policies and procedures.

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution, and disposition of the following:
 - i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;
 - ii. Drug paraphernalia as defined in N.J.S.A. 2C:36-1;
 - iii. Alcoholic beverages;
 - iv. Firearms, as defined in N.J.S.A. 2C:39-1f; and
 - v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1.r; and
2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including arrest procedures and undercover school operations.

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and other law enforcement officials as may be designated by the county prosecutor;

2. Reviewed and approved by the executive county superintendent;
3. Made available annually to all school staff, students and parents;
4. Consistent with reporting, notification, and examination procedures of students suspected of being under the influence of alcohol and other drugs pursuant to N.J.A.C. 6A:16-4.3; and
5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. Designation by the chief school administrator of liaisons to law enforcement agencies and the description of the liaisons' roles and responsibilities;
2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests;
3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children consistent with the following:
 - i. School officials shall not notify the student's parent(s) in instances of suspected child abuse or neglect;
 - ii. School officials shall notify the student's parent(s) when the student is the target of the law enforcement investigation; and
 - iii. In all other instances, school authorities shall permit law enforcement authorities to determine whether or when a student's parent should be contacted;
4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds;
5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.
 - i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
 - ii. Questions concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.
 - iii. School officials may request that law enforcement authorities assume responsibility for conducting a search or seizure.
 - iv. No school staff member shall impede a law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.
 - v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting a search or seizure.
 - vi. All inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines may be undertaken with only the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.
 - vii. Questions concerning the legality of a contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds shall be directed to the county prosecutor or in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice's designee in the New Jersey Department of Law and Public Safety, to the assigned assistant attorney general;
6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

7. Procedures for planning, approving, and conducting undercover school operations.
 - i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve undercover operations without prior notification to the district board of education.
 - ii. All information concerning requests to undertake an undercover school operation, information supplied by law enforcement authorities to justify the need for and explain a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.
 - iii. The chief school administrator and principal shall not divulge information concerning an undercover school operation to any person without the prior express approval of the county prosecutor or designee.
 - iv. The chief school administrator, principal, or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation shall immediately communicate to the county prosecutor or designee if he or she subsequently learns of information that suggests the undercover officer's true identity has been revealed, the undercover officer's identity or status as a bona fide member of the school community has been questioned, or the integrity of the undercover school operation has been in any other way compromised;
8. The procedures for and responsibilities of staff concerning the safe and proper handling of a seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of the items to appropriate law enforcement authorities in accordance with this subchapter;
9. The procedures for and responsibilities of staff in notifying authorities of a suspected violation of laws prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
10. Provisions for requesting uniformed police attendance at extracurricular school events;
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
12. Provisions for in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the school district and law enforcement agencies;
13. A memorandum of agreement with appropriate law enforcement authorities.
 - i. The memorandum of agreement shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the State Attorney General and the Commissioner.
 - ii. The memorandum of agreement shall define the reciprocal rights and obligations of students, parents, school staff, and law enforcement officials with respect to the possession, distribution, and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.
 - iii. Copies of all memoranda of agreements entered into with law enforcement authorities shall be submitted to and approved by the county prosecutor, executive county superintendent of

schools, president of the district board of education, chief school administrator, and chief of the police department or station commander.

14. An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the memorandum of agreement, and to review the effectiveness of policies and procedures implemented pursuant to this subchapter.

i. The annual review shall include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials designated by the county prosecutor.

ii. The memorandum of agreement may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the State Attorney General and the Commissioner;

15. Provisions for contacting the chief executive officer of the involved law enforcement agency, county prosecutor, and/or Division of Criminal Justice, as necessary, to resolve disputes concerning law enforcement activities occurring on school grounds; and

16. Provisions for directing inquiries or complaints received by school staff regarding interviews, investigations, arrests, or other operations conducted by sworn law enforcement officers to the appropriate law enforcement agency.

(c) Nothing in the policies and procedures required under this section shall be construed to prohibit school staff from disclosing information, pursuant to N.J.A.C. 6A:32-7.2 and 7.5(f), if necessary to protect the immediate health or safety of a student or other persons.

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(a) Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee, however, shall not disclose the identity of a student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug-distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or

has been using anabolic steroids, provided the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, or to be involved or implicated in drug distribution activities.

5. Law enforcement authorities shall not be notified of the findings if a student's alcohol or other drug test, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i, and (a)4 above, was obtained as a result of the district board of education's voluntary random drug testing policy, pursuant to N.J.S.A. 18A:40A-22 et seq. and N.J.A.C. 6A:16-4.4.

8:6-7.1. Purpose.

The purpose of this subchapter is to implement the prohibition against smoking in school buildings and on school grounds pursuant to N.J.S.A. 26:3D-58.

8:6-7.2. Smoking prohibited in school buildings and on school grounds.

(a) Pursuant to N.J.S.A. 26:3D-58b, smoking is prohibited in school buildings and on school grounds.

(b) As used in (a) above, "school buildings" and "school grounds," means and includes, with respect to public and nonpublic elementary and secondary schools:

1. Land, portions of land, structures, buildings, and vehicles, owned, operated or used for the provision of academic or extracurricular programs sponsored by a school or a community provider and structures that support these buildings, such as school wastewater treatment facilities, generating facilities, and other central service facilities including, but not limited to, kitchens and maintenance shops;
2. Athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, garages, facilities used for non-instructional or non-educational purposes, and any structure, building or facility used solely for school administration;
3. Playgrounds, and recreational places owned by local municipalities, private entities or other individuals during those times when the school district has exclusive use of a portion of such land; and
4. Certain faculty or administrator residences on school grounds as provided in N.J.A.C. 8:6-8.1(b).

Gang-related Activity

LAWS

18A:11-7. Findings, declarations relative to school dress codes.

The Legislature finds and declares that many educators believe that school dress can significantly influence pupil behavior and that schools that have adopted dress codes, including dress codes which require school uniforms and which prohibit clothing indicating membership in certain gangs, experience greater school pride and improved behavior in and out of the classroom. The Legislature further finds that to assist in controlling the environment in public schools, to facilitate and maintain an effective learning environment, and to keep the focus of the classroom on learning, school districts should be specifically authorized to implement uniform clothing requirements for their students.

18A:11-9. Prohibition of gang-related apparel.

A board of education may adopt a dress code policy to prohibit students from wearing, while on school property, any type of clothing, apparel or accessory which indicates that the student has membership in, or affiliation with, any gang associated with criminal activities. The local law enforcement agency shall advise the board, upon its request, of gangs which are associated with criminal activities.

18A:17-43.2. New Jersey School Safety Specialist Academy, Certification programs.

a. There is established in the Department of Education the New Jersey School Safety Specialist Academy. It shall be the purpose of the academy to serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The academy shall: provide, free of charge, ongoing professional development on national and State best practices, as well as the most current resources on school safety and security; assume a lead role in setting the vision for school safety and security in the State; and provide a coordinated and interdisciplinary approach to providing technical assistance and guidance to schools throughout the State.

b. The academy shall develop and implement a School Safety Specialist Certification Program. A school safety specialist appointed pursuant to section 2 [C.18A:17-43.3] of this act shall be required to acquire the certification. The certification program shall provide training, free of charge, to newly-appointed school safety specialists in the areas of bullying, hazing, truancy, Internet safety, emergency planning, emergency drills, drugs, weapons, gangs and school policing, and any other areas deemed necessary by the academy. The academy shall also offer annual training sessions for certified school safety specialists. The academy shall develop training modules in both traditional and online formats.

18A:35-4.26. Instruction in gang violence prevention; required for elementary students.

Each board of education that operates an educational program for elementary school students shall offer instruction in gang violence prevention and in ways to avoid membership in gangs. The instruction shall take place as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education, and the comprehensive health and physical education curriculum framework shall provide school districts with sample materials that may be used to support implementation of the instructional requirement.

52:17B-4.7. Gang education seminars for school administrators.

a. The Attorney General shall develop and maintain, in coordination with the Commissioner of Education, a gang education seminar program to educate public and nonpublic school administrators on how to recognize signs of gang involvement or activity. A seminar shall be offered annually in each county and shall be held in the office of the county superintendent of schools or such other facility as the Attorney General or Commissioner of Education shall designate.

b. A superintendent, assistant superintendent, principal or other administrator employed by a public school district shall attend a gang education seminar offered pursuant to this section within the first year of initial employment as an administrator with a public school district. An administrator employed by a school district prior to the effective date [Oct.12, 2007] of this act shall attend the first seminar offered in the county subsequent to its enactment. A superintendent, assistant superintendent, principal or other administrator shall be exempt from the requirements of this section if that person has successfully completed a gang education seminar conducted by a public school district which is substantially equivalent to the seminar required pursuant to this section.

c. A gang education seminar offered pursuant to this section shall be open to all public and nonpublic school administrators.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

2C:40-3. Hazing.

a. A person is guilty of hazing, if, in connection with initiation of applicants to or members of a student or fraternal organization, whose membership is primarily students or alumni of the organization or an

institution of higher education, the person knowingly or recklessly:

(1) causes, coerces, or otherwise induces another person to commit an act that violates federal or State criminal law;

(2) causes, coerces, or otherwise induces another person to consume any food, liquid, alcoholic liquid, drug or other substance which subjects the person to a risk of emotional or physical harm or is otherwise deleterious to the person's health;

(3) subjects another person to abuse, mistreatment, harassment, or degradation of a physical nature, including, but not limited to, whipping, beating, branding, excessive calisthenics, or exposure to the elements;

(4) subjects another person to abuse, mistreatment, harassment, or degradation of a mental or emotional nature, including, but not limited to, activity adversely affecting the mental or emotional health or dignity of the individual, sleep deprivation, exclusion from social contact, or conduct that could result in extreme embarrassment;

(5) subjects another person to abuse, mistreatment, harassment, or degradation of a sexual nature; or

(6) subjects another person to any other activity that creates a reasonable likelihood of bodily injury to the person.

18A:6-112. Instruction in suicide prevention for public school teaching staff.

The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care professional with training and experience in mental health issues, in each professional development period. The instruction in suicide prevention shall include information on the relationship between the risk of suicide and incidents of harassment, intimidation, and bullying and information on reducing the risk of suicide in students who are members of communities identified as having members at high risk of suicide.

18A:7E-3. Report card information.

Report cards issued pursuant to section 2 [C.18A:7E-2] of this act shall include, but not be limited to, the following information for:

a. the school district and for each school within the district, as appropriate:

(10) data identifying the number and nature of all reports of harassment, intimidation, or bullying.

18A:12-33. Training program; requirements.

e. Training on harassment, intimidation, and bullying in schools shall be provided by the New Jersey School Boards Association, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies.

18A:17-46. Reporting of certain acts by school employee; report; public hearing.

Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing

the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence, vandalism, and harassment, intimidation, or bullying which occurred during the previous reporting period. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The information shall also be reported once during each reporting period to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to implement policies and programs consistent with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purposes of this section.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

Verification of the reports on violence, vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence, vandalism, and harassment, intimidation, or bullying.

18A:17-48. Annual report to Legislature.

The Commissioner of Education shall each year submit a report to the Education Committees of the Senate and General Assembly detailing the extent of violence, vandalism, and harassment, intimidation, or bullying in the public schools and making recommendations to alleviate the problem. The report shall be made available annually to the public no later than October 1, and shall be posted on the department's website.

18A:26-8.2. "School leader" defined; training as part of professional development.

- a. As used in this section, "school leader" means a school district staff member who holds a position that requires the possession of a chief school administrator, principal, or supervisor endorsement.
- b. A school leader shall complete training on issues of school ethics, school law, and school governance as part of the professional development for school leaders required pursuant to State Board of Education regulations. Information on the prevention of harassment, intimidation, and bullying shall also be included in the training. The training shall be offered through a collaborative training model as identified by the Commissioner of Education, in consultation with the State Advisory Committee on Professional Development for School Leaders.

18A:35-4.27. Instruction on responsible use of social media.

- a. Beginning with the 2014-2015 school year, each school district shall incorporate instruction on the responsible use of social media into the technology education curriculum for students in grades 6 through 8 as part of the district's implementation of the Core Curriculum Content Standards in Technology.
- b. The instruction shall provide students with information on:
 - (1) the purpose and acceptable use of various social media platforms;
 - (2) social media behavior that ensures cyber safety, cyber security, and cyber ethics; and
 - (3) potential negative consequences, including cyber bullying, of failing to use various social media platforms responsibly.
- c. The Commissioner of Education shall provide school districts with sample learning activities and resources designed to promote the responsible use of social media.

18A:35-4.31. Recess period required; exceptions.

a. Beginning with the first full school year following the effective date of this act, a public school district shall provide a daily recess period of at least 20 minutes for students in grades kindergarten through 5. The recess period shall be held outdoors, if feasible. A student shall not be denied recess for any reason, except as a consequence of a violation of the district's code of student conduct, including a harassment, intimidation, or bullying investigation pursuant to P.L.2002, c.83 (C.18A:37-13 et seq.). If a student is denied recess, except under conditions set forth in subsection b. of this section, the student shall be provided restorative justice activities during the recess period. A student may not be denied recess more than twice per week.

A school district shall not be required to provide a recess period on a school day in which the day is substantially shortened due to a delayed opening or early dismissal.

The recess period shall not be used to meet the course requirements set forth in N.J.S.18A:35-5.

- b. Nothing in this section shall be construed to prohibit school staff from denying recess for a student on the advice of a medical professional, school nurse, or based on the provisions of a student's 504 plan.
- c. For purposes of this section, "restorative justice activities" means activities designed to improve the socioemotional and behavioral responses of students through the use of more appropriate, and less punitive, interventions thereby establishing a more supportive and inclusive school culture.

18A:36-41. Development, distribution of guidelines concerning transgender students.

- a. The Commissioner of Education shall develop and distribute to school districts guidelines concerning transgender students. The purposes of the guidelines shall be to provide direction for schools in addressing common issues concerning the needs of transgender students, and to assist schools in establishing policies and procedures that ensure a supportive and nondiscriminatory environment for transgender students.
- b. The guidelines developed by the commissioner shall include, but not be limited to, information and guidance regarding the following:
 - (2) maintaining a safe and supportive learning environment that is free from discrimination and harassment for transgender students, including students going through a gender transition;
- c. The guidelines shall include information on organizations or other resources available to students and parents that provide support to transgender individuals.
- d. The commissioner shall periodically review the guidelines developed pursuant to this section, and shall update or modify the guidelines, as appropriate, in accordance with current State or federal laws and regulations concerning the rights of transgender students.

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

- k. Harassment, intimidation, or bullying.

18A:37-13. Findings, declarations relative to adoption of harassment and bullying prevention policies.

The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; harassment, intimidation or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and since students learn by example, school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

18A:37-13.1. Findings, declarations relative to school bullying.

The Legislature finds and declares that:

- a. A 2009 study by the United States Departments of Justice and Education, "Indicators of School Crime and Safety," reported that 32% of students aged 12 through 18 were bullied in the previous school year. The study reported that 25% of the responding public schools indicated that bullying was a daily or weekly problem;
- b. A 2009 study by the United States Centers for Disease Control and Prevention, "Youth Risk Behavior Surveillance," reported that the percentage of students bullied in New Jersey is 1 percentage point higher than the national median;
- c. In 2010, the chronic persistence of school bullying has led to student suicides across the country, including in New Jersey;
- d. Significant research has emerged since New Jersey enacted its public school anti-bullying statute in 2002, and since the State amended that law in 2007 to include cyber-bullying and in 2008 to require each school district to post its anti-bullying policy on its website and distribute it annually to parents or guardians of students enrolled in the district;
- e. School districts and their students, parents, teachers, principals, other school staff, and board of education members would benefit by the establishment of clearer standards on what constitutes harassment, intimidation, and bullying, and clearer standards on how to prevent, report, investigate, and respond to incidents of harassment, intimidation, and bullying;
- f. It is the intent of the Legislature in enacting this legislation to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises;
- g. Fiscal responsibility requires New Jersey to take a smarter, clearer approach to fight school bullying by ensuring that existing resources are better managed and used to make our schools safer for students;
- h. In keeping with the aforementioned goal of fiscal responsibility and in an effort to minimize any burden placed on schools and school districts, existing personnel and resources shall be utilized in every possible instance to accomplish the goals of increased prevention, reporting, and

responsiveness to incidents of harassment, intimidation, or bullying, including in the appointment of school anti-bullying specialists and district anti-bullying coordinators;

i. By strengthening standards for preventing, reporting, investigating, and responding to incidents of bullying this act will help to reduce the risk of suicide among students and avert not only the needless loss of a young life, but also the tragedy that such loss represents to the student's family and the community at large; and

j. Harassment, intimidation, and bullying is also a problem which occurs on the campuses of institutions of higher education in this State, and by requiring the public institutions to include in their student codes of conduct a specific prohibition against bullying, this act will be a significant step in reducing incidents of such activity.

18A:37-13.2. Short title.

Sections 1, 2 [C.18A:37-13.2, 18A:37-13.1], and 16 through 30 [C.18A:37-15.3, 18A:37-20 through 18A:37-32, and 18A:3B-68] of this act and P.L.2002, c.83 (C.18A:37-13 et seq.) shall be known and may be cited as the "Anti-Bullying Bill of Rights Act."

18A:37-14. Definitions relative to adoption of harassment and bullying prevention policies.

As used in this act:

"Electronic communication" means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager;

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;
- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

- (1) a statement prohibiting harassment, intimidation or bullying of a student;
- (2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);
- (3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

All acts of harassment, intimidation, or bullying shall be reported verbally to the school principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. The principal shall inform the parents or guardians of all students involved in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. All acts of harassment, intimidation, or bullying shall be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying;

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. In the event that there is information relative to the investigation that is anticipated but not yet received by the end of the 10-day period, the school anti-bullying specialist may amend the original report of the results of the investigation to reflect the information;

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B- 1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose discipline, order counseling as a result of the findings of the investigation, or take or recommend other appropriate action;

(c) the results of each investigation shall be reported to the board of education no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent;

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's

decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision; and

(f) a parent, student, guardian, or organization may file a complaint with the Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of services that are available within the district such as counseling, support services, intervention services, and other programs, as defined by the commissioner. In the event that the necessary programs and services are not available within the district, the district may apply to the Department of Education for a grant from the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-of-district programs and services;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions;

(11) a requirement that a link to the policy be prominently posted on the home page of the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district; and

(12) a requirement that the name, school phone number, school address and school email address of the district anti-bullying coordinator be listed on the home page of the school district's website and that on the home page of each school's website the name, school phone number, school address and school email address of the school anti-bullying specialist and the district anti-bullying coordinator be listed. The information concerning the district anti-bullying coordinator and the school anti-bullying specialists shall also be maintained on the department's website.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate executive county superintendent of schools by September 1, 2003. A school district shall annually conduct a re-evaluation, reassessment, and review of its policy, making any necessary revisions and additions. The board shall include input from the school anti-bullying specialists in conducting its re-evaluation, reassessment, and review. The district shall transmit a copy of the revised policy to the appropriate executive county superintendent of schools within 30 school days of the revision. The first revised policy following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the executive county superintendent of schools by September 1, 2011.

d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

(2) The commissioner shall adopt amendments to the model policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.) no later than 90 days after the effective date of that act and shall subsequently update the model policy as the commissioner deems necessary.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

f. Nothing in this section shall prohibit a school district from adopting a policy that includes components that are more stringent than the components set forth in this section.

18A:37-15.1. "Electronic communication" included in school districts' harassment and bullying prevention policy.

- a. A school district's policy on prohibiting harassment, intimidation or bullying adopted pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15), shall be amended, if necessary, to reflect the provisions of P.L.2007, c.129 (C.18A:37-15.1 et al.). The district shall transmit a copy of the amended policy to the appropriate county superintendent of schools. Notice of the amended policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.
- b. In the event that a school district's policy on prohibiting harassment, intimidation or bullying adopted pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) does not accord with the provisions of subsection
- a. of this section by the 90th day following the effective date of this act, the district's existing policy prohibiting harassment, intimidation or bullying shall be deemed to include an "electronic communication" as defined in section 2 of P.L.2002, c.83 (C.18A:37-14) as amended by section 1 of P.L.2007, c.129.

18A:37-15.2. Actions required relative to bullying policy.

Within 60 days of the effective date of this section each school district shall amend its bullying policy in accordance with section 3 of P.L.2002, c.83 (C.18A:37-15) as amended by section 7 of P.L.2007, c.303, make the policy available on the district's website, and notify students and parents that the policy is available on the district's website.

18A:37-15.3. Policy to include certain incidents occurring off school grounds.

The policy adopted by each school district pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) shall include provisions for appropriate responses to harassment, intimidation, or bullying, as defined in section 2 of P.L.2002, c.83 (C.18A:37-14), that occurs off school grounds, in cases in which a school employee is made aware of such actions. The responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with the board of education's code of student conduct and other provisions of the board's policy on harassment, intimidation, or bullying.

18A:37-16. Reprisal, retaliation, false accusation prohibited.

- a. A member of a board of education, school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.
- b. A member of a board of education, school employee, contracted service provider, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.
- c. A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.
- d. A school administrator who receives a report of harassment, intimidation, or bullying from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident

of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

18A:37-16.1. Immunity for reporting harassment, intimidation, or bullying at certain private schools.

In the event that the State Board of Education requires approved private schools for students with disabilities to develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds, a member of a board of directors or an employee of an approved private school for students with disabilities who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the school's policy or to any school administrator, and who makes this report in compliance with the procedures in the school's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

18A:37-17. Establishment of bullying prevention programs or approaches.

a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying. A school district may implement bullying prevention programs and approaches that may be available at no cost from the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement bullying prevention programs and approaches which impose a cost on the district.

A school district may apply to the Department of Education for a grant to be used for programs, approaches, or personnel established pursuant to this act, to the extent funds are appropriated for these purposes or funds are made available through the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28). A school district may make an application for a grant only after exploring bullying prevention programs and approaches that are available at no cost, and making an affirmative demonstration of that exploration in its grant application.

b. A school district shall: (1) provide training on the school district's harassment, intimidation, or bullying policies to school employees and volunteers who have significant contact with students; (2) ensure that the training includes instruction on preventing bullying on the basis of the protected categories enumerated in section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing characteristics that may incite incidents of discrimination, harassment, intimidation, or bullying; and (3) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

A school district may satisfy the training required pursuant to this subsection by utilizing training that may be provided at no cost by the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement a training program which imposes a cost on the district.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program and shall be provided to full-time and part-time staff, volunteers who have significant contact with students, and those persons contracted by the district to provide services to students.

18A:37-18. Other remedies unaffected.

This act shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal. This act does not create or alter any tort liability.

18A:37-19. Application by school district for reimbursement.

A school district that incurs additional costs due to the implementation of the provisions of this act shall apply to the Commissioner of Education for reimbursement.

18A:37-20. Appointment of school anti-bullying specialists, coordinator.

a. The principal in each school in a school district shall appoint a school anti-bullying specialist. When a school guidance counselor, school psychologist, or another individual similarly trained is currently employed in the school, the principal shall appoint that individual to be the school anti-bullying specialist. If no individual meeting this criteria is currently employed in the school, the principal shall appoint a school anti-bullying specialist from currently employed school personnel. The school anti-bullying specialist shall:

- (1) chair the school safety team as provided in section 18 of P.L.2010, c.122 (C.18A:37-21);
- (2) lead the investigation of incidents of harassment, intimidation, and bullying in the school; and
- (3) act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school.

b. The superintendent of schools shall appoint a district anti-bullying coordinator. The superintendent shall make every effort to appoint an employee of the school district to this position. The district anti-bullying coordinator shall:

- (1) be responsible for coordinating and strengthening the school district's policies to prevent, identify, and address harassment, intimidation, and bullying of students;
- (2) collaborate with school anti-bullying specialists in the district, the board of education, and the superintendent of schools to prevent, identify, and respond to harassment, intimidation, and bullying of students in the district;
- (3) provide data, in collaboration with the superintendent of schools, to the Department of Education regarding harassment, intimidation, and bullying of students; and
- (4) execute such other duties related to school harassment, intimidation, and bullying as requested by the superintendent of schools.

c. The district anti-bullying coordinator shall meet at least twice a school year with the school anti-bullying specialists in the district to discuss and strengthen procedures and policies to prevent, identify, and address harassment, intimidation, and bullying in the district.

18A:37-21. School safety teams.

a. A school district shall form a school safety team in each school in the district to develop, foster, and maintain a positive school climate by focusing on the on-going, systemic process and practices in the school and to address school climate issues such as harassment, intimidation, or bullying. A school safety team shall meet at least two times per school year.

b. A school safety team shall consist of the principal or his designee who, if possible, shall be a senior administrator in the school and the following appointees of the principal: a teacher in the school; a school anti-bullying specialist; a parent of a student in the school; and other members to be determined by the principal. The school anti-bullying specialist shall serve as the chair of the school safety team.

c. The school safety team shall:

- (1) receive any complaints of harassment, intimidation, or bullying of students that have been reported to the principal;
- (2) receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;
- (3) identify and address patterns of harassment, intimidation, or bullying of students in the school;
- (4) review and strengthen school climate and the policies of the school in order to prevent and address harassment, intimidation, or bullying of students;
- (5) educate the community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;

(6) participate in the training required pursuant to the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.) and other training which the principal or the district anti-bullying coordinator may request;

(7) collaborate with the district anti-bullying coordinator in the collection of district-wide data and in the development of district policies to prevent and address harassment, intimidation, or bullying of students; and

(8) execute such other duties related to harassment, intimidation, and bullying as requested by the principal or district anti-bullying coordinator.

d. The members of a school safety team shall be provided professional development opportunities that address effective practices of successful school climate programs or approaches.

e. Notwithstanding any provision of this section to the contrary, a parent who is a member of the school safety team shall not participate in the activities of the team set forth in paragraph (1), (2), or (3) of subsection c. of this section or any other activities of the team which may compromise the confidentiality of a student.

18A:37-22. Program required for teaching certification.

a. Beginning with the 2012-2013 school year, all candidates for teaching certification who have completed a teacher preparation program at a regionally-accredited institution of higher education shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

b. Beginning with the 2011-2012 school year, any person seeking certification through the alternate route shall, within one year of being employed, satisfactorily complete a program on harassment, intimidation, and bullying prevention.

c. The State Board of Education shall establish the appropriate requirements of the program on harassment, intimidation, and bullying prevention.

d. The State board shall, as part of the professional development requirement established by the State board for public school teachers, require each public school teacher to complete at least two hours of instruction on harassment, intimidation, or bullying prevention in each professional development period.

18A:37-23. Program required for administrative and supervisory certification.

Beginning with the 2012-2013 school year, all candidates for administrative and supervisory certification shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

18A:37-24. Development of guidance document.

a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

18A:37-25. Establishment of formal protocol for investigating a complaint.

a. The Commissioner of Education shall establish a formal protocol pursuant to which the office of the executive county superintendent of schools shall investigate a complaint that documents an allegation of a violation of P.L.2002, c.83 (C.18A:37-13 et seq.) by a school district located within the county, when the complaint has not been adequately addressed on the local level. The office of the executive county superintendent shall report its findings, and if appropriate, issue an order for the school district to develop and implement corrective actions that are specific to the facts of the case.

b. The commissioner shall ensure that the personnel of the office of the executive county superintendent of schools who are responsible for conducting the investigations receive training and technical support on the use of the complaint investigation protocol.

18A:37-26. In-service workshops, training programs.

a. The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish inservice workshops and training programs to train selected public school employees to act as district anti-bullying coordinators and school anti-bullying specialists in accordance with the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.). The commissioner shall seek to make the workshops and training programs available and administered online through the department's website or other existing online resources. The commissioner shall evaluate the effectiveness of the consulting group on an annual basis. The inservice training programs may utilize the offices of the executive county superintendent of schools, or such other institutions, agencies, or persons as the commissioner deems appropriate. Each board of education shall provide time for the inservice training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in the district as district anti-bullying coordinators and school anti-bullying specialists.

b. Upon completion of the initial inservice training program, the commissioner shall ensure that programs and workshops that reflect the most current information on harassment, intimidation, and bullying in schools are prepared and made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals.

18A:37-27. Development of online tutorial, test.

The Commissioner of Education shall develop, in consultation with the Division on Civil Rights, and make available on the Department of Education's Internet site, an online tutorial on harassment, intimidation, and bullying. The online tutorial shall, at a minimum, include best practices in the prevention of harassment, intimidation, and bullying, applicable laws, and such other information that the commissioner determines to be appropriate. The online tutorial shall be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

18A:37-28. "Bullying Prevention Fund".

There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates, and to help fund related personnel expenses.

18A:37-29. "Week of Respect"; designated.

The week beginning with the first Monday in October of each year is designated as a "Week of Respect" in the State of New Jersey. School districts, in order to recognize the importance of character education, shall observe the week by providing age-appropriate instruction focusing on preventing harassment, intimidation, or bullying as defined in section 2 of P.L.2002, c.83 (C.18A:37-14). Throughout the school year the school district shall provide ongoing age-appropriate instruction on preventing harassment, intimidation, and bullying in accordance with the core curriculum content standards.

18A:37-30. Construction of act.

Nothing contained in P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be construed as affecting the provisions of any collective bargaining agreement or individual contract of employment in effect on that act's effective date.

18A:37-31. Compliance by nonpublic schools encouraged.

a. Nonpublic schools are encouraged to comply with the provisions of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.).

b. In the case of a faith-based nonpublic school, no provision of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.), shall be interpreted to prohibit or abridge the legitimate statement, expression or free exercise of the beliefs or tenets of that faith by the religious organization operating the school or by the school's faculty, staff, or student body.

18A:37-32. Inapplicability to certain situations.

Nothing contained in the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.), shall alter or reduce the rights of a student with a disability with regard to disciplinary actions or to general or special educational services and supports.

18A:37-32.1. Rules, regulations.

Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) or any other law to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2012, c.1 (C.18A:37-32.1 et al.), P.L.2010, c.122 (C.18A:37-13.2 et al.), and P.L.2002, c.83 (C.18A:37-13 et seq.).

The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

52:17B-71.8. Training course for safe schools resource officers, liaisons to law enforcement.

a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

REGULATIONS

6A:16-1.3. Definitions.

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

"Harassment, intimidation, or bullying" means, as set forth in N.J.S.A. 18A:37-14, any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property or placing a student in reasonable fear of physical or emotional harm to his or her person or damage to his or her property; has the effect of insulting or demeaning any student or group of students; or creates a hostile educational environment for a student by interfering with the student's education or by severely or pervasively causing physical or emotional harm to the student.

6A:16-5.3. Incident reporting of violence, vandalism and alcohol and other drug abuse.

(a) For purposes of reporting information to the Department, pursuant to N.J.S.A. 18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying, or the possession or distribution of alcohol or other drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12, shall file with the principal a report describing the incident.

1. The report shall be on a form adopted for such purposes by the district board of education.
 - i. The form shall include all information necessary for complete, accurate reporting on the Electronic Violence and Vandalism Reporting System (EVVRS) and verification of the incident detail, including an incident description, and offender and victim information.

(b) The district board of education shall not discharge or subject to any manner of discrimination a school employee who files a report pursuant to this section.

(c) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence, including harassment, intimidation, and bullying, and vandalism pursuant to N.J.S.A. 18A:17-46.

1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe the safety of a school staff member is at risk.

(d) The chief school administrator shall:

1. Submit to the Commissioner reports of each incident of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses, pursuant to N.J.A.C. 6A:16-4.3, in the school district utilizing the EVVRS.

i. The reports shall be submitted twice each school year, once for all incidents occurring between September 1 and January 1 and once for all incidents occurring between January 1 and June 30, and shall include, at a minimum, all information pursuant to N.J.S.A. 18A:17-46.

ii. Prior to submission, the chief school administrator shall verify the accuracy of the reported information.

iii. The grade regarding the harassment, intimidation, and bullying efforts of each school and each school district shall be posted on the homepage of the school district's website, in accordance with the guidelines promulgated by the Commissioner pursuant to N.J.S.A. 18A:17-46.

2. Provide for annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.

(e) Twice each school year, once between September 1 and January 1 and once between January 1 and June 30, the chief school administrator shall report to the district board of education at a public hearing all acts of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses that occurred during the previous reporting period, according to the provisions of N.J.S.A. 18A:17-46.

(f) Each district board of education shall adopt and implement procedures regarding a school employee who knowingly falsifies reported information on acts of violence or vandalism or any incident included in the annual report on violence and vandalism required under N.J.S.A. 18A:17-46, including the establishment of grievance procedures of section 8 of N.J.S.A. 34:13A-5.3 and 34:13A-29.

(g) Private schools for the disabled and public-college-operated programs for the disabled shall take action regarding a school employee who knowingly falsifies the reporting of violence, including harassment, intimidation, and bullying, vandalism, and alcohol or other drug abuse required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth in (f) above.

(h) Each district board of education shall submit and implement a corrective action plan for high incidences of violence, vandalism, or alcohol or other drug abuse upon notification by the Commissioner.

6A:16-7.1. Code of student conduct.

(c) The code of student conduct shall include, at a minimum:

6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7.

6A:16-7.5. Conduct away from school grounds.

(b) School authorities shall respond to harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-14 and 15.3 and N.J.A.C. 6A:16-1.3, 7.1, and 7.7.

6A:16-7.7. Harassment, intimidation, and bullying.

(a) Each district board of education shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds, pursuant to N.J.S.A. 18A:37-15.

1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.

2. Each district board of education shall have control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

i. A statement prohibiting harassment, intimidation or bullying of a student;

ii. A definition of harassment, intimidation or bullying no less inclusive than that set forth in the definition at N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3;

- iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;
- iv. A description of the type of behavior expected from each student;
- v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior; the nature of the student's disability, if any, and to the extent relevant; the developmental age of the student; and the student's history of problem behaviors and performance. The appropriate remedial action also may include the following:
 - (1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate; and
 - (2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;
- vi. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:
 - (1) Varied and graded according to the nature of the behavior; the nature of the student's disability, if any, and to the extent relevant; the developmental age of the student; and the student's history of problem behaviors and performance; and
 - (2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;
- vii. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;
- viii. A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure also shall include a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5).
 - (1) The district board of education shall not take formal disciplinary action based solely on the anonymous report.
 - (2) The school district official shall take into account the circumstances of the incident when providing notification to parents and guardians of all students involved in the reported harassment, intimidation, or bullying incident and when conveying the nature of the incident, including the actual or perceived protected category motivating the alleged offense;
- ix. A procedure for prompt investigation of violation and complaint reports consistent with N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d.
 - (1) The procedure set forth in the district board of education policy may include a process prior to initiating an investigation by which the principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint, assuming all facts presented are true, is a report within the scope of N.J.S.A. 18A:37-14.
 - (A) If a preliminary determination finds the incident or complaint is a report outside the scope of N.J.S.A. 18A:37-14, the determination may be appealed to the district board of education, pursuant to district board of education policies and procedures governing pupil grievances, and thereafter to the Commissioner in accordance with N.J.A.C. 6A:3.
 - (2) The procedure also shall include a process by which the district board of education will investigate a complaint or report of harassment, intimidation, or bullying, pursuant to (a)2ix above, occurring on district board of education school buses, at district board of education school-sponsored functions, and off school grounds involving a student who attends an approved PSSD.
 - (A) The investigation conducted by the district board of education's anti-bullying specialist shall be in consultation with the approved PSSD.

(3) To protect the victim, the procedure also shall take into account the circumstances of the incident when communicating with parents and when following the provisions of N.J.S.A. 18A:37- 15.

(4) Investigations of complaints concerning adult conduct shall not be investigated by a member of the same bargaining unit as the individual who is the subject of the investigation;

x. A requirement for the principal, in conjunction with the school anti-bullying specialist, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, consistent with the range of responses adopted by the board of education, pursuant to N.J.S.A. 18A:37-15.b(7);

(1) The school district official shall take into account the circumstances of the incident when responding and, at a minimum, include support for victims of harassment, intimidation, or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying;

xi. A requirement that within five school days after the results of the harassment, intimidation, or bullying investigation are reported to the district board of education, information about the investigation shall be provided in writing to the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation.

(1) Any request by the parents or guardians for a hearing before the district board of education concerning the written information about a harassment, intimidation, or bullying investigation, pursuant to N.J.S.A. 18A:37-15.b(6)(d), shall be filed with the district board of education secretary no later than 60 calendar days after the written information is received by the parents or guardians.

(2) The hearing shall be held within 10 business days of receipt of the request.

xii. A statement that prohibits a district board of education member, school employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

xiii. Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

xiv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

(1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district;

xv. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the school district's and each school's website;

xvi. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;

xvii. A requirement that the name of the school district's anti-bullying coordinator and his or her school phone number, school address, and school e-mail address be listed on the home page of the school district's website;

xviii. A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the school's website; and

xix. Provisions for appropriate responses to harassment, intimidation, or bullying, as defined in N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3, that occurs off school grounds in cases in which a school employee is made aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying.

(1) Responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with N.J.A.C. 6A:16-7.1 and 7.5 and this section.

(b) A district board of education shall not be prohibited from adopting a harassment, intimidation, and bullying policy that includes components more stringent than components set forth in N.J.S.A. 18A:37-15 and (a) above.

(c) A district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a)2viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying.

1. A district board of education member or school employee who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, and who makes the report in compliance with the district board of education's policy, is immune from a cause of action for damages arising from a failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16.c.

(d) A school administrator who receives a report of harassment, intimidation, or bullying, or who determines a reported incident or complaint, assuming all facts presented are true, is a report within the scope of N.J.S.A. 18A:37-14, pursuant to (a)2ix(1) above, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

(e) The district board of education shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives of the district board of education and implement training programs for school employees and volunteers who have significant contact with students, consistent with N.J.S.A. 18A:37-17.b.

i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.

ii. Information regarding the district board of education's policy against harassment, intimidation, and bullying shall be incorporated into the school district's employee training program.

(1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students and persons contracted by the school district to provide services to students;

2. Develop a process for annually discussing with students the school district's harassment, intimidation, and bullying policy;

3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The district board of education also shall make any necessary revision(s) to its policy, consistent with N.J.S.A. 18A:37-15.c.

i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators;

4. Annually establish, implement, document, and assess bullying prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in schools of the school district.

i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators; and

5. Submit to the executive county superintendent a copy of its approved harassment, intimidation, and bullying policy within 30 days of its adoption or revision.

(f) The principal of each school in the school district shall appoint a school anti-bullying specialist to perform the functions established in N.J.S.A. 18A:37-20.a and c.

(g) The chief school administrator of the school district shall appoint a district anti-bullying coordinator to perform the functions established in N.J.S.A. 18A:37-20.b and c.

(h) The district board of education shall form a school safety/school climate team in each school in the school district to achieve the purposes and perform the functions established in N.J.S.A. 18A:37-21.

1. Pursuant to N.J.S.A. 18A:37-21.b, the school safety/school climate team shall consist of the principal or his or her designee and the following members appointed by the principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

i. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality, pursuant to N.J.S.A. 18A:37-21.e.

ii. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.

(i) The requirements of this section are promulgated pursuant to N.J.S.A. 18A:37-13 through 32 and shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any other available civil or criminal law.

6A:9C-4.3. Requirements for and implementation of school leaders' individual professional development plans.

(a) Each school leader shall create, implement, and complete an individual professional development plan (PDP) that:

1. Aligns with the Professional Standards for School Leaders set forth in N.J.A.C. 6A:9-3.4 and the standards for professional learning in N.J.A.C. 6A:9C-3.3;

5. Includes training on: school law, ethics, and governance pursuant to N.J.S.A. 18A:26-8.2; and other statutory requirements related to student safety, bullying and harassment, and well-being.

Dating and Relationship Violence

LAWS

18A:35-4.23. Domestic violence, child abuse, instruction on those problems.

A board of education may include instruction on the problems of domestic violence and child abuse in an appropriate place in the curriculum of elementary school, middle school and high school pupils. The instruction shall enable pupils to understand the psychology and dynamics of family violence, dating violence and child abuse, the relationship of alcohol and drug use to such violence and abuse, the relationship of animal cruelty to such violence and abuse, and to learn methods of non-violent problem-solving.

18A:35-4.23a. Dating violence education incorporated into health education curriculum.

- a. Beginning with the 2011-2012 school year, each school district shall incorporate dating violence education that is age appropriate into the health education curriculum as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education for students in grades 7 through 12.
- b. The dating violence education shall include, but not be limited to, information on the definition of dating violence, recognizing dating violence warning signs, and the characteristics of healthy relationships.
- c. To assist school districts in developing a dating violence education program, the Department of Education shall recommend educational resources on dating violence.
- d. Upon written request to the school principal, a parent or legal guardian of a student less than 18 years of age, shall be permitted within a reasonable period of time after the request is made, to examine the dating violence education program instruction materials developed by the school district.
- e. As used in this section:

"Dating partner" means any person involved in an intimate association with another individual that is primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term.

"Dating violence" means a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner.

18A:37-33. Findings, declarations relative to dating violence policy and education.

The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; a student who is a victim of dating violence suffers academically, and the student's safety at school is jeopardized; and since all students have a right to learn and study in a safe, supportive environment that is free from violence, each school district should have a policy to prevent, and for responding to, incidents of dating violence, and should provide dating violence education to students in order to prevent dating violence and address incidents involving dating violence.

18A:37-34. Definitions relative to dating violence policy and education.

As used in this act [C.18A:37-33 et al.]:

"At school" means in a classroom or anywhere on school property, on a school bus or other school-related vehicle, at an official school bus stop, or at any school-sponsored activity or event whether or not it is on school grounds.

"Dating partner" means any person involved in an intimate association with another individual that is primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term.

"Dating violence" means a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner.

18A:37-35. Task force to develop policy.

a. The Department of Education shall establish a task force to develop a policy to address incidents of dating violence involving students at school. The task force shall include members who have expertise in issues relating to dating violence. The policy shall contain, at a minimum, the following components:

- (1) a statement that dating violence will not be tolerated;
- (2) dating violence reporting procedures;
- (3) guidelines for responding to at-school incidents of dating violence;
- (4) discipline procedures specific to at-school incidents of dating violence;
- (5) warning signs of dating violence; and
- (6) information on safe, appropriate school, family, peer, and community resources available to address dating violence.

b. Each school district shall implement either the policy developed by the department or a dating violence policy developed by the district. In the event that a district determines to develop its policy, the policy shall contain, at a minimum, the components required pursuant to paragraphs (1) through (6) of subsection a. of this section.

c. Notice of the policy implemented by the school district shall appear in any publication of the district that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the district, and in any student handbook.

18A:37-36. Educational resources, recommendation, posting on website.

The Department of Education shall recommend educational resources on dating violence and shall post these materials on its website.

36:2-224. "Teen Dating Violence Awareness and Prevention Month," February; designated.

February of each year is designated as "Teen Dating Violence Awareness and Prevention Month" in New Jersey in order to promote public awareness and increase prevention of teen dating violence.

36:2-225. Annual observance.

The Governor is respectfully requested to annually issue a proclamation recognizing February as "Teen Dating Violence Awareness and Prevention Month" in New Jersey and calling upon public officials, high schools, law enforcement agencies, the citizens of the State, and other interested groups to observe the month with appropriate activities and programs.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

18A:6-135. Development, establishment of Response to Intervention framework.

- a. The Commissioner of Education shall develop and establish an initiative to support and encourage the use of a Response to Intervention framework by school districts to promote the achievement of all students. The initiative shall include dissemination of information and guidance to school districts regarding the development and effective implementation of a Response to Intervention framework as a methodology to identify struggling learners, maximize student achievement, and reduce behavioral problems. The initiative shall also include dissemination of information and guidance to school districts regarding the effective use of a Response to Intervention framework as a methodology to identify students with specific learning disabilities in accordance with the "Individuals with Disabilities Education Act," 20 U.S.C. § 1400 et seq. The information and guidance provided to school districts shall make clear that a Response to Intervention framework is not a substitute for classification of a student as eligible for special education and related services if the student requires classification.
- b. The commissioner shall ensure that a Response to Intervention framework implemented by a school district includes, at a minimum, the following elements:
- (1) high quality research-based instruction in the general education setting;
 - (2) universal screening procedures to identify students at risk for poor learning outcomes or behavioral challenges;
 - (3) multiple levels of evidence-based interventions that are progressively more intense, based on the student's responsiveness; and
 - (4) continuous monitoring of student progress.
- c. The commissioner shall make available technical assistance and training to assist school districts in the implementation of a Response to Intervention framework.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

- d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.
- (1) The commissioner shall adopt amendments to the model policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.) no later than 90 days after the effective date of that act and shall subsequently update the model policy as the commissioner deems necessary.
- e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.
- f. Nothing in this section shall prohibit a school district from adopting a policy that includes components that are more stringent than the components set forth in this section.

18A:37-24. Development of guidance document.

- a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or

bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

- (1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);
- (2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;
- (3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);
- (4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and
- (5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

18A:37-41. Selection of districts.

- a. After reviewing the applications submitted pursuant to section 3 [C.18A:37-40] of this act, the commissioner shall select five districts in each of the southern, central, and northern regions of the State to participate in the program.
- b. The commissioner shall provide such guidance, support, and training to participating schools as may be necessary to effectuate the purposes of this act [C.18A:37-38 et seq.].
- c. The commissioner shall award grants, within the limit of available State appropriations, to participating school districts to be used to support the development and implementation of restorative justice practices in the selected schools, including for any necessary trainings and materials. The commissioner shall determine the amount of each grant awarded under the program and may award multi-year grants.

18A:40A-19. Pilot programs.

The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

- a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office of the Courts, to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

18A:40A-2. Curriculum guidelines; annual review and updating; minimum requirements.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

- a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;
- b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;
- c. Decision making and coping skills; and,
- d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

18A:6-135. Development, establishment of Response to Intervention framework.

a. The Commissioner of Education shall develop and establish an initiative to support and encourage the use of a Response to Intervention framework by school districts to promote the achievement of all students. The initiative shall include dissemination of information and guidance to school districts regarding the development and effective implementation of a Response to Intervention framework as a methodology to identify struggling learners, maximize student achievement, and reduce behavioral problems. The initiative shall also include dissemination of information and guidance to school districts regarding the effective use of a Response to Intervention framework as a methodology to identify students with specific learning disabilities in accordance with the "Individuals with Disabilities Education Act," 20 U.S.C. § 1400 et seq. The information and guidance provided to school districts shall make clear that a Response to Intervention framework is not a substitute for classification of a student as eligible for special education and related services if the student requires classification.

b. The commissioner shall ensure that a Response to Intervention framework implemented by a school district includes, at a minimum, the following elements:

- (1) high quality research-based instruction in the general education setting;
- (2) universal screening procedures to identify students at risk for poor learning outcomes or behavioral challenges;

(3) multiple levels of evidence-based interventions that are progressively more intense, based on the student's responsiveness; and

(4) continuous monitoring of student progress.

c. The commissioner shall make available technical assistance and training to assist school districts in the implementation of a Response to Intervention framework.

18A:37-2b. Early detection and prevention program.

A school district or charter school shall implement an early detection and prevention program to: identify students in preschool through grade two who are experiencing behavioral or disciplinary problems; and provide behavioral supports for these students, which may include, but need not be limited to, remediation of problem behaviors, positive reinforcements, supportive interventions, and referral services. An early detection and prevention program may be incorporated into the intervention and referral services required to be established in each school pursuant to State Board of Education regulations.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

18A:17-43.2. New Jersey School Safety Specialist Academy, Certification programs.

a. There is established in the Department of Education the New Jersey School Safety Specialist Academy. It shall be the purpose of the academy to serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The academy shall: provide, free of charge, ongoing professional development on national and State best practices, as well as the most current resources on school safety and security; assume a lead role in setting the vision for school safety and security in the State; and provide a coordinated and interdisciplinary approach to providing technical assistance and guidance to schools throughout the State.

b. The academy shall develop and implement a School Safety Specialist Certification Program. A school safety specialist appointed pursuant to section 2 [C.18A:17-43.3] of this act shall be required to acquire the certification. The certification program shall provide training, free of charge, to newly-appointed school safety specialists in the areas of bullying, hazing, truancy, Internet safety, emergency planning, emergency drills, drugs, weapons, gangs and school policing, and any other areas deemed necessary by the academy. The academy shall also offer annual training sessions for certified school safety specialists. The academy shall develop training modules in both traditional and online formats.

18A:17-43.3. Designation of school safety specialist.

The superintendent in each school district shall designate a school administrator, or a school employee with expertise in school safety and security, as a school safety specialist for the district. The school safety specialist shall: be responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district; ensure that these policies and procedures are in compliance with State law and regulations; and provide the necessary training and resources to school district staff in matters relating to school safety and security. The school safety specialist shall also serve as the school district liaison with local law enforcement and national, State, and community agencies and organizations in matters of school safety and security.

18A:36-5.1. "School Violence Awareness Week"; designated.

The week beginning with the third Monday in October of each year is designated as "School Violence Awareness Week" in the State of New Jersey. School districts shall observe this week by organizing

activities to prevent school violence including, but not limited to, age-appropriate opportunities for student discussion on conflict resolution, issues of student diversity, and tolerance. Law enforcement personnel shall be invited to join members of the teaching staff in the discussions. Programs shall also be provided for school board employees that are designed to help them recognize warning signs of school violence and to instruct them on recommended conduct during an incident of school violence. The Department of Education shall provide guidelines and information to boards of education for use in planning the activities in observance of the week and such funds as are

REGULATIONS

6A:16-1.1. Purpose.

The rules specify minimum standards for district boards of education in establishing policies and procedures and in operating programs to support the social, emotional, and physical development of students. Programs to support student development include school health services; physical examinations; intervention and referral services; programs of substance use prevention, intervention, and treatment referral; school safety and security; student discipline; reporting of potentially missing, abused, or neglected child situations; and home instruction and approved alternative education programs.

Included in the rules are standards for the delivery of home instruction and school health services to nonpublic schools.

6A:16-3.1. Establishment of comprehensive alcohol, tobacco and other drug abuse programs.

(a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment, and continuity of care for student alcohol, tobacco, and other drug abuse in the school district's public elementary and secondary schools, in accordance with N.J.S.A. 18A:40A-3, 10, and 15.

1. The purpose of the prevention component of the program shall be to:
 - i. Keep students from using alcohol, tobacco or other drugs;
 - ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;
 - iii. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;
 - iv. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;
 - v. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and
 - vi. Actively involve staff, students, parents, and other community members in the development and implementation of prevention program plans.
2. The purpose of the intervention, referral for evaluation, and referral for treatment components of the program shall be to:
 - i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;
 - ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;
 - iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment that extends beyond the general school program by virtue of the use of alcohol, tobacco, or other drugs by the student or the student's parents;

- iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco, or other drug treatment;
 - v. Help a student or a student's parents follow through on the recommendations resulting from an evaluation that has positively determined the harmful use of alcohol, tobacco, or other drugs by the student or the student's parents; and
 - vi. Assist a student or a student's parents with a referral for treatment.
3. The purpose of the continuity of care component of the program shall be to:
- i. Assist with the provision of educational programs and services for students in treatment; and
 - ii. Plan and provide supportive services for students who are returning from treatment.
4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco, and other drug abuse prevention and intervention, in accordance with N.J.S.A. 18A:40A-3 and 15.
- i. The in-service training shall be updated annually to ensure educational staff members have the most current information available on the subject of substance abuse and on the school district's comprehensive alcohol, tobacco, and other drug abuse program, policies, and procedures.
5. Student assistance coordinators employed by district boards of education shall assist school districts in the effective implementation of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9B-12.2.
6. When a student assistance coordinator is not employed or contracted by a district board of education, the board shall assign school staff with appropriate educational services certificates to perform the student assistance coordinator functions, pursuant to N.J.S.A. 18A:40A-18.c and (a)5 above, and to assist in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 17.
- i. The district board of education shall maintain documentation of school staff with appropriate educational services certificates who will perform the student assistance coordinator functions.
7. Each district board of education shall establish educational programs on alcohol, tobacco, and other drug abuse for parents, pursuant to N.J.S.A. 18A:40A-16 and 17(a), and offered at times and places convenient to the parents of enrolled students.
8. Each district board of education shall make and enforce rules to prohibit any person from smoking or carrying lighted tobacco at any time on school grounds or on school buses or other vehicles owned or contracted by the board of education, pursuant to P.L. 2009, c. 182, P.L. 2005, c. 383, N.J.A.C. 13:28- 6.14, and N.J.A.C. 8:6.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

- 1. The code of student conduct may be based on parent, student, and community involvement that represents, where possible, the composition of the school district's schools and community.
- 2. The district board of education shall establish a process for the annual review and update of the code of student conduct.
- 3. The code of student conduct shall be disseminated annually to all school staff, students and parents.
- 4. The district board of education shall provide to all district board of education employees annual training on the code of student conduct, including training on the prevention, intervention, and

remediation of student conduct that violates the district board of education's code of student conduct.

i. Information on the code of student conduct shall be incorporated into the orientation for new employees.

5. The district board of education shall provide for the code of student conduct's equitable application.

6. For students with disabilities subject to individualized education programs (IEPs) in accordance with 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act and accommodation plans under 29 U.S.C. §§ 794 and 705(20), the code of student conduct shall be implemented in accordance with the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety, and social and emotional well-being of students;
2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;
3. Promote achievement of high academic standards;
4. Prevent the occurrence of problem behaviors;
5. Establish parameters for the intervention and remediation of problem student behaviors at all stages of identification; and
6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of offenses, the developmental ages of student offenders and students' histories of inappropriate behaviors in accordance with N.J.A.C. 6A:16-7.2 through 7.8, as appropriate.

(c) The code of student conduct shall include, at a minimum:

1. A description of students' responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 12.1;
2. A description of behaviors that result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;
3. A description of students' rights to:
 - i. Advance notice of behaviors that result in suspensions and expulsions that have been identified pursuant to N.J.S.A. 18A:37-2;
 - ii. Education that supports students' development into productive citizens;
 - iii. Attendance in safe and secure school environments;
 - iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;
 - v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5;
 - vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8; and
 - vii. Protections pursuant to 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information;

N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education. The description of comprehensive behavioral supports may include:

- i. Positive reinforcement for good conduct and academic success;
- ii. Supportive interventions and referral services;
- iii. Remediation of problem behavior that takes into account the behavior's nature, the students' developmental ages, and the students' histories of problem behaviors and performance; and
- iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to N.J.A.C. 6A:14;

5. A description of school responses to violations of behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:

- i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
- ii. Be consistent with other responses, pursuant to N.J.A.C. 6A:16-5.5 through 5.7;
- iii. Provide for the equitable application of the code of student conduct without regard to race; color; religion; ancestry; national origin; nationality; sex; gender; sexual orientation; gender identity or expression; marital, domestic-partnership, or civil-union; mental, physical, or sensory disability; or any other distinguishing characteristic, pursuant to N.J.S.A. 10:5-1 et seq.; and
- iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;

6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7; and

7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) A district board of education may deny participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

18A:37-43. Ongoing professional development for teachers, staff.

A school district selected to participate in the pilot program shall provide ongoing professional development to teachers and other staff employed in the school in which the restorative justice model is being implemented on: how to understand, recognize, and respond to students and their families who are impacted by the effects of trauma and adverse childhood experiences; the adverse consequences of the exclusion of students from school and their involvement in the juvenile justice system; effective classroom management strategies; culturally responsive discipline; and developmentally appropriate disciplinary methods that promote a positive and healthy school climate.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

6A:16-8.1. Establishment of intervention and referral services.

(a) District boards of education shall establish and implement in each school building in which general education students are served a coordinated system for planning and delivering intervention and referral services designed to assist students who are experiencing learning, behavior, or health difficulties, and to assist staff who have difficulties in addressing students' learning, behavior, or health needs. District boards of education shall choose the appropriate multidisciplinary team approach for planning and delivering the services required under this subchapter.

1. The intervention and referral services shall be provided to aid students in the general education program; and
2. The intervention and referral services may be provided for students who have been determined to need special education programs and services.
 - i. The intervention and referral services provided for students determined to need special education programs and services shall be coordinated with the student's individualized education program team, as appropriate.

3. Child study team members and, to the extent appropriate, specialists in the area of disability may participate on intervention and referral services teams, pursuant to N.J.A.C. 6A:14-3.1(d)6.

6A:16-8.2. Functions of intervention and referral services.

(a) The functions of the system of intervention and referral services in each school building shall be to:

1. Identify learning, behavior and health difficulties of students;
2. Collect information on the identified learning, behavior, and health difficulties;
3. Develop and implement action plans that provide for appropriate school or community interventions or referrals to school and community resources, based on the collected data and desired outcomes for the identified learning, behavior, and health difficulties;
4. Provide support, guidance and professional development to school staff who identify learning, behavior and health difficulties;
5. Provide support, guidance and professional development to school staff who participate in each building's system for planning and providing intervention and referral services;
6. Actively involve parents or guardians in the development and implementation of intervention and referral services action plans;
7. Coordinate the access to and delivery of school resources and services for achieving outcomes identified in intervention and referral services action plans;
8. Coordinate the services of community-based social and health provider agencies and other community resources for achieving outcomes identified in intervention and referral services action plans;
9. Maintain records of all requests for assistance and all intervention and referral services action plans and all related student information, according to the requirements of 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student records and confidentiality.
10. Review and assess the effectiveness of each intervention and referral services action plan in achieving the identified outcomes, and modify each action plan to achieve the outcomes, as appropriate; and
11. At a minimum, annually review intervention and referral services action plans and the actions taken as a result of the building's system of intervention and referral services, and make recommendations to the principal for improving school programs and services, as appropriate.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

18A:17-46. Reporting of certain acts by school employee; report; public hearing.

Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence, vandalism, and harassment, intimidation, or bullying which occurred during the previous reporting period. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The information shall also be reported once during each reporting period to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to implement policies and programs consistent with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purposes of this section.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

Verification of the reports on violence, vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence, vandalism, and harassment, intimidation, or bullying.

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

- a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take

place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 [C.18A:40A-9] of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon

as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

REGULATIONS

6A:16-4.3. Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs.

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

1. Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds shall report the matter as soon as possible to the principal or, in his or her absence, to his or her designee and either the certified school nurse, noncertified nurse, school physician, or student assistance coordinator, pursuant to N.J.S.A. 18A:40A-12.
 - i. In instances where the principal and either the certified school nurse, non-certified nurse, school physician, or student assistance coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.
2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, including instances when a report is made to law enforcement, the principal or his or her designee shall:
 - i. Immediately notify the parent and the chief school administrator or his or her designee; and
 - ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.
3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol or other drugs, pursuant to (a)1 above.
 - i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of a controlled dangerous substance or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances.
4. The medical examination, pursuant to (a)2ii above, shall be performed by a physician licensed to practice medicine or osteopathy who is selected by the parent.

- i. The school district, in cooperation with medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical examination.
 - ii. The examination shall be at the expense of the parent and not the district board of education.
5. If the physician chosen by the parent is not immediately available, the medical examination shall be conducted by the school physician.
 - i. If the school physician is not available, the student shall be accompanied by a member of the school staff designated by the principal to the emergency room of the nearest hospital for examination.
 - ii. The student's parent, if available, also shall accompany the student.
 - iii. When the medical examination is conducted by the school physician or a physician at the emergency room of the nearest hospital, the examination shall be at the expense of the district board of education.
6. Each district board of education shall have a plan in place for the appropriate supervision of the student:
 - i. While waiting for a parent to take the student to the physician selected by the parent, or while the student is waiting for and receiving the medical examination by the school physician or a physician in an emergency room; and
 - ii. Provisions shall be made for the appropriate care of the student while awaiting the results of the medical examination.
7. A written report of the medical examination shall be furnished to the student's parent, the principal, and the chief school administrator by the examining physician within 24 hours of the referral of the student for suspected alcohol or other drug use.
 - i. The school district, in cooperation with the school physician or medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical report.
 - ii. The report's findings shall verify whether the student's alcohol or other drug use interferes with his or her physical and mental ability to perform in school.
8. When the medical examination is performed by a physician other than the school physician or a physician at the emergency room of the nearest hospital, the school district shall require the parent to verify within 24 hours of the notification that the student is suspected of alcohol or other drug use that a medical examination was performed in compliance with (a)7i above.
 - i. The verification shall include, at a minimum, the signature, printed name, address, and phone number of the examining physician, the date and time of the medical examination, and the date by which the report required in (a)7 above will be provided.
 - ii. Refusal or failure by a parent to comply with this requirement shall be treated as a policy violation and handled in accordance with (d) below.
9. If the written report of the medical examination is not submitted to the parent, principal, and chief school administrator within 24 hours of the referral of the student for suspected alcohol or other drug use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other drug use is received from the examining physician, unless the student was also removed for violating the code of student conduct.
10. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.
11. If there is a positive determination from the medical examination indicating the student's alcohol or other drug use interferes with his or her physical or mental ability to perform in school:
 - i. The student shall be returned as soon as possible to the care of a parent;

ii. Attendance at school shall not resume until a written report has been submitted to the parent, the principal and chief school administrator from a physician licensed to practice medicine or osteopathy who has examined the student to determine whether alcohol or other drug use interferes with his or her physical or mental ability to perform in school;

(1) The report shall verify that the student's alcohol or other drug use no longer interferes with his or her physical and mental ability to perform in school; and

iii. Removal of a student with a disability shall be made in accordance with N.J.A.C. 6A:14.

12. While the student is at home because of the medical examination or after the student returns to school, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall:

i. Conduct an alcohol and other drug assessment of the student and a reasonable investigation of the situation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse, for the purpose of making a preliminary determination of the student's need for educational programs, supportive services, or treatment that extend beyond the general school program by virtue of the student's use of alcohol or other drugs.

(1) The findings of the assessment alone shall not be used to prevent a student from attending school; and

ii. Cooperate with community agencies as defined in N.J.A.C. 6A:16-4.1(b) and juvenile justice officials in providing evaluation, referral and continuity of care for alcohol or other drug abuse treatment.

13. While the student is at home because of the medical examination or after his or her return to school, the principal or chief school administrator may recommend or require alcohol and other drug assessment of the student or evaluation by appropriately certified or licensed professionals to make a positive determination of a student's need for programs and services that extend beyond the general school program, as necessary.

i. The findings of additional evaluations alone shall not be used to prevent a student from attending school.

14. If at any time it is determined that the student's use of alcohol or other drugs presents a danger to the student's health and well-being, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse treatment referral shall initiate a referral for alcohol or other drug abuse treatment.

15. The district board of education may provide additional intervention and referral services for the student according to N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-8.

(b) In instances involving the suspected use of anabolic steroids, the following shall apply according to N.J.S.A. 18A:40A-12(b):

1. Whenever a teaching staff member, certified or non-certified school nurse, or other educational personnel has reason to believe that a student has used or may be using anabolic steroids, the person shall report the matter as soon as possible to the principal or, in his or her absence, to his or her designee and either the certified or non-certified school nurse, school physician, or student assistance coordinator.

2. In response to a report of suspected anabolic steroid use pursuant to (b)1 above, including instances when a report is made to law enforcement, the principal or his or her designee shall immediately notify the parent and the chief school administrator and shall arrange for an examination of the student by a physician licensed to practice medicine or osteopathy selected by the parent.

- i. If the physician chosen by the parent is not available to perform the examination, it shall be conducted by the school physician or other physician identified by the principal.
- ii. The student shall be examined as soon as possible for the purpose of determining whether he or she has been using anabolic steroids.

3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to have used or to be using anabolic steroids, pursuant to (b)1 above.

- i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of anabolic steroids or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities involving anabolic steroids.

4. The examining physician shall provide to the parent, principal, and chief school administrator a written report of the examination.

5. If it is determined the student has used anabolic steroids, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall interview the student and others, as necessary, for the purpose of determining the extent of the student's involvement with and use of anabolic steroids and the possible need for referral for treatment.

- i. To make this determination, school staff members identified in (b)5 above may conduct a reasonable investigation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse.

6. If results of a referral for evaluation positively determine the student's involvement with and use of anabolic steroids represents a danger to the student's health and well-being, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies, as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.

(c) Any educational or non-educational district board of education employee who in good faith reports to the principal or his or her designee a student in compliance with the provisions of this subsection shall not be liable in civil damages as a result of making a report, as specified in N.J.S.A. 18A:40A-13 and 14.

(d) Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated as a policy violation of the Compulsory Education Act, pursuant to N.J.S.A. 18A:38-25 and 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11.

6A:16-5.3. Incident reporting of violence, vandalism and alcohol and other drug abuse.

(a) For purposes of reporting information to the Department, pursuant to N.J.S.A. 18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying, or the possession or distribution of alcohol or other

drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12, shall file with the principal a report describing the incident.

1. The report shall be on a form adopted for such purposes by the district board of education.

i. The form shall include all information necessary for complete, accurate reporting on the Electronic Violence and Vandalism Reporting System (EVRVS) and verification of the incident detail, including an incident description, and offender and victim information.

(b) The district board of education shall not discharge or subject to any manner of discrimination a school employee who files a report pursuant to this section.

(c) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence, including harassment, intimidation, and bullying, and vandalism pursuant to N.J.S.A. 18A:17-46.

1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe the safety of a school staff member is at risk.

(d) The chief school administrator shall:

1. Submit to the Commissioner reports of each incident of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses, pursuant to N.J.A.C. 6A:16-4.3, in the school district utilizing the EVVRS.

i. The reports shall be submitted twice each school year, once for all incidents occurring between September 1 and January 1 and once for all incidents occurring between January 1 and June 30, and shall include, at a minimum, all information pursuant to N.J.S.A. 18A:17-46.

ii. Prior to submission, the chief school administrator shall verify the accuracy of the reported information.

iii. The grade regarding the harassment, intimidation, and bullying efforts of each school and each school district shall be posted on the homepage of the school district's website, in accordance with the guidelines promulgated by the Commissioner pursuant to N.J.S.A. 18A:17-46.

2. Provide for annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.

(e) Twice each school year, once between September 1 and January 1 and once between January 1 and June 30, the chief school administrator shall report to the district board of education at a public hearing all acts of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses that occurred during the previous reporting period, according to the provisions of N.J.S.A. 18A:17-46.

(f) Each district board of education shall adopt and implement procedures regarding a school employee who knowingly falsifies reported information on acts of violence or vandalism or any incident included in the annual report on violence and vandalism required under N.J.S.A. 18A:17-46, including the establishment of grievance procedures of section 8 of N.J.S.A. 34:13A-5.3 and 34:13A-29.

(g) Private schools for the disabled and public-college-operated programs for the disabled shall take action regarding a school employee who knowingly falsifies the reporting of violence, including harassment, intimidation, and bullying, vandalism, and alcohol or other drug abuse required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth in (f) above.

(h) Each district board of education shall submit and implement a corrective action plan for high incidences of violence, vandalism, or alcohol or other drug abuse upon notification by the Commissioner.

6A:16-5.7. Assaults on district board of education members or employees.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school board employee, or district board of education member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

(b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the student's parent of the removal action and the student's due process rights; and
5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

(e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

(f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(a) Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.
3. The chief school administrator or designee, however, shall not disclose the identity of a student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug-distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, or to be involved or implicated in drug distribution activities.

5. Law enforcement authorities shall not be notified of the findings if a student's alcohol or other drug test, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i, and (a)4 above, was obtained as a result of the district board of education's voluntary random drug testing policy, pursuant to N.J.S.A. 18A:40A-22 et seq. and N.J.A.C. 6A:16-4.4.

(b) Whenever a school employee develops reason to believe a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds or a student or other person is in unlawful possession of a firearm or other deadly weapon on or off school grounds, or a student or other person has committed an offense with or while in possession of a firearm on or off school grounds or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined in (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of his or her employment develops reason to believe a student has threatened, is planning or otherwise intends to cause death, serious bodily injury, or significant bodily injury to another person under circumstances in which a reasonable person would believe the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

(d) The designated school official, as defined in (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of his or her employment develops reason to believe a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the principal and chief school administrator when in the course of their employment they develop reason to believe a bias-related act has been committed or is about to be committed on school grounds, or has been or is about to be committed by a student on or off school grounds, and whether such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a bias-related act on or off school grounds, or during operating school hours.

1. The designated school official, as defined in (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described in (e) above.
2. The designated school official, as defined in (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe a bias-related act that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

6A:16-6.4. Handling of alcohol or other drugs, firearms and other items.

(a) A school employee who seizes or discovers alcohol, other drug, or an item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over to the principal or designee the alcohol, other drug, or item.

1. The principal or designee shall immediately notify the chief school administrator or his or her designee who in turn shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
2. The school employee, principal or designee shall safeguard the alcohol, other drug or paraphernalia against further use or destruction and shall secure the alcohol, other drug or paraphernalia until it can be turned over to the county prosecutor or designee.
3. The principal or designee shall provide to the county prosecutor or his or her designee all information concerning the manner in which the alcohol, other drug, or paraphernalia was discovered or seized, including:
 - i. The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and
 - ii. The identity of the student or staff member believed to have been in possession of the substance or paraphernalia.
4. The principal or designee shall not disclose the identity of a student or staff member who voluntarily and on his or her own initiative turned over the alcohol, other drug or paraphernalia to a school employee, provided there is reason to believe the student or staff member was involved with the alcohol, other drug or paraphernalia for the purpose of personal use and not distribution activities, and further provided the student or staff member agrees to participate in an appropriate treatment or counseling program.
 - i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall not constitute a voluntary, self-initiated request for counseling and treatment.

(b) Whenever a school employee seizes or comes upon a firearm or dangerous weapon, school officials shall:

1. In the case of a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the firearm pending the response by law enforcement to retrieve and take custody of the firearm; and
2. In the case of a dangerous weapon other than a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the dangerous weapon pending the response by law enforcement to retrieve and take custody of the dangerous weapon.

(c) School employees in custody of a firearm or dangerous weapon shall take reasonable precautions, according to district board of education procedures, to prevent the theft, destruction, or unlawful use of the firearm or dangerous weapon by any person.

Parental Notification

LAWS

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

- a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.
- b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

All acts of harassment, intimidation, or bullying shall be reported verbally to the school principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. The principal shall inform the parents or guardians of all students involved in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. All acts of harassment, intimidation, or bullying shall be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying.

18A:38-29. Warning and arrest of vagrants or habitual truants.

The attendance officer shall examine into all violations of this article, shall warn any child violating any of the provisions of this article and the parent, guardian or other person having charge and control of the child of the consequences of the violation if persisted in, and shall notify such person in writing to cause the child to attend school within five days from the date on which notice is served, and regularly thereafter. The attendance officer shall have full police power to enforce the provisions of this article and may arrest without warrant any vagrant child or habitual truant or any child who is habitually incorrigible or who is vicious or immoral in conduct or illegally absent from school.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

- a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 [C.18A:40A-9] of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as

possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

REGULATIONS

6A:16-4.3. Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs.

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, including instances when a report is made to law enforcement, the principal or his or her designee shall:

i. Immediately notify the parent and the chief school administrator or his or her designee.

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12. The policies and procedures shall apply to a student who is:

1. Convicted or adjudicated delinquent for possession of a firearm on school grounds;
2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
3. Found knowingly in possession of a firearm on school grounds.

(b) Each district board of education shall immediately remove from the school's general education program for a period of not less than one calendar year a student other than a student with a disability, as set forth in (a) above.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
 - i. The chief school administrator shall develop and maintain a written record of case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner upon request.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student. [...]

(d) The principal or his or her designee shall:

5. Notify the student's parent of the following information:
 - i. The removal action;
 - ii. The law enforcement notification;
 - iii. The change of custody, if it occurs; and
 - iv. A general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a student with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

6A:16-5.6. Removal of students for assaults with weapons offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, upon a teacher, administrator, other school board employee, district board of education member, or another student on school grounds, pursuant to N.J.S.A. 18A:37-2.2 through 2.5.

(b) A student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) through (c) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;

3. Immediately report to the chief school administrator the removal of the student;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
 - i. The removal action;
 - ii. The law enforcement notification;
 - iii. The change of custody, if it occurs; and
 - iv. A general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.5 or a student with a disability's due process rights, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

6A:16-5.7. Assaults on district board of education members or employees.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school board employee, or district board of education member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

(b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the student's parent of the removal action and the student's due process rights; and
5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

(e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

(f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and other law enforcement officials as may be designated by the county prosecutor;
2. Reviewed and approved by the executive county superintendent;

3. Made available annually to all school staff, students and parents;
4. Consistent with reporting, notification, and examination procedures of students suspected of being under the influence of alcohol and other drugs pursuant to N.J.A.C. 6A:16-4.3; and
5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. Designation by the chief school administrator of liaisons to law enforcement agencies and the description of the liaisons' roles and responsibilities;
2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests;
3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children consistent with the following:
 - i. School officials shall not notify the student's parent(s) in instances of suspected child abuse or neglect;
 - ii. School officials shall notify the student's parent(s) when the student is the target of the law enforcement investigation; and
 - iii. In all other instances, school authorities shall permit law enforcement authorities to determine whether or when a student's parent should be contacted; [...]
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds. [...]

(c) The code of student conduct shall include, at a minimum:

3. A description of students' rights to:
 - vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8.

6A:16-7.6. Attendance.

(a) Each district board of education shall develop, adopt, and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 12.1, at the public schools of the school district or at day schools in which students are provided with equivalent instruction, pursuant to N.J.S.A. 18A:38-25. The policies and procedures shall include, at a minimum:

4. School staff responses for unexcused absences:

- i. For up to four cumulative unexcused absences, the school district shall:
 - (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
 - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;
 - (3) Identify in consultation with the student's parents needed action designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance; [...]

- ii. For between five and nine cumulative unexcused absences, the school district shall:
 - (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
 - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

18A:7E-3. Report card information.

Report cards issued pursuant to section 2 [C.18A:7E-2] of this act shall include, but not be limited to, the following information for:

- a. the school district and for each school within the district, as appropriate:
 - (1) results of the elementary assessment programs;
 - (2) results of the Early Warning Test;
 - (3) results of the High School Proficiency Test;
 - (4) daily attendance records for students and professional staff;
 - (5) student graduation and dropout rates;
 - (6) annual student scores on the Scholastic Aptitude Test;
 - (7) total student enrollment, percentage of limited English proficient students, percentage of students in advanced placement courses, and any other school characteristics which the commissioner deems appropriate;
 - (8) instructional resources including teacher/student ratio, average class size and amount of instructional time per day, as calculated by formulas specified by the commissioner;
 - (9) a written narrative by the school principal or a designee which describes any special achievements, events, problems or initiatives of the school or district;
 - (10) data identifying the number and nature of all reports of harassment, intimidation, or bullying;
 - (11) indicators of student career readiness;
 - (12) the number and percentage of students who were chronically absent, as defined in rules and regulations promulgated by the Commissioner of Education within 90 days of the effective date of P.L.2018, c.23 (C.18A:38-25.1 et al.), including the number and percentage of students who were chronically absent disaggregated by multiple student subgroups to be determined by the commissioner; and
 - (13) the number and percentage of students who received a disciplinary suspension; and
- b. the school district, as appropriate:
 - (1) per pupil expenditures and State aid ratio;
 - (2) percent of budget allocated for salaries and benefits of administrative personnel;
 - (3) percent of budget allocated for salaries and benefits of teachers;
 - (4) percentage increase over the previous year for salaries and benefits of administrative and instructional personnel;
 - (5) the number of administrative personnel and the ratio of administrative personnel to instructional personnel;

(6) a profile of the most recent graduating class concerning their educational or employment plans following graduation; and

(7) any other information which the commissioner deems appropriate.

18A:17-48. Annual report to Legislature.

The Commissioner of Education shall each year submit a report to the Education Committees of the Senate and General Assembly detailing the extent of violence, vandalism, and harassment, intimidation, or bullying in the public schools and making recommendations to alleviate the problem. The report shall be made available annually to the public no later than October 1, and shall be posted on the department's website.

18A:37-45. Report.

Each school district shall prepare and submit to the commissioner a report on its experience with and the effects of the pilot program. The report shall include, to the greatest extent feasible, quantifiable measures of the program impact including, but not limited to, the number of faculty trainings on restorative justice practices and the use of a trauma-informed approach, discipline rates, absenteeism rates, and academic performance indicators.

18A:37-47. Report to Governor, Legislature.

At the conclusion of the pilot program, the commissioner shall submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature. The report shall contain information on the implementation of the pilot program and shall include the commissioner's recommendation on the feasibility of expanding the program to other school districts in the State. The report shall also include copies of the reports submitted to the commissioner by the pilot school districts pursuant to section 8 [C.18A:37-45] of this act.

REGULATIONS

6A:16-4.2. Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse.

(a) Each district board of education shall establish a process for the annual review of the effectiveness of its policies and procedures regarding student alcohol and other drug abuse. The district board of education may solicit parent, student, and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.

(b) Each district board of education shall annually disseminate to all school staff, students and parents through its website or other means its adopted policies and procedures for implementing N.J.A.C.

6A:16- 4.

6A:16-5.3. Incident reporting of violence, vandalism and alcohol and other drug abuse.

(a) For purposes of reporting information to the Department, pursuant to N.J.S.A. 18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying, or the possession or distribution of alcohol or other drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12, shall file with the principal a report describing the incident.

1. The report shall be on a form adopted for such purposes by the district board of education.

i. The form shall include all information necessary for complete, accurate reporting on the Electronic Violence and Vandalism Reporting System (EVVRS) and verification of the incident detail, including an incident description, and offender and victim information.

(b) The district board of education shall not discharge or subject to any manner of discrimination a school employee who files a report pursuant to this section.

(c) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence, including harassment, intimidation, and bullying, and vandalism pursuant to N.J.S.A. 18A:17-46.

1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe the safety of a school staff member is at risk.

(d) The chief school administrator shall:

1. Submit to the Commissioner reports of each incident of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses, pursuant to N.J.A.C. 6A:16-4.3, in the school district utilizing the EVVRS.

i. The reports shall be submitted twice each school year, once for all incidents occurring between September 1 and January 1 and once for all incidents occurring between January 1 and June 30, and shall include, at a minimum, all information pursuant to N.J.S.A. 18A:17-46.

ii. Prior to submission, the chief school administrator shall verify the accuracy of the reported information.

iii. The grade regarding the harassment, intimidation, and bullying efforts of each school and each school district shall be posted on the homepage of the school district's website, in accordance with the guidelines promulgated by the Commissioner pursuant to N.J.S.A. 18A:17-46.

2. Provide for annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.

(e) Twice each school year, once between September 1 and January 1 and once between January 1 and June 30, the chief school administrator shall report to the district board of education at a public hearing all acts of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses that occurred during the previous reporting period, according to the provisions of N.J.S.A. 18A:17-46.

(f) Each district board of education shall adopt and implement procedures regarding a school employee who knowingly falsifies reported information on acts of violence or vandalism or any incident included in the annual report on violence and vandalism required under N.J.S.A. 18A:17-46, including the establishment of grievance procedures of section 8 of N.J.S.A. 34:13A-5.3 and 34:13A-29.

(g) Private schools for the disabled and public-college-operated programs for the disabled shall take action regarding a school employee who knowingly falsifies the reporting of violence, including harassment, intimidation, and bullying, vandalism, and alcohol or other drug abuse required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth in (f) above.

(h) Each district board of education shall submit and implement a corrective action plan for high incidences of violence, vandalism, or alcohol or other drug abuse upon notification by the Commissioner.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.

1. The code of student conduct may be based on parent, student, and community involvement that represents, where possible, the composition of the school district's schools and community.

2. The district board of education shall establish a process for the annual review and update of the code of student conduct.
3. The code of student conduct shall be disseminated annually to all school staff, students and parents.
4. The district board of education shall provide to all district board of education employees annual training on the code of student conduct, including training on the prevention, intervention, and remediation of student conduct that violates the district board of education's code of student conduct.
 - i. Information on the code of student conduct shall be incorporated into the orientation for new employees.
5. The district board of education shall provide for the code of student conduct's equitable application.
6. For students with disabilities subject to individualized education programs (IEPs) in accordance with 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act and accommodation plans under 29 U.S.C. §§ 794 and 705(20), the code of student conduct shall be implemented in accordance with the applicable plans.

6A:16-7.7. Harassment, intimidation, and bullying.

(e) The district board of education shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives of the district board of education and implement training programs for school employees and volunteers who have significant contact with students, consistent with N.J.S.A. 18A:37-17.b.
 - i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.
 - ii. Information regarding the district board of education's policy against harassment, intimidation, and bullying shall be incorporated into the school district's employee training program.
 - (1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students and persons contracted by the school district to provide services to students;
2. Develop a process for annually discussing with students the school district's harassment, intimidation, and bullying policy;
3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The district board of education also shall make any necessary revision(s) to its policy, consistent with N.J.S.A. 18A:37-15.c.
 - i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators;
4. Annually establish, implement, document, and assess bullying prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in schools of the school district.
 - i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators; and
5. Submit to the executive county superintendent a copy of its approved harassment, intimidation, and bullying policy within 30 days of its adoption or revision.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

2A:4A-71.1. Diversionary programs for certain juveniles.

a. Where a complaint against a juvenile pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) alleges that the juvenile has committed an eligible offense as defined in subsection c. of this section and the court has approved diversion of the complaint pursuant to section 4 of P.L.1982, c.81 (C.2A:4A-73), the resolution of the complaint shall include the juvenile's participation in a remedial education or counseling program. The parents or guardian of the juvenile shall bear the cost of participation in the program, except that the court shall take into consideration the ability of the juvenile's parents or guardian to pay and the availability of such a program in the area in which the juvenile resides and, where appropriate, may permit the juvenile to participate in a self-guided awareness program in lieu of a remedial education or counseling program provided that it satisfies the requirements of subsection b. of this section.

b. A remedial education or counseling program satisfies the requirements of this act if the program is designed to increase the juvenile's awareness of:

(1) the legal consequences and penalties for sharing sexually suggestive or explicit materials, including applicable federal and State statutes;

(2) the non-legal consequences of sharing sexually suggestive or explicit materials including, but not limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities;

(3) the potential, based upon the unique characteristics of cyberspace and the Internet, of long-term and unforeseen consequences for sharing sexually suggestive or explicit materials; and

(4) the possible connection between bullying and cyber-bullying and juveniles sharing sexually suggestive or explicit materials.

c. As used in this act, "eligible offense" means an offense in which:

(1) the facts of the case involve the creation, exhibition or distribution of a photograph depicting nudity or portraying a child in a sexually suggestive manner, as defined in N.J.S.2C:24-4, through the use of an electronic communication device, an interactive wireless communications device, or a computer; and

(2) the creator and subject of the photograph are juveniles or were juveniles at the time of its making.

2C:39-5. Unlawful possession of weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the second degree.

b. Handguns.

(1) Any person who knowingly has in his possession any handgun, including any antique handgun, without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the second degree.

c. If the handgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person it is a crime of the third degree. Rifles and shotguns.

(1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

(2) Unless otherwise permitted by law, any person who knowingly has in his possession any loaded rifle or shotgun is guilty of a crime of the third degree.

d. Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

e. Firearms or other weapons in educational institutions.

(1) Any person who knowingly has in his possession any firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, is guilty of a crime of the third degree, irrespective of whether he possesses a valid permit to carry the firearm or a valid firearms purchaser identification card.

(2) Any person who knowingly possesses any weapon enumerated in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any components which can readily be assembled into a firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other weapon under circumstances not manifestly appropriate for such lawful use as it may have, while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution is guilty of a crime of the fourth degree.

(3) Any person who knowingly has in his possession any imitation firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, or while on any school bus is a disorderly person, irrespective of whether he possesses a valid permit to carry a firearm or a valid firearms purchaser identification card.

f. Assault firearms. Any person who knowingly has in his possession an assault firearm is guilty of a crime of the second degree except if the assault firearm is licensed pursuant to N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12); or rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13).

g. (1) The temporary possession of a handgun, rifle or shotgun by a person receiving, possessing, carrying or using the handgun, rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1) shall not be considered unlawful possession under the provisions of subsection b. or c. of this section.

(2) The temporary possession of a firearm by a person receiving, possessing, carrying or using the firearm under the provisions of section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered unlawful possession under the provisions of this section.

h. A person who is convicted of a crime under subsection a., b., f. or j. of this section shall be ineligible for participation in any program of intensive supervision; provided, however, that this provision shall not apply to a crime under subsection b. involving only a handgun which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

i. A person convicted of violating subsection a., b. or f. of this section shall be sentenced by the court to a term of imprisonment, which shall include the imposition of a minimum term during which the defendant shall be ineligible for parole, if the court finds that the aggravating circumstance set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies. The minimum term of parole ineligibility shall be fixed at five

years. The sentencing court shall make a finding on the record as to whether the aggravating circumstance set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, and the court shall presume that there is a substantial likelihood that the defendant is involved in organized criminal activity if there is a substantial likelihood that the defendant is a member of an organization or group that engages in criminal activity. The prosecution at the sentencing hearing shall have the initial burden of producing evidence or information concerning the defendant's membership in such an organization or group.

j. A violation of subsection a., b., c. or f. of this section by a person who has a prior conviction of any of the crimes enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) is a first degree crime.

18A:17-42. Preamble; purpose of article.

The legislature finds that the safety and welfare of the public school students of this state while attending sessions of the public schools is a matter of prime concern to the citizens of this state; that, in several isolated instances throughout this state, unlawful intruders into the public schools have subjected public school students and their teachers to physical and verbal attacks during sessions of the public schools and on the property of said public schools; that such attacks might have been prevented, and similar attacks will be prevented, if public school law enforcement officers are stationed in said schools; and that state aid to local boards is necessary to help such boards bear the cost of employing and stationing public school law enforcement officers.

18A:17-43. Employment of law enforcement officers.

(a) The commissioner may, in accordance with rules and regulations promulgated pursuant to this article and upon a finding of need therefor, authorize any board of education to employ, subject to the provisions of Title 11, Civil Service, of the Revised Statutes, one or more public school law enforcement officers, and to station such public school law enforcement officers in public schools of this state during hours when said public schools are normally in session or are occupied by public school students or their teachers.

(b) No such public school law enforcement officer shall be employed, except upon the application of a board of education and with the approval of the county superintendent.

18A:37-2.3. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:37-6. Rules and regulations.

The State Board of Education, in consultation and cooperation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations regarding law enforcement activities on school grounds and the reporting of suspected offenses and acts of delinquency to law enforcement.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:40A-18. Employment of student assistance coordinators in certain school districts.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act [C.18A:40A-8 et seq.], the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention, and treatment referral services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban, and rural districts from the north, central, and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers, and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

18A:41-9. Access to school surveillance equipment by law enforcement authorities.

a. If at least one school building of a school district is equipped with video surveillance equipment that is capable of streaming live video wirelessly to a remote location, the board of education shall enter into a memorandum of understanding with local law enforcement authorities providing the authorities with the capacity to activate the equipment and view live streaming video. The memorandum of understanding shall include, but need not be limited to, the following:

- (1) the designation of individuals who shall be authorized to view live streaming video;
- (2) the circumstances under which the designated individuals would view live streaming video; and

- (3) a detailed plan for preventing and detecting unauthorized access to live streaming video.
- b. In the case of a school building that is located in a municipality in which there is no municipal police department, the board shall enter into a memorandum of understanding with an entity designated by the Superintendent of the State Police.
- c. In the event that the parties to the memorandum of understanding are unable to reach an agreement regarding any provision required to be included pursuant to subsection a. of this section, the county prosecutor shall make the final determination regarding that provision.
- d. A board shall enter into the memorandum of understanding no later than 180 days following the effective date of this act.
- e. Nothing in this section shall be construed as to require the installation of video surveillance equipment capable of streaming live video wirelessly to a remote site.

18A:58-37.10. Provision of security services.

A board of education of a school district in which a nonpublic school is located shall within the limit of funds appropriated or otherwise made available, adopt policies and procedures to provide the students who are enrolled full-time in the nonpublic school with security services, equipment, or technology to help ensure a safe and secure school environment.

18A:58-37.11. Annual conference.

a. The superintendent of schools of each school district in which a nonpublic school is located shall confer annually with the chief school administrator of each of the nonpublic schools to:

- (1) advise the nonpublic school of the limit of funds available pursuant to this act [C.18A:58-37.8 et seq.];
- (2) agree upon the security services, equipment, or technology to be provided to the students of the nonpublic school, within the limit of the funds that are available; and
- (3) agree on the date when the board of education will meet to approve how the security services, equipment, or technology will be provided to the students of the nonpublic school.

b. In the event that the superintendent of schools and the chief school administrator of the nonpublic school are unable to agree regarding the security services, equipment, or technology to be provided for a safe and secure school environment, the executive county superintendent shall be consulted to determine the security services, equipment, or technology to be provided. The decision of the executive county superintendent shall be final.

18A:58-37.14. Rules pursuant to the "Administrative Procedure Act".

The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act [C.18A:58-37.8 et seq.] in a manner that comports with the provisions of the State and federal Constitutions, including a list of allowable expenditures for security services, equipment, or technology to ensure a safe and secure school environment for nonpublic school students.

40A:14-146.8. Short title.

This act shall be known and may be cited as the "Special Law Enforcement Officers' Act."

40A:14-146.9. Definitions.

As used in this act [C.40A:14-146.8 et seq.]:

- a. "Commission" means the Police Training Commission established in the Department of Law and Public Safety pursuant to section 5 of P.L.1961, c.56 (C.52:17B-70);
- b. "Emergency" means any sudden, unexpected or unforeseeable event requiring the immediate use or deployment of law enforcement personnel as shall be determined by the chief of police, or in the

absence of the chief, other chief law enforcement officer or the mayor or the mayor's designee or, in the case of a county, the county executive or freeholder director or designee, as appropriate, to whom the authority of designating an "emergency" has been prescribed by local ordinance or resolution, as appropriate. Vacations, shortages in police personnel caused by vacancies unfilled by the appointing authority for more than 60 days, or any other condition which could reasonably have been anticipated or foreseen shall not constitute an "emergency" for the purposes of this act; but an "emergency" may continue for the purposes of this act when a vacancy remains unfilled for more than 60 days and when, on application of the appointing authority, the county prosecutor grants an extension for one or more additional 60-day periods upon a showing by the appointing authority of a diligent, good faith effort to fill the vacancy;

c. "Local unit" means any municipality or county having established a regular police force pursuant to law;

d. "Population" means the population of the resort municipality shown in the last federal decennial census;

e. "Public entity" means the State and any county, municipality, district, public authority, public agency and any other political subdivision or public body in the State;

f. "Resort municipality" means a municipality which, because of its recreational or entertainment characteristics or facilities or its close proximity to such characteristics or facilities, experiences a substantial increase during the seasonal period in the number of persons visiting or temporarily residing there;

g. "Seasonal period" means any one period of four consecutive months during the calendar year, except with regard to a resort municipality bordering on the Atlantic ocean, in which case, "seasonal period" means one period of six consecutive months during the calendar year;

h. "Special law enforcement officer" means any person appointed pursuant to this act to temporarily or intermittently perform duties similar to those performed regularly by members of a police force of a local unit, or to provide assistance to a police force during unusual or emergency circumstances, or at individual times or during regular seasonal periods in resort municipalities; and

i. "County college" means an educational institution established or to be established by one or more counties, offering programs of instruction, extending not more than two years beyond the high school, which may include but need not be limited to specialized or comprehensive curriculums, including college credit transfer courses, terminal courses in the liberal arts and sciences, and technical institute type programs; the term shall include a county vocational school.

40A:14-146.11. Training; classifications.

a. A person shall not commence the duties of a special law enforcement officer unless the person has successfully completed a training course approved by the commission and a special law enforcement officer shall not be issued a firearm unless the officer has successfully completed the basic firearms course approved by the commission for permanent, regularly appointed police and annual requalification examinations as required by subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14). There shall be three classifications for special police officers. The commission shall prescribe by rule or regulation the training standards to be established for each classification. Training may be in a commission approved academy or in any other training program which the commission may determine appropriate. The classifications shall be based upon the duties to be performed by the special law enforcement officer as follows:

(1) Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control, and similar duties. If authorized by ordinance or resolution, as appropriate, Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances, and violations of Title 39 of the Revised Statutes. The use

of a firearm by an officer of this class shall be strictly prohibited and a Class One officer shall not be assigned any duties which may require the carrying or use of a firearm.

(2) Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the commission.

(3) Class Three. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer while providing security at a public or nonpublic school or a county college on the school or college premises during hours when the public or nonpublic school or county college is normally in session or when it is occupied by public or nonpublic school or county college students or their teachers or professors. While on duty in the jurisdiction of employment, an officer may respond to offenses or emergencies off school or college grounds if they occur in the officer's presence while traveling to a school facility or county college, but an officer shall not otherwise be dispatched or dedicated to any assignment off school or college property.

The use of a firearm by an officer of this class shall be authorized pursuant to the provisions of subsection

b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14). An officer of this class shall not be authorized to carry a firearm while off duty unless the officer complies with the requirements set forth in subsection l. of N.J.S.2C:39-6 authorizing a retired law enforcement officer to carry a handgun.

b. The commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that the person has successfully completed a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of this act.

c. The commission shall certify officers who have satisfactorily completed training programs and issue appropriate certificates to those officers. The certificate shall clearly state the category of certification for which the officer has been certified by the commission.

d. All special law enforcement officers appointed and in service on the effective date of this act may continue in service if within 24 months of the effective date of this act they will have completed all training and certification requirements of this act.

40A:14-146.12. Uniforms.

Every special law enforcement officer prior to the commencement of his duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the local unit in which the officer is employed. The uniform shall also include an insignia issued by the commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued pursuant to section 4 of this act. Within six months following the effective date of this act the commission shall issue the insignia. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia. Nothing in this section shall preclude the designation on an insignia to read either "special police" or "special law enforcement officer."

40A:14-146.13. Fees.

a. Except as specified in subsection b. of this section, a local unit may charge a reasonable fee as may be fixed by the governing body for equipment and uniforms supplied pursuant to this act, but may not charge a fee for the costs of training or issuing a certificate of appointment. The local unit shall not be required to compensate a special law enforcement officer for time spent in training;

b. In addition to charging a reasonable fee as fixed by the governing body for equipment and uniforms supplied pursuant to this act, a local unit with a population in excess of 300,000, according to the 1980 federal decennial census, may charge a fee for the costs of training and for the administrative costs of issuing a certificate of appointment for a special law enforcement officer whose duties consist solely of performing public safety functions for a private employer.

40A:14-146.14. Special law enforcement officers, appointment, terms, regulations.

a. Special law enforcement officers may be appointed for terms not to exceed one year, and the appointments may be revoked by the local unit for cause after adequate hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the local unit, and their powers and duties as determined pursuant to this act shall cease at the expiration of the term for which they were appointed.

b. A special law enforcement officer shall not carry a firearm except while engaged in the actual performance of the officer's official duties and when specifically authorized by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit to carry a firearm and provided that the officer has satisfactorily completed the basic firearms course required by the commission for regular police officers and annual requalification examinations as required for permanent, regularly appointed full-time officers in the local unit.

A special law enforcement officer shall be deemed to be on duty only while the officer is performing the public safety functions on behalf of the local unit pursuant to this act and when the officer is receiving compensation, if any, from the local unit at the rates or stipends as shall be established by ordinance. A special law enforcement officer shall not be deemed to be on duty for purposes of this act while performing private security duties for private employers, which duties are not assigned by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit, or while receiving compensation for those duties from a private employer. A special law enforcement officer may, however, be assigned by the chief of police or, in the absence of the chief, other chief law enforcement officer, to perform public safety functions for a private entity if the chief of police or other chief law enforcement officer supervises the performance of the public safety functions. If the chief of police or other chief law enforcement officer assigns the public safety duties and supervises the performance of those duties, then, notwithstanding that the local unit is reimbursed for the cost of assigning a special law enforcement officer at a private entity, the special law enforcement officer shall be deemed to be on duty.

The reimbursement for the duties of a special law enforcement officer, which is made to a municipality with a population in excess of 300,000, according to the 1980 federal decennial census, may be by direct payments from the employer to the special law enforcement officer, provided that records of the hours worked are forwarded to and maintained by the chief of police or other chief law enforcement officer responsible for assigning the special law enforcement officer those public safety duties.

Any firearm utilized by a special law enforcement officer shall be returned at the end of the officer's workday to the officer in charge of the station house, unless the firearm is owned by the special law enforcement officer and was acquired in compliance with a condition of employment established by the local unit. Any special law enforcement officer first appointed after the effective date of this act shall only use a firearm supplied by the local unit. A special law enforcement officer shall not carry a revolver or other similar weapon when off duty; but if any special law enforcement officer appointed by the governing body of any municipality having a population in excess of 300,000, according to the 1980 federal census, who is a resident of the municipality and is employed as a special law enforcement officer at least 35 hours per week, or less at the discretion of the chief of police and mayor, shall, at the direction of the chief of police, have taken and successfully completed a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and

has successfully completed within three years of the effective date of P.L.1985, c.45 or three years of the date of appointment of the special law enforcement officer, whichever is later, 280 hours of training in arrest, search and seizure, criminal law, and the use of deadly force, and shall annually qualify in the use of a revolver or similar weapon, the special law enforcement officer shall be permitted to carry a revolver or other similar weapon when off duty within the municipality where the officer is employed. Specific authorization shall be in the form of a permit which shall not be unreasonably withheld, which is subject to renewal annually and may be revoked at any time by the chief of police. The permit shall be on the person of the special law enforcement officer whenever a revolver or other similar weapon is carried off duty. A permit shall not be issued until the special law enforcement officer has successfully completed all training courses required under this section. Any training courses completed by a special law enforcement officer under the direction of the chief of police in a school and a curriculum approved by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), shall be credited towards the 280 hours of training required to be completed by this section. Any training required by this section shall commence within 90 days of the effective date of P.L.1985, c.45 or within 90 days of the date of the appointment of the special law enforcement officer, whichever is later.

c. A special law enforcement officer shall be under the supervision and direction of the chief of police or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, and shall perform the officer's duties only in the local unit except when in fresh pursuit of any person pursuant to chapter 156 of Title 2A of the New Jersey Statutes or when authorized to perform duties in another unit pursuant to a mutual aid agreement enacted in accordance with section 1 of P.L.1976, c.45 (C.40A:14-156.1).

d. The officer shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the local unit, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

e. Notwithstanding any provision of P.L.1985, c.439 (C.40A:14-146.8 et seq.) to the contrary, a special law enforcement officer may travel through another local unit to reach a noncontiguous area of the local unit in which the officer's appointment was issued or to transport persons to and from a correctional facility.

40A:14-146.15. Powers.

The chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the local unit, including, but not limited to, the carrying of firearms and the power of arrest, subject to rules and regulations, not inconsistent with the certification requirements of this act, as may be established by local ordinance or resolution, as appropriate, adopted by the appropriate authority of the local unit in which they are employed.

40A:14-146.16. Limitation on hours.

a. Except as provided in subsection c. of this section, a special law enforcement officer shall not be employed for more than 20 hours per week by the local unit except that special law enforcement officers may be employed by the local unit for those hours as the governing body may determine necessary in accordance with the limits prescribed below:

- (1) In resort municipalities not to exceed 48 hours per week during any seasonal period.
- (2) In all municipalities or counties without limitation as to hours during periods of emergency.
- (3) In all municipalities or counties in addition to not more than 20 hours per week including duties assigned pursuant to the provisions of section 7 of P.L.1985, c.439 (C.40A:14-146.14) a special law enforcement officer may be assigned for not more than 20 hours per week to provide public safety and law enforcement services to a public entity.

(4) In municipalities or counties, as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14- 146.14), for hours to be determined at the discretion of the director of the municipal or county police force.

(5) A Class Three special law enforcement officer in all municipalities without limitation.

b. Notwithstanding any provision of P.L.1985, c.439 (C.40A:14-146.8 et seq.) to the contrary, special law enforcement officers may be employed only to assist the local law enforcement unit but may not be employed to replace or substitute for full-time, regular police officers or in any way diminish the number of full-time officers employed by the local unit or a school or county college. A Class Three special law enforcement officer may be employed only to assist the local law enforcement unit with security duties and shall not supplant a law enforcement officer employed pursuant to the provisions of N.J.S.18A:17-43 or a safe schools resource officer employed pursuant to the provisions of section 3 of P.L.2005, c.276 (C.18A:17-43.1). A Class Three special law enforcement officer shall not be assigned to an extra-curricular or after-school function at a school or county college unless the assignment has first been made available to full-time members employed by the local unit or school or county college.

c. Each municipality or county may designate one special law enforcement officer to whom the limitations on hours employed set forth in subsection a. of this section shall not be applicable.

d. A Class Three special law enforcement officer appointed pursuant to the provisions of P.L.1985, c.439 (C.40A:14-146.8 et seq.) shall not, based on this appointment, be eligible for health care benefits or enrollment in any State-administered retirement system.

40A:14-146.17. Limitations on number, categories.

The local governing body shall by ordinance or resolution, as appropriate, establish limitations upon the number and categories of special law enforcement officers which may be employed by the local unit in accordance with the certification and other requirements provided for in this act. In communities other than resort municipalities, the number of Class Two special law enforcement officers shall not exceed 25% of the total number of regular police officers, except that no municipality shall be required to reduce the number of Class Two special law enforcement officers or the equivalent thereof in the employ of the municipality as of March 1, 1985. Notwithstanding the provisions of this section, each local unit may appoint two Class Two special law enforcement officers.

52:17B-71.8. Training course for safe schools resource officers, liaisons to law enforcement.

a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

b. The training course developed by the commission pursuant to subsection a. of this section shall be offered at each school approved by the commission to provide police training courses pursuant to the provisions of P.L.1961, c.56 (C.52:17B-66 et seq.). The commission shall ensure that an individual

assigned to instruct the course is proficient and experienced in current school resource officer practices and concepts.

c. The commission shall award a certificate to each individual who successfully completes the course.

d. The Police Training Commission, in consultation with the Commissioner of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

REGULATIONS

6A:16-4.1. Adoption of policies and procedures for the intervention of student alcohol and other drug abuse.

(a) Each district board of education shall adopt and implement policies and procedures for the assessment, intervention, referral for evaluation, referral for treatment, and enforcement of the code of student conduct, pursuant to N.J.A.C. 6A:16-7, for students whose use of alcohol or other drugs has affected their school performance, or for students who consume or who are suspected of being under the influence of or who possess or distribute the following substances on school grounds pursuant to N.J.S.A. 18A:40A-9, 10, and 11:

1. Alcoholic beverages;
2. Any controlled dangerous substance, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and 2C:35-2;
3. Any chemical or chemical compound that releases vapor or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes, as defined in N.J.S.A. 2C:35-10.4; and
4. Over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

(b) In adopting and implementing policies and procedures for assessment, intervention, referral for evaluation, and referral for treatment of alcohol or other drug-affected students, district boards of education shall consult with a local organization licensed by the New Jersey Department of Human Services, and may consult with out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate drug and alcohol licensing board, as appropriate, pursuant to N.J.S.A. 18A:40A-11.

(c) Each district board of education's policies for students using, possessing, or distributing alcohol and other drugs, as defined in (a) above, shall include the following components:

1. The role of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving students on school grounds;
2. Specific procedures, sanctions and due process provisions, consistent with N.J.A.C. 6A:16-4.4 and 7, as appropriate, for violations of the alcohol and other drug policy requiring action by the district board of education to apply the code of student conduct pursuant to N.J.A.C. 6A:16-7, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors;
3. Appropriate steps for ameliorating student problems related to alcohol and other drug use;
4. Appropriate steps for providing support for student transitions to and from health and social service agencies;
5. Specific procedures to govern instances where emergency room services are required in treating alcohol- or other drug-affected students;
6. Assessment or evaluation services for students who are affected by alcohol or other drug use. The services shall include one or more of the following:

- i. Assessments by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse;
 - ii. Examinations by a physician for the purpose of determining whether alcohol or other drug use interferes with students' physical and mental abilities to perform in school or students are under the influence of alcohol or other drugs;
 - iii. Referrals for evaluation to community agencies, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate alcohol or other drug licensing board; or
 - iv. Evaluations by the child study team to determine students' eligibility for special education and related services, pursuant to N.J.A.C. 6A:14-3.5 and 3.6;
7. The provision of intervention, referral for evaluation, and referral for treatment services for students who are affected by alcohol or other drug use.
- i. The intervention, referral for evaluation, and referral for treatment services shall be provided by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse intervention, assessment, referral for evaluation, and referral for treatment skills.
 - ii. The intervention, referral for evaluation, and referral for treatment services shall include one or more of the following:
 - (1) Provisions for a program of instruction, counseling, and related services provided by the district board of education while a student receives medical treatment for a diagnosed alcohol or other drug dependency problem;
 - (2) Referral to a community agency, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners authorized by the appropriate drug and alcohol licensing board;
 - (3) Provisions for support services for students who are in, or returning from, medical treatment for alcohol and other drug dependency; or
 - (4) A special class, course or educational program designed to meet the needs of students with alcohol or other drug use problems;
8. Provisions for assisting parents who believe their child might be involved with alcohol or other drug use, in accordance with N.J.S.A. 18A:40A-17(b);
9. Provisions, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i and 6.3(a)4, for when to contact law enforcement officials to disclose the identities of students reasonably believed to be in possession of a controlled dangerous substance, including anabolic steroids, or related paraphernalia or involved or implicated in distribution activities regarding controlled dangerous substances, including anabolic steroids.
- i. Pursuant to N.J.A.C. 6A:16-4.3(a)3 and (b)3 and 6.3(a)4, the chief school administrator or designee may disclose to law enforcement authorities the identities of students suspected of being under the influence of alcohol or other drugs; and
10. Provisions for reporting to and cooperating with law enforcement authorities, pursuant to N.J.A.C. 6A:16-6, for the unlawful possession, distribution, and disposition of substances, as set forth in this section and N.J.A.C. 6A:16-6.1(a)1.

6A:16-4.3. Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs.

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

1. Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds shall report the matter as soon as possible to the principal or, in his or her absence, to his or her designee and either the certified school nurse, noncertified nurse, school physician, or student assistance coordinator, pursuant to N.J.S.A. 18A:40A-12.

i. In instances where the principal and either the certified school nurse, non-certified nurse, school physician, or student assistance coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.

2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, including instances when a report is made to law enforcement, the principal or his or her designee shall:

- i. Immediately notify the parent and the chief school administrator or his or her designee; and
- ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.

3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol or other drugs, pursuant to (a)1 above.

i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of a controlled dangerous substance or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances.

4. The medical examination, pursuant to (a)2ii above, shall be performed by a physician licensed to practice medicine or osteopathy who is selected by the parent.

i. The school district, in cooperation with medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical examination.

ii. The examination shall be at the expense of the parent and not the district board of education.

5. If the physician chosen by the parent is not immediately available, the medical examination shall be conducted by the school physician.

i. If the school physician is not available, the student shall be accompanied by a member of the school staff designated by the principal to the emergency room of the nearest hospital for examination.

ii. The student's parent, if available, also shall accompany the student.

iii. When the medical examination is conducted by the school physician or a physician at the emergency room of the nearest hospital, the examination shall be at the expense of the district board of education.

6. Each district board of education shall have a plan in place for the appropriate supervision of the student:

i. While waiting for a parent to take the student to the physician selected by the parent, or while the student is waiting for and receiving the medical examination by the school physician or a physician in an emergency room; and

- ii. Provisions shall be made for the appropriate care of the student while awaiting the results of the medical examination.
7. A written report of the medical examination shall be furnished to the student's parent, the principal, and the chief school administrator by the examining physician within 24 hours of the referral of the student for suspected alcohol or other drug use.
- i. The school district, in cooperation with the school physician or medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical report.
 - ii. The report's findings shall verify whether the student's alcohol or other drug use interferes with his or her physical and mental ability to perform in school.
8. When the medical examination is performed by a physician other than the school physician or a physician at the emergency room of the nearest hospital, the school district shall require the parent to verify within 24 hours of the notification that the student is suspected of alcohol or other drug use that a medical examination was performed in compliance with (a)7i above.
- i. The verification shall include, at a minimum, the signature, printed name, address, and phone number of the examining physician, the date and time of the medical examination, and the date by which the report required in (a)7 above will be provided.
 - ii. Refusal or failure by a parent to comply with this requirement shall be treated as a policy violation and handled in accordance with (d) below.
9. If the written report of the medical examination is not submitted to the parent, principal, and chief school administrator within 24 hours of the referral of the student for suspected alcohol or other drug use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other drug use is received from the examining physician, unless the student was also removed for violating the code of student conduct.
10. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.
11. If there is a positive determination from the medical examination indicating the student's alcohol or other drug use interferes with his or her physical or mental ability to perform in school:
- i. The student shall be returned as soon as possible to the care of a parent;
 - ii. Attendance at school shall not resume until a written report has been submitted to the parent, the principal and chief school administrator from a physician licensed to practice medicine or osteopathy who has examined the student to determine whether alcohol or other drug use interferes with his or her physical or mental ability to perform in school;
 - (1) The report shall verify that the student's alcohol or other drug use no longer interferes with his or her physical and mental ability to perform in school; and
 - iii. Removal of a student with a disability shall be made in accordance with N.J.A.C. 6A:14.
12. While the student is at home because of the medical examination or after the student returns to school, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall:
- i. Conduct an alcohol and other drug assessment of the student and a reasonable investigation of the situation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse, for the purpose of making a preliminary

determination of the student's need for educational programs, supportive services, or treatment that extend beyond the general school program by virtue of the student's use of alcohol or other drugs.

(1) The findings of the assessment alone shall not be used to prevent a student from attending school; and

ii. Cooperate with community agencies as defined in N.J.A.C. 6A:16-4.1(b) and juvenile justice officials in providing evaluation, referral and continuity of care for alcohol or other drug abuse treatment.

13. While the student is at home because of the medical examination or after his or her return to school, the principal or chief school administrator may recommend or require alcohol and other drug assessment of the student or evaluation by appropriately certified or licensed professionals to make a positive determination of a student's need for programs and services that extend beyond the general school program, as necessary.

i. The findings of additional evaluations alone shall not be used to prevent a student from attending school.

14. If at any time it is determined that the student's use of alcohol or other drugs presents a danger to the student's health and well-being, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse treatment referral shall initiate a referral for alcohol or other drug abuse treatment.

15. The district board of education may provide additional intervention and referral services for the student according to N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-8.

(b) In instances involving the suspected use of anabolic steroids, the following shall apply according to N.J.S.A. 18A:40A-12(b):

1. Whenever a teaching staff member, certified or non-certified school nurse, or other educational personnel has reason to believe that a student has used or may be using anabolic steroids, the person shall report the matter as soon as possible to the principal or, in his or her absence, to his or her designee and either the certified or non-certified school nurse, school physician, or student assistance coordinator.

2. In response to a report of suspected anabolic steroid use pursuant to (b)1 above, including instances when a report is made to law enforcement, the principal or his or her designee shall immediately notify the parent and the chief school administrator and shall arrange for an examination of the student by a physician licensed to practice medicine or osteopathy selected by the parent.

i. If the physician chosen by the parent is not available to perform the examination, it shall be conducted by the school physician or other physician identified by the principal.

ii. The student shall be examined as soon as possible for the purpose of determining whether he or she has been using anabolic steroids.

3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to have used or to be using anabolic steroids, pursuant to (b)1 above.

i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of anabolic steroids or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities involving anabolic steroids.

4. The examining physician shall provide to the parent, principal, and chief school administrator a written report of the examination.

5. If it is determined the student has used anabolic steroids, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall interview the student and others, as necessary, for the purpose of determining the extent of the student's involvement with and use of anabolic steroids and the possible need for referral for treatment.

i. To make this determination, school staff members identified in (b)5 above may conduct a reasonable investigation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse.

6. If results of a referral for evaluation positively determine the student's involvement with and use of anabolic steroids represents a danger to the student's health and well-being, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies, as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.

(c) Any educational or non-educational district board of education employee who in good faith reports to the principal or his or her designee a student in compliance with the provisions of this subsection shall not be liable in civil damages as a result of making a report, as specified in N.J.S.A. 18A:40A-13 and 14.

(d) Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated as a policy violation of the Compulsory Education Act, pursuant to N.J.S.A. 18A:38-25 and 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11.

6A:16-4.4. Voluntary policy for random testing of student alcohol or other drug use.

(a) Each district board of education that chooses to adopt policies and procedures for the random testing of students, pursuant to N.J.S.A. 18A:40A-22 et seq., for the use of controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 2C:35-2 and 24:21-2, or alcoholic beverages, as defined in N.J.S.A. 33:1-1, shall:

1. Hold a public hearing prior to the adoption of the alcohol or other drug testing policies and procedures.

i. The notice of the public hearing shall specifically identify the proposed alcohol or other drug testing policies and procedures as an agenda item; and

ii. Copies of the proposed alcohol or other drug testing policies and procedures shall be made available upon request prior to the public hearing;

2. Apply the alcohol or other drug testing policies and procedures only to students in grades nine through 12 who participate in extra-curricular activities, including interscholastic athletics, or who possess parking permits;

3. Be responsible for all costs of the alcohol or other drug testing, including any costs associated with the transportation of students;

4. Ensure that the voluntary alcohol or other drug testing conducted pursuant to this section is separate and distinct from any other alcohol or other drug testing that might be administered by the district board of education, including the required medical examination of students currently suspected of being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3;

5. Ensure that the policies and procedures for the alcohol or other drug testing program, pursuant to (b) below, are included in and are consistent with the policies and procedures for the intervention of student alcohol or other drug abuse, pursuant to N.J.S.A. 18A:40A-10 and 11 and N.J.A.C. 6A:16-4.1; and
6. Provide written notice to all ninth-through-12th-grade students and their parents at the beginning of each school year that the active written consent of students and parents for random student alcohol or other drug testing is required for students to participate in extracurricular activities, including interscholastic athletics, or to possess a school parking permit.

(b) Each district board of education's written alcohol or other drug testing policies and procedures, pursuant to this section, shall include, but need not be limited to, the following components:

1. A statement that the purposes of the alcohol and other drug testing policies are to deter alcohol and other drug use and to provide a means for the early detection of students with alcohol or other drug problems so referral for evaluation or referral for treatment, pursuant to (b)10 below and N.J.A.C. 6A:16-1.3 and 4.1, or other appropriate assistance may be offered;
2. A description of the procedures for randomly selecting students for alcohol or other drug testing, which shall include, at a minimum:
 - i. The manner in which students shall be randomly selected for alcohol or other drug testing;
 - ii. An explanation of the sampling statistical principles supporting the random selection process; and
 - iii. An explanation of how implementation of the random selection process shall be documented and verified;
3. A description of the procedures for the acquisition and management of student's alcohol or other drug test specimens, which shall address the following, at a minimum and as appropriate to the method selected under (c) below:
 - i. Student monitoring;
 - ii. Student transportation;
 - iii. The acquisition and handling of students' specimens;
 - iv. The chain of custody of students' specimens;
 - v. The testing and analysis of students' specimens; and
 - vi. The storage of students' specimens;
4. The standards for ensuring confidentiality and scope of authorized disclosure of alcohol or other drug testing information that protect, at a minimum:
 - i. The identities of students who have been selected to be tested or who have been tested;
 - ii. The results of alcohol or other drug tests;
 - iii. The billing and management reports associated with alcohol or other drug tests; and
 - iv. Information, prior to the time of an alcohol or other drug test, that a test is to take place;
5. A description of the consequences for violating confidentiality and disclosure standards, pursuant to (b)4 above;
6. The parent providing consent to alcohol or other drug testing, pursuant to (a)6 above, shall be notified each time his or her child has been tested under the alcohol or other drug testing policy, pursuant to this section.
 - i. The school district shall establish procedures ensuring confidentiality of the notification;
7. The procedures for reporting results of alcohol or other drug tests, including written notification to students and their parents concerning test findings, that are consistent with (b)4 above.
 - i. Law enforcement authorities shall not be notified of test results;

8. The specific actions pursuant to N.J.A.C. 6A:16-7.1, as appropriate, N.J.A.C. 6A:16-4.1, and this section to be taken against students who test positive for alcohol or other drug use.

i. Actions to be taken against students who test positive for alcohol or other drug use shall be limited to:

- (1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or
- (2) Disapproval or revocation of student parking permits.

ii. Prior to actions being taken pursuant to (b)8i(1) or (2) above, all positive alcohol or other drug test results shall be confirmed by the laboratory using a methodology recommended by the laboratory instrument's manufacturer;

9. The procedures for students or their parents to challenge a positive result from the alcohol or other drug tests;

10. The guidelines for referral for evaluation or referral for treatment, pursuant to N.J.A.C. 6A:16-1.3 and 4.1 and this section, or the provision of other appropriate assistance for students who test positive for alcohol or other drug use; and

11. The specific actions, pursuant to N.J.A.C. 6A:16-7.1, to be taken against students who refuse to consent to alcohol or other drug testing.

i. Actions to be taken against students who refuse to consent to alcohol or other drug testing shall be limited to:

- (1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or
- (2) Disapproval or revocation of student parking permits.

(c) Each district board of education shall provide for the collection and testing of alcohol or other drug specimens by implementing one of the following methods, in accordance with N.J.S.A. 45:9-42.26 et seq. and N.J.A.C. 8:44 and 8:45:

1. Transporting randomly selected students, pursuant to (b)2 and 3ii above, to a State-licensed clinical laboratory to perform specimen collection and alcohol or other drug testing;
2. Choosing a State-licensed clinical laboratory to operate an onsite licensed collection station and to transport the specimens to the offsite licensed laboratory for alcohol or other drug testing;
3. Choosing to obtain a State license to operate the school district's own collection station for the collection of specimens, pursuant to (a)3 above, as appropriate, and (b)3 and 4 above, and contract with a licensed clinical laboratory for transportation and alcohol or other drug testing of the specimens;
4. Choosing to obtain a State license to operate a clinical laboratory for onsite collection and alcohol or other drug testing of specimens; or
5. Choosing to contract with a State-licensed clinical laboratory to provide for both the onsite collection and alcohol or other drug testing of specimens.

(d) The district board of education shall limit the collection of specimens for alcohol or other drug testing in a State-licensed collection station or clinical laboratory, in accordance with N.J.S.A. 45:9-42.26 et seq.,

N.J.A.C. 8:44 and 8:45, and (c)1 above to the following persons:

1. A school physician;
2. A physician, other than the school physician, licensed to practice medicine or osteopathy other than the school physician;
3. A certified school nurse or noncertified nurse, pursuant to N.J.A.C. 6A:9B-12.3 and 12.4; or
4. The staff of a State-licensed clinical laboratory or health care facility, in accordance with (c) above, as designated by the district board of education.

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12. The policies and procedures shall apply to a student who is:

1. Convicted or adjudicated delinquent for possession of a firearm on school grounds;
2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
3. Found knowingly in possession of a firearm on school grounds.

(b) Each district board of education shall immediately remove from the school's general education program for a period of not less than one calendar year a student other than a student with a disability, as set forth in (a) above.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
 - i. The chief school administrator shall develop and maintain a written record of case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner upon request.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) through (c) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
 - i. The removal action;
 - ii. The law enforcement notification;
 - iii. The change of custody, if it occurs; and
 - iv. A general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a student with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

(e) A student, other than a student with a disability, removed from the general education program pursuant to this section shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) A student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.3 through 7.5.

(h) If it is found that the removed student did not commit the offenses in (a) and (c) above, the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to

N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education's removal decision;
3. The results of relevant testing, assessment, or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section shall not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, as long as the district board of education adopts appropriate safeguards to ensure student safety.

1. All students shall obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.

- i. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

(k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(d)1.

(l) Each district board of education shall annually disseminate to all school staff, students, and parents the adopted policies and procedures for implementing this section.

6A:16-5.6. Removal of students for assaults with weapons offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, upon a teacher, administrator, other school board employee, district board of education member, or another student on school grounds, pursuant to N.J.S.A. 18A:37-2.2 through 2.5.

(b) A student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) Each district board of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) through (c) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;

3. Immediately report to the chief school administrator the removal of the student;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
 - i. The removal action;
 - ii. The law enforcement notification;
 - iii. The change of custody, if it occurs; and
 - iv. A general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.5 or a student with a disability's due process rights, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.

(e) A student, other than a student with a disability, removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) A student removed pursuant to (b) above shall be entitled to an informal hearing, pursuant to N.J.A.C. 6A:16-7.2 and 7.3, and a hearing before the district board of education pursuant to N.J.A.C. 6A:16-7.3.

(h) If it is found that the removed student did not commit the offense(s), the student shall be immediately returned to the program from which he or she was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or will remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education's removal decision;
3. The results of relevant testing, assessment or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to a student who has obtained the chief school administrator's written authorization to lawfully possess a firearm or other weapon while participating in a school-sponsored function.

1. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.

(k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students pursuant to (b) above utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education annually shall disseminate to all school staff, students, and parents its adopted policies and procedures for implementing this section.

6A:16-5.7. Assaults on district board of education members or employees.

(a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a

weapon or firearm, upon a teacher, administrator, other school board employee, or district board of education member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

(b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove a student as set forth in (a) above;
2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
3. Immediately report to the chief school administrator the removal of the student;
4. Notify the student's parent of the removal action and the student's due process rights; and
5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

(e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

(f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

6A:16-6.1. Adoption of policies and procedures.

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution, and disposition of the following:
 - i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;
 - ii. Drug paraphernalia as defined in N.J.S.A. 2C:36-1;
 - iii. Alcoholic beverages;
 - iv. Firearms, as defined in N.J.S.A. 2C:39-1f; and
 - v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1.r; and

2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including arrest procedures and undercover school operations.

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and other law enforcement officials as may be designated by the county prosecutor;
2. Reviewed and approved by the executive county superintendent;
3. Made available annually to all school staff, students and parents;

4. Consistent with reporting, notification, and examination procedures of students suspected of being under the influence of alcohol and other drugs pursuant to N.J.A.C. 6A:16-4.3; and
5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. Designation by the chief school administrator of liaisons to law enforcement agencies and the description of the liaisons' roles and responsibilities;
2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests;
3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children consistent with the following:
 - i. School officials shall not notify the student's parent(s) in instances of suspected child abuse or neglect;
 - ii. School officials shall notify the student's parent(s) when the student is the target of the law enforcement investigation; and
 - iii. In all other instances, school authorities shall permit law enforcement authorities to determine whether or when a student's parent should be contacted;
4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds;
5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.
 - i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
 - ii. Questions concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.
 - iii. School officials may request that law enforcement authorities assume responsibility for conducting a search or seizure.
 - iv. No school staff member shall impede a law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.
 - v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting a search or seizure.
 - vi. All inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines may be undertaken with only the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.
 - vii. Questions concerning the legality of a contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds shall be directed to the county prosecutor or in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice's designee in the New Jersey Department of Law and Public Safety, to the assigned assistant attorney general;
6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;
7. Procedures for planning, approving, and conducting undercover school operations.

- i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve undercover operations without prior notification to the district board of education.
 - ii. All information concerning requests to undertake an undercover school operation, information supplied by law enforcement authorities to justify the need for and explain a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.
 - iii. The chief school administrator and principal shall not divulge information concerning an undercover school operation to any person without the prior express approval of the county prosecutor or designee.
 - iv. The chief school administrator, principal, or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation shall immediately communicate to the county prosecutor or designee if he or she subsequently learns of information that suggests the undercover officer's true identity has been revealed, the undercover officer's identity or status as a bona fide member of the school community has been questioned, or the integrity of the undercover school operation has been in any other way compromised;
8. The procedures for and responsibilities of staff concerning the safe and proper handling of a seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of the items to appropriate law enforcement authorities in accordance with this subchapter;
9. The procedures for and responsibilities of staff in notifying authorities of a suspected violation of laws prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
10. Provisions for requesting uniformed police attendance at extracurricular school events;
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
12. Provisions for in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the school district and law enforcement agencies;
13. A memorandum of agreement with appropriate law enforcement authorities.
- i. The memorandum of agreement shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the State Attorney General and the Commissioner.
 - ii. The memorandum of agreement shall define the reciprocal rights and obligations of students, parents, school staff, and law enforcement officials with respect to the possession, distribution, and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.
 - iii. Copies of all memoranda of agreements entered into with law enforcement authorities shall be submitted to and approved by the county prosecutor, executive county superintendent of schools, president of the district board of education, chief school administrator, and chief of the police department or station commander.

14. An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the memorandum of agreement, and to review the effectiveness of policies and procedures implemented pursuant to this subchapter.

i. The annual review shall include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials designated by the county prosecutor.

ii. The memorandum of agreement may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the State Attorney General and the Commissioner;

15. Provisions for contacting the chief executive officer of the involved law enforcement agency, county prosecutor, and/or Division of Criminal Justice, as necessary, to resolve disputes concerning law enforcement activities occurring on school grounds; and

16. Provisions for directing inquiries or complaints received by school staff regarding interviews, investigations, arrests, or other operations conducted by sworn law enforcement officers to the appropriate law enforcement agency.

(c) Nothing in the policies and procedures required under this section shall be construed to prohibit school staff from disclosing information, pursuant to N.J.A.C. 6A:32-7.2 and 7.5(f), if necessary to protect the immediate health or safety of a student or other persons.

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(a) Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee, however, shall not disclose the identity of a student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug-distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided the student is not reasonably believed to be in possession

of a controlled dangerous substance or drug paraphernalia, or to be involved or implicated in drug distribution activities.

5. Law enforcement authorities shall not be notified of the findings if a student's alcohol or other drug test, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i, and (a)4 above, was obtained as a result of the district board of education's voluntary random drug testing policy, pursuant to N.J.S.A. 18A:40A-22 et seq. and N.J.A.C. 6A:16-4.4.

(b) Whenever a school employee develops reason to believe a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds or a student or other person is in unlawful possession of a firearm or other deadly weapon on or off school grounds, or a student or other person has committed an offense with or while in possession of a firearm on or off school grounds or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined in (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of his or her employment develops reason to believe a student has threatened, is planning or otherwise intends to cause death, serious bodily injury, or significant bodily injury to another person under circumstances in which a reasonable person would believe the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

(d) The designated school official, as defined in (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of his or her employment develops reason to believe a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the principal and chief school administrator when in the course of their employment they develop reason to believe a bias-related act has been committed or is about to be committed on school grounds, or has been or is about to be committed by a student on or off school grounds, and whether such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a bias-related act on or off school grounds, or during operating school hours.

1. The designated school official, as defined in (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described in (e) above.

2. The designated school official, as defined in (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe a bias-related act that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

6A:16-6.4. Handling of alcohol or other drugs, firearms and other items.

(a) A school employee who seizes or discovers alcohol, other drug, or an item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over to the principal or designee the alcohol, other drug, or item.

1. The principal or designee shall immediately notify the chief school administrator or his or her designee who in turn shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
2. The school employee, principal or designee shall safeguard the alcohol, other drug or paraphernalia against further use or destruction and shall secure the alcohol, other drug or paraphernalia until it can be turned over to the county prosecutor or designee.
3. The principal or designee shall provide to the county prosecutor or his or her designee all information concerning the manner in which the alcohol, other drug, or paraphernalia was discovered or seized, including:
 - i. The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and
 - ii. The identity of the student or staff member believed to have been in possession of the substance or paraphernalia.
4. The principal or designee shall not disclose the identity of a student or staff member who voluntarily and on his or her own initiative turned over the alcohol, other drug or paraphernalia to a school employee, provided there is reason to believe the student or staff member was involved with the alcohol, other drug or paraphernalia for the purpose of personal use and not distribution activities, and further provided the student or staff member agrees to participate in an appropriate treatment or counseling program.
 - i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall not constitute a voluntary, self-initiated request for counseling and treatment.

(b) Whenever a school employee seizes or comes upon a firearm or dangerous weapon, school officials shall:

1. In the case of a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the firearm pending the response by law enforcement to retrieve and take custody of the firearm; and
2. In the case of a dangerous weapon other than a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the dangerous weapon pending the response by law enforcement to retrieve and take custody of the dangerous weapon.

(c) School employees in custody of a firearm or dangerous weapon shall take reasonable precautions, according to district board of education procedures, to prevent the theft, destruction, or unlawful use of the firearm or dangerous weapon by any person.

6A:16-6.5. Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs.

(a) All information concerning a staff member's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential, and all information concerning a student's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential according to 42 CFR Part 2, N.J.S.A. 18A:40A-7.1 and 7.2, and N.J.A.C. 6A:16-3.2.

(b) Nothing in this subchapter shall be construed in any way to authorize or require the transmittal of information or records in the possession of an alcohol or other drug abuse counseling or treatment program.

(c) The principal or designee shall not disclose to law enforcement officials or to any person other than a member of the school district's comprehensive alcohol, tobacco, and other drug abuse program that a student or staff member has received or is receiving services through the program. The principal or designee also shall not disclose information, including the student's or staff member's identity or information about illegal activity, when the information was learned in the course of or as a result of services provided through the school district's comprehensive alcohol, tobacco and other drug abuse program.

(d) Nothing in this section shall be construed to preclude the disclosure and reporting of information about illegal activity that was learned by a school employee outside of the school district's comprehensive alcohol, tobacco, and other drug abuse program.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

18A:6-4.4. Police training course.

Every person so appointed and commissioned shall, within 1 year of the date of his commission, successfully complete a police training course at a school approved and authorized by the Police Training Commission; provided, however, that the Police Training Commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that he has successfully completed a police training course conducted by any Federal, State or other public or private agency, the requirements of which are substantially equivalent to the requirements of that at a school approved by the commission.

18A:17-43.1. Training course required for service as safe schools resource officer, liaison to law enforcement.

a. Following the development of the training course pursuant to subsection a. of section 2 of P.L. 2005, c. 276 (C. 52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign a safe schools resource officer to a public school unless that individual first completes the safe schools resource officer training course.

b. Following the development of the training course pursuant to subsection a. of section 2 of P.L. 2005, c. 276 (C. 52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign an employee to serve as a school liaison to law enforcement unless that individual first completes the safe schools resource officer training course.

c. A person who is assigned to a public school as a safe schools resource officer prior to the effective date of P.L. 2005, c. 276 (C. 52:17B-71.8 et al.) or assigned to serve as a school liaison to law enforcement prior to that date shall not be required to complete the safe schools resource officer training course developed by the Police Training Commission pursuant to subsection a. of section 2 of P.L. 2005, c. 276 (C. 52:17B-71.8), but may in accordance with that section.

40A:14-146.11. Training; classifications.

a. A person shall not commence the duties of a special law enforcement officer unless the person has successfully completed a training course approved by the commission and a special law enforcement officer shall not be issued a firearm unless the officer has successfully completed the basic firearms course approved by the commission for permanent, regularly appointed police and annual requalification examinations as required by subsection b. of section 7 of P.L. 1985, c. 439 (C.40A:14-146.14). There shall be three classifications for special police officers. The commission shall prescribe by rule or regulation the training standards to be established for each classification. Training may be in a commission

approved academy or in any other training program which the commission may determine appropriate. The classifications shall be based upon the duties to be performed by the special law enforcement officer as follows:

(1) Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control, and similar duties. If authorized by ordinance or resolution, as appropriate, Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances, and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited and a Class One officer shall not be assigned any duties which may require the carrying or use of a firearm.

(2) Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the commission.

(3) Class Three. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer while providing security at a public or nonpublic school or a county college on the school or college premises during hours when the public or nonpublic school or county college is normally in session or when it is occupied by public or nonpublic school or county college students or their teachers or professors. While on duty in the jurisdiction of employment, an officer may respond to offenses or emergencies off school or college grounds if they occur in the officer's presence while traveling to a school facility or county college, but an officer shall not otherwise be dispatched or dedicated to any assignment off school or college property.

The use of a firearm by an officer of this class shall be authorized pursuant to the provisions of subsection

b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14). An officer of this class shall not be authorized to carry a firearm while off duty unless the officer complies with the requirements set forth in subsection l. of N.J.S.2C:39-6 authorizing a retired law enforcement officer to carry a handgun.

b. The commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that the person has successfully completed a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of this act.

c. The commission shall certify officers who have satisfactorily completed training programs and issue appropriate certificates to those officers. The certificate shall clearly state the category of certification for which the officer has been certified by the commission.

d. All special law enforcement officers appointed and in service on the effective date of this act may continue in service if within 24 months of the effective date of this act they will have completed all training and certification requirements of this act.

52:17B-71.8. Training course for safe schools resource officers, liaisons to law enforcement.

a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

b. The training course developed by the commission pursuant to subsection a. of this section shall be offered at each school approved by the commission to provide police training courses pursuant to the provisions of P.L.1961, c.56 (C.52:17B-66 et seq.). The commission shall ensure that an individual assigned to instruct the course is proficient and experienced in current school resource officer practices and concepts.

c. The commission shall award a certificate to each individual who successfully completes the course.

d. The Police Training Commission, in consultation with the Commissioner of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

18A:6-4.1. Security officers of public and nonprofit educational institutions; training courses.

Upon application to, and approval by, the Superintendent of State Police security officers of public and nonprofit educational institutions of this State may be admitted to training courses conducted by the Division of State Police for State, county and municipal law enforcement officers, provided that the costs of such training as determined by the superintendent shall be paid to the State Treasurer by the private nonprofit institutions sending security officers to such training courses.

18A:6-4.2. Policemen; appointment by governing body of institution of learning.

The governing body of any institution of higher education, academy, school or other institution of learning may appoint such persons as the governing body may designate to act as policemen for the institution.

18A:6-4.3. Application by policeman; approval; issuance to commission.

All applications shall, in the first instance, be made to the chief of police of the municipality in which the institution is located, except that where the municipality does not have an organized full time police department or where the institution is located within more than one municipality, application shall be made to the Superintendent of State Police. The chief of police or the superintendent, as the case may be, shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. If the application is approved by the chief of police or the superintendent, the approved application shall be returned to the institution which shall issue a commission to the person appointed, a copy of which shall be filed in the office of the superintendent and with the chief of police of the municipality or municipalities in which such institution is located.

18A:6-4.5. Police powers.

Every person so appointed and commissioned shall possess all the powers of policemen and constables in criminal cases and offenses against the law anywhere in the State of New Jersey, pursuant to any limitations as may be imposed by the governing body of the institution which appointed and commissioned the person.

18A:6-4.10. Construction of act.

Nothing in this act shall be construed to limit or impair the rights of any State, county or municipal law enforcement officer in the performance of his duties.

18A:6-4.11. Severability.

If any provision of this act shall be adjudged by any court of competent jurisdiction to be ineffective, such determination shall not affect or impair the remaining provisions thereof but shall be confined in its operation to the provisions directly involved in a controversy in which said determination shall have been rendered.

18A:6-4.12. Educational institution reimbursement.

a. If a person who was appointed as a police officer of an educational institution pursuant to P.L. 1970, c. 211 (C. 18A:6-4.2 et seq.) resigns and is subsequently appointed as a police officer for another educational institution or for a county or municipal law enforcement agency, a State law enforcement agency or the New Jersey Transit Police Department pursuant to section 2 of P.L. 1989, c. 291 (C. 27:25- 15.1) within 120 days of resignation, and if that person held a probationary appointment at the time of resignation or held a permanent appointment for 30 days or less prior to resignation, the educational institution, county or municipal law enforcement agency, or State law enforcement agency appointing the person, or the New Jersey Transit Corporation, shall be liable to the former educational institution for the total certified costs incurred by that former educational institution in the examination, hiring, and training of the person.

b. If a person who was appointed as a police officer of an educational institution pursuant to P.L. 1970, c. 211 (C. 18A:6-4.2 et seq.) resigns and is subsequently appointed as a police officer for another educational institution or for a county or municipal law enforcement agency, State law enforcement agency or the New Jersey Transit Police Department pursuant to section 2 of P.L. 1989, c. 291 (C. 27:25- 15.1) within 120 days of resignation, and if that person held a permanent appointment for more than 30 days but less than two years at the time of resignation, the educational institution, county or municipal law enforcement agency or State law enforcement agency appointing the person, or the New Jersey Transit Corporation, shall be liable to the former educational institution for one-half of the total certified costs incurred by that former institution in the examination, hiring, and training of the person.

c. Upon the appointment of a former police officer of an educational institution, the appointing educational institution, county or municipal law enforcement agency, State law enforcement agency or the New Jersey Transit Corporation shall notify the former educational institution immediately upon the appointment of a police officer formerly with that institution and shall reimburse the institution within 120 days of the receipt of the certified costs.

d. As used in this section:

"County or municipal law enforcement agency" means and includes, but is not limited to, a county or municipal police department or force, a county corrections department and a county sheriff's office;

"Examination costs" means and includes, but is not limited to, the costs of all qualifying examinations and public advertisements for these examinations.

"State law enforcement agency" means and includes, but is not limited to, the police department of a State agency and the State Department of Corrections, but does not include the State Police.

"Training costs" means the police training course fees and the base salary received while attending the police training course as required by section 3 of P.L.1970, c.211 (C.18A:6-4.4).

18A:17-42. Preamble; purpose of article.

The legislature finds that the safety and welfare of the public school students of this state while attending sessions of the public schools is a matter of prime concern to the citizens of this state; that, in several isolated instances throughout this state, unlawful intruders into the public schools have subjected public school students and their teachers to physical and verbal attacks during sessions of

the public schools and on the property of said public schools; that such attacks might have been prevented, and similar attacks will be prevented, if public school law enforcement officers are stationed in said schools; and that state aid to local boards is necessary to help such boards bear the cost of employing and stationing public school law enforcement officers.

18A:17-43. Employment of law enforcement officers.

(a) The commissioner may, in accordance with rules and regulations promulgated pursuant to this article and upon a finding of need therefor, authorize any board of education to employ, subject to the provisions of Title 11, Civil Service, of the Revised Statutes, one or more public school law enforcement officers, and to station such public school law enforcement officers in public schools of this state during hours when said public schools are normally in session or are occupied by public school students or their teachers.

(b) No such public school law enforcement officer shall be employed, except upon the application of a board of education and with the approval of the county superintendent.

18A:38-30. Assistance of sheriffs, police officers, etc.

The sheriff and his officers and all police officers and constables shall assist attendance officers in the performance of their duties.

40A:14-146.10. Special law enforcement officers.

a. Any local unit may, as it deems necessary, appoint special law enforcement officers sufficient to perform the duties and responsibilities permitted by local ordinances authorized by N.J.S.40A:14-118 or ordinance or resolution, as appropriate, authorized by N.J.S.40A:14-106 and within the conditions and limitations as may be established pursuant to this act.

b. A person shall not be appointed as a special law enforcement officer unless the person:

(1) Is a resident of this State during the term of appointment;

(2) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;

(3) Is sound in body and of good health;

(4) Is of good moral character;

(5) Has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of his office;

(6) Has successfully undergone the same psychological testing that is required of all full-time police officers in the municipality or county or, with regard to a special law enforcement officer hired for a seasonal period by a resort municipality which requires psychological testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the commission.

c. Every applicant for the position of special law enforcement officer appointed pursuant to this act shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

d. No person shall be appointed to serve as a special law enforcement officer in more than one local unit at the same time, nor shall any permanent, regularly appointed full-time police officer of any local unit be appointed as a special law enforcement officer in any local unit. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of the local unit or supervision of the police department of a local unit shall be appointed as a special law enforcement officer.

e. Before any special law enforcement officer is appointed pursuant to this act, the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit shall ascertain the

eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority.

f. Any person who at any time prior to his appointment had served as a duly qualified, fully-trained, full-time officer in any municipality or county of this State and who was separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with guidelines promulgated by the commission. The training requirements set forth in section 4 of P.L.1985, c.439 (C.40A:14-146.11) may be waived by the commission with regard to any person eligible to be appointed as a special law enforcement officer pursuant to the provisions of this section.

g. In addition to the qualifications established in subsection b. of this section, a person shall not be appointed as a Class Three special law enforcement officer unless the person:

- (1) is a retired law enforcement officer who is less than 65 years of age; for the purposes of this paragraph, a law enforcement officer shall not be considered retired if the officer's return to employment violates any federal or State law or regulation which would deem the officer's retirement as not being bona fide;
- (2) had served as a duly qualified, fully-trained, full-time officer in any law enforcement position eligible for participation in the Police and Firemen's Retirement System or in any federal or bi-state law enforcement agency or as a member of the State Police and was separated from that prior service in good standing;
- (3) is physically capable of performing the functions of the position, determined in accordance with Police Training Commission guidelines;
- (4) possesses a New Jersey Police Training Commission Basic Police Officer Certification, New Jersey State Police Academy Certification, or other proof of basic police training approved by the Police Training Commission;
- (5) has completed the training course for safe schools resource officers developed pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8); and
- (6) is hired in a part-time capacity.

For the purposes of this subsection, "good standing" shall exclude a retirement resulting from injury or incapacity.

40A:14-146.13. Fees.

a. Except as specified in subsection b. of this section, a local unit may charge a reasonable fee as may be fixed by the governing body for equipment and uniforms supplied pursuant to this act, but may not charge a fee for the costs of training or issuing a certificate of appointment. The local unit shall not be required to compensate a special law enforcement officer for time spent in training;

b. In addition to charging a reasonable fee as fixed by the governing body for equipment and uniforms supplied pursuant to this act, a local unit with a population in excess of 300,000, according to the 1980 federal decennial census, may charge a fee for the costs of training and for the administrative costs of issuing a certificate of appointment for a special law enforcement officer whose duties consist solely of performing public safety functions for a private employer.

40A:14-146.14. Special law enforcement officers, appointment, terms, regulations.

a. Special law enforcement officers may be appointed for terms not to exceed one year, and the appointments may be revoked by the local unit for cause after adequate hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the local unit, and their powers and duties as determined pursuant to this act shall cease at the expiration of the term for which they were appointed.

b. A special law enforcement officer shall not carry a firearm except while engaged in the actual performance of the officer's official duties and when specifically authorized by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit to carry a firearm and provided that the officer has satisfactorily completed the basic firearms course required by the commission for regular police officers and annual requalification examinations as required for permanent, regularly appointed full-time officers in the local unit.

A special law enforcement officer shall be deemed to be on duty only while the officer is performing the public safety functions on behalf of the local unit pursuant to this act and when the officer is receiving compensation, if any, from the local unit at the rates or stipends as shall be established by ordinance. A special law enforcement officer shall not be deemed to be on duty for purposes of this act while performing private security duties for private employers, which duties are not assigned by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit, or while receiving compensation for those duties from a private employer. A special law enforcement officer may, however, be assigned by the chief of police or, in the absence of the chief, other chief law enforcement officer, to perform public safety functions for a private entity if the chief of police or other chief law enforcement officer supervises the performance of the public safety functions. If the chief of police or other chief law enforcement officer assigns the public safety duties and supervises the performance of those duties, then, notwithstanding that the local unit is reimbursed for the cost of assigning a special law enforcement officer at a private entity, the special law enforcement officer shall be deemed to be on duty.

The reimbursement for the duties of a special law enforcement officer, which is made to a municipality with a population in excess of 300,000, according to the 1980 federal decennial census, may be by direct payments from the employer to the special law enforcement officer, provided that records of the hours worked are forwarded to and maintained by the chief of police or other chief law enforcement officer responsible for assigning the special law enforcement officer those public safety duties.

Any firearm utilized by a special law enforcement officer shall be returned at the end of the officer's workday to the officer in charge of the station house, unless the firearm is owned by the special law enforcement officer and was acquired in compliance with a condition of employment established by the local unit. Any special law enforcement officer first appointed after the effective date of this act shall only use a firearm supplied by the local unit. A special law enforcement officer shall not carry a revolver or other similar weapon when off duty; but if any special law enforcement officer appointed by the governing body of any municipality having a population in excess of 300,000, according to the 1980 federal census, who is a resident of the municipality and is employed as a special law enforcement officer at least 35 hours per week, or less at the discretion of the chief of police and mayor, shall, at the direction of the chief of police, have taken and successfully completed a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and has successfully completed within three years of the effective date of P.L.1985, c.45 or three years of the date of appointment of the special law enforcement officer, whichever is later, 280 hours of training in arrest, search and seizure, criminal law, and the use of deadly force, and shall annually qualify in the use of a revolver or similar weapon, the special law enforcement officer shall be permitted to carry a revolver or other similar weapon when off duty within the municipality where the officer is employed. Specific authorization shall be in the form of a permit which shall not be unreasonably withheld, which is subject to renewal annually and may be revoked at any time by the chief of police. The permit shall be on the person of the special law enforcement officer whenever a revolver or other similar weapon is carried off duty. A permit shall not be issued until the special law enforcement officer has successfully completed all training courses required under this section. Any training courses completed by a special law enforcement officer under the direction of the chief of police in a school and a curriculum approved by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), shall be credited towards the 280 hours of training required to be completed by this section. Any training required by this

section shall commence within 90 days of the effective date of P.L.1985, c.45 or within 90 days of the date of the appointment of the special law enforcement officer, whichever is later.

c. A special law enforcement officer shall be under the supervision and direction of the chief of police or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, and shall perform the officer's duties only in the local unit except when in fresh pursuit of any person pursuant to chapter 156 of Title 2A of the New Jersey Statutes or when authorized to perform duties in another unit pursuant to a mutual aid agreement enacted in accordance with section 1 of P.L.1976, c.45 (C.40A:14-156.1).

d. The officer shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the local unit, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

e. Notwithstanding any provision of P.L.1985, c.439 (C.40A:14-146.8 et seq.) to the contrary, a special law enforcement officer may travel through another local unit to reach a noncontiguous area of the local unit in which the officer's appointment was issued or to transport persons to and from a correctional facility.

40A:14-146.15. Powers.

The chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the local unit, including, but not limited to, the carrying of firearms and the power of arrest, subject to rules and regulations, not inconsistent with the certification requirements of this act, as may be established by local ordinance or resolution, as appropriate, adopted by the appropriate authority of the local unit in which they are employed.

40A:14-146.16. Limitation on hours.

a. Except as provided in subsection c. of this section, a special law enforcement officer shall not be employed for more than 20 hours per week by the local unit except that special law enforcement officers may be employed by the local unit for those hours as the governing body may determine necessary in accordance with the limits prescribed below:

- (1) In resort municipalities not to exceed 48 hours per week during any seasonal period.
- (2) In all municipalities or counties without limitation as to hours during periods of emergency.
- (3) In all municipalities or counties in addition to not more than 20 hours per week including duties assigned pursuant to the provisions of section 7 of P.L.1985, c.439 (C.40A:14-146.14) a special law enforcement officer may be assigned for not more than 20 hours per week to provide public safety and law enforcement services to a public entity.
- (4) In municipalities or counties, as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14- 146.14), for hours to be determined at the discretion of the director of the municipal or county police force.
- (5) A Class Three special law enforcement officer in all municipalities without limitation.

b. Notwithstanding any provision of P.L.1985, c.439 (C.40A:14-146.8 et seq.) to the contrary, special law enforcement officers may be employed only to assist the local law enforcement unit but may not be employed to replace or substitute for full-time, regular police officers or in any way diminish the number of full-time officers employed by the local unit or a school or county college. A Class Three special law enforcement officer may be employed only to assist the local law enforcement unit with security duties and shall not supplant a law enforcement officer employed pursuant to the provisions of N.J.S.18A:17-43 or a safe schools resource officer employed pursuant to the provisions of section 3 of P.L.2005, c.276 (C.18A:17-43.1). A Class Three special law enforcement officer shall not be assigned to an extra-

curricular or after-school function at a school or county college unless the assignment has first been made available to full-time members employed by the local unit or school or county college.

c. Each municipality or county may designate one special law enforcement officer to whom the limitations on hours employed set forth in subsection a. of this section shall not be applicable.

d. A Class Three special law enforcement officer appointed pursuant to the provisions of P.L. 1985, c.439 (C.40A:14-146.8 et seq.) shall not, based on this appointment, be eligible for health care benefits or enrollment in any State-administered retirement system.

40A:14-146.17. Limitations on number, categories.

The local governing body shall by ordinance or resolution, as appropriate, establish limitations upon the number and categories of special law enforcement officers which may be employed by the local unit in accordance with the certification and other requirements provided for in this act. In communities other than resort municipalities, the number of Class Two special law enforcement officers shall not exceed 25% of the total number of regular police officers, except that no municipality shall be required to reduce the number of Class Two special law enforcement officers or the equivalent thereof in the employ of the municipality as of March 1, 1985. Notwithstanding the provisions of this section, each local unit may appoint two Class Two special law enforcement officers.

REGULATIONS

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and other law enforcement officials as may be designated by the county prosecutor;
2. Reviewed and approved by the executive county superintendent;
3. Made available annually to all school staff, students and parents;
4. Consistent with reporting, notification, and examination procedures of students suspected of being under the influence of alcohol and other drugs pursuant to N.J.A.C. 6A:16-4.3; and
5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. Designation by the chief school administrator of liaisons to law enforcement agencies and the description of the liaisons' roles and responsibilities;
2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests;
3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children consistent with the following:
 - i. School officials shall not notify the student's parent(s) in instances of suspected child abuse or neglect;
 - ii. School officials shall notify the student's parent(s) when the student is the target of the law enforcement investigation; and
 - iii. In all other instances, school authorities shall permit law enforcement authorities to determine whether or when a student's parent should be contacted;
4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds;
5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.

- i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
 - ii. Questions concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.
 - iii. School officials may request that law enforcement authorities assume responsibility for conducting a search or seizure.
 - iv. No school staff member shall impede a law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.
 - v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting a search or seizure.
 - vi. All inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines may be undertaken with only the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.
 - vii. Questions concerning the legality of a contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds shall be directed to the county prosecutor or in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice's designee in the New Jersey Department of Law and Public Safety, to the assigned assistant attorney general;
6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;
7. Procedures for planning, approving, and conducting undercover school operations.
 - i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve undercover operations without prior notification to the district board of education.
 - ii. All information concerning requests to undertake an undercover school operation, information supplied by law enforcement authorities to justify the need for and explain a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.
 - iii. The chief school administrator and principal shall not divulge information concerning an undercover school operation to any person without the prior express approval of the county prosecutor or designee.
 - iv. The chief school administrator, principal, or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation shall immediately communicate to the county prosecutor or designee if he or she subsequently learns of information that suggests the undercover officer's true identity has been revealed, the undercover officer's identity or status as a bona fide member of the school community has been questioned, or the integrity of the undercover school operation has been in any other way compromised;
8. The procedures for and responsibilities of staff concerning the safe and proper handling of a seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of the items to appropriate law enforcement authorities in accordance with this subchapter;

9. The procedures for and responsibilities of staff in notifying authorities of a suspected violation of laws prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
10. Provisions for requesting uniformed police attendance at extracurricular school events;
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
12. Provisions for in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the school district and law enforcement agencies;
13. A memorandum of agreement with appropriate law enforcement authorities.
 - i. The memorandum of agreement shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the State Attorney General and the Commissioner.
 - ii. The memorandum of agreement shall define the reciprocal rights and obligations of students, parents, school staff, and law enforcement officials with respect to the possession, distribution, and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.
 - iii. Copies of all memoranda of agreements entered into with law enforcement authorities shall be submitted to and approved by the county prosecutor, executive county superintendent of schools, president of the district board of education, chief school administrator, and chief of the police department or station commander.
14. An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the memorandum of agreement, and to review the effectiveness of policies and procedures implemented pursuant to this subchapter.
 - i. The annual review shall include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials designated by the county prosecutor.
 - ii. The memorandum of agreement may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the State Attorney General and the Commissioner;
15. Provisions for contacting the chief executive officer of the involved law enforcement agency, county prosecutor, and/or Division of Criminal Justice, as necessary, to resolve disputes concerning law enforcement activities occurring on school grounds; and
16. Provisions for directing inquiries or complaints received by school staff regarding interviews, investigations, arrests, or other operations conducted by sworn law enforcement officers to the appropriate law enforcement agency.

(c) Nothing in the policies and procedures required under this section shall be construed to prohibit school staff from disclosing information, pursuant to N.J.A.C. 6A:32-7.2 and 7.5(f), if necessary to protect the immediate health or safety of a student or other persons.

Threat Assessment Protocols

LAWS

18A:17-43.4. Threat assessment team, establishment, policy; school district, charter school, renaissance school project.

1. a. The board of education of each school district and the board of trustees of each charter school or renaissance school project shall develop and adopt a policy for the establishment of a threat assessment team at each school. The purpose of a threat assessment team shall be to provide school teachers, administrators, and other staff with assistance in identifying students of concern, assessing those students' risk for engaging in violence or other harmful activities, and delivering intervention strategies to manage the risk of harm for students who pose a potential safety risk, to prevent targeted violence in the school, and ensure a safe and secure school environment that enhances the learning experience for all members of the school community.

b. A threat assessment team established by a board of education or a board of trustees under subsection a. of this section shall be multidisciplinary in membership and, to the extent possible, shall include the following individuals:

(1) a school psychologist, school counselor, school social worker, or other school employee with expertise in student counseling;

(2) a teaching staff member;

(3) a school principal or other senior school administrator;

(4) a safe schools resource officer or school employee who serves as a school liaison to law enforcement; and

(5) the school safety specialist designated pursuant to section 2 of P.L.2017, c.162 (C.18A:17-43.3), in the event that the school safety specialist is not already a school administrator or school employee required to be a part of the threat assessment team pursuant to this section. Additional school employees may serve as regular members of the threat assessment team or may be consulted during the threat assessment process, as determined to be appropriate by the team.

18A:17-43.5. Alignment of threat assessment team policy.

2. a. Any policy developed by a school district, charter school or renaissance school project concerning the establishment of a threat assessment team, required pursuant to section 1 of this act, shall be aligned with guidelines developed by the Department of Education pursuant to section 3 of this act and shall include, but need not be limited to:

(1) guidance for students, teachers, and all school staff regarding the recognition of threatening or aberrant behavior in a student that may represent a threat to the school community;

(2) the designation of members of the school community to whom threatening behavior shall be reported;

(3) the development and implementation of policies concerning the assessment and intervention of students whose behavior poses a threat to the safety of the school community, and appropriate actions to be taken, including available social, developmental, and law enforcement resources, for students whose behavior is identified as posing a threat to the safety of the school community;

(4) coordination and consultation with the school safety specialist designated pursuant to section 2 of P.L.2017, c.162 (C.18A:17-43.3); and

(5) a policy that the threat assessment team shall not disclose or disseminate any information obtained during their assessment beyond the purpose for which the information was provided to the threat assessment team, except that the threat assessment team is authorized to disclose the information to applicable agencies to pursue appropriate action pursuant to paragraph (3) of this subsection for any student whose behavior is identified as posing a threat to the safety of the school community.

b. When assessing a student whose behavior may pose a threat to the safety of the school community, in the case of a student with an Individualized Education Program (IEP) or 504 plan, the threat assessment team shall consult with the IEP team or 504 team to determine whether the aberrant behavior is a threat to

school safety and is being properly addressed in a manner that is required by N.J.A.C.6A:14 and all federal and State special education laws.

c. Each member of the threat assessment team shall participate in training provided by the school safety specialist designated pursuant to section 2 of P.L.2017, c.162 (C.18A:17-43.3) that is consistent with the guidelines developed by the department pursuant to section 3 of this act to ensure that the threat assessment team is able to accurately assess student behavior and to ensure that threat assessment teams do not have a disparate impact on students based on their race, ethnicity, homelessness status, religious belief, gender, gender identity, sexual orientation, or socioeconomic status. The training shall, at a minimum, include training on adverse childhood experiences, childhood trauma, cultural competency, and implicit bias.

18A:17-43.6. Guidelines developed; training provided.

3. The Department of Education, in consultation with State law enforcement agencies and the New Jersey Office of Homeland Security and Preparedness, shall develop guidelines for school districts, charter schools, and renaissance school projects regarding the establishment and training of threat assessment teams pursuant to this act. The Department of Education shall provide training through the New Jersey School Safety Specialist Academy established pursuant to section 1 of P.L.2017, c.162 (C.18A:17-43.2). The school safety specialist designated pursuant to section 2 of P.L.2017, c.162 (C.18A:17-43.3) shall provide training to school staff consistent with the training and guidelines provided by the department.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Jersey provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Student Attendance New Jersey Department of Education, NJDOE	Addresses attendance, truancy and chronic absenteeism and provides guidance for reporting student attendance for chronic absenteeism, information and resources for prevention and remediation of attendance problems, and other related resources.	https://www.nj.gov/education/safet/sandp/attendance/
Student Conduct, NJDOE	Provides information and links to resources on the code of student conduct including: CSC statutes, regulations, and resources and information on positive student discipline, restorative practices, and suspensions & expulsions.	https://www.nj.gov/education/safet/sandp/conduct/
Harassment, Intimidation, and Bullying (HIB), NJDOE	Provides information to support families and educators on understanding the <i>Anti-Bullying Bill of Rights Act</i> . Provides links, resources and information to aid schools in the establishment of HIB policies, the adoption of HIB program strategies, and the implementation of proactive responses to HIB and the adoption of HIB reporting procedures.	https://www.nj.gov/education/safet/sandp/hib/index.shtml
New Jersey Tiered System of Supports (NJTSS), NJDOE	Provides an overview of NJTSS and additional resources including briefings, information on essential components, assessment tools, implementation guidelines, and intervention resources.	https://www.nj.gov/education/njtss/
Social and Emotional Learning, NJDOE	Provides schools and districts with resources to support social and emotional learning to enhance the building of positive school climates and the healthy development of young people.	https://www.nj.gov/education/safet/wellness/selearning/
Alcohol, Tobacco and Other Drug Use:	Provides schools and districts with resources to establish a comprehensive program of prevention,	https://www.nj.gov/education/safet/sandp/atd/

Title	Description	Website address (if applicable)
Prevention and Intervention	intervention, referral for evaluation, referral for treatment and continuity of care for student ATOD abuse.	
Office of Controversies and Disputes, NJDOE	This office assists the Commissioner of Education with hearing and deciding disputes under the state's school laws.	https://www.nj.gov/education/cd/
Special Education's Parental Rights in Special Education, NJDOE	This document assists parents with understanding their parental rights and the rights of students as they relate to special education services.	https://www.nj.gov/education/special/parents/
Documents		
A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials (2023), NJDOE	Memorandum designed to ensure cooperation between law enforcement and education officials and ultimately to protect the educational environment. All public-school districts, charter and Renaissance schools, jointure commissions, educational services commissions and approved private schools for students with disabilities are required to adopt and implement this memorandum.	https://www.nj.gov/education/safety/sandp/schoolsafety/moa.shtml
Guidance for Schools on Implementing the Anti-Bullying Bill of Rights Act (December 2011), NJDOE	Guidance document for schools to implement the <i>Anti-Bullying Bill of Rights Act</i> signed into law to strengthen procedures for preventing, reporting, investigating and responding to incidents of HIB.	https://www.nj.gov/education/safety/sandp/hib/
Model policy and guidance for prohibiting harassment, intimidation and bullying on school property, at school-sponsored functions and on school buses (August 2022), NJDOE	Model policy and guidance document for prohibiting harassment, intimidation and bullying on school property, at school-sponsored functions and on school buses.	https://www.nj.gov/education/safety/sandp/hib/faq.shtml
New Jersey Tiered System of Supports (NJTSS) Implementation Guidelines (2019), NJDOE	Comprehensive guidelines for NJ school districts on best practices for implemented NJTSS.	https://www.nj.gov/education/njtss/guidelines.pdf

Title	Description	Website address (if applicable)
SCTP School Climate Strategy Resource Guide (February 2023), NJDOE	This resource guide supports schools in identifying research-based strategies to address school climate priorities. This document previews a selection of resources available through the New Jersey School Climate Improvement (NJ SCI) Platform which is an online application to support all public New Jersey schools in assessing their school climate. The resource guide includes strategies related to anti-bullying interventions, family support and engagement, restorative practices, among others.	https://platform.njschoolclimate.org/files/activity/OTY=/download/pdf/NJ+SCI+Strategy+Resource-Feb2023.pdf
<i>Other Resources</i>		
New Jersey School Climate Improvement Platform, NJDOE	The New Jersey School Climate Improvement (NJ SCI) Platform is a no-cost, comprehensive resource which includes survey instruments to support school districts in assessing their school climate. Resources and supports are also included to assist schools with making data-based decisions to develop school climate goals and action plans. Surveys are designed for students in grades 3-12, staff members, and families.	https://njschoolclimate.org/
Student Safety and Discipline in New Jersey Schools: The Commissioner's Annual Report to the State Legislature (2020-21), NJDOE	Commissioner's annual report to the State Legislature of student safety and discipline in New Jersey schools.	https://www.nj.gov/education/vandv/annualreport/2021/SSDSReport2020_2021.pdf



New Mexico Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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22-2C-6. Remediation programs; promotion policies; restrictions

Article 2D. Family and Youth Resources

22-2D-3. Programs; purpose; functions

Article 2F. School Support and Accountability

22-2F-1. Short title

22-2F-2. Definitions

22-2F-3. School support and accountability system; created; establishing a school dashboard; prioritizing resources for schools receiving additional support

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22-5-4.3. School discipline policies; racial sensitivity and anti-racism training, hotline for reporting racially charged incidents and racialized aggression involving students or school personnel; students may self-administer certain medications

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22-12A-1. Short title

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Article 33. Emergency Medication in Schools

22-33-5. Medical cannabis; possession; storage; administration; restriction; exemptions

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Article 2. Delinquency

32A-2-33. Child in possession of a firearm on school premises; detention; hearing

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32A-25-1. Short title

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

22-1-1.2. Legislative findings and purpose.

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

22-5-4.3. School discipline policies; racial sensitivity and anti-racism training, hotline for reporting racially charged incidents and racialized aggression involving students or school personnel; students may self-administer certain medications.

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school. No local school board shall allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

D. All school discipline policies shall define and include a specific prohibition against racialized aggression involving a student or school personnel. Every school district and every charter school shall provide links to the statewide hotline to report racially charged incidents or racialized aggression.

22-10A-18. School principals; duties.

In addition to other duties prescribed by law, a school principal shall:

A. under the general supervision of the local superintendent, assume administrative responsibility and overall instructional leadership for the public school to which he is assigned, including the discipline of students and the planning, operation, supervision and evaluation of the educational program of the school.

22-12A-6. Public school attendance policies; reporting.

A. A public school shall maintain an attendance policy that:

- (1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;
- (2) provides for early identification of chronically absent and excessively absent students;
- (3) employs an attendance improvement plan that focuses on:

- (a) keeping students in an educational setting;
 - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences;
 - (c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; and
 - (d) providing additional educational opportunities to students who are struggling with attendance;
- (4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;
- (5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;
- (6) provides that a public school shall differentiate between different types of absences;
- (7) requires a public school to document the following for each chronically or excessively absent student:
- (a) attempts by the public school to notify a parent that the student was absent from class or the school day;
 - (b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and
 - (c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;
- (8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and
- (9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974 [20 U.S.C. § 1232g], between a public school and community-based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

22-35-3. Bullying prevention policies; adoption and enforcement.

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

- (1) prevent bullying:
 - (a) on its property, including electronic communication on or with the use of its property;
 - (b) at sponsored functions; and
 - (c) on its to-and-from-school transportation or any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

REGULATIONS

General provisions.

D. Local school board authority: Local school boards have the authority and responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC, and subject to the minimums prescribed in this rule, local school boards have discretion to develop such rules, policies, and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which

deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

Rules of conduct for New Mexico public schools.

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

Requirements.

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

- A. The policy shall provide specific rules of conduct prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.
- B. Each school district and state-chartered charter school shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.
- C. The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.
- D. Each school district and state-chartered charter school shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and to local residents, groups, businesses and organizations served by the school.
- E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

- (1) prevent bullying and cyberbullying:
 - (a) on its property, including electronic communication on or with the use of its property;
 - (b) at school or district-sponsored events; and
 - (c) on any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

Scope

LAWS

22-35-3. Bullying prevention policies; adoption and enforcement.

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

- (1) prevent bullying:
 - (a) on its property, including electronic communication on or with the use of its property;
 - (b) at sponsored functions; and
 - (c) on its to-and-from-school transportation or any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

22-5A-2. Definitions.

As used in the School Alcohol-Free Zone Act [22-5A-1 NMSA 1978]:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

REGULATIONS

6.11.2.8. General provisions.

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

(1) On school property: Local school boards may prohibit entry to and provide for the removal from any public school building or grounds any person who refuses to identify themselves and state a lawful purpose for entering. Any person who refuses to identify themselves may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses to identify themselves and who refuses a lawful request to leave school premises may be subject to arrest by law enforcement officers for criminal offenses including but not limited to criminal trespass, interference with the educational process, or disorderly conduct. A person who identifies themselves and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this rule. The person may also be subject to arrest by law enforcement officers if the person is committing any crime.

(2) Off school property: Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct or criminal trespass after refusing a lawful request to leave, school authorities may request law enforcement agencies to arrest the offenders.

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

(1) prevent bullying and cyberbullying:

(a) on its property, including electronic communication on or with the use of its property;

(b) at school or district-sponsored events; and

(c) on any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

Communication of Policy

LAWS

22-12A-6. Public school attendance policies; reporting.

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

- (1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;
- (2) the prevention strategies that will be implemented to ensure that students attend classes; and
- (3) details about consequences of failing to adhere to the attendance policy.

22-5A-4. Notices required.

A school shall conspicuously post notices on school grounds stating that possession and consumption of alcoholic beverages is prohibited on school grounds.

22-35-3. Bullying prevention policies; adoption and enforcement.

C. Each local school board shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages for any school district in which a substantial portion of the student population speaks a language other than English at home.

22-35-4. Bullying prevention programs establishment.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's anti-bullying policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

REGULATIONS

6.10.8.8. Requirements.

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

6.12.4.8. Requirements.

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

Bullying Prevention Policies - adoption and enforcement.

C. Each local school board and governing body shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages in any school district in which a substantial portion of the student population speaks a language other than English at home.

Bullying prevention programs - establishment.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's bullying prevention policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on district and/or school public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

In-School Discipline

Discipline Frameworks

LAWS

22-5-4.3. School discipline policies; racial sensitivity and anti-racism training, hotline for reporting racially charged incidents and racialized aggression involving students or school personnel; students may self-administer certain medications.

- A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school. No local school board shall allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.
- B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.
- C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.
- D. All school discipline policies shall define and include a specific prohibition against racialized aggression involving a student or school personnel. Every school district and every charter school shall provide links to the statewide hotline to report racially charged incidents or racialized aggression.
- E. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.
- F. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:
- (1) the health care provider has instructed the student in the correct and responsible use of the medication;
 - (2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;
 - (3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and
 - (4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.
- G. The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

H. Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication.

As used in this section:

- (1) "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;
- (2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and
- (3) "race" includes traits historically associated with race, including hair texture, length of hair, protective hairstyles or cultural or religious headdresses."

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

- (1) A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible;
- (2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s); and
- (3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record.

Alternatives to Suspension

LAWS

22-5-4.3. School discipline policies; racial sensitivity and anti-racism training, hotline for reporting racially charged incidents and racialized aggression involving students or school personnel; students may self-administer certain medications.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

22-35-2. Definitions.

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling;
- (7) participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (8) community service; and
- (9) in-school detention or suspension, which may take place during lunchtime, after school or during weekends.

22-35-3. Bullying prevention policies; adoption and enforcement.

B. Each local school board shall control the content of its policy; provided that the policy includes:

(4) a list of consequences, including progressive discipline approaches that can result from an identified incident of bullying that are designed to:

- (a) appropriately correct the bullying behavior;
- (b) prevent another occurrence of bullying or retaliation;
- (c) protect the target of the bullying;
- (d) be flexible so that, in application, the consequences can be unique to the individual incident and varied in method and severity based on: 1) the nature of the incident; 2) the developmental age of the student who is bullying; and 3) any history of problem behavior from the student who is bullying; and
- (e) for cyberbullying incidents, use the least restrictive means necessary to address the interference with the student's ability to participate in or benefit from the services, activities or privileges provided by the school.

REGULATIONS

6.11.2.7. Definitions.

E. "Detention" means requiring a student to remain in a designated area in the student's school outside of instructional time, such as before school, during recess, during lunch, or after school. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. [...]

K. "In-school suspension" means requiring a student to spend time in a designated area at the same school or in an environment where the student is allowed to continue with their academic learning.

6.11.2.10. Enforcing rules of conduct.

G. Detention, suspension and expulsion. Where detention, suspension, or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed in 6.11.2.12 NMAC. Suspensions or expulsions of students with disabilities shall be subject to the further requirements of Subsection I of 6.11.2.10 NMAC and 6.11.2.11 NMAC.

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

E. In-school suspension.

(1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in in-school suspension which exceeds 10 school days must be provided with an instructional program that meets state and local educational requirements. Student privileges, however, may be restricted for longer than 10 school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth in Subsection D of 6.11.2.12 NMAC. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No student in in-school suspension shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

F. Detention.

(1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that detention does not entail removing the student from any of the student's regular classes.

(2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

6.12.7.7. Definitions.

G. "Progressive discipline " means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling or intervention;
- (7) participation in skill-building and conflict resolution activities;
- (8) community service; and
- (9) in-school detention or in-school suspension that is for a constructive purpose and may take place during lunchtime, recess, after school, or during weekends.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

22-5-4.3. School discipline policies; racial sensitivity and anti-racism training, hotline for reporting racially charged incidents and racialized aggression involving students or school personnel; students may self-administer certain medications.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

REGULATIONS

6.11.2.10. Enforcing rules of conduct.

F. Corporal punishment. Corporal punishment shall be prohibited by each local school board pursuant to Subsection B of Section 22-5-4.3 NMSA 1978. Restraint or seclusion techniques used in compliance with Subsection E of 6.11.2.10 NMAC shall not be deemed to be corporal punishment.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

6.11.2.10. Enforcing rules of conduct.

B. Search and seizure. School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:

(1) Notice of search policy. Students shall be given reasonable notice, through distribution of written policies or otherwise, of each school's policy on searches at the beginning of each school year or upon admission for students entering during the school year.

(2) Who may search. Certified school personnel, school security personnel and school bus drivers are "authorized persons" to conduct searches when a search is permissible as set forth in Subsection B of 6.11.2.10 NMAC. An authorized person who is conducting a search may request the assistance of one or more people, who upon consent become authorized to search for the purpose of that search only.

(3) When a search is permissible. Unless local school board policy provides otherwise, an authorized person may conduct a search when the authorized person has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when the administrative authority has reasonable cause to believe that a search is necessary to help maintain school discipline.

(4) Conduct of searches and witnesses. The following requirements govern the conduct of permissible searches by authorized persons.

(a) School property, including lockers and school buses, may be searched with or without students present unless a local school board or administrative authority provides otherwise. When students are not present for locker searches, another authorized person shall serve as a witness whenever possible. Locks furnished by students should not be destroyed unless a student refuses to open one

or circumstances otherwise render such action necessary in the judgment of the administrative authority.

(b) Student vehicles when on campus or otherwise under school control and students' personal effects, which are not within their immediate physical possession, may be searched in accordance with the requirements for locker searches in Subparagraph (a) of Paragraph (4) of Subsection B of 6.11.2.10 NMAC.

(c) Physical searches of a student's person may be conducted only by an authorized person of the same sex as the student and, except when circumstances render it impossible, may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search shall not be excessively intrusive in light of the student's age and sex, and the nature of the infraction.

(5) Seizure of items. Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

(6) Notification of law enforcement authorities. Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

Restraint and Seclusion

LAWS

22-5-4.12. Use of restraint and seclusion; techniques; requirements.

A. A school may permit the use of restraint or seclusion techniques on any student only if both of the following apply:

- (1) the student's behavior presents an imminent danger of serious physical harm to the student or others; and
- (2) less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm.

B. If a restraint or seclusion technique is used on a student:

- (1) school employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use;
- (2) the restraint or seclusion technique shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others;
- (3) the restraint or seclusion technique shall be used only by school employees who are trained in the safe and effective use of restraint and seclusion techniques unless an emergency situation does not allow sufficient time to summon those trained school employees;
- (4) the restraint technique employed shall not impede the student's ability to breathe or speak; and
- (5) the restraint technique shall not be out of proportion to the student's age or physical condition.

C. Schools shall establish policies and procedures for the use of restraint or seclusion techniques in a school safety plan; provided that:

- (1) the school safety plan shall not be specific to any individual student; and
- (2) any school safety plan shall be drafted by a planning team that includes at least one special education expert.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

(1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;

(2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use; and

(3) schools shall review strategies used to address a student's dangerous behavior if use of restraint or seclusion techniques for an individual student has occurred two or more times during any thirty-calendar-day period. The review shall include:

(a) a review of the incidents in which restraint or seclusion techniques were used and an analysis of how future incidents may be avoided, including whether the student requires a functional behavioral assessment; and

(b) a meeting of the student's individualized education program team, behavioral intervention plan team or student assistance team within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

E. If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation and review procedures established pursuant to Subsection D of this section.

F. Policies regarding restraint and seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

G. The provisions of this section shall not be interpreted as addressing the conduct of law enforcement or first responders.

H. The provisions of this section do not apply to any school located within a county juvenile detention center or a state-operated juvenile facility.

I. For the purposes of this section:

(1) "first responder" means a person based outside of a school who functions within the emergency medical services system and who is dispatched to a school to provide initial emergency aid;

(2) "mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices;

(3) "physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort;

(4) "restraint" when not otherwise modified means mechanical or physical restraint; and

(5) "seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

REGULATIONS

6.11.2.7. Definitions.

P. "Mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices. [...]

R. "Physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort. [...]

V. "Restraint" when not otherwise modified means mechanical or physical restraint. [...]

X. "Seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

6.11.2.10. Enforcing rules of conduct.

E. Restraint or seclusion. In accordance with Section 22-5-4.12 NMSA 1978, each school shall establish requirements for the use of restraint and seclusion techniques.

(1) Schools shall establish policies and procedures, as approved by the local school board or governing body, for the use of restraint and seclusion techniques. Schools shall review such policies and procedures on a triennial basis, before submitting the school safety plan.

(a) A school may permit the use of restraint or seclusion techniques on any student only if the student's behavior presents an imminent danger of serious physical harm to the student or others and only if less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm. Less restrictive interventions include de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques.

(b) The restraint or seclusion techniques shall be used only by school employees who are trained in de-escalation strategies, positive behavioral intervention supports, and the safe and effective use of restraint and seclusion techniques, unless an emergency does not allow sufficient time to summon those trained school employees.

(c) The restraint or seclusion techniques shall not impede the student's ability to breathe or speak, shall be in proportion to a student's age and physical condition, and shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others.

(d) If a restraint or seclusion technique is used on a student, trained and authorized school employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use.

(2) In accordance with Section 22-5-4.12 NMSA 1978, schools shall establish policies and procedures for the use of restraint and seclusion techniques in a school safety plan.

(a) A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall include the following minimum requirements:

(i) The school safety plan shall not be specific to any individual student; and

(ii) The school safety planning team shall include at least one administrator, one educator, and one special education expert and may include a counselor or social worker, nurse, and school resource officer or security staff. The school safety planning team shall include personnel who are trained as designated school personnel restraint and seclusion.

(b) A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall be submitted to the department on a triennial basis, on a schedule determined by the

department. The department will provide local education agencies notice of a deadline to submit a school safety plan 90 days prior to the due date.

(3) Policies and procedures for the use of restraint and seclusion techniques shall require and describe appropriate training for designated school personnel.

(a) School districts and charter schools shall provide training for designated school personnel regarding de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques and the use of restraint or seclusion techniques. Designated school personnel shall attend training at least every two years or complete a certification course, exam, or other comparable demonstration of competency that provides evidence that the individual has up-to-date knowledge of proper restraint and seclusion techniques.

(b) In the event that new designated school personnel are identified within the school after the provision of the training, certification course, exam, or other comparable demonstration of competency, the school district or charter school shall ensure that a training or other competency demonstration is provided to new designated school personnel within 60 days of being designated.

(4) Policies regarding restraint or seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

(5) Schools shall implement the following review procedures for incidents in which restraint or seclusion techniques are used.

(a) If a student has been restrained or secluded two or more times within 30 calendar days, the school shall review strategies used to address the student's behavior and determine whether the student needs a functional behavior assessment or referral to a student assistance team, behavioral intervention plan team, or, if a student has an individualized education program, a referral to the student's individualized education program team.

(b) If a student has been restrained or secluded two or more times within 30 calendar days, the student's individualized education program team, behavioral intervention plan team, or student assistance team shall meet within two weeks of each subsequent use to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

(c) The review shall include whether school personnel involved in the incidents were trained in the use of de-escalation strategies, positive behavioral intervention supports, or restraint and seclusion techniques. Additionally, the review shall consider whether the individual who restrained or secluded a student needs additional training.

(d) To improve internal practices relative to incidents of restraint or seclusion, schools shall conduct an annual review and analysis of all incidents in which restraint or seclusion techniques were used, including the number of incidents, the type of incident, personnel involved, the need for additional training, and student demographics.

(6) Schools shall establish documentation and reporting procedures pursuant to the requirements listed in Section 22-5-4.12 NMSA 1978. In addition, schools shall provide written or oral assurance of secure storage and access to written documentation in accordance with this rule, 20 USC. Section 1232(g), 34 CFR Part 99, the Family Educational Rights and Privacy Act, and any other applicable federal or state laws or rules governing the privacy of such documents.

(a) A school employee shall provide the student's parent with written or oral notice on the same day the incident occurred, unless circumstances prevent same-day notification. If notice is not provided on the same day of the incident, notice shall be given within 24 hours after the incident.

(b) Within a reasonable time following the incident, no longer than two school days, a school employee shall provide the student's parent with written documentation that includes information about any persons, locations, or activities that may have triggered the behavior, if known, and specific

information about the behavior and its precursors, the type of restraint or seclusion technique used, and the duration of its use.

(c) Schools shall report to the department, through the department's data collection and reporting system, the following information on a timeline and reporting frequency established by the department:

- (i) all instances in which a restraint or seclusion technique is used;
- (ii) all instances in which law enforcement is summoned instead of using a restraint or seclusion technique;
- (iii) the names of the students and school personnel involved in an incident in which restraint or seclusion was used; and
- (iv) if a student was restrained, the type of restraint, including mechanical restraint or physical restraint, that was used.

(d) If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation, and review procedures established pursuant to this rule and Section 22-5-4.12 NMSA 1978.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

22-12A-6. Public school attendance policies; reporting.

A. A public school shall maintain an attendance policy that:

- (3) employs an attendance improvement plan that focuses on:
 - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences.

22-33-5. Medical cannabis; possession; storage; administration; restriction; exemptions.

D. A public school, charter school or school district shall not:

- (1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school.

REGULATIONS

6.10.8.8. Requirements.

B. Each local school board and charter school shall develop a written attendance policy that:

- (4) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy.

6.12.10.11. Students.

A. Each school district and charter school shall ban a student's possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.

B. No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.

C. No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

Due Process

LAWS

22-5-4.7. Additional student discipline policies; weapon-free schools.

B. Student discipline policies shall also provide for placement in an alternative educational setting, for not more than forty-five days, of any student with a disability who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. If a parent or guardian of the student requests a due process hearing, then the student shall remain in the alternative educational setting during the pendency of any proceeding, unless the parent or guardian and the school district agree otherwise.

22-12A-12. Excessive absenteeism; enforcement.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

22-35-3. Bullying prevention policies; adoption and enforcement.

B. Each local school board shall control the content of its policy; provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(d) an appeal process for a student accused of bullying or a student who is the target of bullying who is not satisfied with the outcome of the initial investigation.

REGULATIONS

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s). [...]

D. Temporary suspension.

(2) A student facing temporary suspension shall be granted a rudimentary hearing in which the student shall first be informed of the charges against the student and, if the student denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present the student's version of the facts. The following rules apply:

(a) the hearing may be an informal discussion and may follow immediately after the notice of the charges is given;

(b) unless the administrative authority decides a delay is essential to permit a fuller exploration of the facts, informal discussion may take place and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred;

(c) a student who denies a charge of misconduct shall be told what act(s) the student is accused of committing, shall be given an explanation of the evidence supporting the accusation(s), and shall be given the opportunity to explain the student's version of the facts. The administrative authority is not required to divulge the identity of informants, although the administrative authority should not withhold such information without good cause. The administrative authority is required to disclose the substance of all evidence on which the administrative authority proposes to base a decision in the matter;

(d) the administrative authority is not required to allow the student to secure counsel, to confront or cross-examine witnesses supporting the charge(s), or to call witnesses to verify the student's version of the incident, but none of these is prohibited; and

(e) the school shall exert reasonable efforts to inform the student's parent(s) of the charges against the student and the possible or actual consequence as soon as practicable. If the school has not communicated with the parent(s) by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record. [...]

G. Long-term suspension and expulsion.

(1) Each local school board shall authorize appropriate administrative authorities to initiate procedures leading to long-term suspension or expulsion. Where prompt action to suspend a student long-term is deemed appropriate, a temporary suspension may be imposed while the procedures for long-term suspension or expulsion are activated. However, where a decision following the required formal hearing is delayed beyond the end of the temporary suspension, the student shall be returned to school pending the final outcome unless the provisions of Subparagraphs (j) and (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply. [...]

(4) The following rules shall govern the imposition of long-term suspensions or expulsions:

(a) Hearing authority and disciplinarian. The same person or group may perform the functions of hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts shall be conclusive to the disciplinarian, but the disciplinarian may reject any consequence(s) recommended by the hearing authority.

(b) Review authority. Unless the local school board provides otherwise, a review authority shall have discretion to modify or overrule the disciplinarian's decision, but may not impose harsher consequences. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subparagraph (o) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(c) Disqualification. No person shall act as hearing authority, disciplinarian, or review authority in a case where the person was directly involved in or witnessed the incident(s) in question, or if the person has prejudged disputed facts or is biased for or against any person who will actively participate in the proceedings.

(d) Local school board participation. A local school board may act as hearing authority, disciplinarian, or review authority for any cases involving proposed long-term suspensions or expulsions. However, whenever a quorum of the local school board acts in any such capacity, Section 10-15-1 et seq., NMSA 1978, the Open Meetings Act, requires a public meeting.

(e) Initiation of procedures. An authorized administrative authority shall initiate procedures for long-term suspension or expulsion of a student by designating a hearing authority and disciplinarian in accordance with local school board policies, scheduling a formal hearing in consultation with the hearing authority, and preparing and serving a written notice meeting the requirements of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(f) Service of notice. The written notice shall be addressed to the student, through the student's parent(s), and shall be served upon the parent(s) personally or by mail.

(g) Timing of hearing. The hearing shall be scheduled no sooner than five nor later than 10 school days from the date of receipt of the notice by the parent(s). The hearing authority may grant or deny a request to delay the hearing in accordance with the provisions of Subparagraph (i) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(h) Contents of notice. The written notice must contain all of the following information, parts of which may be covered by appropriate reference to copies of any policies or regulations furnished with the notice:

- (i) the school rule(s) alleged to have been violated, a concise statement of the alleged act(s) of the student on which the charge(s) are based, and a statement of the possible penalty;
 - (ii) the date, time, and place of the hearing, and a statement that both the student and parent(s) are entitled and urged to be present;
 - (iii) a clear statement that the hearing will take place as scheduled unless the hearing authority grants a delay or the student and parent(s) agree to waive the hearing and comply voluntarily with the proposed disciplinary action or with a negotiated penalty, and a clear and conspicuous warning that a failure to appear will not delay the hearing and may lead to the imposition of the proposed penalty by default;
 - (iv) a statement that the student has the right to be represented at the hearing by legal counsel, a parent or some other representative designated in a written notice filed at least 72 hours before the hearing with the contact person named pursuant to Item (vi) of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC;
 - (v) a description of the procedures governing the hearing;
 - (vi) the name, business address, and telephone number of a contact person through whom the student, parent(s), or designated representative may request a delay or seek further information, including access to any documentary evidence or exhibits which the school proposes to introduce at the hearing; and
 - (vii) any other information, materials or instructions deemed appropriate by the administrative authority who prepares the notice.
- (i) Delay of hearing. The hearing authority shall have discretion to grant or deny a request by the student or the appropriate administrative authority to postpone the hearing. Such discretion may be limited or guided by local school board policies not otherwise inconsistent with this rule.
- (j) Student status pending hearing. Where a student has been suspended temporarily and a formal hearing on long-term suspension or expulsion will not occur until after the temporary suspension has expired, the student shall be returned to school at the end of the temporary suspension unless:
- (i) the provisions of Subparagraph (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply, or
 - (ii) the student and parent(s) have knowingly and voluntarily waived the student's right to return to school pending the outcome of the formal proceedings; or
 - (iii) the appropriate administrative authority has conducted an interim hearing pursuant to a written local school board policy made available to the student which affords further due process protection sufficient to support the student's continued exclusion pending the outcome of the formal procedures.
- (k) Waiver of hearing, voluntary compliance, or negotiated penalty. A student and the student's parent(s) may elect to waive the formal hearing and review procedures and comply voluntarily with the proposed penalty, or may waive the hearing and review and negotiate a mutually acceptable penalty with the designated disciplinarian. Such a waiver and compliance agreement shall be made voluntarily, with knowledge of the rights being relinquished, and shall be evidenced by a written document signed by the student, the parent(s), and the appropriate school official.
- (l) Procedure for hearing and decision. The formal hearing is not a trial. The formal hearing is an administrative hearing designed to ensure a calm and orderly determination by an impartial hearing authority of the facts of a case of alleged serious misconduct. Technical rules of evidence and procedure do not apply. The following rules govern the conduct of the hearing and the ultimate decision:
- (i) The school shall have the burden of proof of misconduct.

- (ii) The student and the student's parent(s) shall have the following rights: The right to be represented by legal counsel or other designated representative, however, the school is not required to provide representation; the right to present evidence, subject to reasonable requirements of substantiation at the discretion of the hearing authority and subject to exclusion of evidence deemed irrelevant or redundant; the right to confront and cross-examine adverse witnesses, subject to reasonable limitation by the hearing authority; the right to have a decision based solely on the evidence presented at the hearing and the applicable legal rules, including the governing rules of student conduct.
- (iii) The hearing authority shall determine whether the alleged act(s) of misconduct have been proved by a preponderance of the evidence presented at a hearing at which the student or a designated representative have appeared.
- (iv) If no one has appeared on the student's behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent(s), received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charge(s) of misconduct.
- (v) A hearing authority who is also a disciplinarian shall impose an appropriate sanction if the hearing authority finds that the allegations of misconduct have been proved under the standards of either Item (iii) or (iv) of Subparagraph (I) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC. A hearing authority who is not a disciplinarian shall report the findings, together with any recommended sanction, to the disciplinarian promptly after the hearing.
- (vi) Arrangements to make a tape recording or keep minutes of the proceedings shall be made by the administrative authority who scheduled the hearing and prepared the written notice. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the evidence presented.
- (vii) The hearing authority may announce a decision on the question of whether the allegation(s) of misconduct have been proved at the close of the hearing. A hearing authority who is also a disciplinarian may also impose a penalty at the close of the hearing.
- (viii) In any event, the hearing authority shall prepare and mail or deliver to the student, through the parent(s), a written decision within five working days after the hearing. The decision shall include a concise summary of the evidence upon which the hearing authority based its factual determinations. A hearing authority who is also a disciplinarian shall include in the report a statement of the penalty, if any, to be imposed, and shall state reasons for the chosen penalty. A hearing authority who is not a disciplinarian shall forward a copy of the hearing authority's written decision to the disciplinarian forthwith. The disciplinarian shall prepare a written decision, including reasons for choosing any penalty imposed, and mail or deliver it to the student, through the parent(s), within five working days of receipt of the hearing authority's report.
- (ix) A disciplinarian who is not a hearing authority may observe but not participate in the proceedings at a formal hearing. If the disciplinarian is present at the formal hearing and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce the disciplinarian's decision at that time.
- (x) The disciplinarian's decision shall take effect immediately upon initial notification to the parent(s), either at the close of the hearing or upon receipt of the written decision. If initial notification is by mail, the parent(s) shall be presumed to have received the notice on the fifth calendar day after the date of mailing unless a receipt for certified mail, if used, indicates a different date of receipt.
- (m) Effect of decision. If the hearing authority decides that no allegation(s) of misconduct have been proved, or if the disciplinarian declines to impose a penalty despite a finding that an act or acts of misconduct have been proved, the matter shall be closed. If the disciplinarian imposes any sanction

on the student, the decision shall take effect immediately upon notification to the parent and shall continue in force during any subsequent review.

(n) Right of review. Unless the local school board was the disciplinarian, a student aggrieved by a disciplinarian's decision after a formal hearing shall have the right to have the decision reviewed if the penalty imposed was at least as severe as a long-term suspension or expulsion, an in-school suspension exceeding one school semester, or a denial or restriction of student privileges for one semester or longer. A local school board may grant a right of review for less severe penalties. Local school boards shall establish appropriate mechanisms for review except where the local board was the disciplinarian, in which case the local school board decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within 10 school days after the student is informed of the disciplinarian's decision.

(o) Conduct of review. Unless the local school board provides otherwise, a review authority shall have discretion to modify the disciplinarian's decision, including imposing any lesser sanction deemed appropriate. A review authority shall be bound by the hearing authority's factual determinations unless the student persuades the review authority that a finding of fact was arbitrary, capricious, or unsupported by substantial evidence or that new evidence, which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing, would manifestly change the factual determination. Upon any such finding, the review authority shall have discretion to receive new evidence, reconsider evidence introduced at the hearing, or conduct a de novo hearing. In the absence of any such finding, the review shall be limited to an inquiry into the appropriateness of the penalty imposed.

(p) Form of review. Unless the local school board provides otherwise, a review authority shall have discretion to conduct a review on the written record of the hearing and decision in the case, to limit new submissions by the aggrieved student and school authorities to written materials, or to grant a conference or hearing at which the student and the student's representative and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Item (vi) of Subparagraph (l) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply.

(q) Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than 15 working days after a student's written request for review is received by the appropriate administrative authority.

(r) Decision. A review authority may announce a decision at the close of any conference or hearing held on review. In any event, the review authority shall prepare a written decision, including concise reasons, and mail or deliver it to the disciplinarian, the hearing authority and the student, through the parent(s), within 10 working days after the review is concluded.

(s) Effect of decision. Unless the local school board provides otherwise, a review authority's decision shall be the final administrative action to which a student is entitled.

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s).

Alternative Placements

LAWS

22-2C-6. Remediation programs; promotion policies; restrictions.

H. A student who does not demonstrate academic proficiency for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.

22-5-4.7. Additional student discipline policies; weapon-free schools.

B. Student discipline policies shall also provide for placement in an alternative educational setting, for not more than forty-five days, of any student with a disability who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. If a parent or guardian of the student requests a due process hearing, then the student shall remain in the alternative educational setting during the pendency of any proceeding, unless the parent or guardian and the school district agree otherwise.

REGULATIONS

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The

procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

G. Long-term suspension and expulsion.

(2) A student who has been validly expelled or suspended is not entitled to receive any educational services from the local school district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the expense of the student or parent(s) pursuant to department requirements, if the local school board deems such arrangements appropriate.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis. [...]

C. For the purposes of this section, "weapon" means:

- (1) any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; and
- (2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

32A-2-33. Child in possession of a firearm on school premises; detention; hearing.

A. If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child's actions to a law enforcement agency and the children, youth and families department.

B. Upon receipt of a report pursuant to Subsection A of this section, the law enforcement agency may conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.

C. If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency may take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in Subsection C of Section 32A-2-10 NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

D. As used in this section, "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

REGULATIONS

Definitions.

EE. "Weapon ," as set forth in Section 22-5-4.7 NMSA 1978, means:

- (1) any firearm that is designed to, may readily be converted to, or will expel a projectile by the action of an explosion; and
- (2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

6.11.2.9. Rules of conduct for New Mexico public schools.

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

(8) per Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, any student who is determined to have knowingly brought a weapon to a public school under the jurisdiction of the local school board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D of 6.11.2.11 NMAC, apply to students with disabilities.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

22-12A-1. Short title.

Sections 1 through 14 [22-12A-1 to 22-12A-14 NMSA 1978] of this act may be cited as the "Attendance for Success Act".

22-12A-2. Definitions.

As used in the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978]:

A. "absent" means not in attendance for a class or school day for any reason, whether excused or not; provided that "absent" does not apply to participation in interscholastic extracurricular activities;

B. "attendance improvement plan" means a tiered data-informed system for public schools and school districts to identify students who are chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions. Each of the tiers is defined as follows:

- (1) "whole school prevention" means universal, whole-school prevention strategies for all students, including students who have missed less than five percent of classes or school days for any reason;
- (2) "individualized prevention" means targeted prevention strategies for individual students who are missing five percent or more but less than ten percent of classes or school days for any reason;
- (3) "early intervention" means interventions for students who are missing ten percent or more but less than twenty percent of classes or school days for any reason; and
- (4) "intensive support" means interventions for students who are missing twenty percent or more of classes or school days for any reason;

- C. "attendance team" means a group of school-based administrators, teachers, staff, other school personnel and community members who collaborate to implement an attendance improvement plan;
- D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year;
- E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;
- F. "excessively absent" or "excessive absenteeism" means a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school;
- G. "excused absence" means absence from a class or school day for a death in the family, medical absence, religious instruction or tribal obligations or any other allowable excuse pursuant to the policies of the local school board;
- H. "interscholastic extracurricular activities" means those activities sponsored by a public school or an organization whose principal purpose is the regulation, direction, administration and supervision of interscholastic extracurricular activities in public schools;
- I. "local school board" includes the governing body of a charter school;
- J. "medical absence" or "medically absent" means that a student is not in attendance for a class or a school day for a parent- or doctor-authorized medical reason or the student is a pregnant or parenting student;
- K. "school day" means a portion of the school day that is at least one-half of a student's approved program;
- L. "school district" includes a charter school;
- M. "school principal" includes the head administrator of a charter school; and
- N. "unexcused absence" means an absence from a class or school day for which the student does not have an allowable excuse pursuant to the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] or policies of the local school board.

22-12A-6. Public school attendance policies; reporting.

- A. A public school shall maintain an attendance policy that:
 - (1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;
 - (2) provides for early identification of chronically absent and excessively absent students;
 - (3) employs an attendance improvement plan that focuses on:
 - (a) keeping students in an educational setting;
 - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences;
 - (c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; and
 - (d) providing additional educational opportunities to students who are struggling with attendance;
 - (4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;
 - (5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;
 - (6) provides that a public school shall differentiate between different types of absences;

(7) requires a public school to document the following for each chronically or excessively absent student:

- (a) attempts by the public school to notify a parent that the student was absent from class or the school day;
- (b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and
- (c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;

(8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and

(9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974 [20 U.S.C. § 1232g], between a public school and community-based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

B. Local school boards shall review and approve their public school attendance policies.

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 [22-12A-13 NMSA 1978] of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission.

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

- (1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;
- (2) the prevention strategies that will be implemented to ensure that students attend classes; and
- (3) details about consequences of failing to adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools.

22-12A.7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.

A. School districts shall differentiate public schools based on their chronic absence rates into no fewer than four categories.

B. School districts shall differentiate student subgroups based on their chronic absence rates into no fewer than four categories.

C. Using the differentiation scheme pursuant to Subsections A and B of this section, a school district shall develop attendance improvement plans that include the following elements:

- (1) specific school district supports and resources available to public schools at each level to further the implementation of their attendance improvement plans;
- (2) attendance improvement targets for public schools or subpopulations with chronic absence rates of ten percent or greater, developed in collaboration with each public school; and

(3) an attendance improvement target for school districts with chronic absence rates of ten percent or greater.

D. Each school district shall report its attendance improvement plan to the department no later than forty-five days after the beginning of the school year. The department may allow a school district to report its attendance improvement plan as part of the educational plan for student success.

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

- (1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;
- (2) the extent to which public schools with chronic absence rates greater than ten percent achieved their attendance improvement targets;
- (3) the extent to which the school district achieved its attendance improvement targets;
- (4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;
- (5) effective school-based practices, as evidenced by decreased chronic absence rates; and
- (6) recommendations for improvement during the next school year at both the public school and school district level.

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance.

22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.

A. A public school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for its enrolled students. The enforcement policies of a public school shall focus on prevention and intervention.

B. Beginning in the 2020-2021 school year, a public school with five percent or greater of students with a chronic absence rate during the prior school year, or with five percent or greater of one or more subgroups of students with a chronic absence rate during the prior school year, shall develop an attendance improvement plan to be submitted to the department as part of the public school's educational plan for student success.

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

- (1) attendance data for each of the preceding two school years and the current school year, including:
 - (a) the public school's overall absence rate;
 - (b) chronic absence rates disaggregated by student subpopulation;
 - (c) chronic absence rates disaggregated by grade level; and
 - (d) student attendance for every day of the school year;
- (2) school-wide identification of potential root causes of chronic and excessive absenteeism through one or more of the following:
 - (a) national or local research;
 - (b) analysis of supportive factors and barriers;
 - (c) student surveys or focus groups;

- (d) youth participatory research; or
- (e) other appropriate school-based research methods;
- (3) identification of strategies for each tier of the attendance improvement plan;
- (4) identification of performance measures for each strategy; and
- (5) a data-collection plan for performance measures.

E. A public school shall provide interventions to students who are absent or chronically absent, which may include:

- (1) assessing student and family needs and matching those needs with appropriate public or private providers, including civic and corporate sponsors;
- (2) making referrals to health care and social service providers;
- (3) collaborating and coordinating with health and social service agencies and organizations through school-based and off-site delivery systems;
- (4) recruiting service providers and business, community and civic organizations to provide needed services and goods that are not otherwise available to a student or the student's family;
- (5) establishing partnerships between the public school and community organizations, such as civic, business and professional groups and organizations and recreational, social and out-of-school programs;
- (6) identifying and coordinating age-appropriate resources for students in need of:
 - (a) counseling, training and placement for employment;
 - (b) drug and alcohol abuse counseling;
 - (c) family crisis counseling; and
 - (d) mental health counseling;
- (7) promoting family support and parent education programs; and
- (8) seeking out other services or goods that a student or the student's family needs to assist the student to stay in school and succeed.

F. Beginning on the first day of school, a classroom teacher or that teacher's adult designee shall be responsible for taking accurate attendance for every class and reporting absences to the attendance team.

22-12A-11. Progressive interventions for absent, chronically absent and excessively absent students.

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:

- (1) for a student who has been identified as in need of individualized prevention, the attendance team shall:
 - (a) for an elementary student, talk to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism; and
 - (b) for a middle or high school student, talk to the parent and the student about the student's attendance history and the impact of student absences on student academic outcomes, interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism;
- (2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop

intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance; and

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

- (a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team;
- (b) establish nonpunitive consequences at the school level;
- (c) identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and
- (d) apprise the student and the parent of the consequences of further absences.

B. The school principal shall consult with a student's teacher and initiate meetings with the teacher, the student and the parent if the alleged cause of absence from class is teacher-student incompatibility.

22-12A-12. Excessive absenteeism; enforcement.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

22-12A-13. Reporting requirements.

A. For each reporting date and at the end of the year, each school district shall report:

- (1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and
- (2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

- (1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;

- (2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and
- (3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup.

REGULATIONS

Objective.

To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools including charter schools. In addressing truancy, the goal is to keep children in school until age eighteen and not to suspend, expel or outright punish them for being truant.

Definitions.

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

Requirements.

- A. It is the policy of this state that school age persons receive an education and do not dropout or otherwise withdraw prematurely prior to completing an educational program. To that end, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of a documented hardship approved by the local superintendent.
- B. Each local school board and charter school shall develop a written attendance policy that:
- (1) in accordance with the definition of "attendance" stated in this rule, requires that class attendance be taken and maintained by class period for every instructional day for each student in each school or school program in the school district;
 - (2) provides excused absences for pregnant and parenting students as follows:
 - (a) provides at least ten days of excused absences for a student who provides documentation of the birth of the student's child and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent for the birth of a child;
 - (b) provides excused absences for any additional days missed by a pregnant or parenting student for which a longer period of absence is deemed medically necessary by the student's physician and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;
 - (c) provides four days per semester of excused absences, in addition to the number of allowed absences for all students, for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;
 - (d) clearly states that the pregnant or parenting student is responsible for communicating the student's pregnancy and parenting status to the appropriate school personnel if the student chooses to disclose the information; and
 - (e) provides that the school district or charter school shall provide a copy of the pregnant and parenting student absence policies to all students in middle, junior high and high schools; and
 - (3) requires each school to report unexcused absences of two or more classes up to fifty percent of an instructional day as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day to be counted as one full-day absence;
 - (4) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy;

(5) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

(6) provides for early identification of students with unexcused absences, students in need of early intervention, and habitual truants; provides for intervention strategies that focus on keeping students in need of early intervention in an educational setting; and further provides that:

(a) if a student is in need of early intervention, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student has unexcused absences from school and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse complies with the school district attendance policy;

(b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's unexcused absences, identify what actions can be taken that might prevent the student's unexcused absences, identify possible school district, charter school and community resources to address the causes for the student's unexcused absences, and establish a corrective action plan to address the student's unexcused absences;

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's unexcused absences are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by mail to or by personal service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting;

(f) if there is another unexcused absence after delivery of a written notice of habitual truancy, the student shall within seven (7) days of this unexcused absence be reported to the probation services office of the judicial district where the student resides;

(g) if the student is a habitual truant the school shall document the following for each student identified as a habitual truant:

(i) attempts of the school to notify the parent that the student had unexcused absences;

(ii) attempts of the school to meet with the parent to discuss intervention strategies; and

(iii) intervention strategies implemented to support keeping the student in school.

C. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

D. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the district attorney's office to determine what action will be taken.

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

F. The public education department's truancy prevention coordinator shall be permitted access to any records and information related to students in need of early intervention or habitual truancy in any school district, any particular school within a district, or any charter school.

Intergovernmental agreements.

In carrying out its duties under this rule and the compulsory school attendance law, school districts and charter schools shall take into consideration the sovereignty of a Native American tribe. While all children attending public schools will still be subject to being reported to the public education department if they are habitually truant, a school district or charter school shall respect tribal laws and traditions in carrying out its duties of early identification, intervention, and parental notification. To do so, school districts and charter schools shall adopt policies that:

- A. emphasize a better understanding of tribal customs, religious practices and laws,
- B. consider entering into a memorandum of agreement, a memorandum of understanding, or some other form of intergovernmental agreement with Native American tribes,
- C. consider respectful and effective ways to notify a parent(s)/guardian(s) of student in need of intervention and habitually truant Native American students,
- D. consider follow-up or reinforcement procedures after Native American children have undergone intervention through Native American or other agreed upon resources.

Reporting requirement.

- A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.
- B. The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the student teacher accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

6.11.2.10. Enforcing rules of conduct.

A. Enforcing attendance requirements. Local school districts and public schools shall establish, maintain, and enforce attendance policies and requirements set forth in Section 22-12A-1 et seq. NMSA 1978, the Attendance for Success Act, and Section 32A-3A-1 et seq. NMSA 1978, the Family Services Act.

6.11.2.9. Rules of conduct for New Mexico public schools.

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

- (1) school attendance.

Substance Use

LAWS

22-2D-3. Programs; purpose; functions.

A. A "family and youth resources program" may be created in any public school in the state. Except as provided in Subsection D of this section, the department shall accept applications for grants from public schools in which eighty percent of the students are eligible for the free or reduced-fee lunch program to fund their program.

B. The purpose of the program is to provide an intermediary for students and their families at public schools to access social and health care services. The goal of the program is to forge mutual long-term relationships with public and private agencies and community-based, civic and corporate organizations to help students attain high academic achievement by meeting certain nonacademic needs of students and their families.

C. A program shall include the employment of a resource liaison, who shall:

(6) identify and coordinate age-appropriate resources for students in need of:

(b) drug and alcohol abuse counseling.

22-5-4.4. School employees; reporting drug and alcohol use; release from liability.

A. A school employee who knows or in good faith suspects any student of using or abusing alcohol or drugs shall report such use or abuse pursuant to procedures established by the local school board.

B. No school employee who in good faith reports any known or suspected instances of alcohol or drug use or abuse shall be held liable for any civil damages as a result of such report or his efforts to enforce any school policies or regulations regarding drug or alcohol use or abuse.

22-5A-1. Short title.

This act [22-5A-1 to 22-5A-5 NMSA 1978] may be cited as the "School Alcohol-Free Zone Act".

22-5A-2. Definitions.

As used in the School Alcohol-Free Zone Act [22-5A-1 NMSA 1978]:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

22-5A-3. Alcoholic beverages prohibited on public school grounds.

It is unlawful to possess or consume alcoholic beverages on public school grounds.

22-5A-4. Notices required.

A school shall conspicuously post notices on school grounds stating that possession and consumption of alcoholic beverages is prohibited on school grounds.

22-5A-5. Penalties.

A. A person convicted of consumption or possession of an alcoholic beverage on school property for the first offense is guilty of a petty misdemeanor and subject to a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100) and may be ordered to perform community service.

B. A person convicted of consumption or possession of an alcoholic beverage on school property for the second or a subsequent offense is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a definite term not to exceed six months, or both.

REGULATIONS

6.11.2.9. Rules of conduct for New Mexico public schools.

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

(4) use of controlled substances, alcohol and tobacco in public schools.

Objective.

The objective of this rule is to prohibit the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

Definitions.

A. "Alcoholic beverage" means any beverage containing more than one-half percent alcohol by volume, and includes all distilled or rectified spirits, potable alcohol or any similar alcoholic beverages, including all fermented or blended beverages and dilutions or mixtures of one or more of these alcoholic beverages.

B. "E-cigarette":

(1) means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substances the use or inhalation of which simulates smoking; and

(2) includes any such device, or any part of it, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor; but

(3) does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.

C. "Illicit drugs" means prescription and over-the-counter medications used for non-medical purposes, or not used as medically prescribed by lawfully authorized practitioners or as directed by the manufacturer's literature, and include all supplemental dietary or nutrition ergogenic aids, stimulants, nootropics, adaptogens, painkillers, sedatives and anxiolytics, blood boosters and other performance-enhancing drugs.

D. "Mood-altering substances" means substances that change, or are capable of changing, a person's emotional state, and include all stimulants, opioids, intoxicative inhalants and hallucinogens.

E. "Nicotine liquid container" means a bottle or other container of any substance containing nicotine where the substance is sold, marketed or intended for use in an e-cigarette.

F. "School personnel" includes all administrators, principals, teachers, counselors, social workers, speech therapists, psychologists, nurses, librarians and other support staff who is employed by a school, or who perform services for the school on a contractual basis.

G. "Tobacco product" means any product made or derived from tobacco that is intended for human consumption, including any component, part or accessory of a tobacco product. This includes, among other products, cigarettes, cigars, pipe tobacco, roll-your-own tobacco, dissolvable tobacco, and smokeless tobacco. Smokeless tobacco means any snuff or chewing tobacco.

Requirements.

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

A. The policy shall provide specific rules of conduct prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

B. Each school district and state-chartered charter school shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.

C. The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.

D. Each school district and state-chartered charter school shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and to local residents, groups, businesses and organizations served by the school.

E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

Exception.

Sections 6 and 8 of this rule shall not include the lawful possession or use by a minor of a tobacco-cessation product approved by the United States food and drug administration.

6.12.10.11. Students.

A. Each school district and charter school shall ban a student's possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.

B. No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.

C. No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

22-35-1. Short title.

This act [22-35-1 to 22-35-5 NMSA 1978] may be cited as the "Safe Schools for All Students Act".

22-35-2. Definitions.

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

A. "bullying" means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that:

(1) may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or cognitive disability or any other

distinguishing characteristic; or on an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

- (a) place a student in reasonable fear of physical harm to the student's person or property;
- (b) cause a substantial detrimental effect on a student's physical or mental health;
- (c) substantially interfere with a student's academic performance or attendance; or
- (d) substantially interfere with a student's ability to participate in or benefit from the services, activities or privileges provided by an agency, educational institution or grantee;

B. "cyberbullying" means any bullying that takes place through electronic communication;

C. "electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording;

D. "gender identity" means a student's self-perception, or perception of that student by another, of the student's identity as a male or female based upon the student's appearance, behavior or physical characteristics that are in accord with or opposed to the student's physical anatomy, chromosomal sex or sex at birth;

E. "local school board" includes the governing body of a charter school;

F. "physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities;

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling;
- (7) participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (8) community service; and
- (9) in-school detention or suspension, which may take place during lunchtime, after school or during weekends; and

H. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived.

22-35-3. Bullying prevention policies; adoption and enforcement.

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

- (1) prevent bullying:
 - (a) on its property, including electronic communication on or with the use of its property;
 - (b) at sponsored functions; and
 - (c) on its to-and-from-school transportation or any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

B. Each local school board shall control the content of its policy; provided that the policy includes:

(1) the definitions as set forth in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978];

(2) a statement prohibiting bullying;

(3) a statement prohibiting retaliation against persons who report or witness incidents of bullying;

(4) a list of consequences, including progressive discipline approaches that can result from an identified incident of bullying that are designed to:

(a) appropriately correct the bullying behavior;

(b) prevent another occurrence of bullying or retaliation;

(c) protect the target of the bullying;

(d) be flexible so that, in application, the consequences can be unique to the individual incident and varied in method and severity based on: 1) the nature of the incident; 2) the developmental age of the student who is bullying; and 3) any history of problem behavior from the student who is bullying; and

(e) for cyberbullying incidents, use the least restrictive means necessary to address the interference with the student's ability to participate in or benefit from the services, activities or privileges provided by the school;

(5) a procedure for reporting bullying or retaliation for reporting an act of bullying, including:

(a) a flexible reporting system that allows for reporting orally and in the student's preferred language;

(b) a method for reporting bullying anonymously; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report; and

(c) a method for parents to file written reports of suspected bullying; and

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(a) designation of a school administrator to investigate or supervise the investigation of all reports of bullying and to ensure that such investigation is completed promptly after the receipt of any report made under the Safe Schools for All Students Act;

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the students targeted by the alleged act; provided that if the administrator believes, in the administrator's professional capacity, that notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;

(c) a benchmark that school employees who witness acts of bullying or receive reports of bullying notify the designated administrator not later than two days after the school employee witnesses or receives a report of bullying;

(d) an appeal process for a student accused of bullying or a student who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

C. Each local school board shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages for any school district in which a substantial portion of the student population speaks a language other than English at home.

D. Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

E. Each local school board shall establish procedures for public schools to report aggregate incidents of bullying and incidents of harassment under any applicable federal or state law, along with responses to these incidents, and report this information annually to the department.

22-35-4. Bullying prevention programs establishment.

A. Following adoption of a bullying prevention policy, each public school shall:

- (1) establish an annual bullying prevention program for students included in New Mexico's health education content standards with benchmarks and performance standards;
- (2) provide annual training on bullying prevention to all employees and volunteers who have significant contact with students; and
- (3) incorporate information on the bullying prevention policy into new employee training.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's anti-bullying policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

22-35-5. Department duties; school district and charter school report cards.

A. The department shall:

- (1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]; and
- (2) within one hundred twenty days of the effective date of the Safe Schools for All Students Act:
 - (a) promulgate rules for a model policy for local school boards on bullying prevention in accordance with that act, as well as any developmentally, culturally or linguistically appropriate variants of the policy;
 - (b) provide guidance to local school boards relating to effective forms of progressive discipline to reduce bullying and school violence; and
 - (c) provide guidance to local school boards on effective bullying prevention programs to reduce bullying and school violence.

B. At the same time as or as part of the annual accountability report, each school district and charter school shall report on the status of its implementation of the provisions of the Safe Schools for All Students Act, including the aggregate number of incidents of bullying in the state, the aggregate number of incidents of harassment under any applicable federal or state laws, the aggregate number of responsive actions taken by public schools by type of action, a tabulation of the number of incidents associated with each distinguishing characteristic defined in the Safe Schools for All Students Act, the department's evaluation of the sufficiency of funding for bullying prevention programs and any recommendations for policy or programmatic change to improve the addressing of bullying issues in the state.

32A-25-1. Short title.

This act [32A-25-1 to 32A-25-5 NMSA 1978] may be cited as the "Carlos Vigil Memorial Act" in honor of Carlos Vigil.

32A-25-2. Purposes.

The purposes of the Carlos Vigil Memorial Act [Chapter 32A, Article 25 NMSA 1978] are to:

- A. cultivate a statewide culture where bullying is not accepted;
- B. educate New Mexicans about recognizing bullying behaviors and understanding the potential consequences of bullying; and
- C. provide grants for providers of services and programs for the prevention, resolution and eradication of bullying statewide.

32A-25-3. Carlos Vigil memorial board; created.

- A. The "Carlos Vigil memorial board" is created to review grant applications and to award grants from the eradicate bullying fund.
- B. The board consists of five voting members who together provide diverse experience and expertise in:
 - (1) administering or delivering services in an organization focused on preventing bullying or suicide;
 - (2) administering or delivering services in an organization focused on providing counseling and support services to victims and perpetrators of bullying;
 - (3) professional development workshops on the topic of bullying or suicide prevention;
 - (4) coalescing and leading communities; or
 - (5) administering or delivering public health services.
- C. Board appointments shall be as follows:
 - (1) one member shall be appointed by the president pro tempore of the senate;
 - (2) one member shall be appointed by the minority floor leader of the senate;
 - (3) one member shall be appointed by the speaker of the house of representatives;
 - (4) one member shall be appointed by the minority floor leader of the house of representatives; and
 - (5) one member shall be appointed by the governor from department of health staff.
- D. The chair of the board shall be elected by a quorum of the board members. The board shall meet at the call of the chair or whenever two members submit a request in writing to the chair, but not less often than once each calendar year. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of a majority of a quorum present shall be necessary for an action to be taken by the board.
- E. Members of the board shall be appointed to two-year terms. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the board shall be eligible for reappointment.
- F. Public members of the board may be paid per diem and mileage as provided for nonsalaried officers in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] but shall receive no other compensation, perquisite or allowance.

32A-25-4. Carlos Vigil memorial board; duties.

The Carlos Vigil memorial board shall:

- A. adopt and promulgate rules governing the acceptance, evaluation and prioritization of applications for grants, including applicant qualifications and the format, procedure and deadlines for grant applications;
- B. review grant applications from public agencies and institutions and nonprofit private entities that indicate the qualifications and expertise to provide services for the prevention, resolution and eradication of bullying;
- C. process, evaluate and prioritize applications based on the criteria delineated in the board's rules; and
- D. award grants to the most qualified grant applicants and reach a broad spectrum of New Mexicans.

32A-25-5. Eradicate bullying fund created; grant application review.

A. The "eradicate bullying fund" is created in the state treasury. The fund shall be administered by the board of regents of the university of New Mexico. Money in the fund is appropriated to the board of regents of the university of New Mexico for disbursement to grant recipients selected by the Carlos Vigil memorial board.

B. The fund shall consist of:

- (1) money appropriated by the legislature to carry out the purposes of the Carlos Vigil Memorial Act [Chapter 32A, Article 25 NMSA 1978];
- (2) grants, gifts, donations and bequests to the fund; and
- (3) earnings from investment of the money in the fund.

C. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the president of the board of regents of the university of New Mexico or the president's designee.

D. Unexpended and unencumbered balances in the fund shall not revert to the general fund at the end of a fiscal year.

E. An applicant may apply for a grant from the fund in accordance with rules promulgated by the Carlos Vigil memorial board. Allocations from the fund shall be based on a competitive process with applications reviewed by the board.

REGULATIONS

Issuing agency.

Public Education Department, hereinafter the department.

Scope.

This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies.

Statutory authority.

This rule is promulgated by the secretary of the department and the department under the authority of Sections 9-24-8, 22-2-1, 22-2-2, and 22-35-1 through 22-35-5 NMSA 1978.

Duration.

Permanent.

Effective date.

November 12, 2019, unless a later date is cited at the end of a section.

Objective.

To establish requirements for local school boards and public schools, including charter schools and governing bodies, to develop and implement bullying prevention policies and programs and to report on the implementation of the Safe Schools for All Students Act per the parameters established within the provisions of this rule.

Definitions.

A. "Bullying " means any severe, pervasive, or persistent act or conduct that targets a student, whether physically, electronically, or verbally, and that:

- (1) may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identify, spousal affiliation, physical or cognitive disability, or any other distinguishing characteristic; or an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

- (a) place a student in reasonable fear of physical harm to the student's person or property;
- (b) cause a substantial detrimental effect on a student's physical or mental health;
- (c) substantially interfere with a student's academic performance, attendance, or participation in extracurricular activities; or
- (d) substantially interfere with a student's ability to participate in or benefit from the services, activities, or privileges provided by a school or school-affiliated entity.

B. "Cyberbullying " means any bullying that takes place through electronic communication.

C. "Electronic communication " means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording device.

D. "Gender identity" means a student's self-perception, or perception by another, of the student's identity as a male or female based upon the student's appearance, behavior, or physical characteristics that are in accord with, or opposed to, the student's physical anatomy, chromosomal sex, or sex at birth.

E. "Harassment" means a pattern of conduct that is intended to annoy, seriously alarm, or terrorize another person or group of people.

F. "Physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities.

G. "Progressive discipline " means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling or intervention;
- (7) participation in skill-building and conflict resolution activities;
- (8) community service; and
- (9) in-school detention or in-school suspension that is for a constructive purpose and may take place during lunchtime, recess, after school, or during weekends.

H. "Regular volunteers" means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school, or other educational entity without compensation.

I. "Sexual orientation" means heterosexuality, homosexuality, or bisexuality, whether actual or perceived.

Bullying Prevention Policies - adoption and enforcement.

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

- (1) prevent bullying and cyberbullying:
 - (a) on its property, including electronic communication on or with the use of its property;
 - (b) at school or district-sponsored events; and
 - (c) on any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

- (1) the definitions as set forth in this rule;
- (2) a statement prohibiting bullying;
- (3) a statement prohibiting retaliation against persons who report or witness incidents of bullying;
- (4) a list of consequences, exclusive of suspension and expulsion, that can result from an incident of bullying, and with consequences that are designed to:
 - (a) appropriately correct the bullying behavior;
 - (b) prevent another occurrence of bullying or retaliation;
 - (c) protect the target of the bullying;
 - (d) be flexible so that, in application, the consequences can vary in method and severity based on:
 - (i) the nature of the incident;
 - (ii) the developmental age and/or cognitive level of the student who is bullying; and
 - (iii) historical problem behavior from the student who is bullying; and
 - (e) limit the restrictive nature of consequences for cyberbullying incidents, such that while correcting cyberbullying behavior and preventing further incidents of cyberbullying, a student with cyberbullying behavior is able to participate in or benefit from the services, activities, or privileges provided by the school to the greatest extent possible;
- (5) a procedure for reporting bullying and for reporting retaliation for reporting an act of bullying, including:
 - (a) an allowance for reporting orally and in the preferred language of the person reporting;
 - (b) a method for anonymous reporting; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report of an actual bullying incident; and
 - (c) a method for parents to file written reports of suspected bullying; and
- (6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:
 - (a) designation of a school or district administrator who has the responsibility to:
 - (i) investigate or supervise the investigation of all reports of bullying and
 - (ii) to ensure that investigations are completed promptly after the receipt of any report made under this rule;
 - (b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;
 - (c) a requirement that school employees who witness bullying or who receive reports of bullying notify the designated administrator within two calendar days of the employee witnessing or receiving a report of bullying;
 - (d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation; and
 - (e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

C. Each local school board and governing body shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language.

Policies shall be produced and disseminated in appropriate languages in any school district in which a substantial portion of the student population speaks a language other than English at home.

D. Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

E. Each local school board or governing body shall establish procedures for public schools to report the number of bullying incidents and the number of harassment incidents, as defined by federal or state law, along with responses to these incidents, and shall report this information annually to the department at such time as determined by the department and through the department's student teacher accountability reporting or through other means as determined by the department.

Bullying prevention programs - establishment.

A. Following adoption of a bullying prevention policy, each public school shall:

(1) establish an annual bullying prevention program for students aligned with New Mexico's health education content standards with benchmarks and performance standards;

(2) provide annual training beginning with the 2020-2021 school year and each school year thereafter on bullying prevention to all school personnel and regular volunteers who have significant contact with students; and

(3) incorporate information on the bullying prevention policy into new employee training.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

(1) making each school district's bullying prevention policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on district and/or school public websites;

(2) identifying a point of contact for bullying-related concerns; and

(3) informing parents and students about the policy at least annually through student handbooks and other resources.

Reporting requirements.

A. Beginning with the 2020-2021 school year, each school district and state-chartered charter school shall annually submit the following to the department in a method prescribed by the department and in a timeframe determined by the department:

(1) a status report on the implementation of the provisions of this rule;

(2) data elements on the implementation of this rule including:

(a) the aggregate number of bullying incidents of students within the district or state-chartered charter school;

(b) the aggregate number of harassment incidents of students within the district or state-chartered charter school; and

(c) the corresponding responsive action or disposition taken by the district or state-chartered charter school, by type of action, for each bullying incident of a student and for each harassment incident of a student.

B. Each school district and state-chartered charter school shall include, in its reporting, when known, a tabulation of the number of bullying incidents of students and the number of harassment incidents of students associated with each of the following actual or perceived distinguishing characteristic:

(1) race;

(2) color;

(3) national origin;

(4) ancestry;

(5) sex;

- (6) sexual orientation;
- (7) gender identity;
- (8) spousal affiliation;
- (9) physical or cognitive disability; or
- (10) an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

22-12A-7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance.

22-35-5. Department duties; school district and charter school report cards.

A. The department shall:

(1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]; and

(2) within one hundred twenty days of the effective date of the Safe Schools for All Students Act:

(a) promulgate rules for a model policy for local school boards on bullying prevention in accordance with that act, as well as any developmentally, culturally or linguistically appropriate variants of the policy;

(b) provide guidance to local school boards relating to effective forms of progressive discipline to reduce bullying and school violence; and

(c) provide guidance to local school boards on effective bullying prevention programs to reduce bullying and school violence.

REGULATIONS

6.29.1.9. Procedural requirements.

E. Student intervention system. The school and school district shall follow the multi-layered system of supports (MLSS), which is a three-layer model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior. All students shall have access to layer 1, 2, and 3 interventions without a need to convene a SAT team or a referral to special education or related services. At any layer, a referral from a parent, a school staff member, or if other information available to a school or district suggests that a particular student needs educational support for learning or behavior, then the student shall be referred to the SAT. Likewise, at any layer, a parent may request initial evaluation to determine whether a student is a child with a disability requiring special education and related service, in accordance with 6.31.2.10 NMAC. There are no additional documentation requirements under the MLSS outside of what is already required for education professionals.

(5) The department's manual, Multi-Layered System of Supports, shall be the guiding document for schools and districts to use in implementing the student intervention system.

6.30.12.8. Program development and implementation.

The department shall support schools in their capacity-building to increase participation in the K-5 plus program. Capacity-building includes professional development, curriculum development, teacher recruitment, parent and family outreach, assessment, and program design and evaluation.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

6.29.1.7. Definitions.

AA. "Multi-Layered System of Supports (MLSS)" means a coordinated and comprehensive framework that uses increasingly intensive evidence-based academic and behavioral supports that address student needs as evidenced by student data. It is a model for holistic school improvement that provides progress measures for additional supports such as school-based team structures, professional development, health and wellness, and family and community engagement. MLSS satisfies the definition of "multi-tiered system of supports" contained within the ESSA.

6.29.1.9. Procedural requirements.

E. Student intervention system. The school and school district shall follow the multi-layered system of supports (MLSS), which is a three-layer model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior. All students shall have access to layer 1, 2, and 3 interventions without a need to convene a SAT team or a referral to special education or related services. At any layer, a referral from a parent, a school staff member, or if other information available to a school or district suggests that a particular student needs educational support for learning or behavior, then the student shall be referred to the SAT. Likewise, at any layer, a parent may request initial evaluation to determine whether a student is a child with a disability requiring special education and related service, in accordance with 6.31.2.10 NMAC. There are no additional documentation requirements under the MLSS outside of what is already required for education professionals.

(1) In layer 1, the school and school district shall ensure that adequate universal screening in the areas of general health and well-being, language proficiency status, and academic levels of proficiency has been completed for each student enrolled. If data from universal screening and progress monitoring suggests that a particular student is in need of additional behavioral and academic supports, then teacher teams shall make a determination on whether or not the student would benefit from layer 2 interventions. Teacher teams, when making a determination for moving a student up or down a layer may consult with non-teacher staff such as counselors, paraprofessionals, administrators, and ancillary personnel to inform the teacher team on how to plan and implement relevant learner interventions in the general education environment.

(2) In layer 2, a properly-constituted teacher team shall conduct the student study process and consider, implement, and document the effectiveness of appropriate evidence-based interventions utilizing curriculum-based measures. As part of this process, the teacher team shall address culture and acculturation, socioeconomic status, possible lack of appropriate instruction in reading or math, teaching and learning styles and instructional delivery mechanisms in order to rule out other possible causes of the student's educational difficulties.

(3) In layer 3, students are provided with intensive academic and behavioral supports that are progress monitored on a bi-weekly basis. At the end of each progress monitoring cycle, the teacher team shall evaluate the efficacy of the supports provided using all available data. At that time, the teacher team may decide whether to continue with the current support, change the intensity, or nature of support. If progress monitoring data suggests that the learner has benefited from provided layer 3 supports and does not show concern for recidivism, than the teacher team may decide to move the student out of receiving layer 3 supports.

(4) All students shall have access to the MLSS layers of screening and support without a referral to SAT or an evaluation to determine eligibility for special education and related services. Nothing in this section

prevents a school district from evaluating a student during the provision of any layer of MLSS to determine whether the student is a child with a disability requiring special education and related services. A parent may request an initial special education at any time during the public agency's implementation of MLSS, and a school or school district may determine a referral to special education is necessary at any time during the implementation of MLSS if the student is suspected of having a disability. If a school district rejects a request for initial special education evaluation, the parent may use the IDEA procedural safeguards in 34 CFR Secs. 300.506 through 5007 to dispute the rejection of the request to evaluate.

(5) The department's manual, Multi-Layered System of Supports, shall be the guiding document for schools and districts to use in implementing the student intervention system.

6.30.12.7. Definitions.

I. "Multi-layered system of support" means an umbrella framework that encompasses response to intervention and positive behavioral intervention and supports.

6.30.12.10. Program element instruction.

A. K-5 plus programs shall include:

(5) implementation of the department's multi-layered system of support.

6.30.12.15. Evaluation and reporting and auditing.

B. All students participating in K-5 plus shall be reported to the department through the department's data collection and reporting system. Required fields include the following:

(3) services rendered under the multi-layered system of support.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

6.12.6.8. Requirements.

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be implemented by local school districts with regards to student and school employee wellness.

B. Each school district and charter school shall develop and implement a policy that addresses student and school employee wellness through a coordinated school health approach.

C. Each school district and charter school shall submit the wellness policy to the public education department for approval.

(1) Sections of the wellness policy that meet the requirements set forth in Paragraphs (3), (4), (5) and (10) of Subsection D and the requirements set forth in Subsection E of this section shall be submitted to the public education department on or before August 30, 2006.

(2) Sections of the wellness policy that meet the requirements set forth in Paragraphs (1), (2), (6), (7), (8) and (9) of Subsection D of this section shall be submitted to the public education department on or before January 30, 2007.

D. The wellness policy shall include, but shall not be limited to:

(1) a planned, sequential, K-12 health education curriculum that addresses the physical, mental, emotional, and social dimensions of health and is aligned to the health education content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC.

6.12.14.8. Requirements for schools.

A. All public schools and local school districts shall:

(6) to the extent possible, implement practices to promote social emotional learning, support high quality teaching and learning, and effectively communicate with tribal communities and families.

Trauma-informed Practices

LAWS

22-13-33. Appointing a point of contact person for certain students.

F. For students in foster care and students involved in the juvenile justice system, the point of contact person shall be responsible for:

(6) ensuring that other school staff and teachers have access to training and resources about the educational challenges and needs of system-involved youth, including trauma-informed practices and the impact of trauma on learning.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

22-2D-3. Programs; purpose; functions.

A. A "family and youth resources program" may be created in any public school in the state. Except as provided in Subsection D of this section, the department shall accept applications for grants from public schools in which eighty percent of the students are eligible for the free or reduced-fee lunch program to fund their program.

B. The purpose of the program is to provide an intermediary for students and their families at public schools to access social and health care services. The goal of the program is to forge mutual long-term relationships with public and private agencies and community-based, civic and corporate organizations to help students attain high academic achievement by meeting certain nonacademic needs of students and their families.

C. A program shall include the employment of a resource liaison, who shall:

(6) identify and coordinate age-appropriate resources for students in need of:

(d) mental health counseling.

22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.

E. A public school shall provide interventions to students who are absent or chronically absent, which may include:

- (6) identifying and coordinating age-appropriate resources for students in need of:
 - (d) mental health counseling.

22-35-2. Definitions.

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (6) mental health counseling.

REGULATIONS

Definitions.

E. "Health services" means services provided for students to appraise, protect, and promote health. These services are designed to ensure access or referral to primary health care or behavioral health services or both, foster appropriate use of primary health care services, behavioral health services, prevent and control communicable diseases and other health problems, provide emergency care for illness or injury, promote and provide optimum sanitary conditions for a safe school facility and school environment, and provide educational and counseling opportunities for promoting and maintaining individual, family, and community health. [...]

J. "Social and emotional wellbeing" means services provided to maintain or improve students' mental, emotional, behavioral, and social health.

Requirements.

D. The wellness policy shall include, but shall not be limited to:

- (6) a plan addressing the behavioral health needs of all students in the educational process by focusing on students' social and emotional wellbeing.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

22-5-4.12. Use of restraint and seclusion; techniques; requirements.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

- (1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;
- (2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use; and
- (3) schools shall review strategies used to address a student's dangerous behavior if use of restraint or seclusion techniques for an individual student has occurred two or more times during any thirty-calendar-day period. The review shall include:
 - (a) a review of the incidents in which restraint or seclusion techniques were used and an analysis of how future incidents may be avoided, including whether the student requires a functional behavioral assessment; and
 - (b) a meeting of the student's individualized education program team, behavioral intervention plan team or student assistance team within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

22-35-3. Bullying prevention policies; adoption and enforcement.

B. Each local school board shall control the content of its policy; provided that the policy includes:

- (5) a procedure for reporting bullying or retaliation for reporting an act of bullying, including:
 - (a) a flexible reporting system that allows for reporting orally and in the student's preferred language;
 - (b) a method for reporting bullying anonymously; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report; and
 - (c) a method for parents to file written reports of suspected bullying.

REGULATIONS

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

- (5) a procedure for reporting bullying and for reporting retaliation for reporting an act of bullying, including:
 - (a) an allowance for reporting orally and in the preferred language of the person reporting;
 - (b) a method for anonymous reporting; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report of an actual bullying incident; and
 - (c) a method for parents to file written reports of suspected bullying; and

(6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(a) designation of a school or district administrator who has the responsibility to:

(i) investigate or supervise the investigation of all reports of bullying and

(ii) to ensure that investigations are completed promptly after the receipt of any report made under this rule;

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;

(c) a requirement that school employees who witness bullying or who receive reports of bullying notify the designated administrator within two calendar days of the employee witnessing or receiving a report of bullying;

(d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation; and

(e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

Parental Notification

LAWS

22-5-4.12. Use of restraint and seclusion; techniques; requirements.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

(1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;

(2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.

22-12A-11. Progressive interventions for absent, chronically absent and excessively absent students.

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:

(2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance.

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team.

22-12A-6. Public school attendance policies; reporting.

A. A public school shall maintain an attendance policy that:

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day.

22-35-3. Bullying prevention policies; adoption and enforcement.

B. Each local school board shall control the content of its policy; provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the students targeted by the alleged act; provided that if the administrator believes, in the administrator's professional capacity, that notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate.

REGULATIONS

6.10.8.8. Requirements.

B. Each local school board and charter school shall develop a written attendance policy that:

(6) provides for early identification of students with unexcused absences, students in need of early intervention, and habitual truants; provides for intervention strategies that focus on keeping students in need of early intervention in an educational setting; and further provides that:

(a) if a student is in need of early intervention, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student has unexcused absences from school and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse complies with the school district attendance policy;

(b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's unexcused absences, identify what actions can be taken that might prevent the student's unexcused absences, identify possible school district, charter school and community resources to address the causes for the student's unexcused absences, and establish a corrective action plan to address the student's unexcused absences;

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's unexcused absences are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by mail to or by personal service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting.

6.11.2.12. Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school

suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record. [...]

D. Temporary suspension.

(2) A student facing temporary suspension shall be granted a rudimentary hearing in which the student shall first be informed of the charges against the student and, if the student denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present the student's version of the facts. The following rules apply:

(e) the school shall exert reasonable efforts to inform the student's parent(s) of the charges against the student and the possible or actual consequence as soon as practicable. If the school has not communicated with the parent(s) by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

22-12A-2. Definitions.

As used in the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978]:

D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year.

22-12A-6. Public school attendance policies; reporting.

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 [22-12A-13 NMSA 1978] of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission. [...]

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools.

22-12A-7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

- (1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;
- (2) the extent to which public schools with chronic absence rates greater than ten percent achieved their attendance improvement targets;
- (3) the extent to which the school district achieved its attendance improvement targets;
- (4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;
- (5) effective school-based practices, as evidenced by decreased chronic absence rates; and
- (6) recommendations for improvement during the next school year at both the public school and school district level.

22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

- (1) attendance data for each of the preceding two school years and the current school year, including:
 - (a) the public school's overall absence rate;
 - (b) chronic absence rates disaggregated by student subpopulation;
 - (c) chronic absence rates disaggregated by grade level; and
 - (d) student attendance for every day of the school year.

22-12A-13. Reporting requirements.

A. For each reporting date and at the end of the year, each school district shall report:

- (1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and
- (2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

- (1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;
- (2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and
- (3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup.

22-2F-1. Short title.

This act [22-2F-1 to 22-2F-3 NMSA 1978] may be cited as the "School Support and Accountability Act".

22-2F-2. Definitions.

As used in the School Support and Accountability Act [Chapter 22, Article 2F NMSA 1978]:

B. "chronic absenteeism" means the percentage of students missing ten percent or more of the school year for any reason, including excused absences, unexcused absences and out-of-school suspensions.

22-2F-3. School support and accountability system; created; establishing a school dashboard; prioritizing resources for schools receiving additional support.

A. The "school support and accountability system" is created in the department. The department, in consultation with school districts, charter schools, school personnel, tribal nations and the legislative education study committee, shall promulgate rules to carry out the provisions of the School Support and Accountability Act [Chapter 22, Article 2F NMSA 1978] through the system.

B. The system shall:

(3) include indicators of school quality and student success that are valid, reliable, comparable and statewide, including:

(a) chronic absenteeism.

22-35-3. Bullying prevention policies; adoption and enforcement.

E. Each local school board shall establish procedures for public schools to report aggregate incidents of bullying and incidents of harassment under any applicable federal or state law, along with responses to these incidents, and report this information annually to the department.

22-35-5. Department duties; school district and charter school report cards.

B. At the same time as or as part of the annual accountability report, each school district and charter school shall report on the status of its implementation of the provisions of the Safe Schools for All Students Act, including the aggregate number of incidents of bullying in the state, the aggregate number of incidents of harassment under any applicable federal or state laws, the aggregate number of responsive actions taken by public schools by type of action, a tabulation of the number of incidents associated with each distinguishing characteristic defined in the Safe Schools for All Students Act, the department's evaluation of the sufficiency of funding for bullying prevention programs and any recommendations for policy or programmatic change to improve the addressing of bullying issues in the state.

REGULATIONS**6.10.8.10. Reporting requirement.**

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

B. The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the student teacher accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

6.12.7.8. Bullying Prevention Policies - adoption and enforcement.

E. Each local school board or governing body shall establish procedures for public schools to report the number of bullying incidents and the number of harassment incidents, as defined by federal or state law, along with responses to these incidents, and shall report this information annually to the department at such time as determined by the department and through the department's student teacher accountability reporting or through other means as determined by the department.

6.12.7.10. Reporting requirements.

A. Beginning with the 2020-2021 school year, each school district and state-chartered charter school shall annually submit the following to the department in a method prescribed by the department and in a timeframe determined by the department:

- (1) a status report on the implementation of the provisions of this rule;
- (2) data elements on the implementation of this rule including:
 - (a) the aggregate number of bullying incidents of students within the district or state-chartered charter school;
 - (b) the aggregate number of harassment incidents of students within the district or state-chartered charter school; and
 - (c) the corresponding responsive action or disposition taken by the district or state-chartered charter school, by type of action, for each bullying incident of a student and for each harassment incident of a student.

B. Each school district and state-chartered charter school shall include, in its reporting, when known, a tabulation of the number of bullying incidents of students and the number of harassment incidents of students associated with each of the following actual or perceived distinguishing characteristic:

- (1) race;
- (2) color; national origin;
- (3) ancestry;
- (4) sex;
- (5) sexual orientation;
- (6) gender identity;
- (7) spousal affiliation;
- (8) physical or cognitive disability; or
- (9) an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

22-5-4.12. Use of restraint and seclusion; techniques; requirements.

E. If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation and review procedures established pursuant to Subsection D of this section.

22-12A-12. Excessive absenteeism; enforcement.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

32A-2-33. Child in possession of a firearm on school premises; detention; hearing.

A. If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child's actions to a law enforcement agency and the children, youth and families department.

B. Upon receipt of a report pursuant to Subsection A of this section, the law enforcement agency may conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.

C. If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency may take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in Subsection C of Section 32A-2-10

NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

D. As used in this section, "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

REGULATIONS

6.11.2.10. Enforcing rules of conduct.

B. Search and seizure. School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:

(6) Notification of law enforcement authorities. Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

22-10A-40. School security personnel; definitions; required training.

D. Prior to an offer of employment, the school district shall require for each potential school security personnel:

- (1) proof that the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- (2) successful completion of school security personnel training;
- (3) proof of up-to-date firearms training;
- (4) a background check that indicates the person has not been convicted of a crime or engaged in behavior that violates the School Personnel Act [Chapter 22, Article 10A NMSA 1978]; and
- (5) any other conditions required by law, department rule or school district policy. [...]

G. The department and the public school insurance authority shall approve one or more school security personnel and firearms training programs. Approved programs must include working with students with special needs, cultural competency and prohibited profiling practices. The department of public safety shall make recommendations for firearms training.

29-7-14. Law enforcement officers as school resource officers; training required.

A. As used in this section, "school resource officer" means a commissioned and certified law enforcement officer who is designated to be responsible for school safety and crime prevention and the appropriate response to crimes in public schools and has completed the training specified in Subsection B of this section.

B. A law enforcement officer who is or will be assigned as a school resource officer shall receive specific training for the duty, including instruction on the following:

- (1) the differences in successful law enforcement when conducted inside a school environment, including understanding the adolescent brain, crisis management and de-escalation techniques;
- (2) tools to be a positive role model for youth, including mentoring and informal counseling techniques;
- (3) the school resource officer's role and responsibilities to school personnel and students and their families and strategies for connecting students and families to appropriate resources that will assist students to succeed in school, including strategies for mitigating truancy;

(4) a variety of instructional techniques as well as classroom management tools to provide law-related education to students;

(5) an understanding of adolescent development and adolescent mental health disorders and treatment; and

(6) identification and response to students who are suspected of having a mental health need, including critical skills and capacity for appropriately responding to behavior issues that are typically observed among adolescents with mental health needs.

C. Beginning with the 2022-2023 school year, a law enforcement officer who:

(1) is assigned as a school resource officer shall complete the training required in Subsection B of this section within twelve months of being assigned as a school resource officer; or

(2) was serving as a school resource officer prior to the 2022-2023 school year and who has not received specific training for the position of school resource officer shall complete the training required in Subsection B of this section no later than July 1, 2023.

D. The school resource officer training shall be provided by or approved by the New Mexico law enforcement academy in consultation with the public education department.

REGULATIONS

6.12.12.9. Employment requirements of school security personnel.

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel.

Policies and procedures shall include the following:

A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;

B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;

C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and

D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:

(1) an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:

(a) resistance;

(b) confrontational dynamics;

(c) deadly force (when it is justifiable);

(d) communication;

(e) self-control, fear, and anger management in the use of force;

(f) consequences of unreasonable force;

(g) vicarious liability;

(h) legality of use of force in school setting by school security personnel;

(i) documenting use of force;

(j) search and seizure; and

- (k) other topics as recommended by the local law enforcement agency, school district, or charter school;
 - (2) an initial firearms training program of 16 hours prior to employment as school security personnel;
 - (3) prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and
 - (4) an annual firearms manipulation training program of four hours.
- E. a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School Personnel Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and
- F. any other conditions required by law, department rule, or school district or charter school policy.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

22-10A-40. School security personnel; definitions; required training.

A. As used in this section:

(5) "school security personnel" means retired or former certified and commissioned law enforcement officers who are employed by a school district and authorized by department rules and local school board policy to carry a firearm on school premises.

B. The department shall promulgate rules to carry out the purposes of this section. [...]

D. Prior to an offer of employment, the school district shall require for each potential school security personnel:

- (1) proof that the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- (2) successful completion of school security personnel training;
- (3) proof of up-to-date firearms training;
- (4) a background check that indicates the person has not been convicted of a crime or engaged in behavior that violates the School Personnel Act [Chapter 22, Article 10A NMSA 1978]; and
- (5) any other conditions required by law, department rule or school district policy.

E. School security personnel shall not perform any other job in the school district, by title or duty, other than school security while carrying a firearm.

F. Prior to school security personnel being allowed to carry firearms authorized by department rules and local school board policy, the school security personnel must successfully pass a physical and psychological evaluation as prescribed by the department in consultation with the public school insurance authority to determine suitability to carry a firearm. The school district shall pay the cost of the physical and psychological evaluations for current and potential school security personnel.

G. The department and the public school insurance authority shall approve one or more school security personnel and firearms training programs. Approved programs must include working with students with special needs, cultural competency and prohibited profiling practices. The department of public safety shall make recommendations for firearms training.

REGULATIONS

6.12.12.9. Employment requirements of school security personnel.

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel.

Policies and procedures shall include the following:

- A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;
- C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and
- D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:
 - (1) an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:
 - (a) resistance;
 - (b) confrontational dynamics;
 - (c) deadly force (when it is justifiable);
 - (d) communication;
 - (e) self-control, fear, and anger management in the use of force;
 - (f) consequences of unreasonable force;
 - (g) vicarious liability;
 - (h) legality of use of force in school setting by school security personnel;
 - (i) documenting use of force;
 - (j) search and seizure; and
 - (k) other topics as recommended by the local law enforcement agency, school district, or charter school;
 - (2) an initial firearms training program of 16 hours prior to employment as school security personnel;
 - (3) prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and
 - (4) an annual firearms manipulation training program of four hours.
- E. a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School Personnel Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and
- F. any other conditions required by law, department rule, or school district or charter school policy.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Mexico provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention: Providing Safe Schools for All Students, New Mexico Public Education Department	Provides information on bullying, including cyberbullying. Website has information/resources on bullying prevention programs and strategies and effective means to respond to bullying. By January 1, 2020, each school district was to establish a bullying prevention program for students reflective of the parameters of the Safe Schools for All Students Act and reflective of New Mexico's Health Education Content Standards with Benchmarks and Performance Standards . PED has established a Policy Framework for 6.12.7 NMSAC, Safe Schools for All Students .	https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/bullying-prevention/
Prevention, Response & Resiliency Program, New Mexico Public Education Department	Program aims to reduce suspensions and expulsions, increase academic achievement and attendance, and improve overall school safety using a three-tiered model of restorative justice practices (e.g. a set of practices that engage a community in building relationships and repairing harm through mutual, inclusive dialogue, understanding, and cooperation)	Home - Prevention, Response & Resiliency (nmprprp.com)
Safe Schools, New Mexico Public Education Department	Provides information and resources for safe schools' plans, training/webinars, best practices, school threat, and hazard assessment worksheets.	http://webnew.ped.state.nm.us/officesandprograms/safe-healthy-schools/safe-schools/
Social and Emotional Learning (SEL), New Mexico Public Education Department	Provides information and resources on district-wide social and emotional learning (SEL) including a guide on the SEL framework and additional learning resources.	bureaus/safe-healthy-schools/social-and-emotional-learning-sel/
Wellness Policy, New Mexico Public Education Department	Provides guidance and resources for creating a wellness policy, including a rubric, action plan and assessment templates, and bullying resources	https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/wellness-policy/

Title	Description	Website address (if applicable)
New Mexico's Multi-Layered System of Supports (MLSS), New Mexico Public Education Department	The MLSS is New Mexico's comprehensive overhaul of Response to Intervention (RtI) that improves support systems by removing administrative barriers to providing timely evidence - based supports and focuses on holistic student success through robust family partnerships.	https://webnew.ped.state.nm.us/bureaus/multi-layered-system-of-supports-mlss/
Documents		
Addressing Student Behavior, A Guide for All Educators, New Mexico Public Education Department	Guidance manual designed to help educators understand how to identify and target the underlying causes behind undesirable behavior that is frequent, persistent, or severe.	https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Addressing-Student-Behavior-7.30.19.pdf
MLSS Implementation Guide (2021), New Mexico Public Education Department	Provides districts, school leadership and teachers with guidance, resources, and tools for ensuring an effective implementation of MLSS.	https://webnew.ped.state.nm.us/wp-content/uploads/2021/07/MLSS_ImplementationGuide_2021.pdf
New Mexico Department of Education's Social Emotional Learning Framework, New Mexico Public Education Department	Statewide framework to support the integration of social emotional learning into school environments.	https://webnew.ped.state.nm.us/wp-content/uploads/2021/02/SHSB_NM_SEL_Framework.document.1.7.21-002.pdf
Planning for Safe Schools in New Mexico (Fall, 2022), New Mexico Public Education Department	Guidance document to assist schools with the development of site-specific Safe Schools Plans (SSP) and provide proper training to school staff and students to assess, facilitate, and implement response actions to emergency events.	https://webnew.ped.state.nm.us/wp-content/uploads/2022/07/NM-Planning-For-Safe-Schools-Guide-2022-2023.pdf
Student Discipline: A Technical Assistance Manual for Students with Disabilities (April 2008), New Mexico Public Education Department	Guidance document to assist schools with the process of disciplining students who receive special education services in accordance with state and federal law.	https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Student-Discipline-for-Students-with-Disabilities.pdf
Wellness Policy Formation and Implementation Guide, New Mexico Public Education Department	Provides information and guidance, for educators, on the formation, revision, and implementation of a wellness policy.	https://webnew.ped.state.nm.us/wp-content/uploads/2021/07/SHSB_2021Wellness-Policy-Formation-and-Implementation-Guide-.pdf

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
Site Safety Plan, New Mexico Public Education Department	Provides school safety plan templates and guidelines, including guidelines for bullying prevention and discipline policy implementation.	https://webnew.ped.state.nm.us/wp-content/uploads/2022/07/Safe-School-Plan-Template-22-23.pdf
Safe Schools Plan Rubric, New Mexico Public Education Department	A rubric to help educators assess which elements of their Safe School Plan has or has not been implemented.	https://webnew.ped.state.nm.us/wp-content/uploads/2022/07/NMPE-D-SSP.Rubric.-2022-2023.pdf
Safe and Healthy Schools Bureau Available Trainings that Support Safe School Plans, New Mexico Public Education Department	A list of available training opportunities to support the development of Safe School Plans.	Safe & Healthy Schools – New Mexico Public Education Department (state.nm.us)



New York Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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- 13. Policies and guidelines
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Article 120. Assault and Related Offenses

- 120.16. Hazing in the first degree
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- [19.5.](#) Prohibition of corporal punishment, aversive interventions, and seclusion and the authorized limited use of timeout and physical restraint

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[171-1.6.](#) Searches

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination.

2801. Codes of conduct on school property.

1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; and a school function shall mean a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. [...]

3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community district education council shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

- (a) a bill of rights and responsibilities of students which focuses upon positive student behavior, and which shall be publicized and explained to all students on an annual basis;
 - (b) a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents;
 - (c) strategies and procedures for the maintenance and enforcement of public order on school property which shall govern the conduct of all persons on school premises, in accordance with section 2801 of the Education Law and accepted principles of due process of law;
 - (d) procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee on special education for review and modification if appropriate of the student's individualized education program;
 - (e) alternative educational programs appropriate to individual student needs;
 - (f) disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law; and
 - (g) guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline.
- (ii) The board of education shall adopt such a policy, review it on an annual basis and amend it when appropriate. Each school district's policy on school conduct and discipline shall be filed in each school building and shall be available for review by any individual.

100.2 (l)(2). Code of conduct.

(i) On or before July 1, 2001, each board of education and board of cooperative educational services shall adopt and provide for the enforcement of a written code of conduct for the maintenance of order on school property and at school functions, as defined in Education Law sections 11(1) and (2) and 2801(1), which shall govern the conduct of students, teachers, other school personnel, and visitors. Such a code shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the City School District in the case of the City School District of the City of New York. The City School District of the City of New York shall adopt a district-wide code of conduct and each community school district may, upon approval of the chancellor, adopt and implement additional policies, which are consistent with the city school district's district-wide code of conduct, to reflect the individual needs of each community school district. A school district or board of cooperative educational services shall adopt its code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students, and any other interested parties.

Scope

LAWS

11. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

2. "School function" shall mean a school-sponsored extra-curricular event or activity. [...]

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

14. Commissioner's responsibilities.

The commissioner shall:

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

2801. Codes of conduct on school property.

1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; and a school function shall mean a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement

thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(c) strategies and procedures for the maintenance and enforcement of public order on school property which shall govern the conduct of all persons on school premises, in accordance with section 2801 of the Education Law and accepted principles of due process of law.

100.2 (l)(2). Code of conduct.

(i) On or before July 1, 2001, each board of education and board of cooperative educational services shall adopt and provide for the enforcement of a written code of conduct for the maintenance of order on school property and at school functions, as defined in Education Law sections 11(1) and (2) and 2801(1), which shall govern the conduct of students, teachers, other school personnel, and visitors. Such a code shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the City School District in the case of the City School District of the City of New York. The City School District of the City of New York shall adopt a district-wide code of conduct and each community school district may, upon approval of the chancellor, adopt and implement additional policies, which are consistent with the city school district's district-wide code of conduct, to reflect the individual needs of each community school district. A school district or board of cooperative educational services shall adopt its code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students, and any other interested parties.

(ii) The code of conduct shall include, but is not limited to:

(b) provisions prohibiting harassment, bullying, and/or discrimination against any student, by employees or students that creates a hostile school environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), that either:

(3) Such conduct shall include acts of harassment and/or bullying that occur:

(i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or

(iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

Communication of Policy

LAWS

12. Discrimination and harassment prohibited.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one.

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;
 - l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists.

2801. Codes of conduct on school property.

4. The board of education, chancellor or other governing body shall provide copies of a summary of the code of conduct to all students at a general assembly held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall mail a plain language summary of such code to all persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education, chancellor or other governing body shall take reasonable steps to ensure community awareness of the code provisions.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

- (a) a bill of rights and responsibilities of students which focuses upon positive student behavior, and which shall be publicized and explained to all students on an annual basis;

(b) a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents.

100.2 (l)(2). Code of conduct.

(iii) Additional responsibilities.

(b) Each board of education and board of cooperative educational services shall ensure community awareness of its code of conduct by:

(1) posting the complete code of conduct, respectively, on the Internet website of the school or school district, or of the board of cooperative educational services, including any annual updates to the code made pursuant to clause (a) of this subparagraph and any other amendments to the code;

(2) providing copies of a summary of the code of conduct to all students, in an age-appropriate version, written in plain-language, at a school assembly to be held at the beginning of each school year;

(3) mailing a plain language summary of the code of conduct to all persons in parental relation to students before the beginning of each school year and making such summary available thereafter upon request;

(4) providing each teacher with a copy of the complete code of conduct and a copy of any amendments to the code as soon as practicable following initial adoption or amendment of the code, and providing new teachers with a complete copy of the current code upon their employment; and

(5) making complete copies available for review by students, parents or persons in parental relation to students, other school staff and other community members.

Pupil attendance recordkeeping.

(i)(4) Each board of education, board of cooperative educational services, charter school board, county vocational education and extension board, and nonpublic school shall promote necessary community awareness of its comprehensive attendance policy by:

(i) providing a plain language summary of the policy to the parents or persons in parental relation to students at the beginning of each school year and taking such other steps deemed necessary to promote the understanding of such policy by students and their parents or persons in parental relation;

(ii) providing each teacher with a copy of the policy and any amendments thereto as soon as practicable following initial adoption or amendment of the policy, and providing new teachers with a copy of the policy upon their employment; and

(iii) making copies of the policy available to any other member of the community upon request.

In-School Discipline

Discipline Frameworks

LAWS

14. Commissioner's responsibilities.

The commissioner shall:

3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations.

201.5 Students presumed to have a disability for discipline purposes.

(a) General provision.

The parent of a student who has violated any rule or code of conduct of the school district and was not identified as a student with a disability at the time of such behavior may assert any of the protections set forth in this Part, if the school district is deemed to have had knowledge as determined in accordance with subdivision (b) of this section, that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. Where the school district is deemed to have had knowledge that the student was a student with a disability before such behavior occurred, such student is a "student presumed to have a disability for discipline purposes."

(b) Basis of knowledge.

Except as otherwise provided in subdivision © of this section, a school district shall be deemed to have knowledge that such student had a disability if prior to the time the behavior occurred:

- (1) the parent of such student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student is in need of special education, provided that such expression of concern may be oral if the parent does not know how to write or has a disability that prevents a written statement;
- (2) the parent of the student has requested an evaluation of the student pursuant to section 200.4 or 200.16 of this Title; or
- (3) a teacher of the student, or other personnel of the school district, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education of the school district or to other supervisory personnel of the school district.

(c) Exception.

A student is not a student presumed to have a disability for discipline purposes if, as a result of receiving the information specified in subdivision (b) of this section:

- (1) the parent of the student has not allowed an evaluation of the student pursuant to section 200.4 of this Title; or
- (2) the parent of the student has refused services under this Part; or
- (3) it was determined that the student is not a student with a disability pursuant to section 200.4 or 200.16 of this Title.

(d) Responsibility for determining whether a student is a student presumed to have a disability.

If it is claimed by the parent of the student or by school district personnel that the school district had a basis for knowledge, in accordance with subdivision (b) of this section, that the student was a student with a disability prior to the time the behavior subject to disciplinary action occurred, it shall be the responsibility of the superintendent of schools, building principal or other school official imposing the suspension or removal to determine whether the student is a student presumed to have a disability.

(e) Conditions that apply if there is no basis for knowledge.

If the superintendent of schools, building principal or other school official imposing the disciplinary removal determines that there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other nondisabled student who engaged in comparable behaviors. However, if a request for an individual evaluation is made while such nondisabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted in accordance with section 201.6 of this Part.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(f) disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law.

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(a) provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress, and language deemed unacceptable and inappropriate on school property and at school functions and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students, and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education, and parents or persons in parental relation.

Teacher Authority to Remove Students From Classrooms

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

c. provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the code.

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal, provided that if such forty-eight hour period does not end on a school day, it shall be extended to the corresponding time on the second school day next following the pupil's removal. For purposes of this subdivision, "school day" shall mean a school day as defined pursuant to clause (v) of subparagraph three of paragraph g of subdivision three of this section.

c. The principal shall not set aside the discipline imposed by the teacher unless the principal finds that the charges against the pupil are not supported by substantial evidence or that the pupil's removal is otherwise in violation of law or that the conduct warrants suspension from school pursuant to this section and a suspension will be imposed. The principal's determination made pursuant to this paragraph shall be made by the close of business on the school day next succeeding the end of the forty-eight hour period for an informal hearing contained in paragraph b of this subdivision.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(d) provisions for the removal from the classroom, school property and school functions of students and other persons who violate the code. [...]

(p) a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other State and Federal law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the

student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable.

Alternatives to Suspension

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

19.5. Prohibition of corporal punishment, aversive interventions, and seclusion and the authorized limited use of timeout and physical restraint.

(a) Purpose of section. The purpose of this section is to establish uniform guidelines that prohibit the use of corporal punishment, aversive interventions and seclusion and authorize the limited use of timeout and physical restraint in schools to address student behaviors.

(b) Definitions. As used in this section, the following terms shall have the following meanings:

(1) Aversive intervention means an intervention that is intended to induce pain or discomfort for the purpose of eliminating or reducing student behavior, including such interventions as:

(i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;

(ii) any form of noxious, painful or intrusive spray, inhalant or tastes;

(iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;

(iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraints as defined in paragraph (4) of this subdivision; or

(v) other stimuli or actions similar to the interventions described in this paragraph. The term shall not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

(2) Corporal punishment means any act of physical force upon a student for the purpose of punishing that student. The term does not include the use of physical restraints, as defined in paragraph (7) of this subdivision, to protect the student, another student, teacher or any other person from physical injury when alternative procedures and methods not involving the use physical restraint cannot reasonably be employed to achieve these purposes.

(3) De-escalation means the use of a behavior management technique that helps a student increase control over their emotions and behavior and results in a reduction of a present or potential level of danger to the student or others.

(4) Mechanical restraint means the use of any device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include devices implemented by trained school personnel, or utilized by a student, that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:

(i) adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

(ii) vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

(iii) restraints for medical immobilization; or

(iv) orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

(5) Multi-tiered system of supports means a proactive and preventative framework that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional and behavioral needs from a culturally responsive and strength-based perspective.

(6) Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.

(7) Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely. Physical restraint does not include a physical escort or brief physical contact and/or redirection to promote student safety, calm or comfort a student, prompt or guide a student when teaching a skill or assisting a student in completing a task, or for other similar purposes.

(8) Prone restraint means physical or mechanical restraint while the student is in the face down position.

(9) School means a public school district, board of cooperative educational services, charter school, State-operated and State-supported school pursuant to articles 85, 87 and 88 of the Education Law, in-state and out-of-state private residential or non-residential school for the education of students with disabilities approved pursuant to article 89 of the Education Law or operating under article 81 of the Education Law, State-administered Prekindergarten (PreK) program directly operated by a school district, board of cooperative educational services, or an eligible agency, as defined in section 151-1.2(b) of this Title, or operated by a school district in collaboration with an eligible agency, preschool special education program approved pursuant to Education Law section 4410, and registered nonpublic nursery school, kindergarten, and high school, and a nonpublic school serving grades one through eight that has a registered high school, in this State.

(10) Seclusion means the involuntary confinement of a student alone in a room or space that they are physically prevented from leaving or they may perceive that they cannot leave at will. Seclusion does not include timeout as defined in paragraph (11) of this subdivision.

(11) Timeout means a behavior management technique that involves the monitored separation of a student in a non-locked setting and is implemented for the purpose of de-escalating, regaining control, and preparing the student to meet expectations to return to their education program in accordance with subdivision (d) of this section. The term timeout shall not include:

(i) a student-initiated or student-requested break to utilize coping skills, sensory input, or self-regulation strategies;

(ii) use of a room or space containing coping tools or activities to assist a student to calm and self-regulate, or the use of such intervention strategies consistent with a student with a disability's behavioral intervention plan as defined in section 200.1(mmm) of this Title; or

(iii) a teacher removal, in-school suspension; or any other appropriate disciplinary action.

(c) Prohibition of the use of corporal punishment, aversive interventions, and seclusion.

(1) No teacher, administrator, officer, employee or agent of a school shall use the following against a student:

(i) corporal punishment;

- (ii) aversive interventions; or
- (iii) seclusion.

(2) For purposes of this subdivision the term agent shall include, but not be limited to, school resource officers, except when a student is under arrest and handcuffs are necessary for the safety of the student and others.

(d) Authorized limited use of timeout and physical restraint. Positive, proactive, evidence- and research-based strategies through a multi-tiered system of supports shall be used to reduce the occurrence of challenging behaviors, eliminate the need for the use of timeout and physical restraint, and improve school climate and the safety of all students. Timeout and physical restraint may be used only when: other less restrictive and intrusive interventions and de-escalation techniques would not prevent imminent danger of serious physical harm to the student or others; there is no known medical contraindication to its use on the student; and school staff using such interventions have been trained in its safe and appropriate application in accordance with the requirements of paragraph (7) of this subdivision. Timeout and physical restraints shall not be used as discipline or punishment, retaliation, or as a substitute for positive, proactive intervention strategies that are designed to change, replace, modify, or eliminate a targeted behavior.

(1) Use of timeout. Except as provided in section 200.22(c) of this Title, timeout shall only be used in a situation that poses an immediate concern for the physical safety of the student or others. Staff shall return the student to their educational program as soon as the student has safely de-escalated, regained control and is prepared to meet expectations.

(i) A room or physical space used for purposes of timeout may be located within a classroom or outside of the classroom and shall comply with the following requirements:

(a) The room or physical space shall:

(1) be unlocked, and any door must be able to be opened from the inside. The use of locked rooms or physical spaces is prohibited.

(2) provide a means for continuous visual and auditory monitoring of the student;

(3) be of adequate width, length and height to allow the student to move about and recline comfortably;

(4) be clean and free of objects and fixtures that could be potentially dangerous to a student; and

(5) meet all local fire and safety codes.

(b) Wall and floor coverings shall, to the extent practicable, be designed to prevent injury to the student and there shall be adequate lighting and ventilation.

(c) The temperature of the room or physical space shall be within the normal comfort range and consistent with the rest of the building.

(ii) Staff shall continuously monitor the student in a timeout room or space.

(iii) Staff functioning as timeout monitors shall be trained in accordance with paragraph (7) of this subdivision.

(2) Use of physical restraint. Physical restraint shall only be used in a situation in which immediate intervention involving the use of reasonable physical force is necessary to prevent imminent danger of serious physical harm to the student or others.

(i) The type of physical restraint used shall be the least restrictive technique necessary and be discontinued as soon as the imminent danger of serious physical harm has resolved.

(ii) Physical restraint shall never be used in a manner that restricts the student's ability to breathe or communicate or harms the student.

(iii) The use of prone restraint is prohibited.

(iv) Physical restraint shall not be used as a planned intervention on a student's individualized education program, section 504 accommodation plan, behavioral intervention plan, or other plan developed for a student by the school.

(v) Physical restraint shall not be used to prevent property damage except in situations where there is imminent danger of serious physical harm to the student or others and the student has not responded to positive, proactive intervention strategies.

(vi) Physical restraints shall be administered only by staff who have received training in accordance with paragraph (7) of this subdivision.

(vii) Following a physical restraint, if an injury has been sustained or believed to have been sustained, the school nurse, pursuant to section 902(2)(b) of the Education Law or other medical personnel (i.e., physician, physician assistant, or a nurse practitioner) shall evaluate the student to determine and document if any injuries were sustained during the incident.

(3) Parental notification. Each school shall develop a procedure to:

(i) ensure same day notification to a parent or person in parental relation to the student following the use of timeout, including timeout used in conjunction with a student's behavioral intervention plan consistent with section 200.22(c) of this Title, or use of a physical restraint. When the student's parent or person in parental relation cannot be contacted, after reasonable attempts are made, the school principal or building administrator shall record such attempts. For students with disabilities, the school principal or building administrator shall report such attempts to the student's committee on preschool special education or committee on special education. Such notification shall offer the parent the opportunity to meet regarding the incident; and

(ii) provide the parent or person in parental relation to the student a copy of the documentation of the incident within three school days of the use of timeout or a physical restraint.

(4) Documentation.

(i) The school shall maintain documentation of each incident involving the use of timeout, including timeout used in conjunction with a student's behavioral intervention plan consistent with section 200.22(c) of this Title, and/or physical restraint on each student, which shall include:

(a) the name and date of birth of the student;

(b) the setting and location of the incident;

(c) the name of the staff who participated in the implementation, monitoring and supervision of the use of timeout and/or physical restraint and any other persons involved;

(d) a description of the incident including duration, and for physical restraint, the type of restraint used;

(e) whether the student has an individualized education program, section 504 accommodation plan, behavioral intervention plan, or other plan developed for the student by the school;

(f) a list of all positive, proactive intervention strategies utilized prior to the use of timeout and/or physical restraint; and for students with disabilities, whether those strategies were consistent with a student's behavioral intervention plan, if applicable;

(g) the details of any injuries sustained by the student or staff during the incident and whether the student was evaluated by the school nurse or other medical personnel;

(h) the date and method of notification to the parent or person in parental relation pursuant to paragraph (3) of this subdivision and whether a meeting was held; and

- (i) the date of the debriefing held consistent with the requirements of paragraph (5) of this subdivision.
 - (ii) Documentation of the incident shall be reviewed by supervisory personnel and, as necessary, the school nurse or other medical personnel.
 - (iii) Documentation of each incident shall be maintained by the school and made available for review by the department upon request.
- (5) Debriefing. As soon as practicable, and after every incident in which timeout and/or a physical restraint is used on a student, a school administrator or designee shall:
- (i) meet with the school staff who participated in the use of timeout and/or physical restraint to discuss:
 - (a) the circumstances leading to the use of timeout and/or physical restraint;
 - (b) the positive, proactive intervention strategies that were utilized prior to the use of timeout and/or physical restraint; and
 - (c) planning for the prevention and reduction of the future need for timeout and/or physical restraint with the student including, if applicable, whether a referral should be made for special education programs and/or other support services or, for a student with a disability, whether a referral for review of the student's individualized education program and/or behavioral intervention plan is needed; and
 - (ii) direct a school staff member to debrief the incident with the student in a manner appropriate to the student's age and developmental ability and to discuss the behavior(s), if any, that precipitated the use of timeout and/or physical restraint.
- (6) Review of documentation. The school administrator or designee shall regularly review documentation on the use of timeout and physical restraint to ensure compliance with school's policy and procedures. When there are multiple incidents within the same classroom or involving the same staff, the school administrator or designee shall take appropriate steps to address the frequency and pattern of use.
- (7) Staff training.
- (i) All staff shall receive annual training on the school's policies and procedures related to the use of timeout and physical restraint; evidence-based positive, proactive strategies; crisis intervention and prevention procedures and de-escalation techniques.
 - (ii) In addition to the training requirements for all staff in subparagraph (i), any staff who may be called upon to implement timeout or physical restraint, shall receive annual, evidence-based training in safe and effective developmentally appropriate timeout and physical restraint procedures.
- (8) Written policy.
- (i) Each school shall adopt a written policy that establishes administrative practices and procedures regarding the use of timeout and physical restraint consistent with this subdivision. Such policy and procedures shall at a minimum include:
 - (a) factors which may precipitate the use of the timeout or physical restraint;
 - (b) developmentally appropriate time limitations for the use of timeout and physical restraint;
 - (c) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;
 - (d) prohibiting the use of prone restraint;
 - (e) the requirements in section 200.22(c) of this Title relating to students with disabilities whose behavioral intervention plan includes the use of timeout as a behavioral consequence;

- (f) staff training provided in accordance with the requirements of paragraph (7) of this subdivision;
- (g) information to be provided to the parent or person in parental relation, including a copy of the timeout and physical restraint policy; and
- (h) notifying the parent or person in parental relation on the same day when a student is placed in a timeout or a physical restraint is used in accordance with the requirements of paragraph (3) of this subdivision; and
 - (i) data collection to monitor patterns of use of timeout and physical restraint.
 - (ii) The written policy shall be made publicly available for review at the district or school administrative office(s) and each school building, and posted on the school's website, if one exists.

(e) Annual reporting. Beginning with the 2024-2025 school year, each public school district, board of cooperative educational services, charter school, State-operated school pursuant to articles 87 and 88 of the Education Law, and private residential school operated pursuant to article 81 of the Education Law, shall submit an annual report on the use of physical restraint and timeout and substantiated and unsubstantiated allegations of use of corporal punishment, mechanical restraint and other aversive interventions, prone physical restraint, and seclusion to the department, on a form and at a time prescribed by the commissioner in accordance with the requirements of section 100.2(bb)(2). In addition, public school districts shall report such data for students for whom they are the district of residence, and who are otherwise not reported, including students attending a State-supported school pursuant to article 85 of the Education Law, in-state and out-of-state private residential or non-residential school for the education of students with disabilities approved pursuant to article 89 of the Education Law, or preschool special education program approved pursuant to section 4410 of the Education Law.

100.2 (l)(3). Corporal punishment.

(i) The term corporal punishment, as used in this section, shall mean any act of physical force upon a pupil for the purpose of punishing that pupil. Such term, as used in this section, shall not mean the use of reasonable physical force for any of the following purposes:

- (a) to protect oneself from physical injury;
- (b) to protect another pupil or teacher or any other person from physical injury;
- (c) to protect the property of the school or of others; or
- (d) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district functions, powers or duties, if that pupil has refused to comply with a request to refrain from further disruptive acts; provided that alternative procedures and methods not involving the use of physical force cannot reasonably be employed to achieve the purposes set forth in clauses (a) through (d) of this subparagraph.

(ii) In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

171-1.6. Searches.

Whenever possible, a student's physical presence must be obtained to search his or her room, locker, and/or possessions. Whenever it is impossible to obtain the physical presence of the student, the facility shall notify him or her in writing as soon as possible thereafter:

- (a) that a search has been made; and
- (b) of any article taken.

Restraint and Seclusion

LAWS

4402. Duties of school districts.

9. The board of education of trustees of each school district shall develop a procedure to notify the parent or person in parental relation of a student with a disability on the same day a physical or mechanical restraint is applied on such student or such student is placed in a time out room, When the student's parent or person in parental relation cannot be contacted after reasonable attempts are made, the principal shall record and report such attempts to the committee on special education.

4806. Powers of superintendent and discipline of school.

The superintendent of the school shall, subject to the regulations of the board of managers:

- 6. Give special attention to the proper instruction, detention, restraint, discipline, comfort, physical and moral welfare of the pupils of the school and perform such other duties as may be required of him by the board of managers with a view of carrying out the provisions of this article.

REGULATIONS

19.5. Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-State day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph 3 of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

- (i) to protect oneself from physical injury;
- (ii) to protect another pupil or teacher or any person from physical injury;
- (iii) to protect the property of the school, school district or others; or
- (iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State

shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, aversive intervention means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

- (i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;
- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

200.22. Program standards for behavioral interventions.

(c) Use of time out rooms. A time out room is an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program. Time out rooms are to be used in conjunction with a behavioral intervention plan in which a student is removed to a supervised area in order to facilitate self-control or to remove a student from a potentially dangerous situation and as provided in paragraph (3) of this subdivision.

(1) Each school which uses a time out room as part of its behavior management approach shall ensure that the school's policy and procedures on the use of the time out room are developed and implemented consistent with this subdivision, including the physical and monitoring requirements, parental rights and IEP requirements for students with disabilities. The school's policy and procedures shall minimally include:

- (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;
- (ii) factors which may precipitate the use of the time out room;
- (iii) time limitations for the use of the time out room;
- (iv) staff training on the policies and procedures related to the use of time out room;
- (v) data collection to monitor the effectiveness of the use of time out rooms; and
- (vi) information to be provided to parents.

(2) A student's IEP shall specify when a behavioral intervention plan includes the use of a time out room for a student with a disability, including the maximum amount of time a student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.

(3) Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.

(4) The school district shall inform the student's parents prior to the initiation of a behavioral intervention plan that will incorporate the use of a time out room for a student and shall give the parent

the opportunity to see the physical space that will be used as a time out room and provide the parent with a copy of the school's policy on the use of time out rooms.

(5) The physical space used as a time out room shall provide a means for continuous visual and auditory monitoring of the student. The room shall be of adequate width, length and height to allow the student to move about and recline comfortably. Wall and floor coverings should be designed to prevent injury to the student and there shall be adequate lighting and ventilation. The temperature of the room shall be within the normal comfort range and consistent with the rest of the building. The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and shall meet all local fire and safety codes.

(6) The time out room shall be unlocked and the door must be able to be opened from the inside. The use of locked rooms or spaces for purposes of time out is prohibited.

(7) Staff shall continuously monitor the student in a time out room. The staff must be able to see and hear the student at all times.

(8) The school shall establish and implement procedures to document the use of the time out room, including information to monitor the effectiveness of the use of the time out room to decrease specified behaviors.

(9) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to use of time out rooms conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provisions of this section shall not apply.

(d) Emergency Interventions.

(1) For purposes of this subdivision, emergency means a situation in which immediate intervention involving the use of reasonable physical force pursuant to section 19.5(a)(3) of this Title is necessary.

(2) Use of emergency interventions.

(i) Emergency interventions shall be used only in situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed.

(ii) Emergency interventions shall not be used as a punishment or as a substitute for systematic behavioral interventions that are designed to change, replace, modify or eliminate a targeted behavior.

(3) Staff training. Staff who may be called upon to implement emergency interventions shall be provided with appropriate training in safe and effective restraint procedures in accordance with section 100.2(l)(1)(i)(g) of this Title and section 200.15(h)(1) of this Part as applicable.

(4) Documentation. The school must maintain documentation on the use of emergency interventions for each student, which shall include the name and date of birth of the student; the setting and the location of the incident; the name of the staff or other persons involved; a description of the incident and the emergency intervention used, including duration; a statement as to whether the student has a current behavioral intervention plan; and details of any injuries sustained by the student or others, including staff as a result of the incident. The parent of the student shall be notified and documentation of emergency interventions shall be reviewed by school supervisory personnel and, as necessary, the school nurse or other medical personnel.

(5) Applicability. For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to emergency interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(e) Child-specific exception to use aversive interventions to reduce or modify student behaviors. A child-specific exception to the prohibition of the use of aversive interventions set forth in section 19.5 of this

Title may be granted for a school-age student, in accordance with the procedures outlined in this subdivision, only during the 2006-2007, 2007-2008 and 2008-2009 school years; provided that a student whose IEP includes the use of aversive interventions as of June 30, 2009 may be granted a child-specific exception in each subsequent school year, unless the IEP is revised to no longer include such exception. No child-specific exception shall be granted for a preschool student.

(1) Aversive interventions shall be considered only for students who are displaying self-injurious and/or aggressive behaviors that threaten the physical well being of the student or that of others, and only to address such behaviors.

(2) No child-specific exception shall be granted for interventions used as a consequence for behavior which are intended to induce pain or discomfort that include ice applications, hitting, slapping, pinching, deep muscle squeezes, use of an automated aversive conditioning device, the combined simultaneous use of physical or mechanical restraints and the application of an aversive intervention; withholding of sleep, shelter, bedding, bathroom facilities, denial or unreasonable delays in providing regular meals to the student that would result in a student not receiving adequate nutrition; the placement of a child unsupervised or unobserved in a room from which the student cannot exit without assistance or actions similar to these interventions at the discretion of the Commissioner. [...]

(9) Any IEP providing for a child-specific exception allowing the use of aversive interventions shall identify the specific:

- (i) self-injurious and/or aggressive targeted behavior(s);
- (ii) aversive intervention(s) to be used to address the behavior(s); and
- (iii) aversive conditioning device(s) and/or mechanical restraint device(s) where the aversive intervention(s) includes the use of such device(s). [...]

(f) Program standards for the use of aversive interventions.

(2) General requirements. Any program that employs the use of aversive interventions to modify an individual student's behavior as authorized pursuant to subdivision (e) of this section shall comply with the following standards:

(ix) No program may combine the simultaneous use on a student of a physical or mechanical restraint device with another aversive intervention. [...]

(4) Supervision and training requirements. Aversive interventions shall be administered by appropriately licensed professionals or certified special education teachers in accordance with Part 80 of this Title and sections 200.6 and 200.7 of this Part or under the direct supervision and direct observation of such staff. Training shall be provided on a regular, but at least annual basis, which shall include, but not be limited to, training on:

- (i) safe and therapeutic emergency physical restraint interventions;
- (ii) data collection of the frequency, duration and latency of behaviors;
- (iii) identification of antecedent behaviors and reinforcing consequences of the behavior;
- (iv) approaches to teach alternative skills or behaviors including functional communication training;
- (v) assessment of student preferences for reinforcement;
- (vi) assessing and responding to the collateral effects of the use of aversive interventions including, but not limited to, effects on a student's health, increases in aggression, increases in escape behaviors and/or emotional reactions;
- (vii) privacy rights of students; and
- (viii) documentation and reporting of incidents, including emergency restraints and injuries.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

201.1. Purpose

The purpose of this Part is to implement the procedural protections of paragraph g of subdivision 3 of section 3214 and subdivision 1 of section 4404 of the Education Law relating to student discipline by coordinating the general procedures for suspension of students under Education Law, section 3214 with the requirements of section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. section 1415[k]) and the Federal regulations implementing such statute.

201.7 General procedures for suspensions and removals of students with disabilities.

(b) Five school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, the trustees or board of education of any school district, a district superintendent of schools or a building principal with authority to suspend students pursuant to Education Law, section 3214(3)(b) and (g), shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days, and not to exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.

(c) Ten school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, a superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c) and (g), may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed pursuant to subdivision (b) of this section for the same behavior, where the superintendent determines in accordance with the procedures set forth in Education Law section 3214(3)(c) that the student has engaged in behavior that warrants a suspension, provided that the duration of any such suspension or removal shall not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction:

A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

201.7 General procedures for suspensions and removals of students with disabilities.

(d) Exception for pattern of suspensions or removals.

A student with a disability may not be removed pursuant to subdivision (b) or (c) of this section if imposition of the 5 school day or 10 school day suspension or removal would result in a disciplinary change in placement based on a pattern of suspensions or removals as determined by school personnel in accordance with the criteria set forth in section 201.2(e)(2) of this Part, except where the manifestation team pursuant to section 201.4 of this Part has determined that the behavior was not a manifestation of such student's disability, or the student is placed in an IAES as authorized under subdivision (e) of this section.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

- l. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner;
- m. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

- b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the

suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

(2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(b) a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents.

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(p) a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other State and Federal law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable.

(q) a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to Education Law section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other State and Federal law.

Due Process

LAWS

201.2. Definitions

As used in this Part, the following terms shall have the following meanings:

(a) *Behavioral intervention plan* means a plan that is based on the results of the functional behavioral assessment and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.

(c) *Controlled substance* means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. section 812[c]) (*United States Code*, 2006 edition, volume 13; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2008 - available at the Office of Counsel, New York State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234).

(d) *Day* shall mean a calendar day, except where a school day or business day is specified.

(1) *School day* means any day, including a partial day, that students are in attendance at school for instructional purposes. The term *school day* has the same meaning for all students in school, including students with and without disabilities.

(e) *Disciplinary change in placement* means suspension or removal from a student's current educational placement that is either:

(1) for more than 10 consecutive school days; or

(2) for a period of 10 consecutive days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and because of such additional factors as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another. The school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

(f) *Expedited due process hearing* means an impartial hearing conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.11 of this Part.

(g) *Expedited evaluation* means an individual evaluation conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.6 of this Part.

(h) *Functional behavioral assessment* means a functional behavioral assessment as defined in section 200.1(r) of this Title.

(i) *Illegal drug* means a controlled substance, but does not include a controlled substance legally possessed or used under the supervision of a licensed health-care professional or a substance that is otherwise legally possessed or used under the authority of the Controlled Substances Act or under any other provision of Federal law.

(j) *Impartial hearing officer* means an impartial hearing officer as defined in section 200.1(x) of this Title who is appointed to conduct an impartial hearing or expedited due process hearing pursuant to Education Law, section 4404(1). Such term shall not include a hearing officer designated by a superintendent of schools to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c).

(k) *Interim alternative educational setting* or *IAES* means a temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student who is placed in an IAES shall:

(1) continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward meeting the goals set out in the student's IEP; and

(2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(l) *Removal* means:

(1) a removal of a student with a disability for disciplinary reasons from that student's current educational placement, other than a suspension as defined in subdivision (r) of this section; and

(2) the change in placement of a student with a disability to an IAES by an impartial hearing officer pursuant to section 201.8 of this Part. Such term shall also include the change of placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part made in conjunction with a suspension.

(m) *Serious bodily injury* means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(n) *Student presumed to have a disability for discipline purposes* means a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in section 201.5(b) of this Part.

(o) *Student with a disability* means a student with a disability as defined in section 200.1(zz) of this Part or a preschool student with a disability as defined in section 200.1(mm) of this Title.

(p) *Superintendent* or *superintendent of schools* means a superintendent of schools of a school district, including a community superintendent, or the chief school officer of an approved private school. Such term does not include a district superintendent of schools.

(q) *Superintendent's hearing* means a disciplinary hearing conducted pursuant to Education Law, section 3214(3)(c) and (g) by a superintendent of schools, or a hearing officer designated by a superintendent of schools, to determine whether a student should be suspended from instruction for more than five consecutive school days.

(r) *Suspension* means suspension pursuant to Education Law, section 3214(3)(a) through (d).

(s) *Weapon* means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket

201.9 Coordination with superintendent's hearing and other due process procedures applicable to all students.

(a) Procedures for suspensions of five school days or less.

In the case of a suspension for five consecutive school days or less pursuant to paragraph b of subdivision 3 of section 3214 of the Education Law and section 201.7(b) of this Part, the parents or persons in parental relation to the student shall be provided an opportunity for an informal conference in accordance with paragraph d of subdivision 3 of section 3214 of the Education Law.

(b) Procedures for removals other than suspensions.

A removal of a student with a disability, as defined in section 201.2(l) of this Part, to which the provisions of paragraphs (a) through (d) of subdivision 3 of section 3214 of the Education Law do not apply, other than a change in placement to an IAES, shall be conducted in accordance with the due process procedures

applicable to such removals of nondisabled students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless there has been a determination that the behavior is not a manifestation of the student's disability. The removal of a student with a disability to an IAES shall be conducted in accordance with the applicable provisions of section 201.7(e) of this Part and paragraph (c)(3) of this section, or of section 201.8 of this Part.

(c) Procedures for suspensions of more than five school days (superintendent's hearings).

Superintendent's hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and a penalty phase and conducted in accordance with the following procedures:

(1) The superintendent of schools or hearing officer in the superintendent's hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty of the alleged misconduct, the superintendent of schools or hearing officer in the superintendent's hearing shall make a threshold determination of whether a suspension or removal in excess of 10 consecutive school days or that would otherwise constitute a disciplinary change in placement should be considered. If the threshold determination is that such a suspension or removal should be considered, before the superintendent of schools orders or the hearing officer in the superintendent's hearing recommends any such removal, the superintendent's hearing shall be adjourned until a manifestation determination is made by the manifestation team, except as otherwise provided in paragraph (3) of this subdivision. If the superintendent of schools or hearing officer in the superintendent's hearing determines that a suspension or removal that would constitute a disciplinary change in placement should not be considered, the hearing shall proceed to the penalty phase.

(2) Upon a determination by the manifestation team that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined in the same manner as a nondisabled student, except that such student shall continue to receive services in accordance with section 201.10 of this Part. Upon receipt of notice of such determination, the superintendent or hearing officer in the superintendent's hearing shall proceed with the penalty phase of the hearing. If the manifestation team determines that the behavior was a manifestation of the student's disability, the superintendent or hearing officer in the superintendent's hearing shall dismiss the superintendent's hearing, except as otherwise provided in paragraph (3) of this subdivision.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, if the superintendent or hearing officer in the superintendent's hearing is considering the change in placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part, upon a determination that the student is guilty of the alleged misconduct relating to serious bodily injury, weapons, illegal drugs or controlled substances, the superintendent of schools may order, or the hearing officer in the superintendent's hearing may recommend, such change in placement to an IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the length of time that a nondisabled student would be suspended for the same misconduct under the school district's student discipline policy. The superintendent of schools may order such change in placement of a student with a disability to an IAES, directly or upon recommendation of a hearing officer in the superintendent's hearing, even where the manifestation team determines that the student's behavior is a manifestation of the student's disability.

(4) The penalty phase of a superintendent's hearing for a student with a disability or a student presumed to have a disability for discipline purposes shall be conducted in the same manner as the penalty phase of a hearing involving a nondisabled student, including the admission of anecdotal evidence of past instances of misconduct. The school district shall assure that copies of the special education and disciplinary records of the student are transmitted to the superintendent of schools or hearing officer in the superintendent's hearing for consideration. Such records shall be transmitted whether or not the manifestation team has determined that the student's behavior is a manifestation of the student's disability.

(5) Nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a

determination by the manifestation team that the behavior is a manifestation of the student's disability, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances pursuant to section 201.7(e) of this Part or the student is placed in an IAES by an impartial hearing officer pursuant to section 201.8 of this Part.

201.11 Expedited due process hearings.

(a) An expedited due process hearing shall be conducted pursuant to this Part under the following circumstances:

- (1) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES pursuant to section 201.8 of this Part where school personnel maintain that it is dangerous for the student to be in his or her current educational placement;
- (2) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings;
- (3) the parent requests a hearing from a determination that the student's behavior was not a manifestation of the student's disability; or
- (4) the parent requests a hearing relating to any decision regarding placement under section 201.7 of this Part, including but not limited to any decision to place the student in an IAES.

(b) An expedited due process hearing shall be conducted in accordance with the procedures specified in section 200.5(j) of this Title, except as follows:

- (1) Upon receipt of or filing of a due process complaint notice for an expedited hearing, the board of education shall arrange for an impartial hearing and the appointment of an impartial hearing officer using the list in accordance with the rotational selection process established in section 200.2(e)(1) of this Title and the administrative procedures established by the board of education pursuant to section 200.2(b)(8) of this Title.
- (2) The impartial officer may not accept appointment unless available to hold the hearing and render the decision within the time period for expedited hearings pursuant to paragraph (3) of this subdivision.
- (3) The school district shall arrange the expedited due process hearing according to the following time period, unless the parent and school district agree in writing to waive the resolution meeting or agree to use mediation:
 - (i) a resolution meeting shall occur within seven days receiving notice of the due process complaint;
 - (ii) the expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint;
 - (iii) the expedited due process hearing shall occur within 20 school days of the date the complaint requesting the hearing is filed; and
 - (iv) the impartial hearing officer shall make a determination within 10 school days after the hearing.
- (4) No extension to an expedited impartial hearing timeline may be granted.
- (5) The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, to the board of education and the Office of Special Education of the New York State Education Department within 10 school days after the hearing.

(c) If a parent requests a hearing or an appeal regarding the change in placement of a student to an IAES by a superintendent of schools, or regarding a change in placement by an impartial hearing officer pursuant to section 201.8 of this Part where the school district maintains that it is dangerous for the student to remain in his or her current educational placement, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing officer or until expiration of the time period

determined in accordance with section 201.7 or 201.8 of this Part, as applicable, whichever occurs first, unless the parents and the school district otherwise agree.

(d) When an expedited due process hearing has been requested because of a disciplinary change in placement, the manifestation determination or because the school district believes that maintaining the student in the current placement is likely to result in injury to the student or others, the student shall remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the period of removal, whichever occurs first, unless the parent and the school district agree otherwise.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

c. (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

(2) Where a pupil has been suspended in accordance with this section by a board of education, the board may in its discretion hear and determine the proceeding or appoint a hearing officer who shall have the same powers and duties with respect to the board that a hearing officer has with respect to a superintendent where the suspension was ordered by him. The findings and recommendations of

the hearing officer conducting the proceeding shall be advisory and subject to final action by the board of education, each member of which shall before voting review the testimony and acquaint himself with the evidence in the case. The board may reject, confirm or modify the conclusions of the hearing officer. [...]

3-a.b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal, provided that if such forty-eight hour period does not end on a school day, it shall be extended to the corresponding time on the second school day next following the pupil's removal. For purposes of this subdivision, "school day" shall mean a school day as defined pursuant to clause (v) of subparagraph three of paragraph g of subdivision three of this section.

REGULATIONS

100.2 (l)(2). Code of conduct.

(iii) Additional responsibilities.

(a) Each board of education and, in the case of the City School District of the City of New York, the chancellor of such city school district, and each board of cooperative educational services shall annually review and update as necessary its code of conduct, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. A school district may establish a committee pursuant to Education Law section 2801(5)(a) to facilitate the review of its code of conduct and the district's response to code of conduct violations. A board of education or board of cooperative educational services may adopt any revision to the code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students, and any other interested party. Each district shall file a copy of its code of conduct and any amendments with the commissioner, in a manner prescribed by the commissioner, no later than thirty days after their respective adoptions.

Return to School Following Removal

LAWS

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable. [...]

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall

establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(e) provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214 (3-a)(c), or the period of removal expires, whichever is less.

Alternative Placements

LAWS

201.7 General procedures for suspensions and removals of students with disabilities.

(b) Five school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, the trustees or board of education of any school district, a district superintendent of schools or a building principal with authority to suspend students pursuant to Education Law, section 3214(3)(b) and (g), shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days, and not to exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.

(c) Ten school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, a superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c) and (g), may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed pursuant to subdivision (b) of this section for the same behavior, where the superintendent determines in accordance with the procedures set forth in Education Law section 3214(3)(c) that the student has engaged in behavior that warrants a suspension, provided that the duration of any such suspension or removal shall not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.

(e) Change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.

(1) A superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c), may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the period of suspension ordered by the superintendent in accordance with Education Law, section 3214(3), where the student:

(i) has inflicted serious bodily injury, as defined in section 201.2(m) of this Part, upon another person while at school, on school premises or at a school function under the jurisdiction of the educational agency;

- (ii) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the educational agency; or
- (iii) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function under the jurisdiction of the educational agency.

(2) The period of suspension or removal ordered by the superintendent may not exceed the amount of time that a nondisabled student would be suspended for the same behavior.

(f) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement consistent with the other requirements of this Part is appropriate for a student with a disability who violates a school district's code of student conduct.

201.8 Authority of impartial hearing officer to order a change in placement to an IAES in a dangerous situation.

(a) An impartial hearing officer appointed pursuant to Education Law section 4404(1), in an expedited due process hearing conducted pursuant to section 201.11 of this Part, may order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

(b) The procedures established in this section may be repeated, if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

(c) A school district shall not be required to commence disciplinary action against a student with a disability as a prerequisite for initiating an expedited due process hearing to obtain an order of an impartial hearing officer pursuant to this section.

(d) A determination that the student's behavior is a manifestation of the student's disability shall not preclude an impartial hearing officer from ordering a change in placement to an IAES pursuant to this section.

201.10 Provision of services during suspensions.

(a) During any period of suspension, a student with a disability shall be provided services to the extent required under this section and paragraph (e) of subdivision 3 of section 3214 of the Education Law. Nothing in this section shall be construed to confer a greater right to services than is required under Education Law, section 3214(3)(e) and Federal law and regulations.

(b) During suspensions or removals for periods of up to 10 school days in a school year that do not constitute a disciplinary change in placement, students with disabilities of compulsory attendance age shall be provided with alternative instruction pursuant to Education Law, section 3214(3)(e) on the same basis as nondisabled students. Students with disabilities who are not of compulsory attendance age shall be entitled to receive services during such suspensions only to the extent that services are provided to nondisabled students of the same age who have been similarly suspended.

(c) During subsequent suspensions or removals for periods of 10 consecutive school days or less that in the aggregate total more than 10 school days in a school year but do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP and to receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student's IEP.

(d) During suspensions or other disciplinary removals, including suspensions or removals pursuant to section 201.7(e) of this Part, for periods in excess of 10 school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities

shall be provided with services necessary to enable the student to continue to participate in the general education curriculum, to progress toward meeting the goals set out in the student's IEP, and to receive, as appropriate, pursuant section 201.3 of this Part, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. The IAES and services shall be determined by the CSE.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

- e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school.

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(e) alternative educational programs appropriate to individual student needs.

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(i) provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State, and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs.

200.1. Definitions.

(r) *Functional behavioral assessment* means the process of determining why the student engages in behaviors that impede learning and how the student's behavior relates to the environment. The *functional behavioral assessment* shall be developed consistent with the requirements in section 200.22(a) of this Part and shall include, but is not limited to, the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior (including cognitive and affective factors) and the formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it
(mmm) *Behavioral intervention plan* means a plan that is based on the results of a functional behavioral assessment and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.

200.6. Continuum of services.

(n) Interim alternative education setting (IAES).

Students with disabilities who have been suspended or removed from their current placement for more than 10 school days pursuant to Part 201 of this Title may be placed in an IAES. The IAES, to the extent provided in Part 201 of this Title, shall be an educational setting, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall:

- (1) continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward the goals set out in the student's IEP; and
- (2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

201.7 General procedures for suspensions and removals of students with disabilities.

(e) Change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.

(1) A superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c), may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the period of suspension ordered by the superintendent in accordance with Education Law, section 3214(3), where the student:

(ii) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the educational agency; or

(2) The period of suspension or removal ordered by the superintendent may not exceed the amount of time that a nondisabled student would be suspended for the same behavior.

(f) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement consistent with the other requirements of this Part is appropriate for a student with a disability who violates a school district's code of student conduct.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence.

3028-c. Protection of school employees who report acts of violence and weapons possession.

Any school employee having reasonable cause to suspect that a person has committed an act of violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

d. (1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a

presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.

(2) Nothing in this paragraph shall be deemed to mandate such action by a school district pursuant to subdivision one of this section where such weapon or firearm is possessed or brought to school with the written authorization of such educational institution in a manner authorized by article two hundred sixty-five of the penal law for activities approved and authorized by the trustees or board of education or other governing body of the public school and such governing body adopts appropriate safeguards to ensure student safety.

(3) As used in this paragraph:

(i) "firearm" shall mean a firearm as defined in subsection a of section nine hundred twenty-one of title eighteen of the United States Code; and

(ii) "weapon" shall be as defined in paragraph 2 of subsection g of section nine hundred thirty of title eighteen of the United States Code.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(f) disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence.

Students with Chronic Disciplinary Issues

LAWS

3214. Student placement, suspensions and transfers.

1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

2-a.b. Disruptive pupil. For the purposes of this section, a disruptive pupil is an elementary or secondary student under twenty-one years of age who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(p) a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with

any other State and Federal law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable.

Chronic Absenteeism and Truancy

LAWS

3210. Amount and character of required attendance.

1. Regularity and conduct.

a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. (i) Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

(ii) In addition, the board of education or trustees shall determine whether school session should not be held at an individual public school, or district-wide, on a day where, if school were in session, absenteeism may result in the waste of educational resources because a considerable proportion of the student population is unlikely to attend because of a religious or cultural day of observance.

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

2. Powers and duties.

a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him. [...]

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for

notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3214. Student placement, suspensions and transfers.

1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

4111. Arrest of truants.

Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(f) disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law.

104.1. Pupil attendance recordkeeping.

(i) Comprehensive Attendance Policy.

(1) Requirement. On or before June 30, 2002, each public school district, board of cooperative educational services (BOCES), charter school, county vocational education and extension board and nonpublic elementary, middle and secondary school shall adopt a comprehensive attendance policy that contains the elements described in paragraph (2) of this subdivision. The purpose of the policy shall be to ensure the maintenance of an adequate record verifying the attendance of all children at instruction in accordance with Education Law sections 3205 and 3210 and establish a mechanism by which the patterns of pupil absence can be examined to develop effective intervention strategies to improve school attendance. A public school district, BOCES, charter school or county vocational education and extension board shall adopt its comprehensive attendance policy only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested party.

(2) Content of the policy. The board of education, board of cooperative educational services, charter school board, county vocational education and extension board, and administrator of a nonpublic school shall incorporate the following elements into the comprehensive attendance policy:

(i) a statement of the overall objectives to be accomplished;

(ii) a description of the specific strategies to be employed to accomplish these objectives;

(iii) a determination of which pupil absences, tardiness and early departures will be excused and which will not be excused and an illustrative list of excused and unexcused pupil absences and tardiness;

(iv) a description of the coding system used to identify the reason for a pupil's absence, tardiness or early departure recorded in the register of attendance;

(v) a description of the school district, BOCES, charter school, county vocational education and extension board or nonpublic school policy regarding pupil attendance and a pupil's ability to receive course credit. Any board of education, board of cooperative educational services, charter school board or county vocational education and extension board that adopts a policy establishing a minimum standard of attendance in order for a pupil to be eligible for course credit shall have the authority to determine that a properly excused pupil absence, for which the pupil has performed any assigned make up work, shall not be counted as an absence for the purpose of determining the pupil's eligibility for course credit under such policy. In the event a board of education, board of cooperative educational services, charter school board or county vocational education and extension board adopts a minimum attendance standard as a component of its policy, such policy shall include a description of the notice to a pupil's parent(s) or person(s) in parental relation as well as the specific intervention strategies to be employed prior to the denial of course credit to the pupil for insufficient attendance;

(vi) a description of the incentives to be employed to encourage pupil attendance and any disciplinary sanctions to be used to discourage unexcused pupil absences, tardiness and early departures;

(vii) a description of the notice to be provided to the parent(s) of or person(s) in parental relation to pupils who are absent, tardy or depart early without proper excuse;

(viii) a description of the process to develop specific intervention strategies to be employed by teachers and other school employees to address identified patterns of unexcused pupil absence, tardiness or early departure;

(ix) identification of the person(s) designated in each school building who will be responsible for reviewing pupil attendance records and initiating appropriate action to address unexcused pupil absence, tardiness and early departure consistent with the comprehensive attendance policy.

(3) The board of education, board of cooperative educational services, charter school board, county vocational education and extension board and governing body of a nonpublic school shall annually

review the building level pupil attendance records and if such records show a decline in pupil attendance the board or governing body shall revise the comprehensive pupil attendance policy and make any revisions to the plan deemed necessary to improve pupil attendance.

(4) Each board of education, board of cooperative educational services, charter school board, county vocational education and extension board, and nonpublic school shall promote necessary community awareness of its comprehensive attendance policy by:

(i) providing a plain language summary of the policy to the parents or persons in parental relation to students at the beginning of each school year and taking such other steps deemed necessary to promote the understanding of such policy by students and their parents or persons in parental relation;

(ii) providing each teacher with a copy of the policy and any amendments thereto as soon as practicable following initial adoption or amendment of the policy, and providing new teachers with a copy of the policy upon their employment; and

(iii) making copies of the policy available to any other member of the community upon request.

149-2.3. Attendance plan.

(a) A school district required to set aside funding pursuant to section 3602(12)(f) of the Education Law for attendance improvement and dropout prevention shall file a plan with the commissioner by July 15th of the current year detailing a program pursuant to improve attendance and student retention which shall indicate how the district will use the funds required to be set aside for such purposes; provided that for the 1993-94 school year such plan shall be submitted no later than September 1, 1993.

(b) Such plan shall:

(1) provide for the targeting of monies to school buildings with chronic truancy rates equal to or higher than the district median;

(2) detail how programs funded under this will be coordinated with the dropout prevention programs of local public and private community agencies and organizations;

(3) detail procedures for reviewing the attendance and academic records of all pupils in the district during the two-year period prior to entrance into high school for the purpose of identifying pupils with a high risk of truancy and academic failure, including but not limited to victims of child abuse or neglect, or pupils who are in foster care;

(4) detail how services will be provided to such students in conjunction with plans for schoolwide improvement where appropriate;

(5) provide for services to pregnant pupils, and parenting pupils and for coordination of such services with those services provided to such pupils by local social services districts;

(6) provide for services to pupils who are members of households receiving public assistance, and who reside in hotels, motels, shelters or other temporary living arrangements and for coordination of such services with those services provided by local social services districts;

(7) provide for the coordination of services under this Subpart with those provided from the setaside for compensatory education under Subpart 149-1 of this Part and from the educationally related support services apportionment under subdivision 32 of section 3602 of the Education Law, where appropriate;

(8) provide for the coordination of services under this section with those required under section 243-a of the Executive Law;

(9) provide for parental involvement; and

(10) provide, to the greatest extent practicable, an expansion of services to schools which currently receive no services and contain high concentrations of limited English proficient pupils.

(c) Such plan shall specify measurable performance goals and outcomes for the improvement of pupil performance, attendance and student retention and shall provide for an examination of existing district and targeted building practices to determine the effectiveness of such practices. National and state validated programs that have proven successful in increasing attendance, improving at-risk pupil performance and reducing dropout rates and recent research and evaluation studies of New York state attendance improvement dropout prevention programs shall be considered in the planning process.

(d) A city school district in a city having a population of more than one million inhabitants shall file a plan pursuant to this section containing only such programs as are selected by the Chancellor with the approval of the commissioner from replicable model attendance improvement/dropout prevention programs which have demonstrated effectiveness.

Substance Use

LAWS

201.7 General procedures for suspensions and removals of students with disabilities.

(b) Five school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, the trustees or board of education of any school district, a district superintendent of schools or a building principal with authority to suspend students pursuant to Education Law, section 3214(3)(b) and (g), shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days, and not to exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.

(c) Ten school day suspension or removal.

Except as otherwise provided in subdivision (d) of this section, a superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c) and (g), may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed pursuant to subdivision (b) of this section for the same behavior, where the superintendent determines in accordance with the procedures set forth in Education Law section 3214(3)(c) that the student has engaged in behavior that warrants a suspension, provided that the duration of any such suspension or removal shall not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.

(e) Change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.

(1) A superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c), may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the period of suspension ordered by the superintendent in accordance with Education Law, section 3214(3), where the student:

(iii) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function under the jurisdiction of the educational agency.

(2) The period of suspension or removal ordered by the superintendent may not exceed the amount of time that a nondisabled student would be suspended for the same behavior.

(f) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement consistent with the other requirements of this Part is appropriate for a student with a disability who violates a school district's code of student conduct.

1399-ii. Tobacco and vapor product use prevention and control program.

2. The department shall support tobacco and vapor product use prevention and control activities including, but not limited to:

(b) School-based programs to prevent and reduce tobacco use and use of vapor products.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence.

3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

3028-b. Notification of teachers' duty to provide information and immunity from liability.

Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of

the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(f) disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence.

144.7. School safety grant program.

(a) Scope of section. The purpose of this section is to establish standards and procedures for the awarding of grants pursuant to section 551 of Chapter 170 of the Laws of 1994 to school districts for the conduct of school safety programs.

(b) Definitions. As used in this section: "school districts," "school safety and violence prevention programs," "extended day programs," "conflict resolution/violence prevention programs," "safe corridors program," "parent centers," "additional support staff," "collaborative school safety programs" and "needs assessments" shall have the meanings ascribed to them by subdivision 1 of section 551 of chapter 170 of the laws of 1994.

(c) Applications.

(3) Applications shall describe how the program is coordinated with related programs and projects, including, but not limited to, education, law enforcement, judicial, health, social service, juvenile justice programs, alcohol and drug counseling and mental health programs and projects, and relates to improved student achievement and identifies how the objectives of the program will become part of the overall school program.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

100.2 (dd). Professional learning.

(g) a description of any other opportunities the school district or BOCES provides to its educators to support their professional growth (e.g., coaching, induction, professional learning communities); and

(vi) Violent or disruptive incident shall mean one of the following categories of incidents that occurs on school property of the school district, board of cooperative educational services, charter school or county vocational education and extension board, committed with or without a weapon (except in the case of weapons possession):

(4) Content of report. Each individual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain the following information concerning each violent or disruptive incident that occurred in the prior school year:

(vii) whether the incident was bias-related, drug-related, or gang or group-related.

Bullying, Harassment, or Hazing

LAWS

Legislative intent.

The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of discrimination or harassment including bullying, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in public schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in public schools and to prevent and prohibit conduct which is inconsistent with a school's educational mission.

Definitions.

For the purposes of this article, the following terms shall have the following meanings:

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.
8. "Cyberbullying" shall mean harassment or bullying as defined in subdivision seven of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.
2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one.

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;
 - b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;
 - c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;
 - d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;
 - e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;
 - f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;
 - g. include a school strategy to prevent harassment, bullying and discrimination;
 - h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;
 - i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;
 - j. include appropriate references to the provisions of the school district's code of conduct adopted pursuant to section twenty-eight hundred one of this chapter that are relevant to harassment, bullying and discrimination;
 - k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;

1. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;
2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:
 - a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and
 - b. to enable employees to prevent and respond to harassment, bullying and discrimination; and
3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and
4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct; and
5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

14. Commissioner's responsibilities.

The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing harassment, bullying and discrimination and to fostering an environment in every school where all children can learn free of manifestations of bias;
2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;
3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations; and
4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.
5. The commissioner shall prescribe regulations that school professionals applying on or after December thirty-first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic

group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

Reporting by commissioner.

The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

Protection of people who report harassment, bullying or discrimination.

Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

Application.

Nothing in this article shall:

1. Apply to private, religious or denominational educational institutions; or
2. Preclude or limit any right or cause of action provided under any local, state or federal ordinance, law or regulation including but not limited to any remedies or rights available under the Individuals With Disabilities Education Act, Title VII of the Civil Rights Law of 1964, section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

18. Severability and construction.

The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof.

Hazing in the first degree.

A person is guilty of hazing in the first degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct, including, but not limited to, making physical contact with or requiring physical activity of such other person, which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.

Hazing in the first degree is a class A misdemeanor.

Hazing in the second degree.

A person is guilty of hazing in the second degree when, in the course of another person's initiation or affiliation with any organization, he intentionally or recklessly engages in conduct, including, but not limited to, making physical contact with or requiring physical activity of such other person, which creates a substantial risk of physical injury to such other person or a third person.

Hazing in the second degree is a violation.

801-a. Instruction in civility, citizenship, and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

814. Courses of study in internet safety.

3. The commissioner shall develop age-appropriate resources and technical assistance for schools to provide to students in grades three through twelve and their parents or legal guardians concerning the safe and responsible use of the internet. The resources shall include, but not be limited to, information regarding how child predators may use the internet to lure and exploit children, protecting personal information, internet scams and cyber-bullying.

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

c. appropriate prevention and intervention strategies such as:

j. strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence.

REGULATIONS

100.2 (c). Instruction in certain subjects.

(2) for all public school students, instruction that supports development of a school environment free of harassment, bullying, and/or discrimination as required by the Dignity For All Students Act (article 2 of the Education Law), with an emphasis on discouraging acts of harassment, bullying, and/or discrimination, including but not limited to instruction that raises students' awareness and sensitivity to harassment, bullying, and/or discrimination based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex, and instruction in the safe, responsible use of the Internet and electronic communications; provided that in public schools other than charter schools, such

instruction shall be provided as part of a component on civility, citizenship and character education in accordance with section 801-a of the Education Law.

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(b) provisions prohibiting harassment, bullying, and/or discrimination against any student, by employees or students that creates a hostile school environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), that either:

(1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being, including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(2) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety,

(3) Such conduct shall include acts of harassment and/or bullying that occur:

(i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or

(iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(4) For purposes of this paragraph, the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

(5) For purposes of this paragraph, "emotional harm" that takes place in the context of "harassment or bullying" means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(6) Such conduct shall include, but is not limited to acts based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law and subdivision (kk) of this section, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law section 11(6), or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973;

(c) standards and procedures to assure the security and safety of all students and school personnel;

(d) provisions for the removal from the classroom, school property and school functions of students and other persons who violate the code;

(e) provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214 (3-a)(c), or the period of removal expires, whichever is less;

(f) disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

- (g) disciplinary measures to be taken for incidents on school property or at school functions involving harassment, bullying and/or discrimination;
- (h) provisions for responding to acts of harassment, bullying, and/or discrimination against students by employees or students pursuant to clause (b) of this subparagraph which, with respect to such acts against students by students, incorporate a progressive model of student discipline that includes measured, balanced and age-appropriate remedies and procedures that make appropriate use of prevention, education, intervention and discipline, and considers among other things, the nature and severity of the offending student's behavior(s), the developmental age of the student, the previous disciplinary record of the student and other extenuating circumstances, and the impact the student's behaviors had on the individual(s) who was physically injured and/or emotionally harmed. Responses shall be reasonably calculated to end the harassment, bullying, and/or discrimination, prevent recurrence, and eliminate the hostile environment. This progressive model of student discipline shall be consistent with the other provisions of the code of conduct;
- (i) provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State, and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;
- (j) procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;
- (k) provisions ensuring that such code and the enforcement thereof are in compliance with State and Federal laws relating to students with disabilities;
- (l) provisions setting forth the procedures by which local law enforcement agencies shall be notified promptly of code violations, including but not limited to incidents of harassment, bullying, and/or discrimination, which may constitute a crime;
- (m) provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;
- (n) provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in Articles 3 and 7 of the family court act will be filed;
- (o) circumstances under and procedures by which referral to appropriate human service agencies shall be made, as needed;
- (p) a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other State and Federal law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable;
- (q) a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to Education Law section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other State and Federal law;

(r) a bill of rights and responsibilities of students which focuses upon positive student behavior and a safe and supportive school climate, which shall be written in plain-language, publicized and explained in an age-appropriate manner to all students on an annual basis;

(s) guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline, including but not limited to, guidelines on promoting a safe and supportive school climate while discouraging, among other things, harassment, bullying and discrimination against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management; and

(t) a provision prohibiting retaliation against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.

100.2 (jj). Dignity for all students school employee training program.

(1) Definitions. As used in this subdivision:

(i) School property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.

(ii) School function means a school-sponsored extracurricular event or activity.

(iii) Disability means disability as defined in Executive Law section 292(21).

(iv) Employee means employee as defined in Education Law section 1125(3), including an employee of a charter school.

(v) Sexual orientation means actual or perceived heterosexuality, homosexuality or bisexuality.

(vi) Gender means actual or perceived sex and shall include a person's gender identity or expression.

(vii) Discrimination means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law and subdivision (kk) of this section, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

(viii) Harassment or bullying means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), that either:

(a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(b) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety.

(c) such definition shall include acts of harassment or bullying that occur:

(1) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(2) at a school function, as defined in section 100.2(kk)(1)(ii) of this Part; or

(3) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(d) for purposes of this subdivision, the term threats, intimidation or abuse shall include verbal and non-verbal actions. Acts of harassment or bullying shall include, but not be limited to, acts based on a person's actual or perceived race as defined in subdivision 9 of section 11 of the Education Law and subdivision (kk) of this section, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex.

(e) emotional harm that takes place in the context of harassment or bullying means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(2) On or before July 1, 2013, each school district and each charter school shall establish policies, procedures and guidelines for its school or schools to implement, commencing with the 2013-2014 school year and continuing in each school year thereafter, Dignity Act school employee training programs to promote a positive school environment that is free from harassment, bullying and/or discrimination; and to discourage and respond to incidents of harassment, bullying, and/or discrimination on school property or at a school function, or off school property pursuant to subclause (1)(viii)(c)(iii) of this subdivision. Such policies, procedures and guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City School District of the City of New York) or by the board of trustees of the charter school.

(3) The policies, procedures and guidelines shall include, but not be limited to, guidelines relating to the development of nondiscriminatory instructional and counseling methods, and providing employees, including school and district administrators and instructional and non-instructional staff, with training to:

(i) raise awareness and sensitivity to potential acts of harassment, bullying, and/or discrimination directed at students that are committed by students and/or school employees on school property or at a school function, or off school property pursuant to subclause (1)(viii)(c)(iii) of this subdivision; including, but not limited to, harassment, bullying and/or discrimination based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law and subdivision (kk) of this section, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex. Such training shall address the social patterns of harassment, bullying and/or discrimination, the identification and mitigation of such acts, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings;

(ii) enable employees to prevent and respond to incidents of harassment, bullying, and/or discrimination, consistent with Education Law section 13(4);

(iii) make school employees aware of the effects of harassment, bullying, cyberbullying, and/or discrimination on students;

(iv) ensure the effective implementation of school policy on school conduct and discipline, including but not limited to, guidelines on promoting a safe and supportive school climate while discouraging harassment, bullying, and/or discrimination against students by students and/or school employees; and

(v) include safe and supportive school climate concepts in curriculum and classroom management.

(vi) such training may be implemented and conducted in conjunction with existing professional learning training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees.

(4) At least one employee in every school shall be designated as a Dignity Act Coordinator who shall be:

(i) instructed in the provisions of this subdivision;

(ii) thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex;

(iii) provided with training which addresses the social patterns of harassment, bullying and discrimination, including but not limited to those acts based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law and subdivision (kk) of this section, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex;

(iv) provided with training in the identification and mitigation of harassment, bullying and discrimination; and

(v) provided with training in strategies for effectively addressing problems of exclusion, bias, and aggression in educational settings.

(vi) The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the principal of the school in which the designated employee is employed) or, in the case of a charter school, by the board of trustees. Each Coordinator shall be employed by such school district, BOCES or charter school, as applicable, and be licensed and/or certified by the Commissioner as a classroom teacher, school counselor, school psychologist, school nurse, school social worker, school administrator or supervisor, or superintendent of schools.

(vii) The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation, which shall include, but is not limited to, providing the name, designated school, and contact information of each Dignity Act Coordinator by:

(a) listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part; provided that, notwithstanding the provisions of clause 100.2(1)(2)(iii)(a) of this Title, a change in the name and/or contact information of a Dignity Act Coordinator shall not be deemed to constitute a revision to the code of conduct so as to require a public hearing be held pursuant to such clause, and nothing herein shall be deemed to require such public hearing in such instance; and

(b) posting such information in highly-visible areas of school buildings; and

(c) making such information available at the district and school-level administrative offices; and either

(d) including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3); or

(e) providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school, including, but not limited to, through electronic communication and/or sending such information home with students.

(viii) In the event a Dignity Act Coordinator vacates his or her position, another eligible employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (vi) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another eligible employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

(5) Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

100.2 (kk). Dignity Act reporting requirements.

(1) Definitions. For purposes of this subdivision:

(i) School property means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary

school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.

(ii) School function means a school-sponsored extracurricular event or activity.

(iii) Disability means disability as defined in Executive Law section 292(21).

(iv) Employee means employee as defined in Education Law section 1125(3), including an employee of a charter school.

(v) Sexual orientation means actual or perceived heterosexuality, homosexuality or bisexuality.

(vi) Gender means actual or perceived sex and shall include a person's gender identity or expression.

(vii) Discrimination means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

(viii) Harassment or bullying means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), that either:

(a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being, including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(b) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety.

(c) Such definition shall include acts of harassment or bullying that occur:

(i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or

(iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(d) For purposes of this subdivision, the term threats, intimidation or abuse shall include verbal and non-verbal actions. Acts of harassment and bullying shall include, but not be limited to, acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex.

(e) Emotional harm that takes place in the context of harassment or bullying means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(ix) Material incident of harassment, bullying, and/or discrimination means a single verified incident or a series of related verified incidents where a student is subjected to harassment, bullying and/or discrimination by a student and/or employee on school property or at a school function. In addition, such term shall include a verified incident or series of related incidents of harassment or bullying that occur off school property, meets the definition in subclause (1)(viii)(c)(iii) of this subdivision, and is the subject of a written or oral complaint to the superintendent, principal, or their designee, or other school employee. Such conduct shall include, but is not limited to, threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as

discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

(x) Race shall include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.

(xi) Protective hairstyles shall include, but not be limited to, such hairstyles as braids, locks, and twists.

(xii) For purposes of this section, a report of harassment, bullying, and/or discrimination means a written or oral report of harassment, bullying, and/or discrimination that could constitute a violation of the Dignity for All Students Act (article 2 of the Education Law). Such a report may include, but is not limited to, the following examples:

(a) a report regarding the denial of access to school facilities, functions, opportunities or programs including, but not limited to, restrooms, changing rooms, locker rooms, and/or field trips, based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(b) a report regarding application of a dress code, specific grooming or appearance standards that is based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(c) a report regarding the use of name(s) and pronoun(s) or the pronunciation of name(s) that is based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(d) a report regarding the punishment, differential treatment or humiliation of a student, or exclusion of a student from a school function, athletic team or school yearbook, based on hair texture or protective hairstyle, or the request to alter or actual alteration of a protective hairstyle; or

(e) a report regarding any other form of harassment, bullying and/or discrimination, based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex.

(2) Reporting of incidents to the superintendent, principal, or designee.

(i) School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of harassment, bullying, and/or discrimination shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of harassment, bullying, and/or discrimination, and

(ii) Such school employee shall also file a written report in a manner prescribed by, as applicable, the school district, board of cooperative educational services (BOCES) or charter school with the principal, superintendent, or their designee no later than two school days after making an oral report.

(iii) The principal, superintendent or the principal's or superintendent's designee shall lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports made under Education Law section 13.

(iv) When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the superintendent, principal, or designee shall take prompt action, consistent with the district's code of conduct including but not limited to the provisions of section 100.2(l)(2)(ii)(h), reasonably calculated to end the harassment, bullying, and/or discrimination, eliminate any hostile environment, create a more

positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.

(v) The principal, superintendent, or their designee shall notify promptly the appropriate local law enforcement agency when it is believed that any harassment, bullying or discrimination constitutes criminal conduct.

(vi) The principal shall provide a regular report on data and trends related to harassment, bullying, and/or discrimination to the superintendent. For the purpose of this subdivision, the term "regular report" shall mean at least once during each school year, and in a manner prescribed by, as applicable, the school district, BOCES or charter school.

(3) Reporting of material incidents to the commissioner.

(i) For the 2013-2014 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of harassment, bullying, and/or discrimination, that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(ii) For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of harassment, bullying, and/or discrimination that:

(a) are the result of the investigation of a written or oral complaint made to the superintendent, principal or their designee, or to any other employee; or

(b) are otherwise directly observed by such superintendent, principal or their designee, or by any other employee regardless of whether a complaint is made.

(iii) Such report shall include information describing the specific nature of the incident, including, but not limited to:

(a) the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

(b) whether the incident resulted from student and/or employee conduct;

(c) whether the incident involved physical contact and/or threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8); and

(d) the location where the incident occurred (on school property or at a school function, or off school property, where applicable).

(4) Protection of people who report discrimination and/or harassment.

(i) Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to harassment, bullying, and/or discrimination by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

(ii) No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

(iii) Pursuant to Education Law section 13, retaliation by any school employee or student shall be prohibited against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies. n

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district- wide school safety team and shall include, but not be limited to:

(xvi) strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

14. Commissioner's responsibilities.

The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing harassment, bullying and discrimination and to fostering an environment in every school where all children can learn free of manifestations of bias.
[...]

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

2801-a. School safety plans.

The commissioner, in consultation with the superintendent of the state police, is authorized to develop an appeals process from duplicative requirements of a district-wide school safety plan for school districts having only one school building.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

h. policies and procedures for annual school safety training for staff and students; provided that the district must certify to the commissioner that all staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health, such training may be implemented and conducted in conjunction with existing professional development and training; provided however that new employees hired after the start of the school year shall receive training within thirty days of such hire or as part of a district's existing new hire training program, whichever is sooner.

2814. Omnibus school violence prevention grant program.

1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school district after-school funding in existence as of the effective date of this article.

a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress.

REGULATIONS

52.21. Registration of curricula in teacher education.

4) All registered teacher education programs leading to certification in the classroom teaching service, school service, or administrative and supervisory service shall provide two clock hours of coursework or training in school violence prevention and intervention. Such course work or training shall include, but not be limited to, study in the warning signs within a developmental and social context that relate to violence and other troubling behaviors in children; the statutes, regulations and policies relating to a safe nonviolent school climate; effective classroom management techniques and other academic supports that promote a nonviolent school climate and enhance learning; the integration of social and problem solving skill development for students within the regular curriculum; intervention techniques designed to address a school violence situation; and how to participate in an effective school/community referral process for students exhibiting violent behavior.

57-2.1. Purpose.

The purpose of this Subpart is to set forth standards for approval and the approval process for providers of course work or training in school violence prevention and intervention that is offered to candidates for a teachers' certificate or license in the classroom teaching service, school service, or administrative and supervisory service, as required by Education Law section 3004.

57-2.2. Definitions.

As used in this Subpart:

(a) Course work or training means course work or training in school violence prevention and intervention.

(b) Provider means any teachers' or professional organization or association, school district, board of cooperative educational services, nonpublic school, institution of higher education, hospital, health care facility, government agency or office, social service agency, or any other organization that has as its

purpose the provision of course work or training in school violence prevention and intervention, and that is approved by the department to offer course work or training in school violence prevention and intervention pursuant to Education Law section 3004.

57-2.3. Responsibilities of providers.

(a) Pursuant to the requirements of Education Law section 3004, a provider, at a minimum, shall offer at least two clock hours of course work or training in school violence prevention and intervention. Such course work or training shall include, but not be limited to, study in the warning signs within a developmental and social context that relate to violence and other troubling behaviors in children; the statutes, regulations and policies relating to a safe nonviolent school climate; effective classroom management techniques and other academic supports that promote a nonviolent school climate and enhance learning; the integration of social and problem solving skill development for students within the regular curriculum; intervention techniques designed to address a school violence situation; and how to participate in an effective school/community referral process for students exhibiting violent behavior.

(b) A provider of course work or training shall execute a certification of completion for each person completing course work or training, and within 21 calendar days of the completion of course work or training, the provider shall submit the certification of completion to the person completing the course work or training for that person's use in documenting such completion.

(c) The provider shall retain a copy of the certification of completion in the provider's files for not less than six years from the date of completion of course work or training.

(d) In the event that a provider discontinues offering course work or training, all copies of certifications of completion issued within the six years prior to such discontinuance shall be transferred to the department.

(e) Course work or training shall be taught by instructors who have demonstrated by training, education, and experience their competence to teach the course content prescribed in subdivision (a) of this section.

(f) Course work or training shall be supported by adequate facilities, equipment, and other physical resources.

57-2.7. Exemption.

(a) A school district or board of cooperative educational services that provides training in school violence prevention and intervention as part of a professional learning plan, for which the school district or board of cooperative educational services has made a certification to the commissioner of meeting the requirements of section 100.2(dd) of this Title in the manner prescribed in such subdivision, shall be deemed approved pursuant to this Subpart, for purposes of such training, unless the department determines that the school district or board of cooperative educational services has not met the requirements of section 100.2(dd)(2) of this Title relating to the provision of training in school violence prevention and intervention to its employees.

(b) An institution that offers a registered program leading to certification in the classroom teaching service, school service, or administrative and supervisory service, pursuant to section 52.21 of this Title, shall be deemed approved pursuant to this Subpart, for purposes of offering course work or training in school violence prevention and intervention within such program to students in the program.

144.7. School safety grant program.

(a) Scope of section. The purpose of this section is to establish standards and procedures for the awarding of grants pursuant to section 551 of Chapter 170 of the Laws of 1994 to school districts for the conduct of school safety programs.

(b) Definitions. As used in this section: "school districts," "school safety and violence prevention programs," "extended day programs," "conflict resolution/violence prevention programs," "safe corridors program," "parent centers," "additional support staff," "collaborative school safety programs" and "needs

assessments" shall have the meanings ascribed to them by subdivision 1 of section 551 of chapter 170 of the laws of 1994.

(c) Applications.

(1) Each school district applying for a grant under this section shall submit an application on forms prescribed by the commissioner. Such applications shall be submitted not later than June 1st of each year for programs to be conducted during the following school year, provided that applications for grants for the 1994-95 school year shall be submitted by August 22, 1994.

(2) Applications shall set forth the information required in subsection 2 of section 170 of chapter 551 of the Laws of 1994 and a budget and budget narrative to support the amount of funding being requested to finance the program.

(3) Applications shall describe how the program is coordinated with related programs and projects, including, but not limited to, education, law enforcement, judicial, health, social service, juvenile justice programs, alcohol and drug counseling and mental health programs and projects, and relates to improved student achievement and identifies how the objectives of the program will become part of the overall school program.

149-2.4. Allowable costs.

(a) Programs and services which may be approved by the commissioner for the purposes of this Subpart shall include but not be limited to:

(1) the services of additional support personnel including attendance, counseling and social work personnel;

(2) intergenerational mentoring programs;

(3) the institution of new or additional programs for in-school suspension programs work-experience, diagnostic screening, computerized telephone contact systems, alternative education programs;

(4) extracurricular after-school activities including but not limited to: athletics, recreation, art, music, drama, academic tutoring, mentoring, cultural field trips, community services and related equipment;

(5) violence prevention activities including but not limited to: conflict resolution programs, peer mediation programs, staff development in conflict resolution and violence prevention, and collaborative school safety programs; and

(6) other services designed to improve student attendance and retention rates.

(b) Such services may be provided by contract with nonschool based organizations provided that no more than 15 percent of the total contract costs shall be expended for administrative and indirect costs of the contractee. A school district may contract with a board of cooperative educational services for the provision of such services. All services shall be coordinated to the maximum extent feasible with services available pursuant to other state, local and federally funded programs.

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(xiii) policies and procedures for annual multi-hazard school safety training for staff and students, provided that the district must certify to the commissioner that all staff have undergone annual training by September 15, 2016 and each subsequent September 15th thereafter on the building-level emergency response plan which must include components on violence prevention and mental health, provided further that new employees hired after the start of the school year shall receive such training

within 30 days of hire or as part of the district's existing new hire training program, whichever is sooner.

Social-emotional Learning (SEL)

LAWS

801-a. Instruction in civility, citizenship, and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

REGULATIONS

100.2 (c). Instruction in certain subjects.

(2) for all public school students, instruction that supports development of a school environment free of harassment, bullying, and/or discrimination as required by the Dignity For All Students Act (article 2 of the Education Law), with an emphasis on discouraging acts of harassment, bullying, and/or discrimination, including but not limited to instruction that raises students' awareness and sensitivity to harassment, bullying, and/or discrimination based on a person's actual or perceived race as defined in subdivision (9) of section 11 of the Education Law, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex, and instruction in the safe, responsible use of the Internet and electronic communications; provided that in public schools other than charter schools, such instruction shall be provided as part of a component on civility, citizenship and character education in accordance with section 801-a of the Education Law.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

h. policies and procedures for annual school safety training for staff and students; provided that the district must certify to the commissioner that all staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health, such training may be implemented and conducted in conjunction with existing professional development and training; provided however that new employees hired after the start of the school year shall receive training within thirty days of such hire or as part of a district's existing new hire training program, whichever is sooner;

REGULATIONS

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(xiii) policies and procedures for annual multi-hazard school safety training for staff and students, provided that the district must certify to the commissioner that all staff have undergone annual training by September 15, 2016 and each subsequent September 15th thereafter on the building-level emergency response plan which must include components on violence prevention and mental health, provided further that new employees hired after the start of the school year shall receive such training within 30 days of hire or as part of the district's existing new hire training program, whichever is sooner.

School-based Behavioral Health Programs

LAWS

414. Use of schoolhouse and grounds.

1. (j) For licensed school-based health, dental or mental health clinics.

(i) For the purposes of this subdivision, the term "licensed school-based health, dental or mental health clinic" means a clinic that is located in a school facility of a school district or board of cooperative educational services, is operated by an entity other than the school district or board of cooperative educational services and will provide health, dental or mental health services during school hours and/or non-school hours to school-age and preschool children, and that is: (1) a health clinic approved under the provisions of chapter one hundred ninety-eight of the laws of nineteen hundred seventy-eight; or (2) another school-based health or dental clinic licensed by the department of health pursuant to article twenty-eight of the public health law; or (3) a school-based mental health clinic licensed or approved by the office of mental health pursuant to article thirty-one of the mental hygiene law; or (4) a school-based mental health clinic licensed by the office for people with developmental disabilities pursuant to article sixteen of the mental hygiene law.

(ii) Health professionals who provide services in licensed school-based health, dental or mental health clinics shall be duly licensed pursuant to the provisions of title eight of this chapter unless otherwise exempted by law and shall be authorized to provide such services to the extent permitted by their respective practice acts.

(iii) Except where otherwise authorized by law, the cost of providing health, dental or mental health services shall not be a charge upon the school district or board of cooperative educational services, and shall be paid from federal, state or other local funds available for such purpose. Building space used for such a clinic shall be excluded from the rated capacity of the school building for the purpose of computing building aid pursuant to subdivision six of section thirty-six hundred two of this chapter or aid pursuant to subdivision five of section nineteen hundred fifty of this chapter.

(iv) Nothing in this paragraph shall be construed to justify a cause of action for damages against a school district or a board of cooperative educational services by reason of acts of negligence or misconduct by a school-based health, dental or mental health clinic or such clinic's officers or employees.

REGULATIONS

144.7. School safety grant program.

(a) Scope of section. The purpose of this section is to establish standards and procedures for the awarding of grants pursuant to section 551 of Chapter 170 of the Laws of 1994 to school districts for the conduct of school safety programs.

(b) Definitions. As used in this section: "school districts," "school safety and violence prevention programs," "extended day programs," "conflict resolution/violence prevention programs," "safe corridors program," "parent centers," "additional support staff," "collaborative school safety programs" and "needs assessments" shall have the meanings ascribed to them by subdivision 1 of section 551 of chapter 170 of the laws of 1994.

(c) Applications.

(3) Applications shall describe how the program is coordinated with related programs and projects, including, but not limited to, education, law enforcement, judicial, health, social service, juvenile justice programs, alcohol and drug counseling and mental health programs and projects, and relates to improved student achievement and identifies how the objectives of the program will become part of the overall school program.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;
 - b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;
 - c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;
 - d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;
 - e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;
 - f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination.

15. Reporting by commissioner.

The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

- f. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out.

2802. Uniform violent incident reporting system.

1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension boards to annually report to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

- a. the type of offenders;
- b. if any offender is a student, the age and grade of the student;
- c. the location at which the incident occurred;
- d. the type of incident;
- e. whether the incident occurred during or outside of regular school hours;
- f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;
- g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;
- h. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and
- i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and compare the incidence of violent and disruptive incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the

commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

b. (2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(j) procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out.

100.2 (gg). Uniform violent or disruptive incident reporting system.

School districts, boards of cooperative educational services, charter schools and county vocational education and extension boards shall submit to the commissioner annual reports of violent or disruptive incidents that occurred in the prior school year, commencing with the 2001-2002 school year, in accordance with Education Law section 2802 and this subdivision. [...]

(2) Recording of offenses.

(i) For purposes of reporting pursuant to this subdivision, each incident shall be reported once in the highest ranking category of offense that applies, except that incidents involving a weapon and one of the offenses listed in clauses (1)(vi)(a) through (f) of this subdivision shall be reported in the highest ranking category of offense that applies as an offense committed with a weapon, and not in weapons possession; and incidents involving drug use, possession or sale and/or alcohol use, possession or sale and another offense shall be reported in the highest ranking category in clauses (1)(vi)(a) through (g) of this subdivision that applies. If the offense involves only the use, possession or sale of drugs or alcohol, it shall be recorded in the applicable category of drug or alcohol use, possession or sale as an incident involving drug or alcohol use, possession or sale only. For purposes of determining the highest ranking offense pursuant to this subparagraph, offenses shall be ranked in the order that they appear in clauses (1)(vi)(a) through (f) of this subdivision, followed by weapons possession, drug use, possession or sale and alcohol use, possession or sale.

(ii) All incidents involving bomb threats or false alarms as defined in clauses (1)(vi)(e) and (f) this subdivision shall be reported. All incidents involving material incidents of harassment, bullying, and/or discrimination as defined in clause (1)(vi)(d) of this subdivision shall be reported.

(3) Submission of report. Each school district, board of cooperative educational services, charter school and county vocational education and extension board shall annually submit its report on violent or disruptive incidents, in the manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(4) Content of report. Each individual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain the following information concerning each violent or disruptive incident that occurred in the prior school year:

(i) the number and types of offenders, identified as student, teacher, school safety officer, other school staff, student intruder, visitor, unknown or other;

(ii) if any offender is a student, the age and grade of the student;

(iii) the location at which the incident occurred, including:

(a) the school building in which the incident occurred or whose real property boundary line includes the athletic playing field, playground, parking lot or land on which the incident occurred, and whether the incident occurred in a classroom, laboratory, hall, staircase, gymnasium, locker room or pool, cafeteria, bathroom, auditorium, playground or athletic field or otherwise on school grounds; or

(b) where applicable, that the incident occurred on a school bus; or

(c) where applicable, that the incident occurred at a school function conducted off school grounds.

(iv) the types of incident, identified by category listed in clauses (1)(vi)(a) through (i) of this subdivision;

(v) whether the incident occurred during or outside of regular school hours;

(vi) where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

(vii) whether the incident was bias-related, drug-related, or gang or group-related;

(viii) the actions taken by the school in response to the incident, including when the incident was reported to police or other law enforcement officials and whether disciplinary action was taken against the offenders;

(ix) any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, a teacher removal, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system or the criminal justice system, and the duration of such action; and

(x) the number and nature of the victims, identified as a student, teacher, school safety officer, other school staff or other and the victim's age and grade where the victim is a student.

(5) Preparation of report. Each annual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain such information as the commissioner shall prescribe, including but not limited to information on the frequency and types of incidents, offenders, victims and student discipline or referral actions taken, as is available on the date the annual report is submitted.

(6) Local procedures. The governing body of each school district, board of cooperative educational services, charter school and county vocational education and extension board shall establish local procedures for the reporting of violent or disruptive incidents by each building and/or program under its jurisdiction. Such procedures shall assure that copies of each violent or disruptive incident report at the building or program level are retained for period prescribed by the commissioner in the applicable records retention schedule, and are available for inspection by the department upon request; provided that a district or board that adopts an electronic reporting system may fulfill such requirement by retaining an electronic record of the information reported at the building or program level.

(7) Confidentiality. Pursuant to subdivision 6 of section 2802 of the Education Law, all personally identifiable information included in a violent or disruptive incident report shall be confidential, and shall not

be disclosed to any person for use by any person for purposes other than the purposes of section 2802 of the Education Law, except as otherwise authorized by law.

(8) School violence index. Each school year, commencing with the 2005-2006 school year, the department shall establish a school violence index as a comparative measure of the level of school violence in a school. The school violence index will be computed in accordance with a formula established by the commissioner that takes into account the enrollment of the school and is weighted to reflect the most serious violent incidents, which shall include but need not be limited to the following categories of incidents: homicide, forcible sexual offense, assault resulting in serious physical injury, assault resulting in physical injury, and incidents involving the possession, use or threatened use of a weapon.

100.2 (kk). Dignity Act reporting requirements.

(1) Definitions. For purposes of this subdivision:

(xii) For purposes of this section, a report of harassment, bullying, and/or discrimination means a written or oral report of harassment, bullying, and/or discrimination that could constitute a violation of the Dignity for All Students Act (article 2 of the Education Law). Such a report may include, but is not limited to, the following examples:

(a) a report regarding the denial of access to school facilities, functions, opportunities or programs including, but not limited to, restrooms, changing rooms, locker rooms, and/or field trips, based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(b) a report regarding application of a dress code, specific grooming or appearance standards that is based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(c) a report regarding the use of name(s) and pronoun(s) or the pronunciation of name(s) that is based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex; or

(d) a report regarding the punishment, differential treatment or humiliation of a student, or exclusion of a student from a school function, athletic team or school yearbook, based on hair texture or protective hairstyle, or the request to alter or actual alteration of a protective hairstyle; or

(e) a report regarding any other form of harassment, bullying and/or discrimination, based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex.

(2) Reporting of incidents to the superintendent, principal, or designee.

(i) School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of harassment, bullying, and/or discrimination shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of harassment, bullying, and/or discrimination, and

(ii) Such school employee shall also file a written report in a manner prescribed by, as applicable, the school district, board of cooperative educational services (BOCES) or charter school with the principal, superintendent, or their designee no later than two school days after making an oral report.

(iii) The principal, superintendent or the principal's or superintendent's designee shall lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports made under Education Law section 13.

(iv) When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the superintendent, principal, or designee shall take prompt action, consistent with the district's code of conduct including but not limited to the provisions of section 100.2(l)(2)(ii)(h), reasonably calculated to end the harassment, bullying, and/or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.

(v) The principal, superintendent, or their designee shall notify promptly the appropriate local law enforcement agency when it is believed that any harassment, bullying or discrimination constitutes criminal conduct.

(vi) The principal shall provide a regular report on data and trends related to harassment, bullying, and/or discrimination to the superintendent. For the purpose of this subdivision, the term "regular report" shall mean at least once during each school year, and in a manner prescribed by, as applicable, the school district, BOCES or charter school.

(3) Reporting of material incidents to the commissioner.

(i) For the 2013-2014 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of harassment, bullying, and/or discrimination, that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(ii) For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of harassment, bullying, and/or discrimination that:

(a) are the result of the investigation of a written or oral complaint made to the superintendent, principal or their designee, or to any other employee; or

(b) are otherwise directly observed by such superintendent, principal or their designee, or by any other employee regardless of whether a complaint is made.

(iii) Such report shall include information describing the specific nature of the incident, including, but not limited to:

(a) the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

(b) whether the incident resulted from student and/or employee conduct;

(c) whether the incident involved physical contact and/or threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8); and

(d) the location where the incident occurred (on school property or at a school function, or off school property, where applicable).

(4) Protection of people who report discrimination and/or harassment.

(i) Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to harassment, bullying, and/or discrimination by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such

information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

(ii) No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

(iii) Pursuant to Education Law section 13, retaliation by any school employee or student shall be prohibited against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(ii) policies and procedures for responding to acts of violence by students, teachers, other school personnel and visitors to the school, including consideration of zero-tolerance policies for school violence; [...]

(xvi) strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence.

Parental Notification

LAWS

201.7 General procedures for suspensions and removals of students with disabilities.

(a) Parental notice of disciplinary removal.

No later than the date on which a decision is made to change the placement of a student with a disability to an IAES pursuant to subdivision (e) of this section or pursuant to section 201.8 of this Part, or a decision is to impose a suspension or removal pursuant to this Part that constitutes a disciplinary change in placement, the parent shall be notified of such decision and shall be provided the procedural safeguards notice in accordance with section 200.5(f) of this Title.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

i. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations.

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

- c. appropriate prevention and intervention strategies such as:

e. policies and procedures for contacting parents, guardians or persons in parental relation to the students of the district in the event of a violent incident and policies and procedures for contacting parents, guardians or persons in parental relation to an individual student of the district in the event of an implied or direct threat of violence by such student against themselves, which for purposes of this section shall include suicide.

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

2. Powers and duties.

a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him. [...]

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to

suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

3-a.b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal, provided that if such forty-eight hour period does not end on a school day, it shall be extended to the corresponding time on the second school day next following the pupil's removal. For purposes of this subdivision, "school day" shall mean a school day as defined pursuant to clause (v) of subparagraph three of paragraph g of subdivision three of this section.

4402. Duties of school districts.

9. The board of education of trustees of each school district shall develop a procedure to notify the parent or person in parental relation of a student with a disability on the same day a physical or mechanical restraint is applied on such student or such student is placed in a time out room, When the student's parent or person in parental relation cannot be contacted after reasonable attempts are made, the principal shall record and report such attempts to the committee on special education.

REGULATIONS

100.2 (l)(1). Policy on school conduct and discipline.

(i) On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for Central Board-administered programs. Such a policy shall be developed locally in consultation with teachers, administrators, other school service professionals, students and parents and shall include:

(d) procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee on special education for review and modification if appropriate of the student's individualized education program.

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(m) provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations.

100.2 (l)(4). Parental notification of student suspension.

When suspension of a student from attendance for a period of five days or less pursuant to section 3214(3) of the Education Law is proposed, school district officials shall immediately notify the parents or the persons in parental relation in writing that the student may be suspended from school. Written notice

shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the decision to propose suspension at the last known address or addresses of the parents or persons in parental relation. Where possible, notification shall also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents or persons in parental relation. Such notice shall provide a description of the

incident(s) for which suspension is proposed and shall inform the parents or persons in parental relation of their right to request an immediate informal conference with the principal in accordance with the provisions of Education Law, section 3214(3)(b). Such notice and informal conference shall be in the dominant language or mode of communication used by the parents or persons in parental relation to the pupil. Such notice and opportunity for an informal conference shall take place prior to the suspension of the student unless the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

104.1. Pupil attendance recordkeeping.

(i)(2)Content of the policy. The board of education, board of cooperative educational services, charter school board, county vocational education and extension board, and administrator of a nonpublic school shall incorporate the following elements into the comprehensive attendance policy:

(vii) a description of the notice to be provided to the parent(s) of or person(s) in parental relation to pupils who are absent, tardy or depart early without proper excuse.

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(ix) policies and procedures for contacting parents, guardians or persons in parental relation to the students of the district in the event of a violent incident or an early dismissal;

(x) policies and procedures for contacting parents, guardians or persons in parental relation to an individual student of the district in the event of an implied or direct threat of violence by such student against themselves, which for the purposes of this subdivision shall include suicide.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent.

15. Reporting by commissioner.

The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the

specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

2802. Uniform violent incident reporting system.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and compare the incidence of violent and disruptive incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

3028-b. Notification of teachers' duty to provide information and immunity from liability.

Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

REGULATIONS

100.2 (l)(3). Corporal punishment.

(ii) In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

100.2 (bb). Data reporting requirements.

(3) Each school district shall submit the following data at a time and in a format prescribed by the commissioner:

- (vi) Violent and disruptive incidents for each school;
- (viii) Student out-of-school suspensions for each school.

100.2 (gg). Uniform violent or disruptive incident reporting system.

(2) Recording of offenses.

(i) For purposes of reporting pursuant to this subdivision, each incident shall be reported once in the highest ranking category of offense that applies, except that incidents involving a weapon and one of the offenses listed in clauses (1)(vi)(a) through (f) of this subdivision shall be reported in the highest ranking category of offense that applies as an offense committed with a weapon, and not in weapons possession; and incidents involving drug use, possession or sale and/or alcohol use, possession or sale and another offense shall be reported in the highest ranking category in clauses (1)(vi)(a) through (g) of this subdivision that applies. If the offense involves only the use, possession or sale of drugs or alcohol, it shall be recorded in the applicable category of drug or alcohol use, possession or sale as an incident involving drug or alcohol use, possession or sale only. For purposes of determining the highest ranking offense pursuant to this subparagraph, offenses shall be ranked in the order that they appear in clauses (1)(vi)(a) through (f) of this subdivision, followed by weapons possession, drug use, possession or sale and alcohol use, possession or sale.

(ii) All incidents involving bomb threats or false alarms as defined in clauses (1)(vi)(e) and (f) this subdivision shall be reported. All incidents involving material incidents of harassment, bullying, and/or discrimination as defined in clause (1)(vi)(d) of this subdivision shall be reported.

(3) Submission of report. Each school district, board of cooperative educational services, charter school and county vocational education and extension board shall annually submit its report on violent or disruptive incidents, in the manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(4) Content of report. Each individual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain the following information concerning each violent or disruptive incident that occurred in the prior school year:

(i) the number and types of offenders, identified as student, teacher, school safety officer, other school staff, student intruder, visitor, unknown or other;

(ii) if any offender is a student, the age and grade of the student;

(iii) the location at which the incident occurred, including:

(a) the school building in which the incident occurred or whose real property boundary line includes the athletic playing field, playground, parking lot or land on which the incident occurred, and whether the incident occurred in a classroom, laboratory, hall, staircase, gymnasium, locker room or pool, cafeteria, bathroom, auditorium, playground or athletic field or otherwise on school grounds; or

(b) where applicable, that the incident occurred on a school bus; or

(c) where applicable, that the incident occurred at a school function conducted off school grounds.

(iv) the types of incident, identified by category listed in clauses (1)(vi)(a) through (i) of this subdivision;

(v) whether the incident occurred during or outside of regular school hours;

(vi) where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

(vii) whether the incident was bias-related, drug-related, or gang or group-related;

(viii) the actions taken by the school in response to the incident, including when the incident was reported to police or other law enforcement officials and whether disciplinary action was taken against the offenders;

(ix) any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, a teacher removal, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system or the criminal justice system, and the duration of such action; and

(x) the number and nature of the victims, identified as a student, teacher, school safety officer, other school staff or other and the victim's age and grade where the victim is a student.

(5) Preparation of report. Each annual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain such information as the commissioner shall prescribe, including but not limited to information on the frequency and types of incidents, offenders, victims and student discipline or referral actions taken, as is available on the date the annual report is submitted.

(6) Local procedures. The governing body of each school district, board of cooperative educational services, charter school and county vocational education and extension board shall establish local procedures for the reporting of violent or disruptive incidents by each building and/or program under its jurisdiction. Such procedures shall assure that copies of each violent or disruptive incident report at the building or program level are retained for period prescribed by the commissioner in the applicable records retention schedule, and are available for inspection by the department upon request; provided that a district or board that adopts an electronic reporting system may fulfill such requirement by retaining an electronic record of the information reported at the building or program level.

100.2 (kk). Dignity Act reporting requirements.

(2) Reporting of incidents to the superintendent, principal, or designee.

(i) School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of harassment, bullying, and/or discrimination shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of harassment, bullying, and/or discrimination, and

(ii) Such school employee shall also file a written report in a manner prescribed by, as applicable, the school district, board of cooperative educational services (BOCES) or charter school with the principal, superintendent, or their designee no later than two school days after making an oral report.

(iii) The principal, superintendent or the principal's or superintendent's designee shall lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports made under Education Law section 13.

(iv) When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the superintendent, principal, or designee shall take prompt action, consistent with the district's code of conduct including but not limited to the provisions of section 100.2(l)(2)(ii)(h), reasonably calculated to end the harassment, bullying, and/or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.

(v) The principal, superintendent, or their designee shall notify promptly the appropriate local law enforcement agency when it is believed that any harassment, bullying or discrimination constitutes criminal conduct.

(vi) The principal shall provide a regular report on data and trends related to harassment, bullying, and/or discrimination to the superintendent. For the purpose of this subdivision, the term "regular report" shall mean at least once during each school year, and in a manner prescribed by, as applicable, the school district, BOCES or charter school.

(3) Reporting of material incidents to the commissioner.

(i) For the 2013-2014 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of harassment, bullying, and/or discrimination, that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(ii) For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of harassment, bullying, and/or discrimination that:

(a) are the result of the investigation of a written or oral complaint made to the superintendent, principal or their designee, or to any other employee; or

(b) are otherwise directly observed by such superintendent, principal or their designee, or by any other employee regardless of whether a complaint is made.

(iii) Such report shall include information describing the specific nature of the incident, including, but not limited to:

(a) the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

(b) whether the incident resulted from student and/or employee conduct;

(c) whether the incident involved physical contact and/or threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8); and

(d) the location where the incident occurred (on school property or at a school function, or off school property, where applicable).

144.7. School safety grant program.

(d) Supervision and reporting requirements.

(3) Each school district receiving funds under this section shall submit to the department by July 1st of the next following school year a report which shall include, but not be limited to:

(i) a description of the program(s) being funded;

(ii) the number of violent incidents occurring during the grant program for each participating school and the number of such incidents in the prior year; and

(iii) any other relevant information.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

- h. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime.

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

- d. policies and procedures for contacting appropriate law enforcement officials in the event of a violent incident.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

- d. (1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of

education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.

REGULATIONS

100.2 (l)(2). Code of conduct.

(ii) The code of conduct shall include, but is not limited to:

(l) provisions setting forth the procedures by which local law enforcement agencies shall be notified promptly of code violations, including but not limited to incidents of harassment, bullying, and/or discrimination, which may constitute a crime.

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(iv) policies and procedures for contacting appropriate law enforcement officials in the event of a violent incident.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

c. appropriate prevention and intervention strategies such as:

(i) collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

REGULATIONS

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(iii) appropriate prevention and intervention strategies, such as:

(a) collaborative arrangements with State and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

c. appropriate prevention and intervention strategies such as:

(i) collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited. [...]

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

REGULATIONS

155.17. School safety plans.

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local

public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(xi) policies and procedures relating to school building security, including, where appropriate:

(a) the use of school safety or security officers and/or school resource officers. Beginning with the 2019-20 school year, and every school year thereafter, every school shall define the areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

Threat Assessment Protocols

LAWS

2801-a. School safety plans.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

a. policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel including bus drivers and monitors, as well as visitors to the school, including threats by students against themselves, which for the purposes of this section shall include suicide;

b. policies and procedures for responding to acts of violence by students, teachers, other school personnel including bus drivers and monitors, as well as visitors to the school, including consideration of zero-tolerance policies for school violence; [...]

g. policies and procedures for the dissemination of informative materials regarding the early detection of potentially violent behaviors, including but not limited to the identification of family, community and environmental factors, to teachers, administrators, school personnel including bus drivers and monitors, persons in parental relation to students of the district, students and other persons deemed appropriate to receive such information.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New York provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Corporal Punishment, New York State Education Department (NYSED)	Defines the term corporal punishment and provides information on reporting complaints about the use of corporal punishment in schools.	http://www.p12.nysed.gov/sss/ssa/schoolsafety/CorpIPunish/CorporalPunishment.html
The Dignity for All Students Act, NYSED	Provides an overview of the Dignity for All Students Act and includes links to training materials, laws and regulations, and related resources.	http://www.p12.nysed.gov/dignityact
New York State Center for School Safety (NYSCFSS)	Provides statewide professional development and technical assistance offering direct support to schools and districts in creating and maintaining safe and healthy learning environments for all New York State students.	https://www.nyscfss.org/
Safe Schools Against Violence in Education (SAVE), NYSED	Provides safety resources and guidance to school officials about the Safe Schools Against Violence in Education (SAVE) Act.	http://www.p12.nysed.gov/sss/ssa/schoolsafety/save/
School Climate, NYSED	Presents an overview of state efforts to create positive school climates that promote student safety, student self-esteem, emotional well-being, mental health, and lower incidences of substance abuse, student absenteeism, and suspensions.	http://www.p12.nysed.gov/sss/ssa/schoolsafety/school-climate.html
Social Emotional Learning: Essential for Learning, Essential for Life, Essential for New York (SEL), NYSED	Provides a definition of SEL, outlines SEL goals and describes the intersection between SEL and related content areas (e.g., mental health, trauma, school climate, equity), and provides links to additional resources.	http://www.p12.nysed.gov/sss/sel
Student Support Services, NYSED	Compiles resources promoting school improvement by focusing on social and emotional development and learning through programs, services and activities.	http://www.p12.nysed.gov/sss/

Title	Description	Website address (if applicable)
<i>Documents</i>		
New York State Social Emotional Learning Benchmarks, NYSED	Resource identifying social emotional goals and associated benchmarks for voluntary use in schools organized by school level (early elementary, late elementary, middle school, early high school, and late high school).	https://www.p12.nysed.gov/sss/documents/SELBenchmarks2022.pdf
Quality Indicator Review and Resource Guides for Behavioral Supports and Interventions - Positive Behavioral Systems (May 2014), NYSED	Guidance document developed for use by NYSED's funded technical assistance providers to guide their work in assessment of programs and provision of professional development, support and technical assistance to districts and schools to improve results for students with disabilities.	http://www.p12.nysed.gov/special-ed/techassist/behaviorQI-May2014.htm
Requirements Relating to the Use of Behavioral Interventions and Supports (September 2009), NYSED	Memorandum used to publicize the regulations and guidance of the Department governing the use of seclusion and restraint.	http://www.p12.nysed.gov/special-ed/publications/policy/BI-909.pdf
Social Emotional Learning: A Guide to Systemic Whole School Implementation (March 2019), NYSED	Guidance document supporting systemic whole school implementation of social-emotional learning to create safe, supportive school communities.	http://www.p12.nysed.gov/sss/documents/GuideToSystemicWholeSchoolImplementationFINAL.pdf
Suspension and Expulsion of Preschool Children (July 2015), NYSED	Memorandum used to publicize and provide important information to the field regarding federal and State policy to limit and eliminate practices of suspension and expulsion of preschool children.	http://www.p12.nysed.gov/special-ed/publications/2015-memos/preschool-suspensions-expulsions-memo-july-2015.pdf
<i>Other Resources</i>		
School Safety and the Educational Climate (SSEC) Incidents, NYSED	Data reports detailing the number of incidents relating to SSEC reported to SED for specified school years, including incidents of discrimination and/or harassment and incidents of cyberbullying	https://www.p12.nysed.gov/irs/school_safety/school_safety_data_reporting.html
New York Codes, Rules and Regulations (NYCRR)	State Regulations relating to the Procedural Safeguards for Students with Disabilities Subject to Discipline	https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I041a7030ab3911dd9e3f9b6a3be71c54&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)



North Carolina Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(2) Standards of performance and conduct. - The board of directors shall establish policies and standards for academic performance, attendance, and conduct for students of the regional school. The policies of the board of directors shall comply with Article 27 of this Chapter.

115C-288. Powers and duties of principal.

(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. - The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal may use reasonable force pursuant to G.S. 115C-390.3 and may suspend students pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter.

115C-390.2. Discipline policies.

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

115C-407.16. Policy against bullying or harassing behavior.

(a) Before December 31, 2009, each local school administrative unit shall adopt a policy prohibiting bullying or harassing behavior.

REGULATIONS

No relevant regulations found.

Scope

LAWS

115C-288. Powers and duties of principal.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. - When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

115C-390.1. State policy and definitions.

(b) The following definitions apply in this Article:

(4) Educational property. - Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any local board of education or charter school.

115C-390.2. Discipline policies.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(12) Policy against bullying. - A regional school is encouraged to adopt a policy against bullying or harassing behavior, including cyber-bullying, that is consistent with the provisions of Article 29C of this Chapter. If a regional school adopts a policy to prohibit bullying and harassing behavior, the regional school shall, at the beginning of each school year, provide the policy to staff, students, and parents as defined in G.S. 115C-390.1(b)(8).

115C-390.2. Discipline policies.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials. [...]

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(b) The policy shall include at least all of the following elements:

- (1) Adequate notice to students, parents, the public, and school personnel of the policy.
- (2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.
- (3) Requirements that school personnel enforce the policy.

115C-407.16. Policy against bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

- (8) A statement of how the policy is to be disseminated and publicized, including notice that the policy applies to participation in school-sponsored functions. [...]

(d) At the beginning of each school year, the principal shall provide the local school administrative unit's policy prohibiting bullying and harassing behavior, including cyber-bullying, to staff, students, and parents as defined in G.S. 115C-390.1(b)(8). Notice of the local policy shall appear in any school unit publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school unit and in any student and school employee handbook.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

115C-105.45. Legislative findings.

The General Assembly finds that all schools should be safe, secure, and orderly. If students are to aim for academic excellence, it is imperative that there is a climate of respect in every school and that every school is free of disruption, drugs, violence, and weapons. All schools must have plans, policies, and procedures for dealing with disorderly and disruptive behavior.

All schools and school units must have effective measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior.

115C-390.2. Discipline policies.

A. Code of Conduct. - The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the school board and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

115C-390.2. Discipline policies.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension. [...]

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

115C-276. Duties of superintendent.

(r) To Maintain Student Discipline. - The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and disability status of each student, the duration of suspension for each student, whether alternative education services were provided for each student, and whether a student had multiple suspensions in that academic year.

115C-390.1. State policy and definitions.

(b) The following definitions apply in this Article:

(2) Corporal punishment. - The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

115C-390.2. Discipline policies.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

115C-390.4. Corporal punishment.

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.

(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall

be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. The form shall advise the parent or guardian that the student may be subject to suspension, among other possible punishments, for offenses that would otherwise not require suspension if corporal punishment were available. If the parent or guardian does not return the form, corporal punishment may be administered on the student.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

- (1) The number of students who received corporal punishment.
- (2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.
- (3) The grade level of the students who received corporal punishment.
- (4) The race, gender, and ethnicity of the students who received corporal punishment.
- (5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- (45) To Report Certain Incidents of Seclusion and Restraint. - Local boards of education shall maintain a record of incidents reported under G.S. 115C-391.1(j)(4) and shall provide this information annually to the State Board of Education.

115C-390.3. Reasonable force.

- (a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.
- (b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:
 - (1) To correct students.
 - (2) To quell a disturbance threatening injury to others.
 - (3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.
 - (4) For self-defense.

(5) For the protection of persons or property.

(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer, member, or employee of the State Board of Education, the Superintendent of Public Instruction, or of a local board of education, individually or collectively, shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with local board policies. Local boards of education shall adopt policies, pursuant to their authority under G.S. 115C-47(18), which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students.

115C-390.4. Corporal punishment.

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

(1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.

(2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.

(3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.

(4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

(1) "Assistive technology device" means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(2) "Aversive procedure" means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

a. Significant physical harm, such as tissue damage, physical illness, or death.

b. Serious, foreseeable long-term psychological impairment.

c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.

(3) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(4) "IEP" means a student's Individualized Education Plan.

(5) "Isolation" means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

(6) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.

(7) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(8) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.

(9) "School personnel" means:

- a. Employees of a local board of education.
- b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.
- c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(10) "Seclusion" means the confinement of a student alone in an enclosed space from which the student is:

- a. Physically prevented from leaving by locking hardware or other means.
- b. Not capable of leaving due to physical or intellectual incapacity.

(11) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(c) Physical Restraint:

(1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

- a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
- b. As reasonably needed to maintain order or prevent or break up a fight.
- c. As reasonably needed for self-defense.
- d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.
- e. As reasonably needed to escort a student safely from one area to another.
- f. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.
- g. As reasonably needed to prevent imminent destruction to school or another person's property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

- a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.
- b. When using seat belts or other safety restraints to secure students during transportation.
- c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
- d. As reasonably needed for self-defense.
- e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.

(2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:

- a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.
- b. As reasonably needed to maintain order or prevent or break up a fight.
- c. As reasonably needed for self-defense.
- d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.
- e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and
 - 1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.
 - 2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.
 - 3. The space in which the student is confined has been approved for such use by the local education agency.
 - 4. The space is appropriately lighted.
 - 5. The space is appropriately ventilated and heated or cooled.
 - 6. The space is free of objects that unreasonably expose the student or others to harm.

(2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(f) Isolation. - Isolation is permitted as a behavior management technique provided that:

- (1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.
- (2) The duration of the isolation is reasonable in light of the purpose of the isolation.
- (3) The student is reasonably monitored while in isolation.
- (4) The isolation space is free of objects that unreasonably expose the student or others to harm.

(g) Time-Out. - Nothing in this section is intended to prohibit or regulate the use of time-out as defined in this section.

(h) Aversive Procedures. - The use of aversive procedures as defined in this section is prohibited in public schools.

(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under G.S. 115C-390.3 or modifies the rules and procedures governing discipline under G.S. 115C-390.1 through G.S. 115C-390.12.

(j) Notice, Reporting, and Documentation.

(1) Notice of procedures. - Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(2) Notice of specified incidents:

a. School personnel shall promptly notify the principal or principal's designee of:

1. Any use of aversive procedures.
2. Any prohibited use of mechanical restraint.
3. Any use of physical restraint resulting in observable physical injury to a student.
4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.

b. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(3) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.

(4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

- a. The date, time of day, location, duration, and description of the incident and interventions.
- b. The events or events that led up to the incident.
- c. The nature and extent of any injury to the student.
- d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

115C-390.5. Short-term suspension.

- (a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.
- (b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).
- (c) A student subject to short-term suspension shall be provided the following:
- (1) The opportunity to take textbooks home for the duration of the suspension.
 - (2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.
 - (3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

115C-390.7. Long-term suspension.

- (a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.
- (b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.
- (c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if it is consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.
- (d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.
- (e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

115C-390.10. 365-day suspension for gun possession.

- (a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board

policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

115C-390.2. Discipline policies.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

115C-390.5. Short-term suspension.

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

115C-390.6. Short-term suspension procedures.

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

115C-390.7. Long-term suspension.

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if it is consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

115C-390.10. 365-day suspension for gun possession.

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other

students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

115C-390.6. Short-term suspension procedures.

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

115C-390.7. Long-term suspension.

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if it is consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws

and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

115C-390.10. 365-day suspension for gun possession.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in

accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

115C-392. Appeal of disciplinary measures.

Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c).

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

115C-390.7. Long-term suspension.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

115C-390.10. 365-day suspension for gun possession.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

115C-390.11. Expulsion.

(a)(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

115C-390.12. Request for readmission.

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

- a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).
- b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.
- c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.
- d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.
- e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

115C-12. Powers and duties of the board generally.

(24) Duty to Develop Standards for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. - The State Board of Education shall adopt standards for assigning students to alternative learning programs. These standards shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision. The State Board also shall adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of Education shall also adopt standards to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans and proposals for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative

Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. As part of its evaluation of the effectiveness of these programs, the State Board shall, through the application of the accountability system developed under G.S. 115C-83.15 and G.S. 115C-105.35, measure the educational performance and growth of students placed in alternative schools and alternative programs. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. Also as part of its evaluation, the State Board shall evaluate its standards adopted under this subdivision and make any necessary changes to those standards based on strategies that have been proven successful in improving student achievement and shall report to the Joint Legislative Education Oversight Committee by April 15, 2006 to determine if any changes are necessary to improve the implementation of successful alternative learning programs and alternative schools.

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(32a) To Establish Alternative Learning Programs and Develop Policies and Guidelines. - Each local board of education shall establish at least one alternative learning program and shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long term suspension or expulsion. In developing these guidelines, local boards shall consider the State Board's standards developed under G.S. 115C-12(24).

The General Assembly urges local boards to adopt policies that prohibit superintendents from assigning to any alternative learning program any professional public school employee who has received within the last three years a rating on a formal evaluation that is less than above standard.

Notwithstanding this subdivision, each local board shall adopt policies based on the State Board's standards developed under G.S. 115C-12(24). These policies shall apply to any new alternative learning program or alternative school that is implemented beginning with the 2006-2007 school year. Local boards of education are encouraged to apply these standards to alternative learning programs and alternative schools implemented before the 2006-2007 school year.

Local boards shall assess on a regular basis whether the unit's alternative schools and alternative learning programs comply with the State Board's standards developed under G.S. 115C-12(24) and whether they incorporate best practices for improving student academic performance and reducing disruptive behavior, are staffed with professional public school employees who are well trained and provided with appropriate staff development, are organized to provide coordinated services, and provide students with high quality and rigorous academic instruction. [...]

(55) To Reduce Suspension and Expulsion Rates and Provide for Academic Progress During Suspensions. - Local boards of education are encouraged to adopt policies and best practices to reduce suspension and expulsion rates and to provide alternative learning programs for continued academic progress for students who have been suspended.

115C-105.47A. Proposals to establish alternative learning programs or alternative schools.

(a) Before establishing any alternative learning program or alternative school, the local board of education shall develop a proposal to implement the program or school that includes all of the following:

(1) The educational and behavioral goals for students assigned to the program or school.

(2) The policies and procedures for the operation of the program or school based on the State Board's standards adopted under G.S. 115C-12(24). The policies and procedures shall address the assignment of students to the program or school.

(3) Identified strategies that will be used to improve student achievement and behavior.

(4) Documentation that similar programs and schools in or out of the State, or both, have demonstrated success in improving the academic achievement and behavior of students assigned to them.

(5) The estimated actual cost of operating the program or school. To the extent practicable, this shall include the cost of:

a. Staffing the program or school with teachers who have at least four years' teaching experience and who have received an overall rating of at least above standard on a formal evaluation and are certified in the areas and grade levels being taught;

b. Providing optimum learning environments, resources and materials, and high quality, ongoing professional development that will ensure students who are placed in the program or school are provided enhanced educational opportunities in order to achieve their full potential;

c. Providing support personnel, including school counselors, psychiatrists, clinical psychologists, social workers, nurses, and other professionals to help students and their families work out complex issues and problems;

d. Maintaining safe and orderly learning environments; and

e. Providing transitional supports for students exiting the program or school and reentering the referring school.

(6) Documented support of school personnel and the community for the implementation of the program or school.

(b) After the local board completes the proposal under subsection (a) of this section, the board shall submit the proposal to the State Board of Education for its review. The State Board shall review the proposal expeditiously and, if appropriate, may offer recommendations to modify the proposal. The local board shall consider any recommendations made by the State Board before implementing the alternative learning program or alternative school.

115C-105.48. Placement of students in alternative schools/alternative learning programs.

(a) Prior to referring a student to an alternative school or an alternative learning program, the referring school shall:

(1) Document the procedures that were used to identify the student as being at risk of academic failure or as being disruptive or disorderly.

(2) Provide the reasons for referring the student to an alternative school or an alternative learning program.

(3) Provide to the alternative school or alternative learning program all relevant student records, including anecdotal information.

(b) When a student is placed in an alternative school or an alternative learning program, the appropriate staff of the alternative school or alternative learning program shall meet to review the records forwarded by the referring school and to determine what support services and intervention strategies are recommended for the student. The parents shall be encouraged to provide input regarding the students' needs.

115C-366.4. Assignment of students convicted of cyber-bullying.

A student who is convicted under G.S. 14-458.2 of cyber-bullying a school employee shall be transferred to another school within the local school administrative unit. If there is no other appropriate school within the local school administrative unit, the student shall be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyber-bullying. Notwithstanding the provisions in this section, the superintendent may modify, in writing, the required transfer of an individual student on a case-by-case basis.

115C-390.1. State policy and definitions.

(b) The following definitions apply in this Article:

(1) Alternative education services. - Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education policies.

115C-390.5. Short-term suspension.

(c) A student subject to short-term suspension shall be provided the following:

- (1) The opportunity to take textbooks home for the duration of the suspension.
- (2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.
- (3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

115C-390.7. Long-term suspension.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

115C-390.9. Alternative education services.

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

- (1) The student exhibits violent behavior.
- (2) The student poses a threat to staff or other students.
- (3) The student substantially disrupts the learning process.
- (4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.
- (5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.
- (6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local

board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

115C-390.10. 365-day suspension for gun possession.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

115C-390.11. Expulsion.

(a)(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times. [...]

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

115C-288. Powers and duties of principal.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. - When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

115C-390.1. State policy and definitions.

(b) The following definitions apply in this Article:

(6) Firearm. - Any of the following:

- a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.
- b. The frame or receiver of any such weapon.
- c. Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

115C-390.10. 365-day suspension for gun possession.

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(3) School attendance. - Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the regional school and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time that the regional school shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the regional school. Any person who aids or abets a student's unlawful absence from the regional school shall, upon conviction, be guilty of a Class 1 misdemeanor. The principal shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the board of directors, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling.

115C-378. Children required to attend.

(a) Every parent, guardian or custodian in this State having charge or control of a child between the ages of seven and 16 years shall cause the child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or custodian in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause the child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school.

(b) No person shall encourage, entice or counsel any child of compulsory school age to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school board policy.

(c) The principal, superintendent, or a designee of the principal or superintendent shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause that does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used in this section includes all public schools and any nonpublic schools which have teachers and curricula that are approved by the State Board of Education.

(d) All nonpublic schools receiving and instructing children of compulsory school age shall be required to make, maintain, and render attendance records of those children and maintain the minimum curriculum standards required of public schools. If a nonpublic school refuses or neglects to make, maintain, and render required attendance records, attendance at that school shall not be accepted in lieu of attendance at the public school of the district to which the child shall be assigned. Instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

(e) The principal or the principal's designee shall notify the parent, guardian, or custodian of his or her child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal or the principal's designee shall notify the parent, guardian, or custodian by mail that he or she may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and the child's family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law enforcement officer accompany him or her if the attendance counselor believes that a home visit is necessary.

(f) After 10 accumulated unexcused absences in a school year, the principal or the principal's designee shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and the student's parent, guardian, or custodian, if possible, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal or the principal's designee determines that the parent, guardian, or custodian has not made a good faith effort to comply with the law, the principal shall notify the district attorney and the director of social services of the county where the child resides. If the principal or the principal's designee determines that the parent, guardian, or custodian has made a good faith effort to comply with the law, the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Upon receiving notification by the principal or the principal's designee, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302.

(g) Documentation that demonstrates that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall constitute prima facie evidence that the child's parent, guardian, or custodian is responsible for the absences.

115C-381. School social workers; reports; prosecutions.

The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the school social worker of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the school social worker of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ school social workers and such school social workers shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such school social workers as may be employed through State or local funds, or both. The State Board of Education shall determine the process for allocating school social workers to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance counselors shall be deemed qualified as school social workers under the terms of this Part subject to the approval of said local boards of education.

The school social worker shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the school social worker shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school.

115C-390.2. Discipline policies.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

REGULATIONS

16 NCAC 06E.0103. Enforcement.

Each LEA must enforce the state laws and regulations which relate to compulsory attendance. LEAs may adopt rules which allow teachers to consider a student's absences in the computation of the student's grades.

16 NCAC 06E.0104. Involuntary suspensions.

The absence of a student which results from the suspension or expulsion of that student for misconduct pursuant to the provisions of G.S. 115C-391 shall not be used for a compulsory attendance violation action.

16 NCAC 06E.0106. Definition of "student chronic absentee".

20 U.S.C. 6311 (h)(1)(C)(viii), requires North Carolina to disseminate an annual State report card that includes student chronic absentee rates. When local school administrative units report student chronic absentee rates, a "Student Chronic Absentee" shall mean a student who has been enrolled in a North Carolina public school for at least 10 school days during a school year and who has been absent for at least 10 percent of the days enrolled.

Substance Use

LAWS

115C-288. Powers and duties of principal.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. - When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

- (1) Adequate notice to students, parents, the public, and school personnel of the policy.
- (2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.
- (3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(12) Policy against bullying. - A regional school is encouraged to adopt a policy against bullying or harassing behavior, including cyber-bullying, that is consistent with the provisions of Article 29C of this Chapter. If a regional school adopts a policy to prohibit bullying and harassing behavior, the regional school shall, at the beginning of each school year, provide the policy to staff, students, and parents as defined in G.S. 115C-390.1(b)(8).

115C-366.4. Assignment of students convicted of cyber-bullying.

A student who is convicted under G.S. 14-458.2 of cyber-bullying a school employee shall be transferred to another school within the local school administrative unit. If there is no other appropriate school within the local school administrative unit, the student shall be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyber-bullying. Notwithstanding the provisions in this section, the superintendent may modify, in writing, the required transfer of an individual student on a case-by-case basis.

115C-407.15. Bullying and harassing behavior.

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

(b) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(c) No person shall engage in any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior.

(d) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(e) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

115C-407.16. Policy against bullying or harassing behavior.

(a) Before December 31, 2009, each local school administrative unit shall adopt a policy prohibiting bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

(1) A statement prohibiting bullying or harassing behavior.

(2) A definition of bullying or harassing behavior no less inclusive than that set forth in this Article.

(3) A description of the type of behavior expected for each student and school employee.

(4) Consequences and appropriate remedial action for a person who commits an act of bullying or harassment.

(5) A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of serious violations and complaints of any act of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying or harassment, and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation.

(8) A statement of how the policy is to be disseminated and publicized, including notice that the policy applies to participation in school-sponsored functions.

(c) Nothing in this Article shall prohibit a local school administrative unit from adopting a policy that includes components beyond the minimum components provided in this section or that is more inclusive than the requirements of this Article.

(d) At the beginning of each school year, the principal shall provide the local school administrative unit's policy prohibiting bullying and harassing behavior, including cyber-bullying, to staff, students, and parents as defined in G.S. 115C-390.1(b)(8). Notice of the local policy shall appear in any school unit publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school unit and in any student and school employee handbook.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

(f) To the extent funds are appropriated for these purposes, a local school administrative unit shall, by March 1, 2010, provide training on the local policy to school employees and volunteers who have significant contact with students.

115C-407.17. Prevention of school violence.

Schools shall develop and implement methods and strategies for promoting school environments that are free of bullying or harassing behavior.

115C-407.18. Construction of this article.

- (a) This Article shall not be construed to permit school officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.
- (b) This Article shall not be interpreted to prevent a victim of bullying or harassing behavior from seeking redress under any other available law, either civil or criminal.
- (c) Nothing in this Article shall be construed to require an exhaustion of the administrative complaint process before civil or criminal law remedies may be pursued regarding bullying or harassing behavior.
- (d) The provisions of this Article are severable, and if any provision of this Article is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this Article which can be given effect without the invalid provision.
- (e) The provisions of this Article shall be liberally construed to give effect to its purposes.
- (f) Nothing in this act shall be construed to create any classification, protected class, suspect category, or preference beyond those existing in present statute or case law.

14-35. Hazing; definition and punishment.

It is unlawful for any student in attendance at any university, college, or school in this State to engage in hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: "to subject another student to physical injury as part of an initiation, or as a prerequisite to membership, into any organized school group, including any society, athletic team, fraternity or sorority, or other similar group." Any violation of this section shall constitute a Class 2 misdemeanor.

14-458.1. Cyber-bullying; penalty.

- (a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network to do any of the following:
 - (1) With the intent to intimidate or torment a minor:
 - a. Build a fake profile or Web site;
 - b. Pose as a minor in:
 - 1. An Internet chat room;
 - 2. An electronic mail message; or
 - 3. An instant message;
 - c. Follow a minor online or into an Internet chat room; or
 - d. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a minor.
 - (2) With the intent to intimidate or torment a minor or the minor's parent or guardian:
 - a. Post a real or doctored image of a minor on the Internet;
 - b. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password protected account or stealing or otherwise accessing passwords; or
 - c. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a minor.
 - (3) Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke, any third party to stalk or harass a minor.
 - (4) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a minor for the purpose of intimidating or tormenting that minor (in any form, including, but not limited to, any

printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).

(5) Sign up a minor for a pornographic Internet site with the intent to intimidate or torment the minor.

(6) Without authorization of the minor or the minor's parent or guardian, sign up a minor for electronic mailing lists or to receive junk electronic messages and instant messages, with the intent to intimidate or torment the minor.

(b) Any person who violates this section shall be guilty of cyber-bullying, which offense shall be punishable as a Class 1 misdemeanor if the defendant is 18 years of age or older at the time the offense is committed. If the defendant is under the age of 18 at the time the offense is committed, the offense shall be punishable as a Class 2 misdemeanor.

(c) Whenever any person pleads guilty to or is guilty of an offense under this section, and the offense was committed before the person attained the age of 18 years, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require. Upon fulfillment of the terms and conditions of the probation provided for in this subsection, the court shall discharge the defendant and dismiss the proceedings against the defendant. Discharge and dismissal under this subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Upon discharge and dismissal pursuant to this subsection, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-146.

14-458.2. Cyber-bullying of school employee by student; penalty.

(c) Any student who violates this section is guilty of cyber-bullying a school employee, which offense is punishable as a Class 2 misdemeanor.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

115C-376.5. School-based mental health plan required.

(b) School-Based Mental Health Policy. - The State Board of Education shall adopt a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K- 12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K-12 school units. Consistent with this section, the model mental health training program and model suicide risk referral protocol shall meet all of the following requirements:

(1) The model mental health training program shall be provided to school personnel who work with students in grades kindergarten through 12 and address the following topics:

f. Teenage dating violence.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

115C-12. Powers and duties of the board generally.

(24) Duty to Develop Standards for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. - The State Board of Education shall adopt standards for assigning students to alternative learning programs. These standards shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision. The State Board also shall adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of Education shall also adopt standards to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans and proposals for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. As part of its evaluation of the effectiveness of these programs, the State Board shall, through the application of the accountability system developed under G.S. 115C-83.15 and G.S. 115C-105.35, measure the educational performance and growth of students placed in alternative schools and alternative programs. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. Also as part of its evaluation, the State Board shall evaluate its standards adopted under this subdivision and make any necessary changes to those standards based on strategies that have been proven successful in improving student achievement and shall report to the Joint Legislative Education Oversight Committee by April 15, 2006 to determine if any changes are necessary to improve the implementation of successful alternative learning programs and alternative schools.

115C-81.15. Conflict resolution and mediation models.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models, and curricula that address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings. In developing this list, the Board shall emphasize materials, models, and curricula that currently are being used in North Carolina and that the Board determines to be effective. The Board shall include at least one model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

115C-376.5. School-based mental health plan required.

(b) School-Based Mental Health Policy. - The State Board of Education shall adopt a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K- 12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K- 12 school units. Consistent with this section, the model mental health training program and model suicide risk referral protocol shall meet all of the following requirements:

(1) The model mental health training program shall be provided to school personnel who work with students in grades kindergarten through 12 and address the following topics:

a. Youth mental health.

115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

115C-390.2. Discipline policies.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

115C-81.15. Conflict resolution and mediation models.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models, and curricula that address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings. In developing this list, the Board shall emphasize materials, models, and curricula that currently are being used in North Carolina and that the Board determines to be effective. The Board shall include at least one model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

115C-81.60. Character education.

(a) Each local board of education shall develop and implement character education instruction with input from the local community. The instruction shall be incorporated into the standard curriculum and should address the following traits:

- (1) Courage. - Having the determination to do the right thing even when others don't and the strength to follow your conscience rather than the crowd; and attempting difficult things that are worthwhile.
- (2) Good judgment. - Choosing worthy goals and setting proper priorities; thinking through the consequences of your actions; and basing decisions on practical wisdom and good sense.
- (3) Integrity. - Having the inner strength to be truthful, trustworthy, and honest in all things; acting justly and honorably.
- (4) Kindness. - Being considerate, courteous, helpful, and understanding of others; showing care, compassion, friendship, and generosity; and treating others as you would like to be treated.
- (5) Perseverance. - Being persistent in the pursuit of worthy objectives in spite of difficulty, opposition, or discouragement; and exhibiting patience and having the fortitude to try again when confronted with delays, mistakes, or failures.
- (6) Respect. - Showing high regard for authority, for other people, for self, for property, and for country; and understanding that all people have value as human beings.
- (7) Responsibility. - Being dependable in carrying out obligations and duties; showing reliability and consistency in words and conduct; being accountable for your own actions; and being committed to active involvement in your community.
- (8) Self-discipline. - Demonstrating hard work and commitment to purpose; regulating yourself for improvement and restraining from inappropriate behaviors; being in proper control of your words, actions, impulses, and desires; choosing abstinence from premarital sex, drugs, alcohol, and other harmful substances and behaviors; and doing your best in all situations.

(b) In addition to the instruction under subsection (a) of this section, local boards of education are encouraged to include instruction on the following responsibilities:

- (1) Respect for school personnel. - In the school environment, respect includes holding teachers, school administrators, and all school personnel in high esteem and demonstrating in words and deeds that all school personnel deserve to be treated with courtesy and proper deference.
- (2) Responsibility for school safety. - Helping to create a harmonious school atmosphere that is free from threats, weapons, and violent or disruptive behavior; cultivating an orderly learning environment in

which students and school personnel feel safe and secure; and encouraging the resolution of conflicts and disagreements through peaceful means, including peer mediation. Instruction in this responsibility should include a consistent and age-appropriate antiviolence message and a conflict resolution component for students in kindergarten through grade 12. These messages should include media-awareness education to help children recognize stereotypes and messages portraying violence.

(3) Service to others. - Engaging in meaningful service to their schools and their communities. Schools may teach service-learning by (i) incorporating it into their standard curriculum or (ii) involving a classroom of students or some other group of students in one or more hands-on community service projects. All schools are encouraged to provide opportunities for student involvement in community service or service-learning projects.

(4) Good citizenship. - Obeying the laws of the nation and this State; abiding by school rules; and understanding the rights and responsibilities of a member of a republic.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(16) School-based mental health plan required. - A regional school shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5.

115C-376.5. School-based mental health plan required.

(a) Definitions. - The following definitions shall apply in this section:

(1) K-12 school unit. - A local school administrative unit, a charter school, a regional school, an innovative school, or a laboratory school.

(2) School personnel. - Teachers, instructional support personnel, principals, and assistant principals. This term may also include, in the discretion of the K-12 school unit, other school employees who work directly with students in grades kindergarten through 12.

(b) School-Based Mental Health Policy. - The State Board of Education shall adopt a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K- 12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K-12 school units. Consistent with this section, the model mental health training program and model suicide risk referral protocol shall meet all of the following requirements:

(1) The model mental health training program shall be provided to school personnel who work with students in grades kindergarten through 12 and address the following topics:

- a. Youth mental health.
- b. Suicide prevention.
- c. Substance abuse.
- d. Sexual abuse prevention.
- e. Sex trafficking prevention.
- f. Teenage dating violence.

(2) The model suicide risk referral protocol shall be provided to school personnel who work with students in grades six through 12 and provide both of the following:

- a. Guidelines on the identification of students at risk of suicide.
- b. Procedures and referral sources that address actions that should be taken to address students identified in accordance with this subdivision.

(c) School-Based Mental Health Plan. - Each K-12 school unit shall adopt a plan for promoting student mental health and well-being that includes, at a minimum, the following:

(1) Minimum requirements for a school-based mental health plan established by the State Board of Education pursuant to subsection (b) of this section.

(2) A mental health training program and a suicide risk referral protocol that are consistent with the model programs developed by the State Board of Education pursuant to subsection (b) of this section.

(d) Training and Protocol Requirements. - Each K-12 school unit shall provide its adopted mental health training program and suicide risk referral protocol to school personnel at no cost to the employee. Employees shall receive an initial mental health training of at least six hours and subsequent mental health trainings of at least two hours. The initial mental health training shall occur within the first six months of employment. Subsequent mental health trainings shall occur in the following school year and annually thereafter. In the discretion of the K-12 school unit, the initial mental health training may be waived in the event the employee completed an initial mental health training at another K-12 school unit. School personnel may meet mental health training requirements in any of the following ways:

- (1) Electronic delivery of instruction.
- (2) Videoconferencing.
- (3) Group, in-person training.
- (4) Self-study.

(e) Review and Update. - Beginning August 1, 2025, and every five years thereafter, the Superintendent of Public Instruction shall review the State Board of Education's minimum requirements for a school-based mental health plan, model mental health training program, and model suicide risk referral protocol and recommend any needed changes to the State Board of Education. The State Board shall update its policies to reflect those recommendations and publish the updates to K-12 school units. A K-12 school unit shall update its adopted school-based mental health plan in accordance with any updates provided by the State Board.

(f) Reporting; State Audit. - By September 15 of each year, each K-12 school unit shall report to the Department of Public Instruction on (i) the content of the school-based mental health plan adopted in the unit, including the mental health training program and suicide risk referral protocol, and (ii) prior school year compliance with requirements of this section. The Department of Public Instruction may also audit K- 12 school units at appropriate times to ensure compliance with the requirements of this section. The Department shall report the information it receives pursuant to this subsection to the Joint Legislative

Education Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services by December 15 of each year.

(g) No Duty. - Nothing in this section shall be construed to impose an additional duty on a K-12 school unit to provide referral, treatment, follow-up, or other mental health and suicide prevention services to students of the K-12 school unit.

(h) Limitation of Civil Liability. - No governing body of a K-12 school unit, nor its members, employees, designees, agents, or volunteers, shall be liable in civil damages to any party for any loss or damage caused by any act or omission relating to the provision of, participation in, or implementation of any component of a school-based mental health plan, mental health training program, or suicide risk referral protocol required by this section, unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. Nothing in this section shall be construed to impose any specific duty of care or standard of care on a K-12 school unit.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

130A-4.3. State funds for school nurses.

(b) The Division of Public Health shall ensure that school nurses funded with State funds (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

(6) Provide health counseling, assess mental health needs, provide interventions, and refer students to appropriate school staff or community agencies.

115C-238.66. Board of directors; powers and duties.

The board of directors shall have the following powers and duties:

(16) School-based mental health plan required. - A regional school shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5.

115C-316.2. School mental health support personnel reports.

(a) Definition. - For purposes of this section, the term "school mental health support personnel" refers to school psychologists, school counselors, school nurses, and school social workers.

(b) Local Report. - No later than February 15 of each year, the superintendent of each local school administrative unit shall report the following information to the local board of education of the unit:

(1) The total number of each category of school mental health support personnel employed in the unit.

(2) The difference from the previous school year in the total number of each category of school mental health personnel employed in the unit.

(c) State Report. - No later than March 15 of each year, the Superintendent of Public Instruction shall report to the Joint Legislative Education Oversight Committee and the Fiscal Research Division the difference from the previous school year in the total number of each category of school mental health support personnel that are funded exclusively from the instructional support allotment in each local school administrative unit.

115C-376.5. School-based mental health plan required.

(a) Definitions. - The following definitions shall apply in this section:

(1) K-12 school unit. - A local school administrative unit, a charter school, a regional school, an innovative school, or a laboratory school.

(2) School personnel. - Teachers, instructional support personnel, principals, and assistant principals. This term may also include, in the discretion of the K-12 school unit, other school employees who work directly with students in grades kindergarten through 12.

(b) School-Based Mental Health Policy. - The State Board of Education shall adopt a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K- 12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K-12 school units. Consistent with this section, the model mental health training program and model suicide risk referral protocol shall meet all of the following requirements:

(1) The model mental health training program shall be provided to school personnel who work with students in grades kindergarten through 12 and address the following topics:

- a. Youth mental health.
- b. Suicide prevention.
- c. Substance abuse.
- d. Sexual abuse prevention.
- e. Sex trafficking prevention.
- f. Teenage dating violence.

(2) The model suicide risk referral protocol shall be provided to school personnel who work with students in grades six through 12 and provide both of the following:

- a. Guidelines on the identification of students at risk of suicide.
- b. Procedures and referral sources that address actions that should be taken to address students identified in accordance with this subdivision.

(c) School-Based Mental Health Plan. - Each K-12 school unit shall adopt a plan for promoting student mental health and well-being that includes, at a minimum, the following:

(1) Minimum requirements for a school-based mental health plan established by the State Board of Education pursuant to subsection (b) of this section.

(2) A mental health training program and a suicide risk referral protocol that are consistent with the model programs developed by the State Board of Education pursuant to subsection (b) of this section.

(d) Training and Protocol Requirements. - Each K-12 school unit shall provide its adopted mental health training program and suicide risk referral protocol to school personnel at no cost to the employee. Employees shall receive an initial mental health training of at least six hours and subsequent mental health trainings of at least two hours. The initial mental health training shall occur within the first six months of employment. Subsequent mental health trainings shall occur in the following school year and annually thereafter. In the discretion of the K-12 school unit, the initial mental health training may be waived in the event the employee completed an initial mental health training at another K-12 school unit. School personnel may meet mental health training requirements in any of the following ways:

- (1) Electronic delivery of instruction.
- (2) Videoconferencing.
- (3) Group, in-person training.
- (4) Self-study.

(e) Review and Update. - Beginning August 1, 2025, and every five years thereafter, the Superintendent of Public Instruction shall review the State Board of Education's minimum requirements for a school-based mental health plan, model mental health training program, and model suicide risk referral protocol and recommend any needed changes to the State Board of Education. The State Board shall update its policies to reflect those recommendations and publish the updates to K-12 school units. A K-12 school unit shall update its adopted school-based mental health plan in accordance with any updates provided by the State Board.

(f) Reporting; State Audit. - By September 15 of each year, each K-12 school unit shall report to the Department of Public Instruction on (i) the content of the school-based mental health plan adopted in the unit, including the mental health training program and suicide risk referral protocol, and (ii) prior school year compliance with requirements of this section. The Department of Public Instruction may also audit K- 12 school units at appropriate times to ensure compliance with the requirements of this section. The Department shall report the information it receives pursuant to this subsection to the Joint Legislative Education Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services by December 15 of each year.

(g) No Duty. - Nothing in this section shall be construed to impose an additional duty on a K-12 school unit to provide referral, treatment, follow-up, or other mental health and suicide prevention services to students of the K-12 school unit.

(h) Limitation of Civil Liability. - No governing body of a K-12 school unit, nor its members, employees, designees, agents, or volunteers, shall be liable in civil damages to any party for any loss or damage caused by any act or omission relating to the provision of, participation in, or implementation of any component of a school-based mental health plan, mental health training program, or suicide risk referral protocol required by this section, unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. Nothing in this section shall be construed to impose any specific duty of care or standard of care on a K-12 school unit.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(45) To Report Certain Incidents of Seclusion and Restraint. - Local boards of education shall maintain a record of incidents reported under G.S. 115C-391.1(j)(4) and shall provide this information annually to the State Board of Education.

115C-307. Duties of teachers.

(a) To Maintain Order and Discipline. - It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to maintain good order and discipline in their respective schools. A teacher, student teacher, substitute teacher, voluntary teacher, or teacher assistant shall report to the principal acts of violence in school and students suspended or expelled from school as required to be reported in accordance with State Board policies. [...]

(f) To Discourage Nonattendance. - Teachers shall cooperate with the principal in ascertaining the cause of nonattendance of pupils that he may report all violators of the compulsory attendance law to the school social worker in accordance with rules promulgated by the State Board of Education.

115C-381. School social workers; reports; prosecutions.

The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the school social worker of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the school social worker of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ school social workers and such school social workers shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such school social workers as may be employed through State or local funds, or both. The State Board of Education shall determine the process for allocating school social workers to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance counselors shall be deemed qualified as school social workers under the terms of this Part subject to the approval of said local boards of education.

The school social worker shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the school social worker shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school.

115C-390.10. 365-day suspension for gun possession.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

115C-407.16. Policy against bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

(5) A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of serious violations and complaints of any act of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation.

REGULATIONS

16 NCAC 06E.0107. School violence acts defined and the annual report of these crimes.

(a) Local Education Agencies (LEAs) shall report the following crimes and offenses within five school days to the Department of Public Instruction:

(3) Assault involving the use of a weapon as defined in G.S. 14-32 through 14-34.10;

(8) Robbery with a dangerous weapon as defined in G.S. 14-87;

(10) Assault with a firearm or powerful explosive as defined in G.S. 14-34 through 14-34.10 and 14-49 through 14-50.1;

(11) Robbery with a firearm or dangerous explosive as defined in G.S. 14-87;

(15) Possession of a controlled substance in violation of the law as defined in G.S. 90-86 through 90-113.8;

(16) Possession of a weapon on campus or other educational property in violation of G.S. 14-269.2;

(17) Unlawful, underage sales, purchase, provision, possession, or consumption of alcoholic beverages as defined in G.S. 18B-302;

(20) Gang activity as defined in G.S. 14-50.17, 14-50.19 and 14-50.20;

(24) Possession or use of tobacco products as defined in G.S. 14-313;

(26) Bullying or harassing behavior prohibited under policies adopted under G.S. 115C- 407.16;

(27) Cyberbullying as defined in G.S. 14-458.1 and 14-458.2;

(28) Verbal harassment as defined in G.S. 115C-407.15;

(29) Sexual harassment as defined in G.S. 115C-335.5; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e;

(30) Discrimination as defined in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681-1688; Americans with Disabilities Act, 42 U.S.C. 12101.

(b) These offenses shall be reported when they occur under the following conditions and circumstances:

(1) on school property, defined as any public school building, bus, public school campus, grounds, recreational area, or athletic field in the charge of the principal; or

(2) off school property on a school-sponsored field trip.

Parental Notification

LAWS

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(56) To Notify Parents or Legal Guardians of Students Alleged to be Victims of Acts Required to be Reported to Law Enforcement and the Superintendent. - Local boards of education shall adopt a policy on the notification to parents or legal guardians of any students alleged to be victims of any act that is required to be reported to law enforcement and the superintendent under G.S. 115C-288(g).

115C-378. Children required to attend.

(e) The principal or the principal's designee shall notify the parent, guardian, or custodian of his or her child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal or the principal's designee shall notify the parent, guardian, or custodian by mail that he or she may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and the child's family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law enforcement officer accompany him or her if the attendance counselor believes that a home visit is necessary.

(f) After 10 accumulated unexcused absences in a school year, the principal or the principal's designee shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and the student's parent, guardian, or custodian, if possible, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal or the principal's designee determines that the parent, guardian, or custodian has not made a good faith effort to comply with the law, the principal shall notify the district attorney and the director of social services of the county where the child resides. If the principal or the principal's designee determines that the parent, guardian, or custodian has made a good faith effort to comply with the law, the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Upon receiving notification by the principal or the principal's designee, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302.

(g) Documentation that demonstrates that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall constitute prima facie evidence that the child's parent, guardian, or custodian is responsible for the absences.

115C-390.10. 365-day suspension for gun possession.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

115C-390.4. Corporal punishment.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

115C-390.6. Short-term suspension procedures.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

- (1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.
- (2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.
- (3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.
- (4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.
- (5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.
- (6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.
- (7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.
- (8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

- (1) The nature of the document, i.e., that it is a long-term suspension notice.
- (2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

115C-12. Powers and duties of the board generally.

(21) Duty to Monitor Acts of School Violence. - The State Board of Education shall monitor and compile an annual report on acts of violence in the public schools. The State Board shall adopt standard definitions for acts of school violence and shall require local boards of education to report them to the State Board in a standard format adopted by the State Board. The State Board shall submit its report on acts of violence in the public schools to the Joint Legislative Education Oversight Committee by March 15 of each year.

[...]

(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. - The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been provided alternative education services. The data shall be reported in a disaggregated manner, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion.

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(36) To Report All Acts of School Violence. - Local boards of education shall report all acts of school violence to the State Board of Education in accordance with G.S. 115C-12(21).

115C-276. Duties of superintendent.

(r) To Maintain Student Discipline. - The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and disability status of each student, the duration of suspension for each student, whether alternative education services were provided for each student, and whether a student had multiple suspensions in that academic year.

115C-390.4. Corporal punishment.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

- (1) The number of students who received corporal punishment.
- (2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.
- (3) The grade level of the students who received corporal punishment.
- (4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

REGULATIONS

16 NCAC 06E.0106. Definition of "student chronic absentee".

20 U.S.C. 6311 (h)(1)(C)(viii), requires North Carolina to disseminate an annual State report card that includes student chronic absentee rates. When local school administrative units report student chronic absentee rates, a "Student Chronic Absentee" shall mean a student who has been enrolled in a North Carolina public school for at least 10 school days during a school year and who has been absent for at least 10 percent of the days enrolled.

16 NCAC 06E.0107. School violence acts defined and the annual report of these crimes.

(a) Local Education Agencies (LEAs) shall report the following crimes and offenses within five school days to the Department of Public Instruction:

(3) Assault involving the use of a weapon as defined in G.S. 14-32 through 14-34.10;

(8) Robbery with a dangerous weapon as defined in G.S. 14-87;

(10) Assault with a firearm or powerful explosive as defined in G.S. 14-34 through 14-34.10 and 14-49 through 14-50.1;

(11) Robbery with a firearm or dangerous explosive as defined in G.S. 14-87;

(15) Possession of a controlled substance in violation of the law as defined in G.S. 90-86 through 90-113.8;

(16) Possession of a weapon on campus or other educational property in violation of G.S. 14-269.2;

(17) Unlawful, underage sales, purchase, provision, possession, or consumption of alcoholic beverages as defined in G.S. 18B-302;

(20) Gang activity as defined in G.S. 14-50.17, 14-50.19 and 14-50.20;

(24) Possession or use of tobacco products as defined in G.S. 14-313;

(26) Bullying or harassing behavior prohibited under policies adopted under G.S. 115C- 407.16;

(27) Cyberbullying as defined in G.S. 14-458.1 and 14-458.2;

(28) Verbal harassment as defined in G.S. 115C-407.15;

(29) Sexual harassment as defined in G.S. 115C-335.5; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e;

(30) Discrimination as defined in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681-1688; Americans with Disabilities Act, 42 U.S.C. 12101.

(b) These offenses shall be reported when they occur under the following conditions and circumstances:

(1) on school property, defined as any public school building, bus, public school campus, grounds, recreational area, or athletic field in the charge of the principal; or

(2) off school property on a school-sponsored field trip.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(56) To Notify Parents or Legal Guardians of Students Alleged to be Victims of Acts Required to be Reported to Law Enforcement and the Superintendent. - Local boards of education shall adopt a policy on the notification to parents or legal guardians of any students alleged to be victims of any act that is required to be reported to law enforcement and the superintendent under G.S. 115C-288(g).

115C-288. Powers and duties of principal.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. - When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by law.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students.

115C-390.10. 365-day suspension for gun possession.

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

115C-105.57. Center for safer schools.

(e) Annual Census of School Resource Officers. - The Center for Safer Schools shall conduct an annual census of school resource officers located in each public school unit. The Center shall submit a report based on this census to the Joint Legislative Education Oversight Committee and the State Board of Education by March 1 of each year. At a minimum, the report shall include all of the following information:

- (1) The total number of school resource officers in the State and in each public school unit.
- (2) Data regarding school resources officers' education levels, years as sworn law enforcement officers, and years as school resource officers.
- (3) Training required of school resource officers and training actually completed by school resource officers, including training specific to the position of school resource officer and other advanced or additional training.
- (4) The funding source for all school resource officers.
- (5) The location of school resource officers, differentiated by grade levels and type of public school unit.
- (6) The percentage of school resource officers assigned to more than one school.
- (7) The law enforcement affiliation of school resource officers.

115C-105.60. School resource officer grants.

(a) Definition. - For purposes of this section, the term "qualifying public school unit" refers to a local school administrative unit, regional school, innovative school, laboratory school, or charter school.

(b) Program; Purpose. - The Superintendent of Public Instruction shall establish the School Resource Officer Grants Program (Program). To the extent funds are made available for the Program, its purpose shall be to improve safety in qualifying public school units by providing grants for school resource officers.

(c) Grant Applications. - A qualifying public school unit may submit an application to the Superintendent of Public Instruction for one or more grants pursuant to this section. The application shall include an assessment, to be performed in conjunction with a local law enforcement agency, of the need for improving school safety within the qualifying public school unit that would receive the funding. The application shall identify current and ongoing needs and estimated costs associated with those needs.

(d) Criteria and Guidelines. - By November 1, 2019, and August 1 of each year thereafter in which funds are made available for the Program, the Superintendent of Public Instruction shall develop criteria and guidelines for the administration and use of the grants pursuant to this section, including any documentation required to be submitted by applicants. In assessing grant applications, the Superintendent of Public Instruction shall consider at least all of the following factors:

- (1) The level of resources available to the qualifying public school unit that would receive the funding.
- (2) Whether the qualifying public school unit has received other grants for school safety.
- (3) The overall impact on student safety in the qualifying public school unit if the identified needs are funded.

(e) Award of Funds. - From funds made available for grants for school resource officers, the Superintendent of Public Instruction shall award grants to qualifying public school units for school resource officers in elementary and middle schools, as follows:

- (1) Grants shall be matched on the basis of two dollars (\$ 2.00) in State funds for every one dollar (\$ 1.00) in non-State funds.
- (2) Qualifying public school units may use these funds to employ school resource officers in elementary and middle schools, to train them, or both.

(3) Training shall be provided, in partnership with the qualifying public school unit, by a community college, a local law enforcement agency, or the North Carolina Justice Academy. Any training shall include instruction on research into the social and cognitive development of elementary school and middle school children.

(f) Supplement Not Supplant. - Grants provided to qualifying public school units pursuant to the Program shall be used to supplement and not to supplant State or non-State funds already provided for these services.

(g) Report. - No later than April 1, 2020, and each year thereafter in which funds are made available for the Program, the Superintendent of Public Instruction shall report on the Program to the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The report shall include the identity of each entity that received a grant through the Program, the amount of funding provided to each entity that received a grant, the use of funds by each entity that received a grant, and recommendations for the implementation of additional effective school safety measures.

160A-288.4. Police chief may establish volunteer school safety resource officer program.

(a) The chief of police of a local police department or of a county police department may establish a volunteer school safety resource officer program to provide nonsalaried special law enforcement officers to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the chief of police.

162-26. Sheriff may establish volunteer school safety resource officer program.

(a) The sheriff may establish a volunteer school safety resource officer program to provide nonsalaried special deputies to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the sheriff.

REGULATIONS

12 NCAC 9B.0313. Certification and Training for school resource officers.

(a)A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Law enforcement officers assigned by their agency to perform duties as a School Resource Officer shall:

(1) have been issued general certification by the North Carolina Criminal Justice Education and Training Standards Commission as a law enforcement officer; and

(2) have until December 31, 2020, to complete the Basic School Resource Officer Training course, if they are acting in the capacity of a School Resource Officer between October 1, 2018 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the School Resource Officer Training course pursuant to Paragraph (f) of this Rule, within one year after being assigned as a School Resource Officer. Law enforcement officers who previously completed the training pursuant to Paragraph (f) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the Basic School Resource Officer Training.

(c) A law enforcement officer assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (f) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (f) of this Section.

(d) The agency head shall submit to the Criminal Justice Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov/getdoc/576c353c-0dcb-4c84-8cc4-c9d17985541f/SRO-form.aspx> and must be completed in its entirety. The Commission School Resource Officer Assignment Form consists of the following:

- (1) applicants name;
- (2) date of birth;
- (3) social security number;
- (4) name of agency and address;
- (5) date awarded general certification;
- (6) completion date of School Resource Officer training; and
- (7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year a one hour Basic School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement shall be effective January 1, 2021. For SROs, this requirement shall be effective the year following the officer's successful completion of the Basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule.

(f) The Basic School Resource Officer Training course for law enforcement officers shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The Basic School Resource Officer Training course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

Salemburg, North Carolina 28385.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

(9g) Prescribe policies and procedures for chief district court judges to establish school-justice partnerships with local law enforcement agencies, local boards of education, and local school administrative units with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

12 NCAC 10B.0510. Purpose.

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(61) To Provide a Safe School Environment. - Local boards of education may enter into an agreement with the sheriff, chief of police of a local police department, or chief of police of a county police department to provide security at the schools by assigning volunteer school safety resource officers who meet the selection standards and criteria developed by the head of the appropriate local law enforcement agency and the criteria set out in G.S. 162-26 or G.S. 160A-288.4, as appropriate.

115C-105.57. Center for safer schools.

(e) Annual Census of School Resource Officers. - The Center for Safer Schools shall conduct an annual census of school resource officers located in each public school unit. The Center shall submit a report based on this census to the Joint Legislative Education Oversight Committee and the State Board of Education by March 1 of each year. At a minimum, the report shall include all of the following information:

- (1) The total number of school resource officers in the State and in each public school unit.
- (2) Data regarding school resources officers' education levels, years as sworn law enforcement officers, and years as school resource officers.
- (3) Training required of school resource officers and training actually completed by school resource officers, including training specific to the position of school resource officer and other advanced or additional training.
- (4) The funding source for all school resource officers.
- (5) The location of school resource officers, differentiated by grade levels and type of public school unit.
- (6) The percentage of school resource officers assigned to more than one school.
- (7) The law enforcement affiliation of school resource officers.

115C-105.60. School resource officer grants.

(a) Definition. - For purposes of this section, the term "qualifying public school unit" refers to a local school administrative unit, regional school, innovative school, laboratory school, or charter school.

(b) Program; Purpose. - The Superintendent of Public Instruction shall establish the School Resource Officer Grants Program (Program). To the extent funds are made available for the Program, its purpose shall be to improve safety in qualifying public school units by providing grants for school resource officers.

(c) Grant Applications. - A qualifying public school unit may submit an application to the Superintendent of Public Instruction for one or more grants pursuant to this section. The application shall include an assessment, to be performed in conjunction with a local law enforcement agency, of the need for improving school safety within the qualifying public school unit that would receive the funding. The application shall identify current and ongoing needs and estimated costs associated with those needs.

(d) Criteria and Guidelines. - By November 1, 2019, and August 1 of each year thereafter in which funds are made available for the Program, the Superintendent of Public Instruction shall develop criteria and guidelines for the administration and use of the grants pursuant to this section, including any documentation required to be submitted by applicants. In assessing grant applications, the Superintendent of Public Instruction shall consider at least all of the following factors:

- (1) The level of resources available to the qualifying public school unit that would receive the funding.
- (2) Whether the qualifying public school unit has received other grants for school safety.
- (3) The overall impact on student safety in the qualifying public school unit if the identified needs are funded.

(e) Award of Funds. - From funds made available for grants for school resource officers, the Superintendent of Public Instruction shall award grants to qualifying public school units for school resource officers in elementary and middle schools, as follows:

- (1) Grants shall be matched on the basis of two dollars (\$ 2.00) in State funds for every one dollar (\$ 1.00) in non-State funds.
- (2) Qualifying public school units may use these funds to employ school resource officers in elementary and middle schools, to train them, or both.
- (3) Training shall be provided, in partnership with the qualifying public school unit, by a community college, a local law enforcement agency, or the North Carolina Justice Academy. Any training shall include instruction on research into the social and cognitive development of elementary school and middle school children.

(f) Supplement Not Supplant. - Grants provided to qualifying public school units pursuant to the Program shall be used to supplement and not to supplant State or non-State funds already provided for these services.

(g) Report. - No later than April 1, 2020, and each year thereafter in which funds are made available for the Program, the Superintendent of Public Instruction shall report on the Program to the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The report shall include the identity of each entity that received a grant through the Program, the amount of funding provided to each entity that received a grant, the use of funds by each entity that received a grant, and recommendations for the implementation of additional effective school safety measures.

160A-288.4. Police chief may establish volunteer school safety resource officer program.

(a) The chief of police of a local police department or of a county police department may establish a volunteer school safety resource officer program to provide nonsalaried special law enforcement officers to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a

minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the chief of police.

(b) Each volunteer shall report to the chief of police and shall work under the direction and supervision of the chief of police or the chief's designee when carrying out the volunteer's duties as a school safety resource officer. No volunteer may be assigned to a school as a school safety resource officer until the volunteer has updated or renewed the volunteer's law enforcement training and has been certified by the North Carolina Criminal Justice Education and Training Standards Commission as meeting the educational and firearms proficiency standards required of persons serving as criminal justice officers. A volunteer is not required to meet the physical standards required by the North Carolina Criminal Justice Education and Training Standards Commission but must have a standard medical exam to ensure the volunteer is in good health. A person selected by the chief of police to serve as a volunteer under this section shall have the power of arrest while performing official duties as a volunteer school safety resource officer.

(c) The chief of police may enter into an agreement with the local board of education to provide volunteer school safety resource officers who meet both the criteria established by this section and the selection and training requirements set by the chief of police of the municipality or county in which the schools are located. The chief of police shall be responsible for the assignment of any volunteer school safety resource officer assigned to a public school and for the supervision of the officer.

(d) There shall be no liability on the part of and no cause of action shall arise against a volunteer school safety resource officer, the chief of police or employees of the local law enforcement agency supervising a volunteer school safety officer, or the public school system or its employees for any good-faith action taken by them in the performance of their duties with regard to the volunteer school safety resource officer program established pursuant to this section.

162-26. Sheriff may establish volunteer school safety resource officer program.

(a) The sheriff may establish a volunteer school safety resource officer program to provide nonsalaried special deputies to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the sheriff.

(b) Each volunteer shall report to the sheriff and shall work under the direction and supervision of the sheriff or the sheriff's designee when carrying out the volunteer's duties as a school safety resource officer. No volunteer may be assigned to a school as a school safety resource officer until the volunteer has updated or renewed the volunteer's law enforcement training and has been certified by the North Carolina Sheriff's Education and Training Standards Commission as meeting the educational and firearms proficiency standards required of persons serving as special deputy sheriffs. A volunteer is not required to meet the physical standards required by the North Carolina Sheriff's Education and Training Standards Commission but must have a standard medical exam to ensure the volunteer is in good health. A person selected by the sheriff to serve as a volunteer under this section shall have the power of arrest while performing official duties as a volunteer school safety resource officer.

(c) The sheriff may enter into an agreement with the local board of education to provide volunteer school safety resource officers who meet both the criteria established by this section and the selection and training requirements set by the sheriff of the county for the schools. The sheriff shall be responsible for

the assignment of any volunteer school safety resource officer assigned to a public school and for the supervision of the officer.

(d) There shall be no liability on the part of and no cause of action shall arise against a volunteer school safety resource officer, the Sheriff or employees of the sheriff supervising a volunteer school safety officer, or the public school system or its employees for any good-faith action taken by them in the performance of their duties with regard to the volunteer school safety resource officer program established pursuant to this section.

REGULATIONS

12 NCAC 9B.0313. Certification and Training for school resource officers.

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Law enforcement officers assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the North Carolina Criminal Justice Education and Training Standards Commission as a law enforcement officer; and
- (2) have until December 31, 2020, to complete the Basic School Resource Officer Training course, if they are acting in the capacity of a School Resource Officer between October 1, 2018 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the School Resource Officer Training course pursuant to Paragraph (f) of this Rule, within one year after being assigned as a School Resource Officer. Law enforcement officers who previously completed the training pursuant to Paragraph (f) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the Basic School Resource Officer Training.

(c) A law enforcement officer assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (f) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (f) of this Section.

(d) The agency head shall submit to the Criminal Justice Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov/getdoc/576c353c-0dcb-4c84-8cc4-c9d17985541f/SRO-form.aspx> and must be completed in its entirety. The Commission School Resource Officer Assignment Form consists of the following:

- (1) applicants name;
- (2) date of birth;
- (3) social security number;

- (4) name of agency and address;
- (5) date awarded general certification;
- (6) completion date of School Resource Officer training; and
- (7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year a one hour Basic School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement shall be effective January 1, 2021. For SROs, this requirement shall be effective the year following the officer's successful completion of the Basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule.

(f) The Basic School Resource Officer Training course for law enforcement officers shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The Basic School Resource Officer Training course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

Salemburg, North Carolina 28385

12 NCAC 10B.0510. Purpose.

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by North Carolina provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Bullying Prevention, North Carolina Department of Public Instruction (NC DPI)	Provides information on understanding bullying and the main types of bullying, and links to resources on bullying.	https://www.dpi.nc.gov/districts-schools/district-operations/center-safer-schools/bullying-prevention
Center for Safer Schools, NC DPI	Provides information and resources related to school safety, and links to subtopics including bullying prevention.	https://www.dpi.nc.gov/districts-schools/district-operations/center-safer-schools
Dropout Prevention and Intervention, NC DPI	Provides information and resources for educators and families on dropout prevention including attendance and early warning systems to prevent chronic absenteeism, professional development, and additional tools and resources for schools, families, and communities.	https://www.dpi.nc.gov/students-families/student-support/dropout-prevention-and-intervention
NC Social and Emotional Learning, NC DPI	Presents North Carolina's vision for SEL and includes information and resources for guided implementation of SEL for school districts and educators.	https://www.dpi.nc.gov/districts-schools/districts-schools-support/nc-social-and-emotional-learning
North Carolina Healthy Schools, NC DPI	Provides an overview of NC Healthy Schools and links to data and reports for NC Youth Risk Behavior Survey (YRBS) and school health profiles.	https://www.dpi.nc.gov/districts-schools/classroom-resources/k-12-standards-curriculum-and-instruction/programs-and-initiatives/nc-healthy-schools
Documents		
No relevant documents found.		
Other Resources		
Discipline, ALP and Dropout Annual Reports, NC DPI	Annual consolidated reports on discipline, ALP and dropout data.	https://www.dpi.nc.gov/data-reports/dropout-and-discipline-data/discipline-alp-and-dropout-annual-reports
Integrating SEL into the Content Areas Webinar Series (October 2020), NC DPI	Webinar series for educators providing guided instruction on how to implement core features of SEL into various subject learning areas.	https://drive.google.com/file/d/1AxM8JGvkhCpELWnx5XDkYxWLF E5q1EE4/view

Title	Description	Website address (if applicable)
North Carolina Discipline Data Reporting Procedures (Revised September 2021), NC DPI	Procedures for reporting discipline data to the department.	https://www.dpi.nc.gov/media/13112/open
Professional Development and Training, NC DPI	Training resources for teachers include online professional development modules on subtopics such as student behavior in the classroom, role of school resource officers in schools, and preventing substance abuse and underage drinking among K-12 students.	Professional Development NC DPI
Say Something Anonymous Reporting System, NC DPI	Anonymous reporting system for school staff and students to reporting safety concerns to help at-risk individuals before they hurt themselves or others.	https://www.dpi.nc.gov/districts-schools/district-operations/center-safer-schools/say-something-anonymous-reporting-system



North Dakota Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 15.1-19. Students and Safety

15.1-19-02. Corporal punishment - Prohibition - Consistent policies

15.1-19-09. Students - Suspension and expulsion - Rules

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North Dakota Regulations

[North Dakota Administrative Code](#)

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- 67-16-01-02. Applications
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Article 67-29. Armed First Responder Program

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

15.1-19-02. Corporal punishment - Prohibition - Consistent policies.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
 - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
 - b. To quell a verbal disturbance;
 - c. For self-defense;
 - d. For the preservation of order; or
 - e. To obtain possession of a weapon or other dangerous object within the control of a student.
3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection.
- 4.a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.
 - b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.
6. For purposes of this section:
 - a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
 - b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;

- c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
- d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
- e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
- f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
- g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
- h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

- a. Ensure that the policy is explained to and discussed with its students;
- b. File a copy of the policy with the superintendent of public instruction; and
- c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

REGULATIONS

No relevant regulations found.

Scope

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

- a. Engage in bullying; or
- b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;

- (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
 3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.
 4. Upon completion of the policy required by this section, a school district shall:
 - a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction; and
 - c. Make the policy available in student and personnel handbooks.
 5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

15.1-19-02. Corporal punishment - Prohibition - Consistent policies.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
 - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
 - b. To quell a verbal disturbance;
 - c. For self-defense;
 - d. For the preservation of order; or
 - e. To obtain possession of a weapon or other dangerous object within the control of a student.
3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection.
- 4.a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.
 - b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.
6. For purposes of this section:

- a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
- b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond

the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.
6. For purposes of this section:
 - a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
 - b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

REGULATIONS

67-16-01-01. Eligibility.

Any public school district in North Dakota may apply to the superintendent of public instruction for establishment of an alternative education program for students from the ages of sixteen to twenty-one who have dropped out of school. The alternative programming shall be under the administration of a public school district.

67-16-01-02. Applications.

Application forms provided by the department of public instruction require the following information:

1. Name and address of the high school district through which the alternative high school program is provided.
2. Names and addresses of any school districts that have entered into cooperative agreements approved by the department of public instruction and will be providing authorization to students in their district to attend this alternative program.

3. A description of the alternative program as follows:
 - a. The setting and location of the program.
 - b. Information on the staffing of the alternative program.
 - c. Instruction strategies to be utilized.
 - d. A schedule indicating the time or times of day the program will be available to students.
 - e. A detailed description of the curriculum to be provided.
 - f. Other descriptions or explanations of the program.

67-16-01-03. Certification.

The school district must certify that the alternative program will be in compliance with the provisions of statute by providing the signature of the board chairperson and the school district superintendent.

67-16-01-04. Courses.

If an alternative education program is authorized by the superintendent of public instruction under this chapter, courses in the alternative education program need not meet the minimum curriculum in North Dakota Century Code section 15.1-21-02, but all program courses must lead toward graduation for each of the participants.

67-16-01-05. Students.

Students must be from the ages of sixteen to twenty-one and have been dropped from the regular school membership to be reported for foundation aid payments in the alternative program.

67-16-01-06. Monitoring.

The department of public instruction will monitor alternative programs by reviewing annual documentation including fall reports and completion rate data:

1. Certificate of compliance.
2. School calendar.
3. MIS03 certified personnel record.
4. Pupil membership report.

67-16-01-07. Cooperative alternative programs.

School districts may develop cooperative programs with other school districts to provide access to courses for as many students as possible. Tuition agreements must be completed and approved by the districts involved in the cooperative alternative program. No written agreement is necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.
6. For purposes of this section:
 - a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
 - b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in

subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.

2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

15.1-20-01. Compulsory attendance.

1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year.
2. If a person enrolls a child of age six in a public school, the person shall ensure that the child is in attendance at the public school for the duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not re-enroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.
3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.

15.1-20-02. Compulsory attendance - Exceptions.

1. The provisions of section 15.1-20-01 do not apply if the person having responsibility for the child demonstrates to the satisfaction of the school board that:
 - a. The child is in attendance for the same length of time at an approved nonpublic school;
 - b. The child has completed high school;
 - c. The child is necessary to the support of the child's family;
 - d. A multidisciplinary team that includes the child's school district superintendent, the director of the child's special education unit, the child's classroom teacher, the child's physician, and the child's parent has determined that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable; or
 - e. The child is receiving home education.
2. A decision by the board of a school district under subsection 1 is appealable to the district court.

15.1-20-02.1. Attendance - Determination - Policies.

1. To be deemed in attendance for purposes of this chapter, a student may not be absent from school without excuse for more than:

- a. Three consecutive school days during either the first half or the second half of a school or school district's calendar;
 - b. Six half days during either the first half or the second half of a school or school district's calendar; or
 - c. Twenty-one class periods.
2. The board of each school district and governing body of each nonpublic school shall adopt a policy that:
- a. Defines an excused absence as any absence from school, if that absence is supported by either a verbal or written excuse supplied by the student's parent, teacher, or school administrator; and
 - b. Articulates the type of documentation that may be requested to verify a student's absence.
3. This chapter does not preclude a school district or nonpublic school from withholding credit, removing a student from a course, or taking other punitive measures against a student who does not arrive in a timely fashion or who exceeds a specific number of absences, as determined by the school district or nonpublic school.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

1. Each teacher and administrator is charged with the enforcement of compulsory attendance provisions. The compulsory attendance provisions are applicable to any student who is offered school facilities by a school district, regardless of whether or not the student actually resides in the district.
2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.
3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.
4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.
5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

15.1-20-03.2. Truancy prevention and intervention programs - Resources.

The superintendent of public instruction shall disseminate to school districts and nonpublic schools information regarding truancy prevention and intervention programs and research pertaining to best practices in truancy prevention efforts.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal - Exception.

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-24-01. Chemical abuse prevention program - Rules.

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:
 - a. Community involvement through a citizens' advisory committee.
 - b. An assessment of services and resources available locally.
 - c. An assessment of student and staff needs.
 - d. The coordination of activities with public and private entities.
 - e. The development of an implementation plan.
 - f. An evaluation mechanism.
 - g. The development of a budget to fund the program.
2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for development of a program. School districts may apply for funds independently or jointly. The superintendent shall award the funds according to the merit of each application.
3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of human services, the state department of health, the department of transportation, and law enforcement agencies.

15.1-24-02. Staff.

The superintendent of public instruction may employ an individual as a chemical abuse project coordinator. The coordinator shall:

1. Develop rules, in consultation with other private and public entities.
2. Disseminate rules developed under this chapter.
3. Provide communities, through their schools, with technical assistance in the planning and implementation of a chemical abuse and prevention program.
4. Collect data for reporting and program evaluation purposes.
5. Facilitate coordination of this program with prevention and educational programs conducted by other state agencies.
6. Provide the superintendent of public instruction with a written program evaluation.

7. Serve as a resource specialist to schools regarding the development and implementation of chemical abuse prevention programs.

15.1-24-03. Chemical abuse pre-assessment team - Building level support team.

Any school may appoint a chemical abuse preassessment team consisting of a school counselor, a social worker, and other appropriately trained individuals or a school may use a building support team to carry out chemical abuse prevention services under this chapter. The team shall review and act upon law enforcement reports of chemical abuse violations by students. Within fourteen days of receiving a report, the team shall determine whether to provide to the student, or if the student is a minor to the student's parent or guardian, information regarding chemical abuse and school and community services available to assist individuals who engage in chemical abuse.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

12.1-17-10. Hazing - Penalty.

A person is guilty of an offense when, in the course of another person's initiation into or affiliation with any organization, the person willfully engages in conduct that creates a substantial risk of physical injury to that other person or a third person. As used in this section, "conduct" means any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress, and may include extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenics, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance. The offense is a class A misdemeanor if the actor's conduct causes physical injury, otherwise the offense is a class B misdemeanor.

15.1-19-17. Bullying - Definition.

As used in sections 15.1-19-17 through 15.1-19-22:

1. "Bullying" means:
 - a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:
 - (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - (2) Places the student in actual and reasonable fear of harm;

- (3) Places the student in actual and reasonable fear of damage to property of the student; or
 - (4) Substantially disrupts the orderly operation of the public school; or
- b. Conduct received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:
- (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - (2) Places the student in actual and reasonable fear of harm;
 - (3) Places the student in actual and reasonable fear of damage to property of the student; or
 - (4) Substantially disrupts the orderly operation of the public school; or
- c. Conduct received or sent by a student through the use of an electronic device while the student is outside a public school, off school district premises, and off school district owned or leased property which:
- (1) Places the student in actual and reasonable fear of:
 - (a) Harm; or
 - (b) Damage to property of the student; and
 - (2) Is so severe, pervasive, or objectively offensive the conduct substantially interferes with the student's educational opportunities or substantially disrupts the orderly operation of the public school.
2. "Conduct" includes the use of technology or other electronic media.

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
- a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
- a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;

- f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
- g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
- h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

- a. Ensure that the policy is explained to and discussed with its students;
- b. File a copy of the policy with the superintendent of public instruction; and
- c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

15.1-19-20. Bullying prevention programs.

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

15.1-19-21. Causes of action - Immunity - School districts.

2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.

3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 15.1-19-18 and substantially complied with that policy.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

15.1-07-34. Youth behavioral health training to teachers, administrators, and ancillary staff.

1. Every two years, each school district may provide a minimum of eight hours of professional development on youth behavioral health to elementary, middle, and high school teachers, and administrators. Each school district may encourage ancillary and support staff to participate in the professional development. Based on the annual needs assessment of the school district, these hours may be designated from the following categories:

- b. Social and emotional learning, including resiliency.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

15.1-07-34. Youth behavioral health training to teachers, administrators, and ancillary staff.

1. Every two years, each school district may provide a minimum of eight hours of professional development on youth behavioral health to elementary, middle, and high school teachers, and administrators. Each school district may encourage ancillary and support staff to participate in the professional development. Based on the annual needs assessment of the school district, these hours may be designated from the following categories:

- a. Trauma.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

15.1-07-34. Youth behavioral health training to teachers, administrators, and ancillary staff.

1. Every two years, each school district may provide a minimum of eight hours of professional development on youth behavioral health to elementary, middle, and high school teachers, and administrators. Each school district may encourage ancillary and support staff to participate in the professional development. Based on the annual needs assessment of the school district, these hours may be designated from the following categories:
 - a. Trauma;
 - b. Social and emotional learning, including resiliency;
 - c. Suicide prevention;
 - d. Bullying;
 - e. Understanding of the prevalence and impact of youth behavioral health wellness on family structure, education, juvenile services, law enforcement, and health care and treatment providers;
 - f. Knowledge of behavioral health symptoms, and risks;
 - g. Awareness of referral sources and evidence-based strategies for appropriate interventions;
 - h. Other evidence-based strategies to reduce risk factors for students; or
 - i. Current or new evidence-based behavior prevention or mitigation techniques.
2. Each school within a district shall designate an individual as a behavioral health resource coordinator.
3. The superintendent of public instruction shall collaborate with regional education associations to disseminate information, training and instructional materials, and notice of training opportunities to school districts and nonpublic schools. This training must qualify for continuing education credits that count towards license renewal.
4. The superintendent of public instruction shall maintain the contact information of the behavioral health resource coordinator in each school.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal - Exception.

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

- a. Engage in bullying; or
- b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

- a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19- 17;
- b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
- c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
- d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
- e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
- f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
- g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
- h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

- a. Ensure that the policy is explained to and discussed with its students;
- b. File a copy of the policy with the superintendent of public instruction; and
- c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

1. Each teacher and administrator is charged with the enforcement of compulsory attendance provisions. The compulsory attendance provisions are applicable to any student who is offered school facilities by a school district, regardless of whether or not the student actually resides in the district.

2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.

3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.

4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.

5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.

2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19- 17;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.
4. Upon completion of the policy required by this section, a school district shall:
 - a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction; and
 - c. Make the policy available in student and personnel handbooks.
5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

REGULATIONS

67-16-01-06. Monitoring.

The department of public instruction will monitor alternative programs by reviewing annual documentation including fall reports and completion rate data:

1. Certificate of compliance.
2. School calendar.
3. MIS03 certified personnel record.
4. Pupil membership report.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal - Exception.

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-19-18. Bullying - Prohibition by policy.

1. Each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if school district personnel have a reasonable suspicion that a crime might have occurred on or off school district property;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:
 - a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction; and
 - c. Make the policy available in student and personnel handbooks.
5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

1. Each teacher and administrator is charged with the enforcement of compulsory attendance provisions. The compulsory attendance provisions are applicable to any student who is offered school facilities by a school district, regardless of whether or not the student actually resides in the district.
2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.
3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.
4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.
5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

15.1-24-05. Law enforcement agencies - Duty to inform team.

1. A law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated section 5-01-08, section 12.1-31-03, chapter 19-03.1, chapter 19-03.2, chapter 19-03.4, section 39-08-01, or section 39-08-18. The law enforcement agency shall provide the notice within two weeks of an incident.
2. The principal shall forward the notice to the school's chemical abuse preassessment team or support team referenced in section 15.1-24-03.
3. Subsection 1 does not apply if, in the opinion of the law enforcement agency, providing the notice would jeopardize the conclusion of a criminal investigation.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

62.1-02-14. Armed first responder in schools - Possession of a concealed weapon - Liability.

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section.
2. The superintendent of public instruction may accept a proposal from a public school, upon approval by the school board or governing board, indicating the intention by the school to participate in an armed first responder program.

3. Within ninety days of informing the superintendent of public instruction of the intent to participate in the program, the school shall:
 - a. Identify the individual selected by the school to participate in the program and attend training to become the school's armed first responder;
 - b. Submit a plan to the superintendent of public instruction specifying how the school will implement the program; and
 - c. Participate in a comprehensive emergency operations assessment for the purpose of identifying school crisis and emergency threats and risks.
4. The plan submitted by the school to the superintendent of public instruction is a security system plan as defined in section 44-04-24 and a public health and security plan as defined in section 44-04-25. The plan continues to be an exempt record after the required disclosures of the plan under this section.
5. The plan submitted by the school to the superintendent of public instruction must show response time from law enforcement.
6. The plan submitted by the school to the superintendent of public instruction must be approved by local law enforcement and the department of homeland security.
7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or complete the course established by the private investigative and security board.
8. An individual selected to become an armed first responder for a school participating in the program:
 - a. Must be a retired law enforcement officer or meet the requirements of subsection 7;
 - b. Must be a citizen of the United States;
 - c. Must be at least twenty-one years old;
 - d. Shall complete a criminal background check successfully and be approved by the local law enforcement agencies with jurisdiction over the school premises where the individual will be an armed first responder;
 - e. Must be a high school graduate or meet equivalency standards;
 - f. Shall complete successfully a physical performed by a physician or an advanced practice registered nurse and a mental evaluation by a qualified mental health provider who certifies the individual is capable of performing the duties of an armed first responder;
 - g. Shall complete successfully a faculty and administrator safety training and emergency response program in addition to the requirements under subsection 7;
 - h. Must be approved by the school board or governing board to carry a firearm concealed on school property;
 - i. Shall possess a valid class 1 firearm license from this state; and
 - j. May not be directly responsible for the supervision of children while serving as an armed first responder.
9. An individual selected to become an armed first responder at a school participating in the program shall cooperate in training with local law enforcement for school emergencies to provide a coordinated response to building lockdown and active killer events. The individual shall attend annual training and recertification courses consisting of a minimum of ten hours of instruction and a skills evaluation assessment.
10. The school board or governing board of any school participating in the program shall inform local law enforcement, in writing, of the name of the individual authorized by the school to participate in the program.
11. The school board or governing board of any school participating in the program shall ensure the district participates in annual active shooter training.

12. An individual selected as an armed first responder may not carry a firearm concealed or a dangerous weapon on school premises unless:
 - a. The individual has been approved by the school board or governing board under subsection 8;
 - b. The individual has completed the armed first responder curriculum requirements under subsections 7 and 8; and
 - c. The individual completes the armed first responder recertification course requirements every twelve months.
13. A firearm or dangerous weapon carried by an armed first responder on school premises must remain concealed and under the direct control of the certified armed first responder or stored in a lockbox accessible only by the armed first responder.
14. The school board or governing board shall approve a posttraumatic stress disorder treatment program for armed first responders.
15. The school board or governing board may withdraw a school from participation in the program at any time.
16. A school participating in the program shall provide program evaluation data to the superintendent of public instruction at the time and in the manner requested by the superintendent of public instruction.
17. The board of a school district or the governing body of a nonpublic school may establish a program for providing a plan to establish a school first responder which includes authorizing an individual to conceal and carry a weapon if the individual has received education and training in accordance with this section.
18. A staff member may choose not to function in the capacity of a school first responder.
19. An individual authorized to work as a first responder under subsection 17, a school district, the board of a school district, or the governing body of a nonpublic school that establishes a first responder program is not civilly or criminally liable for any act or omission of the first responder if the first responder is acting in good faith while providing protection to a student or the school, except if the first responder's conduct amounts to gross negligence.

REGULATIONS

67-29-01-04. Proposed plan.

1. Within ninety days of submitting the letter of intent pursuant to section 67-29-01-03, the submitting school shall submit a proposed plan to the superintendent of public instruction. The proposed plan must be mailed or submitted by electronic mail to the director of the office of school approval and opportunity.
2. To be considered for approval, the proposed plan must include a description of the overall safety plan of the submitting school that is comprised of, at a minimum, the following required criteria:
 - a. The training for the armed first responder defined in subsection 7 of North Dakota Century Code section 62.1-02-14;
 - b. A comprehensive emergency operations assessment deemed approved by the department of emergency services, homeland security division for the purpose of identifying school crisis and emergency threats and risk;
 - c. Informing local law enforcement, in writing, of the name of the armed first responder;
 - d. Response time from local law enforcement;
 - e. Training with armed first responder and local law enforcement to provide a coordinated response, in the event of a school emergency, to building lockdown and active assailant events;
 - f. Annual active shooter trainings for the district and annual armed first responder recertification;
 - g. Developing a strategy for lockbox if one is going to be used;
 - h. Approving a posttraumatic stress disorder treatment program for armed first responder;

- i. Approval of proposed plan by local law enforcement; and
 - j. Armed first responder eligibility requirements are all met. 129
3. The proposed plan must include a narrative of the status of completion of each required criteria. Estimated dates of completion must be included for the required criteria that are not completed.
4. The superintendent of public instruction may approve the proposal, reject the proposal, or work with the submitting school to modify the proposal to conform to the requirements herein.

67-29-01-05. Eligibility requirements for armed first responder.

An individual selected to become an armed first responder for a school participating in the program:

- 1. Must be a law enforcement officer who has retired within the previous three years or completed the training, education, and firearm qualifications necessary to return to employment as law enforcement or an individual who meets the training criteria set forth in subsection 7 of North Dakota Century Code section 62.1-02-14;
- 2. Must be a United States citizen;
- 3. Must be at least twenty-one years of age;
- 4. Must be a high school graduate or state recognized equivalent;
- 5. Shall complete a criminal background check and be approved by local law enforcement agencies with jurisdiction over the school premises where the individual will be an armed first responder;
- 6. Shall successfully complete a physical and mental evaluation provided by individuals mentioned in subdivision f of subsection 8 of North Dakota Century Code section 62.1-02-14;
- 7. Shall complete a faculty and administrator safety training and emergency response program that includes training in:
 - a. Armed response;
 - b. Crisis management; and
 - c. Automated external defibrillator, cardiopulmonary resuscitation, and stop bleeding during an emergency;
- 8. Must have approval from the school board or governing body to carry a firearm concealed on school property;
- 9. Must possess a valid class 1 firearm license from the state of North Dakota; and
- 10. May not be directly responsible for the supervision of children while serving as an armed first responder. An individual directly responsible for the supervision of children is an adult with primary responsibility, as assigned by the school board or school board designee, for observing and directing the actions of children.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

15.1-19-14. School law enforcement unit.

1. A school may create or designate a school law enforcement unit as defined in the Family Educational Rights and Privacy Act [20 U.S.C. 1232(g)] and rules adopted under the Act. Records of a school law enforcement unit regarding a student at a school are confidential but may be released to:
- a. A juvenile court having the student before it in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. Officers of public entities to whom the student is committed;
 - d. Officers of a state or local law enforcement agency for use in the discharge of their official duties;
 - e. A superintendent or principal of another school in which the student wishes to enroll; and

- f. The student's parent, legal guardian, or legal custodian.
- 2. Nothing in this section restricts the release of general information that does not identify the student.
- 3. This section does not apply to education records that are confidential under federal law.

62.1-02-14. Armed first responder in schools - Possession of a concealed weapon - Liability.

- 1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section.
- 2. The superintendent of public instruction may accept a proposal from a public school, upon approval by the school board or governing board, indicating the intention by the school to participate in an armed first responder program.
- 3. Within ninety days of informing the superintendent of public instruction of the intent to participate in the program, the school shall:
 - a. Identify the individual selected by the school to participate in the program and attend training to become the school's armed first responder;
 - b. Submit a plan to the superintendent of public instruction specifying how the school will implement the program; and
 - c. Participate in a comprehensive emergency operations assessment for the purpose of identifying school crisis and emergency threats and risks.
- 4. The plan submitted by the school to the superintendent of public instruction is a security system plan as defined in section 44-04-24 and a public health and security plan as defined in section 44-04-25. The plan continues to be an exempt record after the required disclosures of the plan under this section.
- 5. The plan submitted by the school to the superintendent of public instruction must show response time from law enforcement.
- 6. The plan submitted by the school to the superintendent of public instruction must be approved by local law enforcement and the department of homeland security.
- 7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or complete the course established by the private investigative and security board.
- 8. An individual selected to become an armed first responder for a school participating in the program:
 - a. Must be a retired law enforcement officer or meet the requirements of subsection 7;
 - b. Must be a citizen of the United States;
 - c. Must be at least twenty-one years old;
 - d. Shall complete a criminal background check successfully and be approved by the local law enforcement agencies with jurisdiction over the school premises where the individual will be an armed first responder;
 - e. Must be a high school graduate or meet equivalency standards;
 - f. Shall complete successfully a physical performed by a physician or an advanced practice registered nurse and a mental evaluation by a qualified mental health provider who certifies the individual is capable of performing the duties of an armed first responder;
 - g. Shall complete successfully a faculty and administrator safety training and emergency response program in addition to the requirements under subsection 7;
 - h. Must be approved by the school board or governing board to carry a firearm concealed on school property;
 - i. Shall possess a valid class 1 firearm license from this state; and

j. May not be directly responsible for the supervision of children while serving as an armed first responder.

9. An individual selected to become an armed first responder at a school participating in the program shall cooperate in training with local law enforcement for school emergencies to provide a coordinated response to building lockdown and active killer events. The individual shall attend annual training and recertification courses consisting of a minimum of ten hours of instruction and a skills evaluation assessment.

10. The school board or governing board of any school participating in the program shall inform local law enforcement, in writing, of the name of the individual authorized by the school to participate in the program.

11. The school board or governing board of any school participating in the program shall ensure the district participates in annual active shooter training.

12. An individual selected as an armed first responder may not carry a firearm concealed or a dangerous weapon on school premises unless:

a. The individual has been approved by the school board or governing board under subsection 8;

b. The individual has completed the armed first responder curriculum requirements under subsections 7 and 8; and

c. The individual completes the armed first responder recertification course requirements every twelve months.

13. A firearm or dangerous weapon carried by an armed first responder on school premises must remain concealed and under the direct control of the certified armed first responder or stored in a lockbox accessible only by the armed first responder.

14. The school board or governing board shall approve a posttraumatic stress disorder treatment program for armed first responders.

15. The school board or governing board may withdraw a school from participation in the program at any time.

16. A school participating in the program shall provide program evaluation data to the superintendent of public instruction at the time and in the manner requested by the superintendent of public instruction.

17. The board of a school district or the governing body of a nonpublic school may establish a program for providing a plan to establish a school first responder which includes authorizing an individual to conceal and carry a weapon if the individual has received education and training in accordance with this section.

18. A staff member may choose not to function in the capacity of a school first responder.

19. An individual authorized to work as a first responder under subsection 17, a school district, the board of a school district, or the governing body of a nonpublic school that establishes a first responder program is not civilly or criminally liable for any act or omission of the first responder if the first responder is acting in good faith while providing protection to a student or the school, except if the first responder's conduct amounts to gross negligence.

REGULATIONS

67-29-01-01. Purpose.

The purpose of the armed first responder program is to give local school boards the ability to decide if an armed first responder will be a part of their school safety plan. The armed first responder program may include an individual carrying a concealed firearm or dangerous weapon as defined by North Dakota Century Code section 62.1-01-01 on school premises, but also requires the school to:

1. Work closely with local law enforcement and the department of emergency services' division of homeland security;

2. Identify school crisis and emergency threats and risks through a comprehensive emergency operations assessment; and
3. Participate in annual active shooter training.

67-29-01-06. Final plan approval.

1. Prior to submission for final approval, the plan must be approved by local law enforcement. Upon completion of all required criteria and receipt of approval from local law enforcement, the plan must be submitted to the superintendent of public instruction for final approval. The plan may be submitted, via mail or electronic mail to the director of the office of school approval and opportunity. The plan must attest to the completion of the required criteria and indicate the date each such criteria was completed. The plan must include the signature of an individual authorized by local law enforcement confirming approval of the plan.
2. Once the plan is submitted and approved by the department of emergency services' division of homeland security, and the superintendent of public instruction, the submitting school or district may implement the armed first responder program in accordance with the plan.
3. The superintendent of public instruction may revoke any plan approved under North Dakota Century Code section 62.1-02-14 if the superintendent of public instruction, in consultation with the department of emergency services and the attorney general, determines the school has failed to perform in accordance with the agreed upon terms of the approved plan or failed to meet the requirements of this section.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by North Dakota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
NDMTSS- North Dakota's Multi-tier System of Support-Behavior,	Provides links to professional development opportunities on NDMTSS- Behavior is a statewide initiative that focuses on Positive Behavioral Interventions and Support. The professional development encompasses "a range of research-based strategies used to increase the quality of life and decrease problem behavior by teaching new skills and making changes in a person's environment".	https://ndmtss.org/behavior/
Safety & Healthy, North Dakota Department of Public Instruction	Provides links to information and resources on the following topics: bullying prevention, youth risk behavior survey (YRBS), youth behavioral health, school safety/security, and school health.	https://www.nd.gov/dpi/districtsschools/safety-health
Social Emotional Learning, North Dakota Department of Public Instruction	Provides information and additional resources to North Dakota's Multi-Tiered System of Support Social Emotional Learning (SEL) including a guided framework and links to national resources on SEL.	https://www.nd.gov/dpi/districtsschools/safety-health/youth-behavioral-health/social-emotional-learning
Documents		
Discipline Regulations for Students with Disabilities (June 2019), North Dakota Department of Public Instruction	Policy guidance to local school districts on changes made in the Individuals with Disabilities Education Improvement Act 2004 (IDEA 2004) in regards to short-term and long-term removal, removal of weapons, drugs, or seriously bodily injury by school personnel, and protections for children 'not yet eligible' for special services.	https://www.nd.gov/dpi/sites/www/files/documents/SpeEd/Guidelines/Discipline%20Policy%20Paper%206-19.pdf

Title	Description	Website address (if applicable)
Functional Behavioral Assessments & Behavior Intervention Plan Guide, North Dakota Department of Public Instruction	Provides guidelines to assist in completing a Functional Behavioral Assessment (FBA) and writing a Behavioral Intervention (FBI) Plan using requirements set forth by the Individuals with Disabilities Education Act (IDEA 2004), including current literature and best practice in the use of FBAs and BIPs, descriptions of a reactive vs. punitive discipline model, and guidance on the proactive and instructional model.	https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/Guidelines/FBA-BIP%20Guide%207.28.2020.pdf
Guidance on New Cyberbullying Law, North Dakota School Boards Association	Guidance document explains the newly passed cyberbullying law SB 2181 which expanded the definition of “bullying” to include cyberbullying occurring off school property. The new law requires that all school districts must make the changes to their bullying policy and file their revised policy with the Department of Public Instruction.	https://www.nd.gov/dpi/sites/www/files/documents/Safe%20%26%20Healthy/NDSBA%20Cyberbullying%20Guidance.pdf
<i>Other Resources</i>		
Trauma Sensitive Schools Training, Central Regional Education Association	Training sponsored by North Dakota Department of Public Instruction to provide professional development opportunities for educators to learn about childhood trauma and prepare to mitigate its effects on children.	https://www.creand.org/tss
Questions and Answers on Disproportionality, US Department of Education, Office of Special Education and Rehabilitative Services (OSERS)	A question and answer document that provides States, State educational agencies (SEAs), and local educational agencies (LEAs) with information regarding the IDEA requirements relating to disproportionality determinations	https://www2.ed.gov/policy/special-ed/guid/idea/disproportionality-qa.pdf
Youth Risk Behavior Survey (YRBS), North Dakota Department of Public Instruction	The Youth Risk Behavior Survey designed to monitor trends, compare state health risk behaviors to national health risk behaviors and intended for use to plan, evaluate and improve school and community programs. Survey is voluntary and completely anonymous.	https://www.nd.gov/dpi/districtschools/safety-health/youth-risk-behavior-survey



Ohio

Compilation of School

Discipline Laws and

Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

3313.20. Rules - locker search policy - professional meetings.

(A) The board of education of a school district or the governing board of an educational service center shall make any rules that are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises. Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to the school grounds or premises, or near the perimeter of the school grounds or premises, if there are no formal entrances, and at the main entrance to each school building.

(B)(1) The board of education of each city, local, exempted village, or joint vocational school district may adopt a written policy that authorizes principals of public schools within the district or their designees to do one or both of the following:

(a) Search any pupil's locker and the contents of the locker that is searched if the principal reasonably suspects that the locker or its contents contains evidence of a pupil's violation of a criminal statute or of a school rule;

(b) Search any pupil's locker and the contents of any pupil's locker at any time if the board of education posts in a conspicuous place in each school building that has lockers available for use by pupils a notice that the lockers are the property of the board of education and that the lockers and the contents of all the lockers are subject to random search at any time without regard to whether there is a reasonable suspicion that any locker or its contents contains evidence of a violation of a criminal statute or a school rule.

(2) A board of education's adoption of or failure to adopt a written policy pursuant to division (B)(1) of this section does not prevent the principal of any school from searching at any time the locker of any pupil and the contents of any locker of any pupil in the school if an emergency situation exists or appears to exist that immediately threatens the health or safety of any person, or threatens to damage or destroy any property, under the control of the board of education and if a search of lockers and the contents of the lockers is reasonably necessary to avert that threat or apparent threat.

(C) Any employee may receive compensation and expenses for days on which he is excused, in accordance with the policy statement of the board, by the superintendent of such board or by a responsible administrative official designated by the superintendent for the purpose of attending professional meetings as defined by the board policy, and the board may provide and pay the salary of a substitute for such days. The expenses thus incurred by an employee shall be paid by the board from the appropriate fund of the school district or the educational service center governing board fund provided that statements of expenses are furnished in accordance with the policy statement of the board.

(D) Each city, local, and exempted village school district shall adopt a written policy governing the attendance of employees at professional meetings.

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A)(1) Except as provided under division (B)(2) of this section, and subject to section 3313.668 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district, or the principal of a public school may suspend a pupil from school for not more than ten school days. The

board of education of a city, exempted village, or local school district may adopt a policy granting assistant principals and other administrators the authority to suspend a pupil from school for a period of time as specified in the policy of the board of education, not to exceed ten school days. If at the time an out-of-school suspension is imposed there are fewer than ten school days remaining in the school year in which the incident that gives rise to the suspension takes place, the superintendent shall not apply any remaining part of the period of the suspension to the following school year. The superintendent may instead require the pupil to participate in a community service program or another alternative consequence for a number of hours equal to the remaining part of the period of the suspension. The pupil shall be required to begin the pupil's community service or alternative consequence during the first full week day of summer break. Each school district, in its discretion, may develop an appropriate list of alternative consequences. In the event that a pupil fails to complete community service or the assigned alternative consequence, the school district may determine the next course of action, which shall not include requiring the pupil to serve the remaining time of the out-of-school suspension at the beginning of the following school year.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) Subject to the limitations set forth in section 3313.668 of the Revised Code, the board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term "knife capable of causing serious bodily injury" or "firearm," as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members.

3313.751. Prohibition against tobacco possession or use.

(A) As used in this section:

- (1) "School district" means a city, local, exempted village, or joint vocational school district.
- (2) "Smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar, or pipe, or to burn a clove cigarette.
- (3) "Use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco.

(B) No pupil shall smoke or use tobacco or possess any substance containing tobacco in any area under the control of a school district or an educational service center or at any activity supervised by any school operated by a school district or an educational service center.

(C) No pupil shall use or possess any substance containing betel nut in any area under the control of a school district or an educational service center or at any activity supervised by any school operated by a school district or an educational service center.

(D) The board of education of each school district and the governing board of each educational service center shall adopt a policy providing for the enforcement of division (B) of this section and establishing disciplinary measures for a violation of division (B) of this section.

REGULATIONS

3301-35-04. Student and other stakeholder focus.

(A) To ensure that student and other stakeholder needs are understood and addressed, the school district or school shall:

- (1) Establish and communicate clear, high expectations for academic performance, attendance and conduct for all students regardless of gender, race, ethnicity, English proficiency or disability.

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(H) Policies and procedures. A school district shall develop written policies and procedures concerning the use of seclusion and restraint that are consistent with the policy on positive behavior interventions and support, restraint and seclusion, as adopted by the state board of education January 2013 (education.ohio.gov). A district's complaint procedures shall include

- (1) A procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion; and
- (2) A requirement that the school district shall respond to the parent in writing within thirty days of the filing of a complaint regarding an incident of restraint or seclusion.

These policies and procedures shall be accessible on the district's website, and each district shall be responsible for notifying all parents annually of its policies and procedures concerning seclusion and restraint.

Scope

LAWS

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) Subject to the limitations set forth in section 3313.668 of the Revised Code, the board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the

term "knife capable of causing serious bodily injury" or "firearm," as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded. [...]

(D) Except as described in division (B) of section 3313.668 of the Revised Code, any policy, program, or guideline adopted by a board of education under this section with regard to suspensions or expulsions pursuant to division (A) or (B) of section 3313.66 of the Revised Code shall apply to any student, whether or not the student is enrolled in the district, attending or otherwise participating in any curricular program provided in a school operated by the board or provided on any other property owned or controlled by the board.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members.

The policy shall include the following:

- (1) A statement prohibiting harassment, intimidation, or bullying of any student on school property, on a school bus, or at school-sponsored events and expressly providing for the possibility of suspension of a student found responsible for harassment, intimidation, or bullying by an electronic act.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

5.2296. School Bullying Prevention and Awareness Act.

The month of September shall be designated as "School Bullying Prevention Awareness Month" to highlight the policies prohibiting harassment, intimidation, or bullying adopted by schools in the state and the required notice of those policies sent to parents and guardians annually under section 3313.666 of the Revised Code.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

A copy of the policy shall be posted in a central location in the school and made available to pupils upon request. No pupil shall be suspended, expelled, or removed except in accordance with the policy adopted by the board of education of the school district in which the pupil attends school, and no pupil shall be permanently excluded except in accordance with sections 3301.121 and 3313.662 of the Revised Code.

[...] (C) The written policy of each board of education that is adopted pursuant to section 3313.20 of the Revised Code shall be posted in a central location in each school that is subject to the policy and shall be made available to pupils upon request.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(C) Each board's policy shall appear in any student handbooks, and in any of the publications that set forth the comprehensive rules, procedures, and standards of conduct for schools and students in the

district. The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the district and to their custodial parents or guardians. Information regarding the policy shall be incorporated into employee training materials.

(D)(1) To the extent that state or federal funds are appropriated for this purpose, each board shall require that all students enrolled in the district annually be provided with age-appropriate instruction, as determined by the board, on the board's policy, including a written or verbal discussion of the consequences for violations of the policy.

(2) Each board shall require that once each school year a written statement describing the policy and the consequences for violations of the policy be sent to each student's custodial parent or guardian.

The statement may be sent with regular student report cards or may be delivered electronically.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(H) Policies and procedures. A school district shall develop written policies and procedures concerning the use of seclusion and restraint that are consistent with the policy on positive behavior interventions and support, restraint and seclusion, as adopted by the state board of education January 2013 (education.ohio.gov). A district's complaint procedures shall include

(1) A procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion;
and

(2) A requirement that the school district shall respond to the parent in writing within thirty days of the filing of a complaint regarding an incident of restraint or seclusion.

These policies and procedures shall be accessible on the district's website, and each district shall be responsible for notifying all parents annually of its policies and procedures concerning seclusion and restraint.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(C)(1) Subject to division (C)(2) of this section, if a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or a principal or assistant principal may remove a pupil from curricular activities or from the school premises, and a teacher may remove a pupil from curricular activities under the teacher's supervision, without the notice and hearing requirements of division (A) or (B) of this section. As soon as practicable after making such a removal, the teacher shall submit in writing to the principal the reasons for such removal.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A)(1) Except as provided under division (B)(2) of this section, and subject to section 3313.668 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district, or the principal of a public school may suspend a pupil from school for not more than ten school days. The board of education of a city, exempted village, or local school district may adopt a policy granting assistant principals and other administrators the authority to suspend a pupil from school for a period of time as specified in the policy of the board of education, not to exceed ten school days. If at the time an out-of-school suspension is imposed there are fewer than ten school days remaining in the school year in which the incident that gives rise to the suspension takes place, the superintendent shall not apply any remaining part of the period of the suspension to the following school year. The superintendent may instead require the pupil to participate in a community service program or another alternative consequence for a number of hours equal to the remaining part of the period of the suspension. The pupil shall be required to begin the pupil's community service or alternative consequence during the first full week day of summer break. Each school district, in its discretion, may develop an appropriate list of alternative consequences. In the event that a pupil fails to complete community service or the assigned

alternative consequence, the school district may determine the next course of action, which shall not include requiring the pupil to serve the remaining time of the out-of-school suspension at the beginning of the following school year.

(2) If a pupil is issued an in-school suspension, the superintendent or principal shall ensure the pupil is serving the suspension in a supervised learning environment. [...]

(K) As used in this section:

(2) "In-school suspension" means the pupil will serve all of the suspension in a supervised learning environment within a school setting.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(B) A board of education may establish a program and adopt guidelines under which a superintendent may require a pupil to perform community service in conjunction with a suspension or expulsion imposed under section 3313.66 of the Revised Code or in place of a suspension or expulsion imposed under section 3313.66 of the Revised Code except for an expulsion imposed pursuant to division (B)(2) of that section. If a board adopts guidelines under this division, they shall permit, except with regard to an expulsion pursuant to division (B)(2) of section 3313.66 of the Revised Code, a superintendent to impose a community service requirement beyond the end of the school year in lieu of applying an expulsion into the following school year. Any guidelines adopted shall be included in the policy adopted under this section.

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(B)(4) Nothing in division (B) of this section shall be construed to limit the authority of a school district or school to issue an in-school suspension to a student in any of grades pre-kindergarten through three, provided that the in-school suspension is served in a supervised learning environment in accordance with divisions (A)(2) and (K)(2) of section 3313.66 of the Revised Code.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

3319.41. Corporal punishment policy.

(A) No person employed or engaged as a teacher, principal, administrator, nonlicensed school employee, or bus driver in a public school may inflict or cause to be inflicted corporal punishment as a means of discipline upon a pupil attending such school.

(B) A person employed or otherwise engaged as a teacher, principal, or administrator by a nonpublic school, except as otherwise provided by the governing authority of the nonpublic school, may inflict or cause to be inflicted reasonable corporal punishment upon a pupil attending the school to which the person is assigned whenever such punishment is reasonably necessary in order to preserve discipline while the student is subject to school authority.

(C) Persons employed or engaged as teachers, principals, or administrators in a school, whether public or private, and nonlicensed school employees and school bus drivers may, within the scope of their employment, use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(C) Prohibition on certain practices. The following practices are prohibited by school personnel under any circumstance:

- (3) Corporal punishment.

Search and Seizure

LAWS

3313.20. Rules - locker search policy - professional meetings.

(A) The board of education of a school district or the governing board of an educational service center shall make any rules that are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises. Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to the school grounds or premises, or near the perimeter of the school grounds or premises, if there are no formal entrances, and at the main entrance to each school building.

(B)(1) The board of education of each city, local, exempted village, or joint vocational school district may adopt a written policy that authorizes principals of public schools within the district or their designees to do one or both of the following:

(a) Search any pupil's locker and the contents of the locker that is searched if the principal reasonably suspects that the locker or its contents contains evidence of a pupil's violation of a criminal statute or of a school rule;

(b) Search any pupil's locker and the contents of any pupil's locker at any time if the board of education posts in a conspicuous place in each school building that has lockers available for use by pupils a notice that the lockers are the property of the board of education and that the lockers and the contents of all the lockers are subject to random search at any time without regard to whether there is a reasonable suspicion that any locker or its contents contains evidence of a violation of a criminal statute or a school rule.

(2) A board of education's adoption of or failure to adopt a written policy pursuant to division (B)(1) of this section does not prevent the principal of any school from searching at any time the locker of any pupil and the contents of any locker of any pupil in the school if an emergency situation exists or appears to exist that immediately threatens the health or safety of any person, or threatens to damage or destroy any property, under the control of the board of education and if a search of lockers and the contents of the lockers is reasonably necessary to avert that threat or apparent threat.

(C) Any employee may receive compensation and expenses for days on which he is excused, in accordance with the policy statement of the board, by the superintendent of such board or by a responsible administrative official designated by the superintendent for the purpose of attending professional meetings as defined by the board policy, and the board may provide and pay the salary of a substitute for such days. The expenses thus incurred by an employee shall be paid by the board from the appropriate fund of the school district or the educational service center governing board fund provided that statements of expenses are furnished in accordance with the policy statement of the board.

(D) Each city, local, and exempted village school district shall adopt a written policy governing the attendance of employees at professional meetings.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

3319.41. Corporal punishment policy.

(A) No person employed or engaged as a teacher, principal, administrator, nonlicensed school employee, or bus driver in a public school may inflict or cause to be inflicted corporal punishment as a means of discipline upon a pupil attending such school.

(B) A person employed or otherwise engaged as a teacher, principal, or administrator by a nonpublic school, except as otherwise provided by the governing authority of the nonpublic school, may inflict or cause to be inflicted reasonable corporal punishment upon a pupil attending the school to which the person is assigned whenever such punishment is reasonably necessary in order to preserve discipline while the student is subject to school authority.

(C) Persons employed or engaged as teachers, principals, or administrators in a school, whether public or private, and nonlicensed school employees and school bus drivers may, within the scope of their employment, use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property.

3319.46. Policy and rules regarding positive behavior intervention supports and the use of physical restraint or seclusion on students; duties of board.

(A)(1) The state board of education shall adopt rules under Chapter 119. of the Revised Code that establish both of the following:

(b) A policy and standards for the use of physical restraint or seclusion on students.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(A) Notwithstanding rule 3301-35-01 of the Administrative Code, the following definitions apply for purposes of this rule:

(1) "Aversive behavioral interventions" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as application of noxious, painful and/or intrusive stimuli, including any form of noxious, painful or intrusive spray, inhalant or taste.

(2) "Chemical restraint" means a drug or medication used to control a student's behavior or restrict freedom of movement that is not:

(a) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under Ohio law, for the standard treatment of a student's medical or psychiatric condition; and

(b) Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under Ohio law.

(3) "Mechanical restraint" means:

(a) Any method of restricting a student's freedom of movement, physical activity, or normal use of the student's body by using an appliance or device manufactured for this purpose; but

(b) Does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purpose for which the device was designed and, if applicable, prescribed, including:

(i) Restraints for medical immobilization;

(ii) Adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(iii) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(4) "Parent" means:

(a) A biological or adoptive parent;

(b) A guardian generally authorized to act as the child's parent, or authorized to make decisions for the child (but not the state if the child is a ward of the state);

(c) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;

(d) A surrogate parent who has been appointed in accordance with paragraph (E) of rule 3301-51-05 of the Administrative Code; or

(e) Any person identified in a judicial decree or order as the parent of a child or the person with authority to make educational decisions on behalf of a child.

(5) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

(6) "Physical restraint" means the use of physical contact in a way that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint. Physical restraint does not include brief physical contact for the following or similar purposes:

- (a) To break up a fight;
- (b) To knock a weapon away from a student's possession;
- (c) To calm or comfort;
- (d) To assist a student in completing a task/response if the student does not resist the contact; or
- (e) To prevent an impulsive behavior that threatens the student's immediate safety (e.g. running in front of a car).

(7) "Positive behavior intervention and supports" means

- (a) A school-wide systematic approach to embed evidence-based practices and data-driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, and that
- (b) Encompasses a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors, and teach appropriate behaviors to students.

(8) "Prone restraint" means physical or mechanical restraint while the individual is in the face-down position for an extended period of time.

(9) "School district" means a local, exempted village, city, joint vocational or cooperative education school district as defined in Chapter 3311. of the Revised Code; an educational service center that operates a school or educational program; a community school as defined in Chapter 3314. of the Revised Code; a science, technology, engineering, and mathematics school as defined in Chapter 3326. of the Revised Code; or a college-preparatory boarding school as defined in Chapter 3328. of the Revised Code. For purposes of this rule, the term does not include schools operated in facilities under the jurisdiction of the department of rehabilitation and corrections or the department of youth services.

(10) "Seclusion" means the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.

(11) "Student" means a child or adult aged three to twenty-one enrolled in a school district.

(12) "Student personnel" means teacher, principal, counselor, social worker, school resource officer, teacher's aide, psychologist, bus driver, or other school district staff who interact directly with students.

(13) "Timeout" means a behavior intervention in which a student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.

(B) Implementation of positive behavior intervention and supports. Each school district shall implement positive behavior intervention and supports on a system-wide basis.

(C) Prohibition on certain practices. The following practices are prohibited by school personnel under any circumstance:

- (1) Prone restraint;
- (2) Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that:

- (a) Involves the use of pinning down a student by placing knees to the torso, head, or neck of the student;
 - (b) Uses pressure point, pain compliance, or joint manipulation techniques; or
 - (c) Otherwise involves techniques that are used to unnecessarily cause pain.
- (3) Corporal punishment;
- (4) Child endangerment, as defined in section 2919.22 of the Revised Code;
- (5) Deprivation of basic needs;
- (6) Seclusion or restraint of preschool children in violation of paragraph (D) of rule 3301- 37-10 of the Administrative Code;
- (7) Chemical restraint;
- (8) Mechanical restraint (that does not include devices used by trained school personnel, or by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed);
- (9) Aversive behavioral interventions; or
- (10) Seclusion in a locked room or area.
- (D) Physical restraint.
- (1) Prone restraint is prohibited.
 - (2) Physical restraint may be used only if
 - (a) A student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective intervention is available;
 - (b) The physical restraint does not obstruct the student's ability to breathe;
 - (c) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; and
 - (d) By school personnel who are trained in safe restraint techniques, except in the case of rare and unavoidable emergency situations when trained personnel are not immediately available.
 - (3) Physical restraint may not be used for punishment or discipline or as a substitute for other less restrictive means of assisting a student in regaining control.
- (E) Seclusion
- (1) Seclusion may be used only
 - (a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective intervention is available;
 - (b) As a last resort to provide an opportunity for the student to regain control of his or her actions;
 - (c) For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm;
 - (d) In a room or area that:
 - (i) Is not locked;
 - (ii) Does not prevent the student from exiting the area should staff become incapacitated or leave the area; and
 - (iii) Provides adequate space, lighting, ventilation, and the ability to observe the student; and
 - (e) Under constant supervision by staff who are trained to be able to detect indications of physical or mental distress that require removal and/or immediate medical assistance and who document their observations of the student.

(2) Seclusion may not be used for punishment or discipline, for the convenience of staff, or as a substitute for other less restrictive means of assisting a student in regaining control.

(F) Reporting and notification. Any incident of seclusion or restraint shall be immediately reported to building supervision and the parent. Any incident of seclusion or restraint shall be documented in a written report that is made available to the parent within twenty-four hours and that is maintained by the school district.

(G) Training and professional development. A school district shall ensure that an appropriate number of personnel in each building are trained in crisis management and de-escalation techniques. The school district shall maintain written or electronic documentation on training provided and lists of participants in each training. Training on positive behavior intervention and supports is encouraged.

(H) Policies and procedures. A school district shall develop written policies and procedures concerning the use of seclusion and restraint that are consistent with the policy on positive behavior interventions and support, restraint and seclusion, as adopted by the state board of education January 2013 (education.ohio.gov). A district's complaint procedures shall include

(1) A procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion; and

(2) A requirement that the school district shall respond to the parent in writing within thirty days of the filing of a complaint regarding an incident of restraint or seclusion.

These policies and procedures shall be accessible on the district's website, and each district shall be responsible for notifying all parents annually of its policies and procedures concerning seclusion and restraint.

(I) Monitoring. A school district shall establish a procedure to monitor the implementation of this policy and the district's policy on restraint and seclusion. Each school district shall make its records concerning restraint and seclusion available to staff from the Ohio department of education upon request.

(J) Reporting. A school district shall annually report information regarding its use of restraint and seclusion to the Ohio department of education in the form and manner as prescribed by the department.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(2)(a) Unless a pupil is permanently excluded pursuant to section 3313.662 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district shall expel a pupil from school for a period of one year for bringing a firearm to a school operated by the board of education of the district or onto any other property owned or controlled by the board, except that the superintendent may reduce this requirement on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(b) The superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period of one year for bringing a firearm to an interscholastic competition, an extracurricular event, or any other school program or activity that is not located in a school or on property that is owned or controlled by the district. The superintendent may reduce this disciplinary action on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(c) Any expulsion pursuant to division (B)(2) of this section shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place. As used in this division, "firearm" has the same meaning as provided pursuant to the "Gun-Free Schools Act," 115 Stat. 1762, 20 U.S.C. 7151.

(3) The board of education of a city, exempted village, or local school district may adopt a resolution authorizing the superintendent of schools to expel a pupil from school for a period not to exceed one year for bringing a knife capable of causing serious bodily injury to a school operated by the board, onto any other property owned or controlled by the board, or to an interscholastic competition, an extracurricular event, or any other program or activity sponsored by the school district or in which the district is a participant, or for possessing a firearm or knife capable of serious bodily injury, at a school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity, which firearm or knife was initially brought onto school board property by another person. The resolution may authorize the superintendent to extend such an expulsion, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) Subject to the limitations set forth in section 3313.668 of the Revised Code, the board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term "knife capable of causing serious bodily injury" or "firearm," as applicable, for purposes of

expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded.

3313.662. Adjudication order permanently excluding pupil from public schools.

(B) A pupil may be suspended or expelled in accordance with section 3313.66 of the Revised Code prior to being permanently excluded from public school attendance under this section and section 3301.121 of the Revised Code.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A)(1) Except as provided under division (B)(2) of this section, and subject to section 3313.668 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district, or the principal of a public school may suspend a pupil from school for not more than ten school days. The board of education of a city, exempted village, or local school district may adopt a policy granting assistant principals and other administrators the authority to suspend a pupil from school for a period of time as specified in the policy of the board of education, not to exceed ten school days. If at the time an out-of-school suspension is imposed there are fewer than ten school days remaining in the school year in which the incident that gives rise to the suspension takes place, the superintendent shall not apply any remaining part of the period of the suspension to the following school year. The superintendent may instead require the pupil to participate in a community service program or another alternative consequence for a number of hours equal to the remaining part of the period of the suspension. The pupil shall be required to begin the pupil's community service or alternative consequence during the first full week day of summer break. Each school district, in its discretion, may develop an appropriate list of alternative consequences. In the event that a pupil fails to complete community service or the assigned alternative consequence, the school district may determine the next course of action, which shall not include requiring the pupil to serve the remaining time of the out-of-school suspension at the beginning of the following school year.

No pupil shall be issued an out-of-school suspension unless prior to the suspension the superintendent or principal does both of the following:

(a) Gives the pupil written notice of the intention to suspend the pupil and the reasons for the intended suspension and, if the proposed suspension is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, includes in the notice a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation;

(b) Provides the pupil an opportunity to appear at an informal hearing before the principal, assistant principal, superintendent, or superintendent's designee and challenge the reason for the intended suspension or otherwise to explain the pupil's actions.

(2) If a pupil is issued an in-school suspension, the superintendent or principal shall ensure the pupil is serving the suspension in a supervised learning environment.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) Subject to the limitations set forth in section 3313.668 of the Revised Code, the board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term "knife capable of causing serious bodily injury" or "firearm," as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded.

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(A) On and after July 1, 2017, no school district or school shall suspend, expel, or remove a student from school under section 3313.66 of the Revised Code solely on the basis of the student's absences from school without legitimate excuse.

(B)(1) Except as described in division (B) of this section, no school district or school shall issue an out-of-school suspension or expulsion to a student in grades pre-kindergarten through three.

(a) A school district or school may issue an out-of-school suspension or expulsion, in accordance with section 3313.66 of the Revised Code, to a student in any of grades pre-kindergarten through three who has engaged in any of the behaviors described in divisions (B)(2) to (5) of section 3313.66 of the Revised Code.

(b) A school district or school may issue an out-of-school suspension not to exceed ten days or an expulsion to a student in any of grades pre-kindergarten through three who has not engaged in any of the behaviors described in divisions (B)(2) to (5) of section 3313.66 of the Revised Code only as necessary to protect the immediate health and safety of the student, the student's fellow classmates, the classroom staff and teachers, or other school employees.

3321.191. Adoption of policy regarding student absences; intervention strategies.

(F) Nothing in this section shall be construed to limit the duty or authority of a district board of education or governing body of an educational service center to develop other policies related to truancy or to limit the duty or authority of any employee of the school district or service center to respond to pupil truancy. However, a board shall be subject to the prohibition against suspending, expelling, or otherwise preventing a student from attending school for excessive absences as prescribed by section 3313.668 of the Revised Code.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

3301.121. Adjudication procedure to determine whether to permanently exclude pupil.

(A) In addition to the duties and responsibilities of the superintendent of public instruction set forth in section 3301.12 of the Revised Code, the superintendent, in accordance with this section and section 3313.662 of the Revised Code, shall conduct an adjudication procedure to determine whether to permanently exclude from attending any of the public schools of this state any pupil who is the subject of a resolution forwarded to the superintendent by a board of education pursuant to division (D) of section 3313.662 of the Revised Code.

(B)(1) Except as provided in division (B)(3) of this section, within fourteen days after receipt of a resolution forwarded by a board of education pursuant to division (D) of section 3313.662 of the Revised Code, the superintendent of public instruction or the superintendent's designee shall provide the pupil who is the subject of the resolution and that pupil's parent, guardian, or custodian with a notice of an opportunity for an adjudication hearing on the proposed permanent exclusion of the pupil from attending any of the public schools of this state. The notice shall include all of the following:

(a) The date, time, and place of the permanent exclusion adjudication hearing;

(b) A statement informing the pupil and the pupil's parent, guardian, or custodian that the pupil may attend the adjudication hearing at the date, time, and place set forth in the notice, that the failure of the pupil or the pupil's parent, guardian, or custodian to attend the adjudication hearing will result in a waiver of the pupil's right to present evidence, testimony, and factors in mitigation of the pupil's permanent exclusion at an adjudication hearing on the proposed permanent exclusion, and that the pupil shall be accorded all of the following rights:

(i) The right to testify, to present evidence and the testimony of witnesses, and to confront, cross-examine, and compel the attendance of witnesses;

(ii) The right to a record of the hearing;

(iii) The right to written findings.

(c) A statement informing the pupil and the pupil's parent, guardian, or custodian that the pupil has the right to be represented by counsel at the adjudication hearing.

(d) A statement informing the pupil and the pupil's parent, guardian, or custodian that, if the pupil by failing to attend the hearing waives the pupil's right to present evidence, testimony, and factors in mitigation of the pupil's permanent exclusion at an adjudication hearing on the proposed permanent exclusion, the superintendent is required to review the information relevant to the permanent exclusion that is available to the superintendent and is permitted to enter an order requiring the pupil's permanent exclusion from attending any of the public schools of this state at any time within seven days after the conclusion of the adjudication hearing.

(2) The superintendent or the superintendent's designee shall provide the notice required by division (B)(1) of this section to the pupil and to the pupil's parent, guardian, or custodian by certified mail or personal service.

(3)(a) If a pupil who is the subject of a resolution forwarded to the superintendent of public instruction by a board of education pursuant to section 3313.662 of the Revised Code is in the custody of the department of youth services pursuant to a disposition under any provision of Chapter 2152. of the Revised Code, other than division (A)(1)(a) of section 2152.16 of the Revised Code, at the time the resolution is forwarded, the department shall notify in writing the superintendent of public instruction and the board of education that forwarded the resolution of that fact. Upon receipt of the notice, the superintendent shall delay providing the notice required by division (B)(1) of this section and the adjudication of the request for permanent exclusion until the superintendent receives further notice from the department pursuant to division (B)(3)(b) of this section.

(b) At least sixty days before a pupil described in division (B)(3)(a) of this section will be released from institutionalization or institutionalization in a secure facility by the department of youth services, the department shall notify in writing the superintendent of public instruction and the board of education that forwarded the resolution pursuant to section 3313.662 of the Revised Code of the impending release and shall provide in that notice information regarding the extent of the education the pupil received while in the custody of the department, including whether the pupil has obtained a certificate of high school equivalence.

If the pupil has not obtained a certificate of high school equivalence while in the custody of the department of youth services, the superintendent of public instruction shall provide the notice required by division (B)(1) of this section and, at least thirty days before the pupil is to be released from institutionalization or institutionalization in a secure facility, conduct an adjudication procedure to determine whether to permanently exclude the pupil from attending the public schools of this state in accordance with this section. If the pupil has obtained a certificate of high school equivalence while in the custody of the department, the superintendent, in the superintendent's discretion, may conduct the adjudication.

(C)(1) Except as provided in division (B)(3) of this section, the date of the adjudication hearing set forth in the notice required by division (B)(1) of this section shall be a date no less than fourteen days nor more than twenty-one days from the date the superintendent sends the notice by certified mail or initiates personal service of the notice.

(2) The superintendent, for good cause shown on the written request of the pupil or the pupil's parent, guardian, or custodian, or on the superintendent's own motion, may grant reasonable continuances of any adjudication hearing held under this section but shall not grant either party total continuances in excess of ten days.

(3) If a pupil or the pupil's parent, guardian, or custodian does not appear at the adjudication hearing on a proposed permanent exclusion, the superintendent or the referee appointed by the superintendent shall proceed to conduct an adjudication hearing on the proposed permanent exclusion on the date for the adjudication hearing that is set forth in the notice provided pursuant to division (B)(1) of this section or on the date to which the hearing was continued pursuant to division (C)(2) of this section.

(D)(1) The superintendent or a referee appointed by the superintendent may conduct an adjudication hearing to determine whether to permanently exclude a pupil in one of the following counties:

(a) The county in which the superintendent holds the superintendent's office;

(b) Upon the request of the pupil or the pupil's parent, guardian, custodian, or attorney, in the county in which the board of education that forwarded the resolution requesting the permanent exclusion is located if the superintendent, in the superintendent's discretion and upon consideration of evidence of hardship presented on behalf of the requesting pupil, determines that the hearing should be conducted in that county.

(2) The superintendent of public instruction or a referee appointed by the superintendent shall conduct an adjudication hearing on a proposed permanent exclusion of a pupil. The referee may be an attorney admitted to the practice of law in this state but shall not be an attorney that represents the board of education that forwarded the resolution requesting the permanent exclusion.

(3) The superintendent or referee who conducts an adjudication hearing under this section may administer oaths, issue subpoenas to compel the attendance of witnesses and evidence, and enforce the subpoenas by a contempt proceeding in the court of common pleas as provided by law. The superintendent or referee may require the separation of witnesses and may bar from the proceedings any person whose presence is not essential to the proceedings.

(4) The superintendent of public instruction shall request the department of rehabilitation and correction, the sheriff, the department of youth services, or any publicly funded out-of-home care entity

that has legal custody of a pupil who is the subject of an adjudication hearing held pursuant to this section to transport the pupil to the place of the adjudication hearing at the time and date set for the hearing. The department, sheriff, or publicly funded out-of-home care entity that receives the request shall provide transportation for the pupil who is the subject of the adjudication hearing to the place of the hearing at the time and date set for the hearing. The department, sheriff, or entity shall pay the cost of transporting the pupil to and from the hearing.

(E)(1) An adjudication hearing held pursuant to this section shall be adversary in nature, shall be conducted fairly and impartially, and may be conducted without the formalities of a criminal proceeding. A pupil whose permanent exclusion is being adjudicated has the right to be represented by counsel at the adjudication hearing. If the pupil has the financial capacity to retain counsel, the superintendent or the referee is not required to provide counsel for the pupil. At the adjudication hearing, the pupil also has the right to cross-examine witnesses against the pupil, to testify, to present evidence and the testimony of witnesses on the pupil's behalf, and to raise factors in mitigation of the pupil's being permanently excluded.

(2) In an adjudication hearing held pursuant to this section and section 3313.662 of the Revised Code, a representative of the school district of the board of education that adopted and forwarded the resolution requesting the permanent exclusion of the pupil shall present the case for permanent exclusion to the superintendent or the referee. The representative of the school district may be an attorney admitted to the practice of law in this state. At the adjudication hearing, the representative of the school district shall present evidence in support of the requested permanent exclusion. The superintendent or the superintendent's designee shall consider the entire school record of the pupil who is the subject of the adjudication and shall consider any of the following information that is available:

- (a) The academic record of the pupil and a record of any extracurricular activities in which the pupil previously was involved;
- (b) The disciplinary record of the pupil and any available records of the pupil's prior behavioral problems other than the behavioral problems contained in the disciplinary record;
- (c) The social history of the pupil;
- (d) The pupil's response to the imposition of prior discipline and sanctions imposed for behavioral problems;
- (e) Evidence regarding the seriousness of and any aggravating factors related to the offense that is the basis of the resolution seeking permanent exclusion;
- (f) Any mitigating circumstances surrounding the offense that gave rise to the request for permanent exclusion;
- (g) Evidence regarding the probable danger posed to the health and safety of other pupils or of school employees by the continued presence of the pupil in a public school setting;
- (h) Evidence regarding the probable disruption of the teaching of any school district's graded course of study by the continued presence of the pupil in a public school setting;
- (i) Evidence regarding the availability of alternative sanctions of a less serious nature than permanent exclusion that would enable the pupil to remain in a public school setting without posing a significant danger to the health and safety of other pupils or of school employees and without posing a threat of the disruption of the teaching of any district's graded course of study.

(3) In any adjudication hearing conducted pursuant to this section and section 3313.662 of the Revised Code, a court order that proves the adjudication or conviction that is the basis for the resolution of the board of education seeking permanent exclusion is sufficient evidence to prove that the pupil committed a violation as specified in division (F)(1) of this section.

(4) The superintendent or the referee shall make or cause to be made a record of any adjudication hearing conducted pursuant to this section.

(5) A referee who conducts an adjudication hearing pursuant to this section shall promptly report the referee's findings in writing to the superintendent at the conclusion of the adjudication hearing.

(F) If an adjudication hearing is conducted or a determination is made pursuant to this section and section 3313.662 of the Revised Code, the superintendent shall review and consider the evidence presented, the entire school record of the pupil, and any available information described in divisions (E)(2)(a) to (i) of this section and shall not enter an order of permanent exclusion unless the superintendent or the superintendent's appointed referee finds, by a preponderance of the evidence, both of the following:

(1) That the pupil was convicted of or adjudicated a delinquent child for committing a violation listed in division (A) of section 3313.662 of the Revised Code and that the violation was committed when the child was sixteen years of age or older;

(2) That the pupil's continued attendance in the public school system may endanger the health and safety of other pupils or school employees.

(G)(1) Within seven days after the conclusion of an adjudication hearing that is conducted pursuant to this section, the superintendent of public instruction shall enter an order in relation to the permanent exclusion of the pupil who is the subject of the hearing or determination.

(2) If the superintendent or a referee makes the findings described in divisions (F)(1) and (2) of this section, the superintendent shall issue a written order that permanently excludes the pupil from attending any of the public schools of this state and immediately shall send a written notice of the order to the board of education that forwarded the resolution, to the pupil who was the subject of the resolution, to that pupil's parent, guardian, or custodian, and to that pupil's attorney, that includes all of the following:

(a) A copy of the order of permanent exclusion;

(b) A statement informing the pupil and the pupil's parent, guardian, or custodian of the pupil's right to appeal the order of permanent exclusion pursuant to division (H) of this section and of the possible revocation of the permanent exclusion pursuant to division (I) of this section if a final judicial determination reverses the conviction or adjudication that was the basis for the permanent exclusion;

(c) A statement informing the pupil and the pupil's parent, guardian, or custodian of the provisions of divisions (F), (G), and (H) of section 3313.662 of the Revised Code.

(3) If the superintendent or a referee does not make the findings described in divisions (F)(1) and (2) of this section, the superintendent shall issue a written order that rejects the resolution of the board of education and immediately shall send written notice of that fact to the board of education that forwarded the resolution, to the pupil who was the subject of the proposed resolution, and to that pupil's parent, guardian, or custodian.

(H) A pupil may appeal an order of permanent exclusion made by the superintendent of public instruction pursuant to this section and section 3313.662 of the Revised Code to the court of common pleas of the county in which the board of education that forwarded the resolution requesting the permanent exclusion is located. The appeal shall be conducted in accordance with Chapter 2505. of the Revised Code.

(I) If a final judicial determination reverses the conviction or adjudication that is the basis of a permanent exclusion ordered under this section, the superintendent of public instruction, upon receipt of a certified copy of an order reflecting that final determination from the pupil or that pupil's parent, guardian, custodian, or attorney, shall revoke the order of permanent exclusion.

(J) As used in this section:

(1) "Permanently exclude" and "permanent exclusion" have the same meanings as in section 3313.662 of the Revised Code.

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A)(1) No pupil shall be issued an out-of-school suspension unless prior to the suspension the superintendent or principal does both of the following:

- (a) Gives the pupil written notice of the intention to suspend the pupil and the reasons for the intended suspension and, if the proposed suspension is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, includes in the notice a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation;
- (b) Provides the pupil an opportunity to appear at an informal hearing before the principal, assistant principal, superintendent, or superintendent's designee and challenge the reason for the intended suspension or otherwise to explain the pupil's actions. [...]

(B)(6) No pupil shall be expelled under division (B)(1), (2), (3), (4), or (5) of this section unless, prior to the pupil's expulsion, the superintendent does both of the following:

- (a) Gives the pupil and the pupil's parent, guardian, or custodian written notice of the intention to expel the pupil;
- (b) Provides the pupil and the pupil's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's actions.

The notice required in this division shall include the reasons for the intended expulsion, notification of the opportunity of the pupil and the pupil's parent, guardian, custodian, or representative to appear before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's action, and notification of the time and place to appear. The time to appear shall not be earlier than three nor later than five school days after the notice is given, unless the superintendent grants an extension of time at the request of the pupil or the pupil's parent, guardian, custodian, or representative. If an extension is granted after giving the original notice, the superintendent shall notify the pupil and the pupil's parent, guardian, custodian, or representative of the new time and place to appear. If the proposed expulsion is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, the notice shall include a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation.

(7) A superintendent of schools of a city, exempted village, or local school district shall initiate expulsion proceedings pursuant to this section with respect to any pupil who has committed an act warranting expulsion under the district's policy regarding expulsion even if the pupil has withdrawn from school for any reason after the incident that gives rise to the hearing but prior to the hearing or decision to impose the expulsion. If, following the hearing, the pupil would have been expelled for a period of time had the pupil still been enrolled in the school, the expulsion shall be imposed for the same length of time as on a pupil who has not withdrawn from the school. [...]

(C)(3) If a pupil is removed under division (C)(1) or (2) of this section from a curricular activity or from the school premises, written notice of the hearing and of the reason for the removal shall be given to the pupil as soon as practicable prior to the hearing, which shall be held on the next school day after the initial removal is ordered. The hearing shall be held in accordance with division (A) of this section unless it is probable that the pupil may be subject to expulsion, in which case a hearing in accordance with division (B) of this section shall be held, except that the hearing shall be held on the next school day after the date of the initial removal. The individual who ordered, caused, or requested the removal to be made shall be present at the hearing. [...]

(D) The superintendent or principal, within one school day after the time of a pupil's expulsion or suspension, shall notify in writing the parent, guardian, or custodian of the pupil of the expulsion or

suspension. In the case of an expulsion, the superintendent or principal, within one school day after the time of a pupil's expulsion, also shall notify in writing the treasurer of the board of education. Each notice shall include the reasons for the expulsion or suspension, notification of the right of the pupil or the pupil's parent, guardian, or custodian to appeal the expulsion or suspension to the board of education or to its designee, to be represented in all appeal proceedings, to be granted a hearing before the board or its designee in order to be heard against the suspension or expulsion, and to request that the hearing be held in executive session, notification that the expulsion may be subject to extension pursuant to division (F) of this section if the pupil is sixteen years of age or older, and notification that the superintendent may seek the pupil's permanent exclusion if the suspension or expulsion was based on a violation listed in division (A) of section 3313.662 of the Revised Code that was committed when the child was sixteen years of age or older and if the pupil is convicted of or adjudicated a delinquent child for that violation.

In accordance with the policy adopted by the board of education under section 3313.661 of the Revised Code, the notice provided under this division shall specify the manner and date by which the pupil or the pupil's parent, guardian, or custodian shall notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal the expulsion or suspension to the board or its designee. [...]

(E) A pupil or the pupil's parent, guardian, or custodian may appeal the pupil's expulsion by a superintendent or suspension by a superintendent, principal, assistant principal, or other administrator to the board of education or to its designee. If the pupil or the pupil's parent, guardian, or custodian intends to appeal the expulsion or suspension to the board or its designee, the pupil or the pupil's parent, guardian, or custodian shall notify the board in the manner and by the date specified in the notice provided under division (D) of this section. The pupil or the pupil's parent, guardian, or custodian may be represented in all appeal proceedings and shall be granted a hearing before the board or its designee in order to be heard against the suspension or expulsion. At the request of the pupil or of the pupil's parent, guardian, custodian, or attorney, the board or its designee may hold the hearing in executive session but shall act upon the suspension or expulsion only at a public meeting. The board, by a majority vote of its full membership or by the action of its designee, may affirm the order of suspension or expulsion, reinstate the pupil, or otherwise reverse, vacate, or modify the order of suspension or expulsion.

The board or its designee shall make a verbatim record of hearings held under this division. The decisions of the board or its designee may be appealed under Chapter 2506. of the Revised Code.

This section shall not be construed to require notice and hearing in accordance with division (A), (B), or (C) of this section in the case of normal disciplinary procedures in which a pupil is removed from a curricular activity for a period of less than one school day and is not subject to suspension or expulsion.

(F)(1) If a pupil is expelled pursuant to division (B) of this section for committing any violation listed in division (A) of section 3313.662 of the Revised Code and the pupil was sixteen years of age or older at the time of committing the violation, if a complaint, indictment, or information is filed alleging that the pupil is a delinquent child based upon the commission of the violation or the pupil is prosecuted as an adult for the commission of the violation, and if the resultant juvenile court or criminal proceeding is pending at the time that the expulsion terminates, the superintendent of schools that expelled the pupil may file a motion with the court in which the proceeding is pending requesting an order extending the expulsion for the lesser of an additional eighty days or the number of school days remaining in the school year. Upon the filing of the motion, the court immediately shall schedule a hearing and give written notice of the time, date, and location of the hearing to the superintendent and to the pupil and the pupil's parent, guardian, or custodian. At the hearing, the court shall determine whether there is reasonable cause to believe that the pupil committed the alleged violation that is the basis of the expulsion and, upon determining that reasonable cause to believe the pupil committed the violation does exist, shall grant the requested extension.

(2) If a pupil has been convicted of or adjudicated a delinquent child for a violation listed in division (A) of section 3313.662 of the Revised Code for an act that was committed when the child was sixteen years of

age or older, if the pupil has been expelled pursuant to division (B) of this section for that violation, and if the board of education of the school district of the school from which the pupil was expelled has adopted a resolution seeking the pupil's permanent exclusion, the superintendent may file a motion with the court that convicted the pupil or adjudicated the pupil a delinquent child requesting an order to extend the expulsion until an adjudication order or other determination regarding permanent exclusion is issued by the superintendent of public instruction pursuant to section 3301.121 and division (D) of section 3313.662 of the Revised Code. Upon the filing of the motion, the court immediately shall schedule a hearing and give written notice of the time, date, and location of the hearing to the superintendent of the school district, the pupil, and the pupil's parent, guardian, or custodian. At the hearing, the court shall determine whether there is reasonable cause to believe the pupil's continued attendance in the public school system may endanger the health and safety of other pupils or school employees and, upon making that determination, shall grant the requested extension.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

The policy adopted under this division shall specify the date and manner by which a pupil or a pupil's parent, guardian, or custodian may notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal an expulsion or suspension to the board or its designee pursuant to division (E) of section 3313.66 of the Revised Code. In the case of any expulsion, the policy shall not specify a date that is less than fourteen days after the date of the notice provided to the pupil or the pupil's parent, guardian, or custodian under division (D) of that section.

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(B)(3) A student in any of grades pre-kindergarten through three who is suspended or expelled shall be afforded the same notice and hearing, procedural, and educational opportunities as prescribed for a suspension or expulsion pursuant to section 3313.66 of the Revised Code.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)[...] The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. The date scheduled for the appearance shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an extension is granted, the superintendent shall schedule a new date, time, and place for the appearance and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and place.

If the child and the child's parent, guardian, or custodian do not appear before the superintendent or a designee on the scheduled date and at the scheduled time and place, or if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee on the scheduled date and at the scheduled time and place but the superintendent or a designee determines that the information the superintendent received indicating that, during the semester or term, the child had been absent without legitimate excuse from the school the child was supposed to attend for more than sixty consecutive hours or for at least ninety total hours, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located that the child has been absent for that period of time and that the child does not have any legitimate excuse for the habitual absence. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the receipt of the information of the habitual absence from school without legitimate excuse, or, if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee to challenge the information, within two weeks after the appearance.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(C)(2) A pupil in any of grades pre-kindergarten through three may be removed pursuant to division (C)(1) of this section only for the remainder of the school day and shall be permitted to return to curricular and extracurricular activities on the school day following the day in which the student was removed.

(a) A school district or school that returns a student in any of grades pre-kindergarten through three to curricular and extracurricular activities on the next school day shall not be required to follow division (C)(3) of this section with regard to that student.

(b) A school district shall not initiate a suspension or expulsion proceeding against a student in any of grades pre-kindergarten through three who was removed from a curricular or extracurricular activity under division (C) of this section unless the student has committed an act described in division (B)(1)(a) or (b) of section 3313.668 of the Revised Code. [...]

(4) If the superintendent or the principal reinstates a pupil in a curricular activity under the teacher's supervision prior to the hearing following a removal under this division, the teacher, upon request, shall be given in writing the reasons for such reinstatement.

3313.662. Adjudication order permanently excluding pupil from public schools.

(F)(1)(a) Upon determining that the school attendance of a pupil who has been permanently excluded from public school attendance no longer will endanger the health and safety of other students or school employees, the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school may issue to the board of education of the school district a recommendation, including the reasons for the recommendation, that the permanent exclusion of a pupil be revoked and the pupil be allowed to return to the public schools of the state.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(I) Whenever a student is expelled under this section, the expulsion shall result in removal of the student from the student's regular school setting. However, during the period of the expulsion, the board of education of the school district that expelled the student or any board of education admitting the student during that expulsion period may provide educational services to the student in an alternative setting.

3313.97. Alternative school open enrollment policy procedures.

Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district.

(A) As used in this section:

(2) "Alternative school" means a school building other than the one to which a student is assigned by the district superintendent. [...]

(B) The board of education of each city, local, and exempted village school district shall adopt an open enrollment policy allowing students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code to enroll in an alternative school. Each policy shall provide for the following:

(1) Application procedures, including deadlines for application and for notification of students and principals of alternative schools whenever a student's application is accepted. The policy shall require a student to apply only if the student wishes to attend an alternative school.

(2) The establishment of district capacity limits by grade level, school building, and education program;

(3) A requirement that students enrolled in a school building or living in any attendance area of the school building established by the superintendent or board be given preference over applicants;

(4) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

Each policy may permit a student to permanently transfer to an alternative school so that the student need not reapply annually for permission to attend the alternative school.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting applicants to alternative schools shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disabling conditions, except that a board may require a student receiving services under Chapter 3323. of the Revised Code to attend school where the services described in the student's IEP are available;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant to an alternative school.

3313.533. Alternative school - plan.

(A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

- (1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;
- (2) Restrictions on student participation in extracurricular or interscholastic activities;
- (3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

- (a) A description of the educational program provided at the alternative school, which shall include:
 - (i) Provisions for the school to be configured in clusters or small learning communities;
 - (ii) Provisions for the incorporation of education technology into the curriculum;
 - (iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract. The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded

fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

3313.534. Policy of zero tolerance for violent, disruptive or inappropriate behavior.

(B) Each of the big eight school districts, as defined in section 3314.02 of the Revised Code, shall establish under section 3313.533 of the Revised Code at least one alternative school to meet the educational needs of students with severe discipline problems, including, but not limited to, excessive disruption in the classroom and multiple suspensions or expulsions. Any other school district that attains after that date a significantly substandard graduation rate, as defined by the department of education, shall also establish such an alternative school under that section.

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(B)(3) A student in any of grades pre-kindergarten through three who is suspended or expelled shall be afforded the same notice and hearing, procedural, and educational opportunities as prescribed for a suspension or expulsion pursuant to section 3313.66 of the Revised Code.

3314.261. Internet- or computer-based school attendance.

This section shall not apply to an internet- or computer-based community school in which a majority of the students are enrolled in a dropout prevention and recovery program.

(E) If an internet- or computer-based community school disenrolls a student pursuant to a policy adopted under division (C) of this section, the school shall do both of the following:

- (1) Provide the student's parent, guardian, or custodian with a list of alternative educational options available to the student;
- (2) Within forty-eight hours of the student's disenrollment, notify the student's resident school district in writing.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(2)(a) Unless a pupil is permanently excluded pursuant to section 3313.662 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district shall expel a pupil from school for a period of one year for bringing a firearm to a school operated by the board of education of the district or onto any other property owned or controlled by the board, except that the superintendent may reduce this requirement on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(b) The superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period of one year for bringing a firearm to an interscholastic competition, an extracurricular event, or any other school program or activity that is not located in a school or on property that is owned or controlled by the district. The superintendent may reduce this disciplinary action on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(c) Any expulsion pursuant to division (B)(2) of this section shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place. As used in this division, "firearm" has the same meaning as provided pursuant to the "Gun-Free Schools Act," 115 Stat. 1762, 20 U.S.C. 7151.

(3) The board of education of a city, exempted village, or local school district may adopt a resolution authorizing the superintendent of schools to expel a pupil from school for a period not to exceed one year for bringing a knife capable of causing serious bodily injury to a school operated by the board, onto any other property owned or controlled by the board, or to an interscholastic competition, an extracurricular event, or any other program or activity sponsored by the school district or in which the district is a participant, or for possessing a firearm or knife capable of serious bodily injury, at a school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity, which firearm or knife was initially brought onto school board property by another person. The resolution may authorize the superintendent to extend such an expulsion, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) Subject to the limitations set forth in section 3313.668 of the Revised Code, the board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the

term "knife capable of causing serious bodily injury" or "firearm," as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded.

3313.662. Adjudication order permanently excluding pupil from public schools.

(F)(2)(a)[...] If any violation which in whole or in part gave rise to the permanent exclusion of the pupil involved the pupil's bringing a firearm to a school operated by the board of education of any school district or onto any other property owned or operated by such a board, no plan developed under this division for the pupil shall include an effective date for the probationary admission of the pupil that is less than one year after the date on which the last such firearm incident occurred except that on a case-by-case basis, a plan may include an earlier effective date for such an admission for any of the reasons for which the superintendent of the district may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)(4) Whenever a pupil is suspended, expelled, removed, or permanently excluded from a school for misconduct included in a policy that the board of education of a city, exempted village, or local school district has adopted under division (A) of section 3313.661 of the Revised Code, and the misconduct involves a firearm or a knife or other weapon as defined in that policy, the superintendent of schools of that district shall notify the registrar and the juvenile judge of the county in which the district is located of the suspension, expulsion, removal, or permanent exclusion. The notification shall be given to the registrar in the manner the registrar, by rule, requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension, expulsion, removal, or permanent exclusion.

REGULATIONS

3301-83-20. General rules.

(B) Firearms, ammunition, weapons, explosives or other dangerous materials or objects are prohibited on school buses.

Students with Chronic Disciplinary Issues

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(C)(1) Subject to division (C)(2) of this section, if a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or a principal or assistant principal may remove a pupil from curricular activities or from the school premises, and a teacher may remove a pupil from curricular activities under the teacher's supervision, without the notice and hearing requirements of division (A) or (B) of this section. As soon as practicable after making such a removal, the teacher shall submit in writing to the principal the reasons for such removal.

3313.534. Policy of zero tolerance for violent, disruptive or inappropriate behavior.

(B) Each of the big eight school districts, as defined in section 3314.02 of the Revised Code, shall establish under section 3313.533 of the Revised Code at least one alternative school to meet the educational needs of students with severe discipline problems, including, but not limited to, excessive disruption in the classroom and multiple suspensions or expulsions. Any other school district that attains after that date a significantly substandard graduation rate, as defined by the department of education, shall also establish such an alternative school under that section.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

2151.011. Juvenile court definitions.

(B) As used in this chapter:

(18) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year.

2151.022. Unruly child defined.

As used in this chapter, "unruly child" includes any of the following:

- (A) Any child who does not submit to the reasonable control of the child's parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient;
- (B) Any child who is an habitual truant from school;
- (C) Any child who behaves in a manner as to injure or endanger the child's own health or morals or the health or morals of others;
- (D) Any child who violates a law, other than division (C) of section 2907.39, division (A) of section 2923.211, division (C)(1) or (D) of section 2925.55, or section 2151.87 of the Revised Code, that is applicable only to a child.

3313.205. Notification of student's absence from school.

Subject to section 3321.141 of the Revised Code, the board of education of each school district shall adopt a written policy with respect to the notification of a student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student within a reasonable time after the determination that the student is absent from school. The student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student shall provide the school that the student attends a current address and a telephone number at which the student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person that is responsible for the student can receive notice that the student is absent from school.

3313.533. Alternative school - plan.

(A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code.

3313.609. Grade promotion and retention policy.

(A) As used in this section:

(1) "Truant" means absent without excuse.

(2) "Academically prepared" means whatever educational standard the board of education of each city, exempted village, local, and joint vocational school district establishes as necessary for the promotion of a student to the next grade level pursuant to the policy adopted under division (B) of this section.

(B) The board of education of each city, exempted village, local, and joint vocational school district shall adopt a grade promotion and retention policy for students that complies with this section and section 3313.608 of the Revised Code. The policy shall prohibit the promotion of a student to the next grade level if the student has been truant for more than ten per cent of the required attendance days of the current school year and has failed two or more of the required curriculum subject areas in the current grade unless the student's principal and the teachers of any failed subject areas agree that the student is academically prepared to be promoted to the next grade level.

3313.663. Parental education or training program.

(A) The board of education of a city, exempted village, local, joint vocational, or cooperative education school district may adopt a policy requiring the parent or guardian of any student who is suspended or expelled by the district under section 3313.66 of the Revised Code to attend a parental education or training program provided by the district.

(B) The board of education of a city, exempted village, local, joint vocational, or cooperative education school district may adopt a policy requiring the parent or guardian of any student of the district who is truant or habitually absent from school to attend a parental education or training program provided by the district. The policy shall specify what constitutes truancy and habitual absence for purposes of the policy.

(C) If a board of education adopts a policy under this section, the board shall post the policy in a central location in each school building of the district and make it available to students and their parents or guardians upon request.

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(A) On and after July 1, 2017, no school district or school shall suspend, expel, or remove a student from school under section 3313.66 of the Revised Code solely on the basis of the student's absences from school without legitimate excuse.

3314.261. Internet- or computer-based school attendance.

This section shall not apply to an internet- or computer-based community school in which a majority of the students are enrolled in a dropout prevention and recovery program.

(C) Notwithstanding section 3321.191 of the Revised Code, each internet- or computer-based community school shall develop and adopt a policy regarding failure to participate in instructional activities. The policy shall state that a student shall become subject to certain consequences, including disenrollment from the school, if both of the following conditions are satisfied:

(1) After the student's parent, guardian, or custodian receives a written report under division (B)(2) of this section, the student fails to comply with the policy adopted under division (C) of this section within a reasonable period of time specified by the school;

(2) Other intervention strategies contained in the policy adopted under division (C) of this section fail to cause a student's attendance to comply with the policy.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(A) Whenever any child of compulsory school age withdraws from school the teacher of that child shall ascertain the reason for withdrawal. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of the city, local, or exempted village school district. If the child who has withdrawn from school has done so because of change of residence, the next residence shall be ascertained and shall be included in the notice thus transmitted. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of the child's new residence to the superintendent of schools of the district to which the child has moved.

The superintendent of public instruction may prescribe the forms to be used in the operation of this division.

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to obtain a diploma or its equivalent, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located of the withdrawal and failure to enroll in and attend an approved program to obtain a diploma or its equivalent. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the withdrawal and failure to enroll in and attend an approved program or its equivalent.

(2) The board of education of a school district may adopt a resolution providing that the provisions of division (B)(2) of this section apply within the district. The provisions of division (B)(2) of this section do not apply within any school district, and no superintendent of a school district shall send a notification of the type described in division (B)(2) of this section to the registrar of motor vehicles or the juvenile judge of the county in which the district is located, unless the board of education of the district has adopted such a resolution. If the board of education of a school district adopts a resolution providing that the provisions of division (B)(2) of this section apply within the district, and if the superintendent of schools of that district receives information that, during any semester or term, a child of compulsory school age has been absent without legitimate excuse from the school the child is supposed to attend for more than sixty consecutive hours in a single month or for at least ninety hours in a school year, the superintendent shall notify the child and the child's parent, guardian, or custodian, in writing, that the information has been provided to the superintendent, that as a result of that information the child's temporary instruction permit or driver's license will be suspended or the opportunity to obtain such a permit or license will be denied, and that the child and the child's parent, guardian, or custodian may appear in person at a scheduled date, time, and place before the superintendent or a designee to challenge the information provided to the superintendent.

The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. The date scheduled for the appearance shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an

extension is granted, the superintendent shall schedule a new date, time, and place for the appearance and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and place.

If the child and the child's parent, guardian, or custodian do not appear before the superintendent or a designee on the scheduled date and at the scheduled time and place, or if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee on the scheduled date and at the scheduled time and place but the superintendent or a designee determines that the information the superintendent received indicating that, during the semester or term, the child had been absent without legitimate excuse from the school the child was supposed to attend for more than sixty consecutive hours or for at least ninety total hours, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located that the child has been absent for that period of time and that the child does not have any legitimate excuse for the habitual absence. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the receipt of the information of the habitual absence from school without legitimate excuse, or, if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee to challenge the information, within two weeks after the appearance.

For purposes of division (B)(2) of this section, a legitimate excuse for absence from school includes, but is not limited to, the fact that the child in question has enrolled in another school or school district in this or another state, the fact that the child in question was excused from attendance for any of the reasons specified in section 3321.04 of the Revised Code, or the fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

(4) Whenever a pupil is suspended, expelled, removed, or permanently excluded from a school for misconduct included in a policy that the board of education of a city, exempted village, or local school district has adopted under division (A) of section 3313.661 of the Revised Code, and the misconduct involves a firearm or a knife or other weapon as defined in that policy, the superintendent of schools of that district shall notify the registrar and the juvenile judge of the county in which the district is located of the suspension, expulsion, removal, or permanent exclusion. The notification shall be given to the registrar in the manner the registrar, by rule, requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension, expulsion, removal, or permanent exclusion.

(C) A notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion given to the registrar or a juvenile judge under division (B)(1), (2), (3), or (4) of this section shall contain the name, address, date of birth, school, and school district of the child. If the superintendent finds, after giving a notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion to the registrar and the juvenile judge under division (B)(1), (2), (3), or (4) of this section, that the notification was given in error, the superintendent immediately shall notify the registrar and the juvenile judge of that fact.

3321.16. Investigation of nonattendance; complaint.

(A) An attendance officer or assistant provided for by section 3321.14 or 3321.15 of the Revised Code may investigate any case of nonattendance at school or part-time school of a child under eighteen years of age or supposed to be under eighteen years of age resident in the district for which such attendance officer or assistant is employed, or of any such child found in the district or enrolled in any school within the district and of any child above eighteen years of age if enrolled in any school within the district, and may take such action as the superintendent of schools directs or as such attendance officer or assistant deems proper in the absence of specific direction.

(B)(1) Subject to divisions (B)(2) and (3) of this section, the attendance officer shall file a complaint in the juvenile court against a student on the sixty-first day after the implementation of an absence intervention plan or other intervention strategies, provided that all of the following apply:

(a) The student was absent without legitimate excuse from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year.

(b) The school district or school has made meaningful attempts to re-engage the student through the absence intervention plan, other intervention strategies, and any offered alternatives to adjudication described under division (C)(2)(b) of section 3321.191 of the Revised Code.

(c) The student has refused to participate in or failed to make satisfactory progress on the plan, as determined by the absence intervention team, or any offered intervention strategies or alternative to adjudication.

(2) If the student, at any time during the implementation phase of the absence intervention plan or other intervention strategies, is absent without legitimate excuse for thirty or more consecutive hours or forty-two or more hours in one school month, the attendance officer shall file a complaint in juvenile court against that student, unless the absence intervention team has determined that the student has made substantial progress on the absence intervention plan.

(3) In the event that the sixty-first day after the implementation of the absence intervention plan or other intervention strategies falls on a day during the summer months, in the school district's discretion, the absence intervention team or the attendance officer may extend the implementation of the plan and delay the filing of the complaint for an additional thirty days from the first day of instruction of the next school year.

3321.17. Attendance officer and assistants - powers.

The attendance officer and assistants provided for by section 3321.14 or 3321.15 of the Revised Code shall be vested with police powers, may serve warrants, and may enter workshops, factories, stores, and all other places where children are employed and do whatever is necessary in the way of investigation or otherwise to enforce the laws relating to compulsory education and the employment of minors. The attendance officer or assistant may also take into custody any youth of compulsory school age not legally employed on an age and schooling certificate who is not attending school and shall conduct such youth to the school he has been attending or should rightfully attend.

3321.18. Enforcement proceedings.

The attendance officer provided for by section 3321.14 or 3321.15 of the Revised Code shall institute proceedings against any officer, parent, guardian, or other person violating laws relating to compulsory education and the employment of minors, and otherwise discharge the duties described in sections 3321.14 to 3321.21 of the Revised Code, and perform any other service that the superintendent of schools or board of education of the district by which the attendance officer is employed considers

necessary to preserve the morals and secure the good conduct of school children, and to enforce those laws.

The attendance officer shall be furnished with copies of the enumeration in each school district in which the attendance officer serves and of the lists of pupils enrolled in the schools and shall report to the superintendent discrepancies between these lists and the enumeration.

The attendance officer and assistants shall cooperate with the director of commerce in enforcing the laws relating to the employment of minors. The attendance officer shall furnish upon request any data that the attendance officer and the attendance officer's assistants have collected in their reports of children from six to eighteen years of age and also concerning employers to the director and upon request to the state board of education. The attendance officer shall keep a record of the attendance officer's transactions for the inspection and information of the superintendent of schools and the board of education; and shall make reports to the superintendent of schools as often as required by the superintendent. The state board of education may prescribe forms for the use of attendance officers in the performance of their duties. The blank forms and record books or indexes shall be furnished to the attendance officers by the boards of education by which they are employed.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(A) As used in this section and section 3321.191 of the Revised Code, "habitual truant" has the same meaning as in section 2151.011 of the Revised Code.

(B) When a board of education of any city, exempted village, local, joint vocational, or cooperative education school district or the governing board of any educational service center determines that a student in its district has been truant and the parent, guardian, or other person having care of the child has failed to cause the student's attendance at school, the board may require the parent, guardian, or other person having care of the child pursuant to division (B) of this section to attend an educational program established pursuant to rules adopted by the state board of education for the purpose of encouraging parental involvement in compelling the attendance of the child at school.

No parent, guardian, or other person having care of a child shall fail without good cause to attend an educational program described in this division if the parent, guardian, or other person has been served notice pursuant to division (C) of this section.

(C) On the request of the superintendent of schools, the superintendent of any educational service center, the board of education of any city, exempted village, local, joint vocational, or cooperative education school district, or the governing board of any educational service center or when it otherwise comes to the notice of the attendance officer or other appropriate officer of the school district, the attendance officer or other appropriate officer shall examine into any case of supposed truancy within the district and shall warn the child, if found truant, and the child's parent, guardian, or other person having care of the child, in writing, of the legal consequences of being truant. When any child of compulsory school age, in violation of law, is not attending school, the attendance or other appropriate officer shall notify the parent, guardian, or other person having care of that child of the fact, and require the parent, guardian, or other person to cause the child to attend school immediately. The parent, guardian, or other person having care of the child shall cause the child's attendance at school. Upon the failure of the parent, guardian, or other person having care of the child to do so, the attendance officer or other appropriate officer, if so directed by the superintendent, the district board, or the educational service center governing board, shall send notice requiring the attendance of that parent, guardian, or other person at a parental education program established pursuant to division (B) of this section and, subject to divisions (D) and (E) of this section, may file a complaint against the parent, guardian, or other person having care of the child in any court of competent jurisdiction.

(D)(1) Upon the failure of the parent, guardian, or other person having care of the child to cause the child's attendance at school, if the child is considered an habitual truant, the board of education of the school district or the governing board of the educational service center, within ten days, subject to division

(E) of this section, shall assign the student to an absence intervention team as described in division (C) of section 3321.191 of the Revised Code.

(2) The attendance officer shall file a complaint in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend school jointly against the child and the parent, guardian, or other person having care of the child, in accordance with the timelines and conditions set forth in division (B) of section 3321.16 of the Revised Code. A complaint filed in the juvenile court under this division shall allege that the child is an unruly child for being an habitual truant and that the parent, guardian, or other person having care of the child has violated section 3321.38 of the Revised Code.

(E) A school district with a chronic absenteeism percentage that is less than five per cent, as displayed on the district's most recent report card issued under section 3302.03 of the Revised Code, and the school buildings within that district, shall be exempt from the requirement to assign habitually truant students to an absence intervention team for the following school year and shall instead take any appropriate action as an intervention strategy contained in the policy developed by the district board pursuant to divisions (A) and (B) of section 3321.191 of the Revised Code. In the event that those intervention strategies fail, within sixty-one days after their implementation, the attendance officer shall file a complaint, provided that the conditions described in division (B) of section 3321.16 of the Revised Code are satisfied.

3321.20. Warning of legal consequences of truancy - complaint.

When any child, in violation of section 3321.08 or 3321.09 of the Revised Code, is not attending a part-time school or class, the attendance officer shall warn the child and the child's parent, guardian, or other person in charge of the child in writing of the legal consequences of the child's failure to attend the part-time school or class. If the parent, guardian, or other person in charge of that child fails to cause the child's attendance at the part-time school or class, the attendance officer shall make complaint against the parent, guardian, or other person in charge of the child in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend the part-time school or class.

3321.141. Contacting parent, guardian, or other person having care of any absent student.

(A)(1) Within one hundred twenty minutes after the beginning of each school day, the attendance officer, attendance officer's assistant for each individual school building, or other person the attendance officer designates to take attendance for each school building shall make at least one attempt to contact, in accordance with division (A)(2) of this section, the parent, guardian, or other person having care of any student who was absent without legitimate excuse from the school the student is required to attend as of the beginning of that school day.

(2) An attempt to contact a student's parent, guardian, or other person having care of the student shall be made through one of the following methods:

(a) A telephone call placed in person;

(b) An automated telephone call via a system that includes verification that each call was actually placed, and either the call was answered by its intended recipient or a voice mail message was left by the automated system relaying the required information;

(c) A notification sent through the school's automated student information system;

(d) A text-based communication sent to the parent's, guardian's, or other person's electronic wireless communications device, as defined in division (G)(1) of section 4511.204 of the Revised Code;

- (e) A notification sent to the electronic mail address of the parent, guardian, or other person;
- (f) A visit, in person, to the student's residence of record;
- (g) Any other notification procedure that has been adopted by resolution of the board of education of a school district.

(B) If the parent, guardian, or other person having care of a student initiates a telephone call or other communication notifying the school or building administration of the student's excused or unexcused absence within one hundred twenty minutes after the beginning of the school day, the school is under no further obligation with respect to the requirement prescribed in division (A) of this section.

3321.191. Adoption of policy regarding student absences; intervention strategies.

(A) Effective beginning with the 2017-2018 school year, the board of education of each city, exempted village, local, joint vocational, and cooperative education school district and the governing board of each educational service center shall adopt a new or amended policy to guide employees of the school district or service center in addressing and ameliorating student absences. In developing the policy, the appropriate board shall consult with the judge of the juvenile court of the county or counties in which the district or service center is located, with the parents, guardians, or other persons having care of the pupils attending school in the district, and with appropriate state and local agencies.

(B) The policy developed under division (A) of this section shall include as an intervention strategy all of the following actions, if applicable:

- (1) Providing a truancy intervention plan for any student who is excessively absent from school, as described in the first paragraph of division (C) of this section;
- (2) Providing counseling for an habitual truant;
- (3) Requesting or requiring a parent, guardian, or other person having care of an habitual truant to attend parental involvement programs, including programs adopted under section 3313.472 or 3313.663 of the Revised Code;
- (4) Requesting or requiring a parent, guardian, or other person having care of an habitual truant to attend truancy prevention mediation programs;
- (5) Notification of the registrar of motor vehicles under section 3321.13 of the Revised Code;
- (6) Taking legal action under section 2919.222, 3321.20, or 3321.38 of the Revised Code.

(C)(1) In the event that a child of compulsory school age is absent with a nonmedical excuse or without legitimate excuse from the public school the child is supposed to attend for thirty-eight or more hours in one school month, or sixty-five or more hours in a school year, the attendance officer of that school shall notify the child's parent, guardian, or custodian of the child's absences, in writing, within seven days after the date after the absence that triggered the notice requirement. At the time notice is given, the school also may take any appropriate action as an intervention strategy contained in the policy developed by the board pursuant to division (A) of this section.

- (2)(a) If the absences of a student surpass the threshold for an habitual truant as set forth in section 2151.011 of the Revised Code, the principal or chief administrator of the school or the superintendent of the school district shall assign the student to an absence intervention team. Within fourteen school days after the assignment of a student to an absence intervention team, the team shall develop an intervention plan for that student in an effort to reduce or eliminate further absences. Each intervention plan shall vary based on the individual needs of the student, but the plan shall state that the attendance officer shall file a complaint not later than sixty-one days after the date the plan was implemented, if the child has refused to participate in, or failed to make satisfactory progress on, the intervention plan or an alternative to adjudication under division (C)(2)(b) of section 3321.191 of the Revised Code. Within seven days after the development of the plan, the school district or school shall make reasonable efforts

to provide the student's parent, guardian, custodian, guardian ad litem, or temporary custodian with written notice of the plan.

(b) As part of the absence intervention plan described in division (C)(2) of this section, the school district or school, in its discretion, may contact the appropriate juvenile court and ask to have a student informally enrolled in any alternative to adjudication described in division (G) of section 2151.27 of the Revised Code. If the school district or school chooses to have students informally enrolled in an alternative to adjudication, the school district or school shall develop a written policy regarding the use of, and selection process for, offering alternatives to adjudication to ensure fairness.

(c) The superintendent of each school district, or the superintendent's designee, shall establish an absence intervention team for the district to be used by any schools of the district that do not establish their own absence intervention team as permitted under division (C)(2)(d) of this section. Membership of each absence intervention team may vary based on the needs of each individual student but shall include a representative from the child's school district or school, another representative from the child's school district or school who knows the child, and the child's parent or parent's designee, or the child's guardian, custodian, guardian ad litem, or temporary custodian. The team also may include a school psychologist, counselor, social worker, or representative of a public or nonprofit agency designed to assist students and their families in reducing absences.

(d) The principal or chief administrator of each school may establish an absence intervention team or series of teams to be used in lieu of the district team established pursuant to division (C)(2)(c) of this section. Membership of each absence intervention team may vary based on the needs of each individual student but shall include a representative from the child's school district or school, another representative from the child's school district or school who knows the child, and the child's parent or parent's designee, or the child's guardian, custodian, guardian ad litem, or temporary custodian. The team also may include a school psychologist, counselor, social worker, or representative of a public or nonprofit agency designed to assist students and their families in reducing absences.

(e) A superintendent, as described in division (C)(2)(c) of this section, or principal or chief administrator, as described in division (C)(2)(d) of this section, shall select the members of an absence intervention team within seven school days of the triggering event described in division (C)(2)(a) of this section. The superintendent, principal, or chief administrator, within the same period of seven school days, shall make at least three meaningful, good faith attempts to secure the participation of the student's parent, guardian, custodian, guardian ad litem, or temporary custodian on that team. If the student's parent responds to any of those attempts, but is unable to participate for any reason, the representative of the school district shall inform the parent of the parent's right to appear by designee. If seven school days elapse and the student's parent, guardian, custodian, guardian ad litem, or temporary custodian fails to respond to the attempts to secure participation, the school district or school shall do both of the following:

- (i) Investigate whether the failure to respond triggers mandatory reporting to the public children services agency for the county in which the child resides in the manner described in section 2151.421 of the Revised Code;
- (ii) Instruct the absence intervention team to develop an intervention plan for the child notwithstanding the absence of the child's parent, guardian, custodian, guardian ad litem, or temporary custodian.

(f) In the event that a student becomes habitually truant within twenty-one school days prior to the last day of instruction of a school year, the school district or school may, in its discretion, assign one school official to work with the child's parent, guardian, custodian, guardian ad litem, or temporary custodian to develop an absence intervention plan during the summer. If the school district or school

selects this method, the plan shall be implemented not later than seven days prior to the first day of instruction of the next school year. In the alternative, the school district or school may toll the time periods to accommodate for the summer months and reconvene the absence intervention process upon the first day of instruction of the next school year.

(3) For purposes of divisions (C)(2)(c) and (d) of this section, the state board of education shall develop a format for parental permission to ensure compliance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code.

(D) Each school district or school may consult or partner with public and nonprofit agencies to provide assistance as appropriate to students and their families in reducing absences.

(E) Beginning with the 2017-2018 school year, each school district shall report to the department of education, as soon as practicable, and in a format and manner determined by the department, any of the following occurrences:

(1) When a notice required by division (C)(1) of this section is submitted to a parent, guardian, or custodian;

(2) When a child of compulsory school age has been absent without legitimate excuse from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year;

(3) When a child of compulsory school age who has been adjudicated an unruly child for being an habitual truant violates the court order regarding that adjudication;

(4) When an absence intervention plan has been implemented for a child under this section.

(F) Nothing in this section shall be construed to limit the duty or authority of a district board of education or governing body of an educational service center to develop other policies related to truancy or to limit the duty or authority of any employee of the school district or service center to respond to pupil truancy. However, a board shall be subject to the prohibition against suspending, expelling, or otherwise preventing a student from attending school for excessive absences as prescribed by section 3313.668 of the Revised Code.

REGULATIONS

3301-35-04. Student and other stakeholder focus.

(A) To ensure that student and other stakeholder needs are understood and addressed, the school district or school shall:

(1) Establish and communicate clear, high expectations for academic performance, attendance and conduct for all students regardless of gender, race, ethnicity, English proficiency or disability.

3301-47-01. Establishment of an education program for parents of truant students.

(A) For purposes of this rule "Parent" means "parent", "guardian," or "other person having charge or care of a child" as defined in section 3321.01 of the Revised Code.

(B) When an educational program has been established under division (B) of section 3321.19 of the Revised Code, the program shall address the following topics:

(1) Compulsory school laws, including sections 3321.01, 3321.02, 3321.03, and 3321.04 of the Revised Code;

(2) Overview of school opportunities and options including positive approaches for addressing the identified social, emotional, and academic needs of the student;

(3) Impacts of frequent absences on college and workforce readiness; and,

- (4) Other topics determined necessary by the district in collaboration with community partners.
- (C) If the local board of education adopts an education program, it shall be reviewed at least every five years by such body.
- (D) For the sole purpose of developing the education program, the local board of education shall establish an education program committee. Committee members may include, but are not limited to, a parent, a member of the board of education, a member of the local juvenile judicial system, a guidance counselor, a school psychologist, an attendance officer, a teacher, a principal, or a superintendent.
- (E) When determining whether a parent of a student who is habitually truant, as that term is defined in section 2151.011 of the Revised Code, should be referred to an education program, consideration shall be given to the student's academic record, discipline record, and cooperation of the parent.

Substance Use

LAWS

3313.95. Contract for police officer to assist in working with students concerning use of alcohol and drugs of abuse.

The contract shall specify the police officer's duties, which shall be limited to assisting guidance counselors and teachers in working with students concerning the use of alcohol and drugs of abuse, and which shall not include any duties for which an educator license issued under sections 3319.22 to 3319.30 of the Revised Code is required. The contract shall also specify the amount to be paid to the township, municipal corporation, or county by the board of education as compensation for all or part of the salary and benefits of any police officer assigned to its schools in accordance with such contract.

3313.662. Adjudication order permanently excluding pupil from public schools.

(A) The superintendent of public instruction, pursuant to this section and the adjudication procedures of section 3301.121 of the Revised Code, may issue an adjudication order that permanently excludes a pupil from attending any of the public schools of this state if the pupil is convicted of, or adjudicated a delinquent child for, committing, when the pupil was sixteen years of age or older, an act that would be a criminal offense if committed by an adult and if the act is any of the following:

- (3) A violation of section 2925.11 of the Revised Code, other than a violation of that section that would be a minor drug possession offense, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of a city, local, exempted village, or joint vocational school district.

3313.751. Prohibition against tobacco possession or use.

(A) As used in this section:

- (1) "School district" means a city, local, exempted village, or joint vocational school district.
- (2) "Smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar, or pipe, or to burn a clove cigarette.
- (3) "Use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco.

(B) No pupil shall smoke or use tobacco or possess any substance containing tobacco in any area under the control of a school district or an educational service center or at any activity supervised by any school operated by a school district or an educational service center.

(C) No pupil shall use or possess any substance containing betel nut in any area under the control of a school district or an educational service center or at any activity supervised by any school operated by a school district or an educational service center.

(D) The board of education of each school district and the governing board of each educational service center shall adopt a policy providing for the enforcement of division (B) of this section and establishing disciplinary measures for a violation of division (B) of this section.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

REGULATIONS

3301-83-20. General rules.

(A) The use of alcohol, nicotine products, and non-prescribed drugs is prohibited on the school bus.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

5.2296. School Bullying Prevention and Awareness Act.

The month of September shall be designated as "School Bullying Prevention Awareness Month" to highlight the policies prohibiting harassment, intimidation, or bullying adopted by schools in the state and the required notice of those policies sent to parents and guardians annually under section 3313.666 of the Revised Code.

2903.31. Hazing.

(A) As used in this section, "hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.

(B)(1) No person shall recklessly participate in the hazing of another.

(2) No administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person.

(C) Whoever violates this section is guilty of hazing, a misdemeanor of the fourth degree.

3301.22. Model harassment prevention policy.

The state board of education shall develop a model policy to prohibit harassment, intimidation, or bullying in order to assist school districts in developing their own policies under section 3313.666 of the Revised Code. The board shall issue the model policy within six months after the effective date of this section.

3313.6024. Reporting on prevention-focused programs.

(A) Annually, beginning in the 2019-2020 school year, each school district shall report to the department of education, in the manner prescribed by the department, the types of prevention-focused programs, services, and supports used to assist students in developing the knowledge and skills to engage in healthy behaviors and decision-making and to increase their awareness of the dangers and consequences of risky behaviors, including substance abuse, suicide, bullying, and other harmful behaviors. The district shall report the following information regarding such programs, services, and supports for each building operated by the district and for each of grades kindergarten through twelve served by the building:

- (1) Curriculum and instruction provided during the school day;
- (2) Programs and supports provided outside of the classroom or outside of the school day;
- (3) Professional development for teachers, administrators, and other staff;
- (4) Partnerships with community coalitions and organizations to provide prevention services and resources to students and their families;
- (5) School efforts to engage parents and the community;
- (6) Activities designed to communicate with and learn from other schools or professionals with expertise in prevention education.

(B) The department may use information reported under this section, and any other information collected by the department pursuant to law, as a factor in the distribution of any funding available for prevention- focused programs, services, and supports.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(A) As used in this section:

- (1) "Electronic act" means an act committed through the use of a cellular telephone, computer, pager, personal communication device, or other electronic communication device.
- (2) "Harassment, intimidation, or bullying" means either of the following:
 - (a) Any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student more than once and the behavior both:
 - (i) Causes mental or physical harm to the other student;
 - (ii) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student.
 - (b) Violence within a dating relationship.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members. The policy shall include the following:

- (1) A statement prohibiting harassment, intimidation, or bullying of any student on school property, on a school bus, or at school-sponsored events and expressly providing for the possibility of suspension of a student found responsible for harassment, intimidation, or bullying by an electronic act;
 - (2) A definition of harassment, intimidation, or bullying that includes the definition in division (A) of this section;
 - (3) A procedure for reporting prohibited incidents;
 - (4) A requirement that school personnel report prohibited incidents of which they are aware to the school principal or other administrator designated by the principal;
 - (5) A requirement that the custodial parent or guardian of any student involved in a prohibited incident be notified and, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, have access to any written reports pertaining to the prohibited incident;
 - (6) A procedure for documenting any prohibited incident that is reported;
 - (7) A procedure for responding to and investigating any reported incident;
 - (8) A strategy for protecting a victim or other person from new or additional harassment, intimidation, or bullying, and from retaliation following a report, including a means by which a person may report an incident anonymously;
 - (9) A disciplinary procedure for any student guilty of harassment, intimidation, or bullying, which shall not infringe on any student's rights under the first amendment to the Constitution of the United States;
 - (10) A statement prohibiting students from deliberately making false reports of harassment, intimidation, or bullying and a disciplinary procedure for any student responsible for deliberately making a false report of that nature;
 - (11) A requirement that the district administration semiannually provide the president of the district board a written summary of all reported incidents and post the summary on its web site, if the district has a web site, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended.
- (C) Each board's policy shall appear in any student handbooks, and in any of the publications that set forth the comprehensive rules, procedures, and standards of conduct for schools and students in the district. The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the district and to their custodial parents or guardians. Information regarding the policy shall be incorporated into employee training materials.
- (D)(1) To the extent that state or federal funds are appropriated for this purpose, each board shall require that all students enrolled in the district annually be provided with age-appropriate instruction, as determined by the board, on the board's policy, including a written or verbal discussion of the consequences for violations of the policy.
- (2) Each board shall require that once each school year a written statement describing the policy and the consequences for violations of the policy be sent to each student's custodial parent or guardian. The statement may be sent with regular student report cards or may be delivered electronically.
- (E) A school district employee, student, or volunteer shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with a policy adopted pursuant to this section if that person reports an incident of harassment, intimidation, or bullying promptly in good faith and in compliance with the procedures as specified in the policy.
- (F) Except as provided in division (E) of this section, nothing in this section prohibits a victim from seeking redress under any other provision of the Revised Code or common law that may apply.
- (G) This section does not create a new cause of action or a substantive legal right for any person.

(H) Each board shall update the policy adopted under this section to include violence within a dating relationship and harassment, intimidation, or bullying by electronic means.

3313.667. District bullying prevention initiatives.

(A) Any school district may form bullying prevention task forces, programs, and other initiatives involving volunteers, parents, law enforcement, and community members.

(B) To the extent that state or federal funds are appropriated for these purposes, each school district shall provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy adopted pursuant to section 3313.666 of the Revised Code to school employees and volunteers who have direct contact with students and are not subject to section 3319.073 of the Revised Code. Time spent by school employees in the training, workshops, or courses shall apply towards any state- or district-mandated continuing education requirements.

(C) This section does not create a new cause of action or a substantive legal right for any person.

3319.073. In-service training in child abuse prevention programs, school safety and violence prevention, and training on the board's harassment, intimidation, or bullying policy.

(C) Each board shall incorporate training on the board's harassment, intimidation, or bullying policy adopted under section 3313.666 of the Revised Code into the in-service training required by division (A) of this section. Each board also shall incorporate training in the prevention of dating violence into the in-service training required by that division for middle and high school employees. The board shall develop its own curricula for these purposes.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(A) As used in this section:

(2) "Harassment, intimidation, or bullying" means either of the following:

(a) Any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student more than once and the behavior both:

(i) Causes mental or physical harm to the other student;

(ii) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student.

(b) Violence within a dating relationship.

(H) Each board shall update the policy adopted under this section to include violence within a dating relationship and harassment, intimidation, or bullying by electronic means.

3319.073. In-service training in child abuse prevention programs, school safety and violence prevention, and training on the board's harassment, intimidation, or bullying policy.

(C) Each board shall incorporate training on the board's harassment, intimidation, or bullying policy adopted under section 3313.666 of the Revised Code into the in-service training required by division (A) of this section. Each board also shall incorporate training in the prevention of dating violence into the in-service training required by that division for middle and high school employees. The board shall develop its own curricula for these purposes.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

3301.22. Model harassment prevention policy.

The state board of education shall develop a model policy to prohibit harassment, intimidation, or bullying in order to assist school districts in developing their own policies under section 3313.666 of the Revised Code. The board shall issue the model policy within six months after the effective date of this section.

3301.221. List of approved programs in suicide awareness and prevention and violence prevention.

(B) The department of education, in consultation with the department of public safety and the department of mental health and addiction services, shall maintain a list of approved training programs, to be posted on the department of education's web site, for instruction in suicide awareness and prevention and violence prevention as prescribed under division (A)(5)(h) of section 3313.60 and division (D) of section 3319.073 of the Revised Code. The list of approved training programs shall include at least one option that is free or of no cost to schools. The approved training programs shall be evidence-based and include the following:

- (1) How to instruct school personnel to identify the signs and symptoms of depression, suicide, and self-harm in students;
- (2) How to instruct students to identify the signs and symptoms of depression, suicide, and self-harm in their peers;
- (3) How to identify appropriate mental health services within schools and within larger communities, and when and how to refer youth and their families to those services;
- (4) How to teach students about mental health and depression, warning signs of suicide, and the importance of and processes for seeking help on behalf of self and peers and reporting of these behaviors;
- (5) How to identify observable warning signs and signals of individuals who may be a threat to themselves or others;
- (6) The importance of taking threats seriously and seeking help;
- (7) How students can report dangerous, violent, threatening, harmful, or potentially harmful activity, including the use of the district's chosen anonymous reporting program.

5502.262. School emergency management plans.

(B)(c) A threat assessment plan developed as prescribed in section 5502.263 of the Revised Code. A building may use the model plan developed by the department of public safety under that section;

- (d) A protocol for school threat assessment teams established under section 3313.669 of the Revised Code.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

3302.03. Submission of preliminary report card data; grading school districts.

(C)(2) In addition to the graded measures in division (C)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

- (h) Whether the school district or building has implemented a positive behavior intervention and supports framework in compliance with the requirements of section 3319.46 of the Revised Code, notated as a "yes" or "no" answer.

3319.237. Courses to teach in grades pre-k through 5; curriculum; continuing education.

(A) The standards for the preparation of teachers adopted under section 3333.048 of the Revised Code shall require each institution that provides a teacher preparation program to include a semester course, or the equivalent, for all students pursuing a license to teach in any of grades pre-kindergarten through five that includes instruction on all of the following:

- (1) Positive behavior intervention and supports and social-emotional development;
- (2) Classroom systems for establishing the foundation for positive behavior, such as supervision, acknowledgment, prompts, and precorrection;
- (3) Classroom systems for responding to unwanted behavior, including error correction and other strategies;
- (4) Classroom data collection systems;
- (5) Effective instructional strategies and how to implement them with fidelity;
- (6) Matching curriculum to student needs and data;
- (7) The impact of trauma, toxic stress, and other environmental variables on learning behavior.

(B) Within three years after the effective date of this section, each school district shall provide professional development or continuing education in positive behavior intervention and supports, as part of the school-wide implementation of the positive behavior intervention and supports framework required under section 3319.46 of the Revised Code, to all of the following:

- (1) Any of the district's teachers who teach in buildings that serve students in any of grades pre-kindergarten through three and who completed a teacher preparation program prior to the effective date of this section;
- (2) All of the district's administrators who serve students in any of grades pre-kindergarten through three, including the school district superintendent, building principals, and assistant principals, who have not already completed a course of instruction, professional development, or continuing education in positive behavior intervention and supports.

Each district's local professional development committee, established under section 3319.22 of the Revised Code, shall monitor compliance with division (B) of this section and shall establish model professional development courses to assist in that compliance.

3319.46. Policy and rules regarding positive behavior intervention supports and the use of physical restraint or seclusion on students; duties of board.

(A)(1) The state board of education shall adopt rules under Chapter 119. of the Revised Code that establish both of the following:

(a) A policy and standards for the implementation of positive behavior intervention and supports framework [...]

(B)(1) Each school district board of education shall do all of the following:

(a) Implement a positive behavior intervention and supports framework on a system-wide basis that complies with this section;

(b) Comply with any policy and standards adopted, amended, or updated by the state board under this section;

(c) Submit any reports required by the department of education or the general assembly with respect to the implementation of a positive behavior intervention and supports framework or suspension and expulsion of students in any of grades pre-kindergarten through three.

(2) Each school district's positive behavior intervention and supports framework may focus on the following:

(a) Comprehensive, school-wide data systems that enable monitoring of academic progress, behavioral incidents, attendance, and other critical indicators across classrooms;

(b) School-wide investment in evidence-based curricula and effective instructional strategies, matched to students' needs, and data to support teachers' academic instruction;

(c) An expectation by school administrators that classroom practices be linked to and aligned with the school-wide system;

(d) Improving staff climate and culture regarding the role of discipline in the classroom, established through the use of positive and proactive communication and staff recognition.

(C) For purposes of this section, "positive behavior intervention and supports framework" or "positive behavior intervention and supports" means a multi-tiered, school-wide, behavioral framework developed and implemented for the purpose of improving academic and social outcomes and increasing learning for all students.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(A) Notwithstanding rule 3301-35-01 of the Administrative Code, the following definitions apply for purposes of this rule:

(7) "Positive behavior intervention and supports" means

(a) A school-wide systematic approach to embed evidence-based practices and data-driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, and that

(b) Encompasses a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors, and teach appropriate behaviors to students. [...]

(B) Implementation of positive behavior intervention and supports. Each school district shall implement positive behavior intervention and supports on a system-wide basis. [...]

(H) Policies and procedures. A school district shall develop written policies and procedures concerning the use of seclusion and restraint that are consistent with the policy on positive behavior interventions and support, restraint and seclusion, as adopted by the state board of education January 2013 (education.ohio.gov). A district's complaint procedures shall include

(1) A procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion; and

(2) A requirement that the school district shall respond to the parent in writing within thirty days of the filing of a complaint regarding an incident of restraint or seclusion.

These policies and procedures shall be accessible on the district's website, and each district shall be responsible for notifying all parents annually of its policies and procedures concerning seclusion and restraint.

Prevention

LAWS

3301.221. List of approved programs in suicide awareness and prevention and violence prevention.

(B) The department of education, in consultation with the department of public safety and the department of mental health and addiction services, shall maintain a list of approved training programs, to be posted on the department of education's web site, for instruction in suicide awareness and prevention and violence prevention as prescribed under division (A)(5)(h) of section 3313.60 and division (D) of section 3319.073 of the Revised Code. The list of approved training programs shall include at least one option that is free or of no cost to schools. The approved training programs shall be evidence-based and include the following:

(1) How to instruct school personnel to identify the signs and symptoms of depression, suicide, and self-harm in students;

(2) How to instruct students to identify the signs and symptoms of depression, suicide, and self-harm in their peers;

(3) How to identify appropriate mental health services within schools and within larger communities, and when and how to refer youth and their families to those services;

(4) How to teach students about mental health and depression, warning signs of suicide, and the importance of and processes for seeking help on behalf of self and peers and reporting of these behaviors;

(5) How to identify observable warning signs and signals of individuals who may be a threat to themselves or others;

(6) The importance of taking threats seriously and seeking help;

(7) How students can report dangerous, violent, threatening, harmful, or potentially harmful activity, including the use of the district's chosen anonymous reporting program.

3313.60. Prescribed curriculum.

(A) The board of education of each city, exempted village, and local school district and the board of each cooperative education school district established, pursuant to section 3311.521 of the Revised Code, shall prescribe a curriculum for all schools under its control. Except as provided in division (E) of this section, in any such curriculum there shall be included the study of the following subjects:

(e) In grades seven through twelve, age-appropriate instruction in dating violence prevention education, which shall include instruction in recognizing dating violence warning signs and characteristics of healthy relationships.

In order to assist school districts in developing a dating violence prevention education curriculum, the department of education shall provide on its web site links to free curricula addressing dating violence prevention.

If the parent or legal guardian of a student less than eighteen years of age submits to the principal of the student's school a written request to examine the dating violence prevention instruction materials used at that school, the principal, within a reasonable period of time after the request is made, shall allow the parent or guardian to examine those materials at that school.

(f) Prescription opioid abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin;

(g) The process of making an anatomical gift under Chapter 2108. of the Revised Code, with an emphasis on the life-saving and life-enhancing effects of organ and tissue donation;

(h) Beginning with the first day of the next school year that begins at least two years after the effective date of this amendment, in grades six through twelve, at least one hour or one standard class period per school year of evidence-based suicide awareness and prevention and at least one hour or one standard class period per school year of safety training and violence prevention, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in suicide awareness and prevention or safety training and violence prevention.

3313.6611. Student-led violence prevention clubs.

Student-led violence prevention clubs. Student-led violence prevention clubs.

Each local, city, exempted village, joint vocational school district, community school established under Chapter 3314., STEM school established under Chapter 3326., and college-preparatory boarding school established under Chapter 3328. of the Revised Code may designate a student-led violence prevention club for each school building in the district or school serving grades six through twelve. If created, each club shall do the following:

(A) Be open to all members of the student body;

(B) Have at least one identified adult advisor;

(C) Implement and sustain suicide and violence prevention and social inclusion training and awareness activities in a manner consistent with section 3301.221 of the Revised Code;

(D) Foster opportunities for student leadership development.

3319.073. In-service training in child abuse prevention programs, school safety and violence prevention, and training on the board's harassment, intimidation, or bullying policy.

(A) The board of education of each city and exempted village school district and the governing board of each educational service center shall adopt or adapt the curriculum developed by the department of education for, or shall develop in consultation with public or private agencies or persons involved in child abuse prevention or intervention programs, a program of in-service training in the prevention of child abuse, violence, and substance abuse and the promotion of positive youth development. Each person employed by any school district or service center to work in a school as a nurse, teacher, counselor, school psychologist, or administrator shall complete at least four hours of the in-service training within two years of commencing employment with the district or center, and every five years thereafter. A person who is employed by any school district or service center to work in an elementary school as a nurse, teacher, counselor, school psychologist, or administrator on March 30, 2007, shall complete at least four hours of the in-service training not later than March 30, 2009, and every five years thereafter. A person who is employed by any school district or service center to work in a middle or high school as a nurse,

teacher, counselor, school psychologist, or administrator on October 16, 2009, shall complete at least four hours of the in-service training not later than October 16, 2011, and every five years thereafter.

(B) Each board shall incorporate training in school safety and violence prevention, including human trafficking content, into the in-service training required by division (A) of this section. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in school safety and violence prevention programs.

(C) Each board shall incorporate training on the board's harassment, intimidation, or bullying policy adopted under section 3313.666 of the Revised Code into the in-service training required by division (A) of this section. Each board also shall incorporate training in the prevention of dating violence into the in-service training required by that division for middle and high school employees. The board shall develop its own curricula for these purposes.

(D) Each board shall incorporate training in youth suicide awareness and prevention into the in-service training required by division (A) of this section for each person employed by a school district or service center to work in a school as a nurse, teacher, counselor, school psychologist, or administrator, and any other personnel that the board determines appropriate. The board shall require each such person to undergo training in youth suicide awareness and prevention programs once every two years. For this purpose, the board shall adopt or adapt the curriculum developed by the department under section 3301.221 of the Revised Code or shall develop its own curriculum in consultation with public or private agencies or persons involved in youth suicide awareness and prevention programs.

The training completed under this division shall count toward the satisfaction of requirements for professional development required by the school district or service center board, and the training may be accomplished through self-review of suitable suicide prevention materials approved by the board.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

3317.26. Disposition of student wellness and success funds.

(B) In any fiscal year, a city, local, exempted village, or joint vocational school district, community school, or STEM school shall spend the student wellness and success funds it receives for any of the following initiatives or a combination of any of the following initiatives:

- (9) Professional development regarding the provision of trauma informed care.

3319.237. Courses to teach in grades pre-k through 5; curriculum; continuing education.

(A) The standards for the preparation of teachers adopted under section 3333.048 of the Revised Code shall require each institution that provides a teacher preparation program to include a semester course, or the equivalent, for all students pursuing a license to teach in any of grades pre-kindergarten through five that includes instruction on all of the following:

- (1) Positive behavior intervention and supports and social-emotional development;
- (2) Classroom systems for establishing the foundation for positive behavior, such as supervision, acknowledgment, prompts, and precorrection;
- (3) Classroom systems for responding to unwanted behavior, including error correction and other strategies;
- (4) Classroom data collection systems;
- (5) Effective instructional strategies and how to implement them with fidelity;
- (6) Matching curriculum to student needs and data;
- (7) The impact of trauma, toxic stress, and other environmental variables on learning behavior.

(B) Within three years after the effective date of this section, each school district shall provide professional development or continuing education in positive behavior intervention and supports, as part of the school-wide implementation of the positive behavior intervention and supports framework required under section 3319.46 of the Revised Code, to all of the following:

- (1) Any of the district's teachers who teach in buildings that serve students in any of grades pre-kindergarten through three and who completed a teacher preparation program prior to the effective date of this section;
- (2) All of the district's administrators who serve students in any of grades pre-kindergarten through three, including the school district superintendent, building principals, and assistant principals, who have not already completed a course of instruction, professional development, or continuing education in positive behavior intervention and supports.

Each district's local professional development committee, established under section 3319.22 of the Revised Code, shall monitor compliance with division (B) of this section and shall establish model professional development courses to assist in that compliance.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

3301.221. List of approved programs in suicide awareness and prevention and violence prevention.

(B) The department of education, in consultation with the department of public safety and the department of mental health and addiction services, shall maintain a list of approved training programs, to be posted on the department of education's web site, for instruction in suicide awareness and prevention and violence prevention as prescribed under division (A)(5)(h) of section 3313.60 and division (D) of section 3319.073 of the Revised Code. The list of approved training programs shall include at least one option that is free or of no cost to schools. The approved training programs shall be evidence-based and include the following:

- (1) How to instruct school personnel to identify the signs and symptoms of depression, suicide, and self-harm in students;
- (2) How to instruct students to identify the signs and symptoms of depression, suicide, and self-harm in their peers;
- (3) How to identify appropriate mental health services within schools and within larger communities, and when and how to refer youth and their families to those services;
- (4) How to teach students about mental health and depression, warning signs of suicide, and the importance of and processes for seeking help on behalf of self and peers and reporting of these behaviors;
- (5) How to identify observable warning signs and signals of individuals who may be a threat to themselves or others;
- (6) The importance of taking threats seriously and seeking help;
- (7) How students can report dangerous, violent, threatening, harmful, or potentially harmful activity, including the use of the district's chosen anonymous reporting program.

3319.61. Duties of board.

(E) The standards for educator professional development developed under division (A)(5) of this section shall include the following:

- (1) Standards for the inclusion of local professional development committees established under section 3319.22 of the Revised Code in the planning and design of professional development;
- (2) Standards that address the crucial link between academic achievement and mental health issues.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

3313.668. Removal from school based on absences; removal of students in grades pre-K through three.

(2) Whenever possible, the principal shall consult with a mental health professional under contract with the district or school prior to suspending or expelling a student in any of grades pre-kindergarten through three. If the events leading up to suspension or expulsion indicate a need for additional mental health services, the student's principal or the district's mental health professional shall, in any manner that does not result in a financial burden to the school district or school, assist the student's parent or guardian with locating providers or obtaining those services, including referral to an independent mental health professional. Nothing in this division shall be construed to limit the responsibilities of a school district or school with respect to the provision of special education and related services under Chapter 3323. of the Revised Code.

3317.26. Disposition of student wellness and success funds.

(B) In any fiscal year, a city, local, exempted village, or joint vocational school district, community school, or STEM school shall spend the student wellness and success funds it receives for any of the following initiatives or a combination of any of the following initiatives:

- (1) Mental health services.

REGULATIONS

3301-35-01. Purpose and definitions.

(A) The purpose for adopting the rules in this chapter, which comprise the operating standards for Ohio school districts and elementary and secondary schools, is to assure that all students are provided a general education of high quality. The rules in this chapter establish specific expectations for school districts and schools to use in creating the best learning conditions for meeting the personalized and individualized needs of each student and achieving state and local educational goals and objectives. The operating standards focus on the most critical expectations for school districts and schools in order to foster a regulatory system that focuses on improving outputs and student outcomes.

(B) The following terms are defined as they are used in this chapter:

(10) "Educational service personnel" means individuals who hold appropriate qualifications and who possess the knowledge, skills and expertise to support the educational, instructional, health, mental health and college and career readiness needs for all students.

(a) Educational service personnel that support educational, instructional and college and career readiness programs include, but are not limited to: fine arts, music, and physical education teachers; librarian or media specialists; school counselors; and reading intervention specialists;

(b) Educational service personnel that support the learning needs of the special needs student population include, but are not limited to: gifted intervention specialists, adapted physical education teachers, audiologists, interpreters, speech-language pathologists, physical and occupational therapists, and English-as-a-second-language specialist;

(c) Educational service personnel that support the health and mental health of the student population include, but are not limited to: school nurses, social workers, school psychologists, and school resource officers.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

3319.45. Principal to report certain act or violations by pupil to superintendent and law enforcement officer.

If a principal of a public school in a city, local, exempted village, or joint vocational school district, acting in his official or professional capacity, has knowledge of or has observed a pupil committing a violation listed in division (A) of section 3313.662 of the Revised Code, regardless of whether or not the pupil was sixteen years of age or older at the time of the commission of the act or violation, and the violation was committed on property owned and controlled by, or at any activity held under the auspices of, the board of education of the school district, both of the following apply:

(A) The principal, within one school day after obtaining his knowledge of or observing the act or violation, shall report the violation to the superintendent of the school district in which the school is located or to the designee of the superintendent.

(B) The principal, within a reasonable period of time after obtaining his knowledge of or observing the act or violation, may report the act or violation to a law enforcement officer of the jurisdiction in which the violation occurred or, if the pupil is a juvenile, report the violation to either a law enforcement officer of the jurisdiction in which the act occurred or in the jurisdiction in which the pupil resides.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(F) Reporting and notification. Any incident of seclusion or restraint shall be immediately reported to building supervision and the parent. Any incident of seclusion or restraint shall be documented in a written report that is made available to the parent within twenty-four hours and that is maintained by the school district.

Parental Notification

LAWS

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(6) No pupil shall be expelled under division (B)(1), (2), (3), (4), or (5) of this section unless, prior to the pupil's expulsion, the superintendent does both of the following:

(a) Gives the pupil and the pupil's parent, guardian, or custodian written notice of the intention to expel the pupil;

(b) Provides the pupil and the pupil's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's actions.

The notice required in this division shall include the reasons for the intended expulsion, notification of the opportunity of the pupil and the pupil's parent, guardian, custodian, or representative to appear before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or

otherwise to explain the pupil's action, and notification of the time and place to appear. The time to appear shall not be earlier than three nor later than five school days after the notice is given, unless the superintendent grants an extension of time at the request of the pupil or the pupil's parent, guardian, custodian, or representative. If an extension is granted after giving the original notice, the superintendent shall notify the pupil and the pupil's parent, guardian, custodian, or representative of the new time and place to appear. If the proposed expulsion is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, the notice shall include a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation. [...]

(D) The superintendent or principal, within one school day after the time of a pupil's expulsion or suspension, shall notify in writing the parent, guardian, or custodian of the pupil of the expulsion or suspension. In the case of an expulsion, the superintendent or principal, within one school day after the time of a pupil's expulsion, also shall notify in writing the treasurer of the board of education. Each notice shall include the reasons for the expulsion or suspension, notification of the right of the pupil or the pupil's parent, guardian, or custodian to appeal the expulsion or suspension to the board of education or to its designee, to be represented in all appeal proceedings, to be granted a hearing before the board or its designee in order to be heard against the suspension or expulsion, and to request that the hearing be held in executive session, notification that the expulsion may be subject to extension pursuant to division (F) of this section if the pupil is sixteen years of age or older, and notification that the superintendent may seek the pupil's permanent exclusion if the suspension or expulsion was based on a violation listed in division (A) of section 3313.662 of the Revised Code that was committed when the child was sixteen years of age or older and if the pupil is convicted of or adjudicated a delinquent child for that violation.

In accordance with the policy adopted by the board of education under section 3313.661 of the Revised Code, the notice provided under this division shall specify the manner and date by which the pupil or the pupil's parent, guardian, or custodian shall notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal the expulsion or suspension to the board or its designee.

3313.205. Notification of student's absence from school.

Subject to section 3321.141 of the Revised Code, the board of education of each school district shall adopt a written policy with respect to the notification of a student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student within a reasonable time after the determination that the student is absent from school. The student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student shall provide the school that the student attends a current address and a telephone number at which the student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person that is responsible for the student can receive notice that the student is absent from school.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

The policy adopted under this division shall specify the date and manner by which a pupil or a pupil's parent, guardian, or custodian may notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal an expulsion or suspension to the board or its designee pursuant to division (E) of section 3313.66 of the Revised Code. In the case of any expulsion, the policy shall not specify a date that is less than fourteen days after the date of the notice provided to the pupil or the pupil's parent, guardian, or custodian under division (D) of that section.

3313.662. Adjudication order permanently excluding pupil from public schools.

(C)(3) If the board does not adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil, it immediately shall send written notice of that fact to the superintendent who sought the resolution, to the pupil who was the subject of the proposed resolution, and to that pupil's parent, guardian, or custodian.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members.

The policy shall include the following:

(5) A requirement that the custodial parent or guardian of any student involved in a prohibited incident be notified and, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, have access to any written reports pertaining to the prohibited incident.

3314.261. Internet- or computer-based school attendance.

This section shall not apply to an internet-or computer-based community school in which a majority of the students are enrolled in a dropout prevention and recovery program.

(C) Notwithstanding section 3321.191 of the Revised Code, each internet- or computer-based community school shall develop and adopt a policy regarding failure to participate in instructional activities. The policy shall state that a student shall become subject to certain consequences, including disenrollment from the school, if both of the following conditions are satisfied:

(1) After the student's parent, guardian, or custodian receives a written report under division (B)(2) of this section, the student fails to comply with the policy adopted under division (C) of this section within a reasonable period of time specified by the school.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)[...] The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. The date scheduled for the appearance shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an extension is granted, the superintendent shall schedule a new date, time, and place for the appearance and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and place.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(C) On the request of the superintendent of schools, the superintendent of any educational service center, the board of education of any city, exempted village, local, joint vocational, or cooperative education school district, or the governing board of any educational service center or when it otherwise comes to the notice of the attendance officer or other appropriate officer of the school district, the attendance officer or other appropriate officer shall examine into any case of supposed truancy within the district and shall warn the child, if found truant, and the child's parent, guardian, or other person having care of the child, in writing, of the legal consequences of being truant. When any child of compulsory school age, in violation

of law, is not attending school, the attendance or other appropriate officer shall notify the parent, guardian, or other person having care of that child of the fact, and require the parent, guardian, or other person to cause the child to attend school immediately. The parent, guardian, or other person having care of the child shall cause the child's attendance at school. Upon the failure of the parent, guardian, or other person having care of the child to do so, the attendance officer or other appropriate officer, if so directed by the superintendent, the district board, or the educational service center governing board, shall send notice requiring the attendance of that parent, guardian, or other person at a parental education program established pursuant to division (B) of this section and, subject to divisions (D) and (E) of this section, may file a complaint against the parent, guardian, or other person having care of the child in any court of competent jurisdiction.

3321.20. Warning of legal consequences of truancy - complaint.

When any child, in violation of section 3321.08 or 3321.09 of the Revised Code, is not attending a part-time school or class, the attendance officer shall warn the child and the child's parent, guardian, or other person in charge of the child in writing of the legal consequences of the child's failure to attend the part-time school or class. If the parent, guardian, or other person in charge of that child fails to cause the child's attendance at the part-time school or class, the attendance officer shall make complaint against the parent, guardian, or other person in charge of the child in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend the part-time school or class.

3321.141. Contacting parent, guardian, or other person having care of any absent student.

(A)(1) Within one hundred twenty minutes after the beginning of each school day, the attendance officer, attendance officer's assistant for each individual school building, or other person the attendance officer designates to take attendance for each school building shall make at least one attempt to contact, in accordance with division (A)(2) of this section, the parent, guardian, or other person having care of any student who was absent without legitimate excuse from the school the student is required to attend as of the beginning of that school day.

(2) An attempt to contact a student's parent, guardian, or other person having care of the student shall be made through one of the following methods:

- (a) A telephone call placed in person;
- (b) An automated telephone call via a system that includes verification that each call was actually placed, and either the call was answered by its intended recipient or a voice mail message was left by the automated system relaying the required information;
- (c) A notification sent through the school's automated student information system;
- (d) A text-based communication sent to the parent's, guardian's, or other person's electronic wireless communications device, as defined in division (G)(1) of section 4511.204 of the Revised Code;
- (e) A notification sent to the electronic mail address of the parent, guardian, or other person;
- (f) A visit, in person, to the student's residence of record;
- (g) Any other notification procedure that has been adopted by resolution of the board of education of a school district.

(B) If the parent, guardian, or other person having care of a student initiates a telephone call or other communication notifying the school or building administration of the student's excused or unexcused absence within one hundred twenty minutes after the beginning of the school day, the school is under no further obligation with respect to the requirement prescribed in division (A) of this section.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(F) Reporting and notification. Any incident of seclusion or restraint shall be immediately reported to building supervision and the parent. Any incident of seclusion or restraint shall be documented in a written report that is made available to the parent within twenty-four hours and that is maintained by the school district.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

3301.0714. Guidelines for statewide education management information system.

(A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section.

The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section [...]

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(h) Expulsion rates;

(i) Suspension rates'

(o) Beginning on July 1, 2018, for each disciplinary action which is required to be reported under division (B)(4) of this section, districts and schools also shall include an identification of the person or persons, if any, at whom the student's violent behavior that resulted in discipline was directed. The person or persons shall be identified by the respective classification at the district or school, such as student, teacher, or nonteaching employee, but shall not be identified by name. [...]

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

3302.031. Annual reports for each district.

In addition to the report cards required under section 3302.03 of the Revised Code, the department of education shall annually prepare the following reports for each school district and make a copy of each report available to the superintendent of each district:

(B) A school safety and discipline report which shall consist of statistical information regarding student safety and discipline in each school building, including the number of suspensions and expulsions disaggregated according to race and gender.

3313.6610. Anonymous reporting programs.

(B) Each district shall submit data to the department of education, in a manner prescribed by the department, and the department of public safety at the end of the first full school year of the district's participation in the SaferOH tip line or an alternative anonymous reporting program, and at the end of each school year thereafter, disaggregated by school. The data shall include the following:

- (1) The number and type of disciplinary actions taken in the previous school year as a result of anonymous reports;
- (2) The number and type of mental wellness referrals as a result of anonymous reports;
- (3) The race and gender of the students subject to the disciplinary actions and mental wellness referrals as a result of anonymous reports;
- (4) Any other information the department of education or the department of public safety determines necessary.

(C) Any data collected by the SaferOH tip line or an anonymous reporting program or reported to the department of education or department of public safety pursuant to this section are security records and are not public records pursuant to section 149.433 of the Revised Code.

3319.46. Policy and rules regarding positive behavior intervention supports and the use of physical restraint or seclusion on students; duties of board.

(B)(1) Each school district board of education shall do all of the following:

- (c) Submit any reports required by the department of education or the general assembly with respect to the implementation of a positive behavior intervention and supports framework or suspension and expulsion of students in any of grades pre-kindergarten through three.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(E) A school district with a chronic absenteeism percentage that is less than five per cent, as displayed on the district's most recent report card issued under section 3302.03 of the Revised Code, and the school buildings within that district, shall be exempt from the requirement to assign habitually truant students to an absence intervention team for the following school year and shall instead take any appropriate action as an intervention strategy contained in the policy developed by the district board pursuant to divisions (A) and (B) of section 3321.191 of the Revised Code. In the event that those intervention strategies fail, within sixty-one days after their implementation, the attendance officer shall file a complaint, provided that the conditions described in division (B) of section 3321.16 of the Revised Code are satisfied.

REGULATIONS

3301-35-15. Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(J) Reporting. A school district shall annually report information regarding its use of restraint and seclusion to the Ohio department of education in the form and manner as prescribed by the department.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

3313.6610. Anonymous reporting programs.

(A) Beginning with the first full school year that begins after the effective date of this section, each local, city, exempted village, and joint vocational school district shall register with the SaferOH tip line operated by the department of public safety or enter into an agreement with an anonymous reporting program of the district's choosing. The reporting program shall meet the following requirements:

- (1) Operate twenty-four hours per day, seven days per week;
- (2) Forward reported information to and coordinate with the appropriate school threat assessment teams and law enforcement and public safety agencies required under the school's emergency management plan developed under section 5502.262 of the Revised Code.

3319.45. Principal to report certain act or violations by pupil to superintendent and law enforcement officer.

If a principal of a public school in a city, local, exempted village, or joint vocational school district, acting in his official or professional capacity, has knowledge of or has observed a pupil committing a violation listed in division (A) of section 3313.662 of the Revised Code, regardless of whether or not the pupil was sixteen years of age or older at the time of the commission of the act or violation, and the violation was committed on property owned and controlled by, or at any activity held under the auspices of, the board of education of the school district, both of the following apply:

- (A) The principal, within one school day after obtaining his knowledge of or observing the act or violation, shall report the violation to the superintendent of the school district in which the school is located or to the designee of the superintendent.
- (B) The principal, within a reasonable period of time after obtaining his knowledge of or observing the act or violation, may report the act or violation to a law enforcement officer of the jurisdiction in which the violation occurred or, if the pupil is a juvenile, report the violation to either a law enforcement officer of the jurisdiction in which the act occurred or in the jurisdiction in which the pupil resides.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

3313.951. Qualifications for school resource officers.

(B)(1) A school resource officer who provides services to a school district or school on or after November 2, 2018, shall, except as described in division (B)(2) of this section, satisfy both of the following conditions:

- (a) Complete a basic training program approved by the Ohio peace officer training commission, as described in division (B)(1) of section 109.77 of the Revised Code;

(b) Complete at least forty hours of school resource officer training within one year after appointment to provide those services through one of the following entities, as approved by the Ohio peace officer training commission:

- (i) The national association of school resource officers;
- (ii) The Ohio school resource officer association;
- (iii) The Ohio peace officer training academy.

(2) A school resource officer who is appointed to provide services to a school district or school prior to November 2, 2018, shall be exempt from compliance with the training requirements prescribed in division (B)(1)(b) of this section.

(3) A certified training program provided by an entity described in division (B)(1)(b) of this section shall include instruction regarding skills, tactics, and strategies necessary to address the specific nature of all of the following:

- (a) School campuses;
- (b) School building security needs and characteristics;
- (c) The nuances of law enforcement functions conducted inside a school environment, including:
 - (i) Understanding the psychological and physiological characteristics consistent with the ages of the students in the assigned building or buildings;
 - (ii) Understanding the appropriate role of school resource officers regarding discipline and reducing the number of referrals to juvenile court; and
 - (iii) Understanding the use of developmentally appropriate interview, interrogation, de-escalation, and behavior management strategies.
- (d) The mechanics of being a positive role model for youth, including appropriate communication techniques which enhance interactions between the school resource officer and students;
- (e) Providing assistance on topics such as classroom management tools to provide law-related education to students and methods for managing the behaviors sometimes associated with educating children with special needs;
- (f) The mechanics of the laws regarding compulsory attendance, as set forth in Chapter 3321. of the Revised Code;
- (g) Identifying the trends in drug use, eliminating the instance of drug use, and encouraging a drug-free environment in schools.

(4) The Ohio peace officer training commission shall adopt rules, in accordance with Chapter 119. of the Revised Code, for the approval of school resource officer training provided by an entity described in division (B)(1)(b) of this section.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

3313.95. Contract for police officer to assist in working with students concerning use of alcohol and drugs of abuse.

The board of education of any school district and the board of trustees of a township, the legislative authority of a municipal corporation, or the county sheriff of a county that includes part of the district's

territory may enter into a contract under which the trustees, legislative authority, or sheriff assign one or more police officers employed by that political subdivision's police force to one or more of the school district's schools upon such terms and conditions as are set forth in the contract.

The contract shall specify the police officer's duties, which shall be limited to assisting guidance counselors and teachers in working with students concerning the use of alcohol and drugs of abuse, and which shall not include any duties for which an educator license issued under sections 3319.22 to 3319.30 of the Revised Code is required. The contract shall also specify the amount to be paid to the township, municipal corporation, or county by the board of education as compensation for all or part of the salary and benefits of any police officer assigned to its schools in accordance with such contract.

3313.951. Qualifications for school resource officers.

(A) As used in this section:

(3) "School resource officer" means a peace officer who is appointed through a memorandum of understanding between a law enforcement agency and a school district to provide services to a school district or school as described in this section. [...]

(C)(1) If a school district decides to utilize school resource officer services, the school district and the appropriate law enforcement agency shall first enter into a memorandum of understanding that clarifies the purpose of the school resource officer program and roles and expectations between the participating entities. If a school district is already utilizing school resource officer services on November 2, 2018, the school district and the law enforcement agency shall enter into a memorandum of understanding within one year after November 2, 2018.

(2) Each memorandum of understanding shall address the following items:

- (a) Clearly defined set of goals for the school resource officer program;
- (b) Background requirements or suggested expertise for employing law enforcement in the school setting, including an understanding of child and adolescent development;
- (c) Professional development, including training requirements that focus on age-appropriate practices for conflict resolution and developmentally informed de-escalation and crisis intervention methods;
- (d) Clearly defined roles, responsibilities, and expectations of the parties involved, including school resource officers, law enforcement, school administrators, staff, and teachers;
- (e) A protocol for how suspected criminal activity versus school discipline is to be handled;
- (f) The requirement for coordinated crisis planning and updating of school crisis plans;
- (g) Any other discretionary items determined by the parties to foster a school resource officer program that builds positive relationships between law enforcement, school staff, and the students, promotes a safe and positive learning environment, and decreases the number of youth formally referred to the juvenile justice system.

(3) A school district, through its school administration, may give students an opportunity to provide input during the drafting process of any memorandum of understanding being entered into pursuant to division (C) of this section.

(D)(1) In accordance with the requirements prescribed in this section, a school resource officer may work in one or more school districts or schools providing the following services:

- (a) Assistance with adoption, implementation, and amendment of the comprehensive emergency management plan required under section 5502.262 of the Revised Code;
- (b) Carrying out any additional responsibilities assigned to the school resource officer under the employment engagement, contract, or memorandum of understanding, including but not limited to:
 - (i) Providing a safe learning environment;

- (ii) Providing valuable resources to school staff members;
- (iii) Fostering positive relationships with students and staff;
- (iv) Developing strategies to resolve problems affecting youth and protecting all students.

(2) A school resource officer shall consult with local law enforcement officials and first responders when assisting a school district's administrator in the development of a comprehensive emergency management plan.

(E) The school district or school administrator shall have final decision-making authority regarding all matters of school discipline.

3313.669. Threat assessment teams .

(C) Each district building shall include proof of completion of an approved training program by each team member in the building's emergency management plan submission to the director of public safety in accordance with rules adopted under division (F) of section 5502.262 of the Revised Code. Each team shall be multidisciplinary, when possible, and may include school administrators, mental health professionals, school resource officers, and other necessary personnel.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

3313.669. Threat assessment teams .

(A) Beginning not later than two years after the effective date of this section, each local, city, exempted village, and joint vocational school district shall create a threat assessment team for each school building in the district serving grades six through twelve. Upon appointment and once every three years thereafter, each team member shall complete an approved threat assessment training program from the list maintained by the department of public safety pursuant to section 5502.263 of the Revised Code.

(B)(1) If a school building has a similarly constituted safety team as of the effective date of this section, that team also may serve as the threat assessment team, provided that the team and each member comply with the requirements of this section.

(2) If members of a team described in division (B)(1) of this section that have completed a training program in the year immediately preceding the implementation date specified in division (A) of this section that later is approved by the department, the team members shall not be required to complete the training program for two years after the implementation date. A new member that joins a team described in division (B)(2) of this section shall complete an approved training program upon appointment.

(C) Each district building shall include proof of completion of an approved training program by each team member in the building's emergency management plan submission to the director of public safety in accordance with rules adopted under division (F) of section 5502.262 of the Revised Code. Each team shall be multidisciplinary, when possible, and may include school administrators, mental health professionals, school resource officers, and other necessary personnel.

(D) A school or school district, member of a district board of education or governing authority, or a district or school employee, including a school threat assessment team member, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a team member's

execution of duties related to school safety unless the team member's act or omission constitutes willful or wanton misconduct.

This section does not eliminate, limit, or reduce any other immunity or defense that a school or school district, member of a district board or governing authority, or district or school employee, including a threat assessment team member, may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

3313.6610. Anonymous reporting programs.

(A) Beginning with the first full school year that begins after the effective date of this section, each local, city, exempted village, and joint vocational school district shall register with the SaferOH tip line operated by the department of public safety or enter into an agreement with an anonymous reporting program of the district's choosing. The reporting program shall meet the following requirements:

- (1) Operate twenty-four hours per day, seven days per week;
- (2) Forward reported information to and coordinate with the appropriate school threat assessment teams and law enforcement and public safety agencies required under the school's emergency management plan developed under section 5502.262 of the Revised Code.

5502.262. School emergency management plans.

(B)(c) A threat assessment plan developed as prescribed in section 5502.263 of the Revised Code. A building may use the model plan developed by the department of public safety under that section;

- (d) A protocol for school threat assessment teams established under section 3313.669 of the Revised Code.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Ohio provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Anti-Harassment, Intimidation and Bullying Resources, Ohio Department of Education	Describes what anti-bullying and anti-harassment policies are and discusses how to prevent bullying and how schools can address bullying and keep students safe.	https://education.ohio.gov/Topics/Other-Resources/School-Safety/Safe-and-Supportive-Learning/Anti-Harassment-Intimidation-and-Bullying-Resource
Ohio's Attendance Laws, Ohio Department of Education	Provides links to resources on attendance such as resource guide to reduce chronic absenteeism, tools to encourage regular attendance, Ohio's attendance laws, and other related resources.	https://education.ohio.gov/Topics/Student-Supports/Chronic-Absenteeism
Ohio's Positive Behavioral Intervention Supports (PBIS), OSSC	Addresses Ohio's safe and support learning environment and provides definitions of PBIS and a link to learn additional information on PBIS.	https://education.ohio.gov/Topics/Student-Supports/Ohio-PBIS
Ohio School Safety Center (OSSC)	Provides an overview of OSSC and addresses school safety in Pre-K-12 Schools with related resources and information.	https://ohioschoolsafetycenter.ohio.gov/
Policy: Positive Behavior Interventions and Support and Restraint and Seclusion, Ohio Department of Education	Addresses Restraint and Seclusion and provides links to the PBIS Restraint and Seclusion Training Modules and other related resources such as model policy for restraint and seclusion and crisis prevention and de-escalation training guidelines.	https://education.ohio.gov/Topics/Other-Resources/School-Safety/Building-Better-Learning-Environments/Policy-Positive-Behavior-Interventions-and-Support

Title	Description	Website address (if applicable)
<i>Documents</i>		
Anti-Harassment, Anti-Intimidation, or Anti-Bullying Model Policy (October 2012), Ohio Department of Education	Model policy prohibiting harassment, intimidation and bullying in Ohio schools.	http://education.ohio.gov/getattachment/Topics/Other-Resources/School-Safety/School-Safety-Resources/Anti-Harassment-Intimidation-and-Bullying-Model-Po/Anti-HIB-Model-Policy-FINAL-update-incl-HB116-100912.pdf.aspx
Guidance for Implementing Ohio's Anti-Harassment, Intimidation and Bullying Policy (June 2018), Ohio Department of Education	Guidance document for schools to use in identifying, investigating, and intervening in student-to-student bullying incidents.	https://education.ohio.gov/getattachment/Topics/Other-Resources/School-Safety/Safe-and-Supportive-Learning/Anti-Harassment-Intimidation-and-Bullying-Resource/Anti-Bullying-Resources-for-Parents/GUIDANCE_AntiBullying.pdf.aspx
HB 10 Model Policy Framework, Ohio Department of Education	Framework designed to assist districts in update local policies addressing excessive absenteeism.	https://education.ohio.gov/getattachment/Topics/Chronic-Absenteeism/HB-410-Model-Policy.pdf.aspx?lang=en-US
Ohio School Climate Guidelines, OSSC	Document provides guidelines for Ohio schools addressing school climate.	http://education.ohio.gov/getattachment/Topics/Other-Resources/School-Safety/School-Safety-Resources/Ohio-School-Climate-Guidelines/Ohio-School-Climate-Guidelines.pdf.aspx
Ohio's Resource Guide to Reduce Chronic Absenteeism, Ohio Department of Education (October 2017), Ohio Department of Education	Guidance document assists school districts in strategically planning and implementing prevention and interventions universally and at the student-level to reduce absenteeism.	https://files.eric.ed.gov/fulltext/ED580128.pdf
Threat Assessment Checklist for K-12 Schools	This document condenses information from nationally recognized threat assessment best practices into a 12-step checklist which provides a general overview of the steps to consider when establishing threat assessment plans, procedures and policies.	https://education.ohio.gov/getattachment/Topics/Other-Resources/School-Safety/Building-Better-Learning-Environments/PBIS-Resources/Project-AWARE-Ohio/Project-AWARE-Ohio-Statewide-Resources/Threat-Assessment-Checklist-for-K-12-Schools_Updated-8-3-18.pdf.aspx?lang=en-US

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
K-12 Schools Training; Safety and Violence Prevention Training Now Required of K-12 Professionals, Safer Schools Ohio	Required training for all K-12 professionals on topics of mental health, behavioral health, suicide, bullying, child abuse, and human trafficking.	https://ohioschoolsafetycenter.ohio.gov/wps/portal/gov/osscc/pre-k-12-schools/training/required-safety-and-violence-prevention-training
Module Three: Anti-Harassment, Intimidation, Bullying and Teen Relationship Abuse in Schools and on School Buses, Ohio Department of Education	Training curriculum for educators as they respond to harassment, intimidation bullying, and teen relationship abuse in their schools, on the school buses and in their community.	https://education.ohio.gov/getattac hment/Topics/Other-Resources/School-Safety/Safe-and-Supportive-Learning/Safety-and-Violence-Prevention-Training-Now-Require/SVPC-Module-3.doc.aspx
Ohio School Report Cards, Advanced Reports, Ohio Department of Education	Reports on data regarding student discipline incidents, enrollment, attendance, test results, etc. Reports can be queried by school building, district, or state, and can be disaggregated by subgroups.	https://reportcard.education.ohio.gov/
Safety and Violence Education Students (SAVE Students) Act	Ohio's 133rd General Assembly enacted <u>House Bill 123</u> , the "Safety and Violence Education Students (SAVE Students) Act," regarding school security and youth suicide awareness education and training. The state legislation calls for a comprehensive approach to school safety involving the Ohio departments of Education, Public Safety, Mental Health and Addiction Services and Attorney General's Office.	https://education.ohio.gov/Topics/Student-Supports/Safety-and-Violence-Education-Students-SAVE-Stude



Oklahoma Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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[§ 155.](#) Exemptions from liability

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. [...]

B. In developing the policy, the district board of education shall make an effort to involve the teachers, parents, administrators, school staff, school volunteers, community representatives, local law enforcement agencies and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. The school district policy shall be implemented in a manner that is ongoing throughout the school year and is integrated with other violence prevention efforts.

§24-101.3. Out-of-school suspensions - Right to appeal.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(a) Purpose. Bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include impact on school safety, student engagement, and the overall school environment. Successful school programs recognize, prevent, effectively identify, and intervene in incidents involving harassment, intimidation and bullying behavior. Schools that implement these programs have improved safety and create a more inclusive learning environment. The purpose of the Oklahoma School Bullying Prevention Act, 70 O.S. § 24-100.2, et seq., is to provide a comprehensive approach for public schools to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of bullying. [...]

(e) Policy Development. In developing a district policy, each district board of education shall make an effort to involve teachers, parents, and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of the adoption of the policy and shall receive a copy upon request.

Scope

LAWS

§24-100.3. Purpose and definitions.

A. As used in the School Safety and Bullying Prevention Act:

1. "Bullying" means any pattern of harassment, intimidation, threatening behavior, physical acts, verbal or electronic communication directed toward a student or group of students that results in or is reasonably perceived as being done with the intent to cause negative educational or physical results for the targeted individual or group and is communicated in such a way as to disrupt or interfere with the school's educational mission or the education of any student;
2. "At school" means on school grounds, in school vehicles, at school-sponsored activities, or at school-sanctioned events;
3. "Electronic communication" means the communication of any written, verbal, pictorial information or video content by means of an electronic device, including, but not limited to, a telephone, a mobile or cellular telephone or other wireless telecommunication device, or a computer; and
4. "Threatening behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

B. Nothing in this act shall be construed to impose a specific liability on any school district.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically address bullying by students at school and by electronic communication, if the communication is specifically directed at students or school personnel and concerns bullying at school.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meaning:

- (2) "At school" means on school grounds, in school vehicles, at school-sponsored activities, or at school-sanctioned events. [...]

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

- (1) The policy shall specifically prohibit all bullying at school. The prohibition against bullying at school shall include all use of electronic communication that is specifically directed at students or school personnel and is used to perpetuate incidents at school which meet the definition of bullying set forth (b) of this Section.

Communication of Policy

LAWS

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

4. Contain a statement of how the policy is to be publicized including a requirement that:
 - a. an annual written notice of the policy be provided to parents, guardians, staff, volunteers and students, with age-appropriate language for students,
 - b. notice of the policy be posted at various locations within each school site, including but not limited to cafeterias, school bulletin boards, and administration offices,
 - c. the policy be posted on the Internet website for the school district and each school site that has an Internet website, and
 - d. the policy be included in all student and employee handbooks.

§24-102. Pupils - Dangerous weapons - Dangerous substances.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

§1190. Prohibition against hazing - Presumption - Penalty - Definition.

C. A copy of the policy or the rules and regulations of the public or private school or institution of higher education which prohibits hazing shall be given to each student enrolled in the school or institution and shall be deemed to be part of the bylaws of all organizations operating at the public school or the institution of higher education.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

- (3) The policy shall contain procedures for publicizing the bullying policy that meet all of the following requirements:
 - (A) An annual written notice of the bullying policy, written in age-appropriate language, shall be provided to parents, guardians, staff, volunteers, and students at each school;

(B) A written notice of the school bullying policy shall be posted at various locations within each school site, including, but not limited to cafeterias, school bulletin boards, classrooms, and administration offices. The notice shall be written in age-appropriate language that is understandable and accessible by all students in the school in which the notice is distributed;

(C) The bullying policy shall be posted on the internet websites of the school district and each school site in the district which has its own website; and

(D) The bullying policy shall be included in all student and employee handbooks.

210:35-3-69. Climate.

(a) The school climate shall be conducive to learning.

(b) The school staff shall assess its climate, share the results of the assessment with the staff, and have a plan for maintaining an atmosphere that is responsive to the needs of the students.

(c) There shall be activities within the school that provide for and/or facilitate the positive self-esteem of students and staff members.

(d) The school shall provide appropriate opportunities for involving students, parents, staff members, and community representatives in decision-making. [Reference: 70:5-117.4; SL Section 68.1 Adoption of Four-Year Improvement Plan by Board of Education]

(e) The school shall assist parents in developing those skills and attitudes necessary for helping their children succeed in school.

(f) The school shall provide a handbook for students, parents, and teachers which includes information on such matters as homework policies, behavior codes, grading policies, and other kinds of information important to students, parents, guardians, and staff members. The behavior code shall be developed with the appropriate involvement of students, staff, and parents.

(g) The school shall provide organizations, activities, and leadership groups that offer opportunities for recognition of student accomplishments.

(h) Parents shall receive regular and frequent communication from the school. Other members of the community shall be kept informed about school activities.

In-School Discipline

Discipline Frameworks

LAWS

24-100.4. Control and discipline of child.

- A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:
1. Specifically address bullying by students at school and by electronic communication, if the communication is specifically directed at students or school personnel and concerns bullying at school;
 2. Contain a procedure for reporting an act of bullying to a school official or law enforcement agency, including a provision that permits a person to report an act anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report;
 3. Contain a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal;
 4. Contain a statement of how the policy is to be publicized including a requirement that:
 - a. an annual written notice of the policy be provided to parents, guardians, staff, volunteers and students, with age-appropriate language for students,
 - b. notice of the policy be posted at various locations within each school site, including but not limited to cafeterias, school bulletin boards, and administration offices,
 - c. the policy be posted on the Internet website for the school district and each school site that has an Internet website, and
 - d. the policy be included in all student and employee handbooks;
 5. Require that appropriate school district personnel involved in investigating reports of bullying make a determination regarding whether the conduct is actually occurring;
 6. Contain a procedure for providing timely notification to the parents or guardians of a victim of documented and verified bullying and to the parents or guardians of the perpetrator of the documented and verified bullying;
 7. Identify by job title the school official responsible for enforcing the policy;
 8. Contain procedures for reporting to law enforcement all documented and verified acts of bullying which may constitute criminal activity or reasonably have the potential to endanger school safety;
 9. Require annual training for administrators and school employees as developed and provided by the State Department of Education in preventing, identifying, responding to and reporting incidents of bullying;
 10. Provide for an educational program as designed and developed by the State Department of Education and in consultation with the Office of Juvenile Affairs for students and parents in preventing, identifying, responding to and reporting incidents of bullying;
 11. Establish a procedure for referral of a person who commits an act of bullying to a delinquency prevention and diversion program administered by the Office of Juvenile Affairs;
 12. Address prevention by providing:
 - a. consequences and remedial action for a person who commits an act of bullying,

- b. consequences and remedial action for a student found to have falsely accused another as a means of retaliation, reprisal or as a means of bullying, and
- c. a strategy for providing counseling or referral to appropriate services, including guidance, academic intervention, and other protection for students, both targets and perpetrators, and family members affected by bullying, as necessary;

13. Establish a procedure for:

- a. the investigation, determination and documentation of all incidents of bullying reported to school officials,
- b. identifying the principal or a designee of the principal as the person responsible for investigating incidents of bullying,
- c. reporting the number of incidents of bullying, and
- d. determining the severity of the incidents and their potential to result in future violence;

14. Establish a procedure whereby, upon completing an investigation of bullying, a school may recommend that available community mental health care, substance abuse or other counseling options be provided to the student, if appropriate; and

15. Establish a procedure whereby a school may request the disclosure of any information concerning students who have received mental health, substance abuse, or other care pursuant to paragraph 14 of this subsection that indicates an explicit threat to the safety of students or school personnel, provided the disclosure of the information does not violate the requirements and provisions of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of the Oklahoma Statutes, or any other state or federal laws regarding the disclosure of confidential information.

B. In developing the policy, the district board of education shall make an effort to involve the teachers, parents, administrators, school staff, school volunteers, community representatives, local law enforcement agencies and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. The school district policy shall be implemented in a manner that is ongoing throughout the school year and is integrated with other violence prevention efforts.

C. The teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child according to district policies during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by the teacher.

D. Except concerning students on individualized education plans (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, the State Board of Education shall not have authority to prescribe student disciplinary policies for school districts or to proscribe corporal punishment in the public schools. The State Board of Education shall not have authority to require school districts to file student disciplinary action reports more often than once each year and shall not use disciplinary action reports in determining a school district's or school site's eligibility for program assistance including competitive grants.

E. The board of education of each school district in this state shall have the option of adopting a dress code for students enrolled in the school district. The board of education of a school district shall also have the option of adopting a dress code which includes school uniforms.

F. The board of education of each school district in this state shall have the option of adopting a procedure that requires students to perform campus-site service for violating the district's policy.

G. The State Board of Education shall:

- 1. Promulgate rules for periodically monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section;

2. Establish and maintain a central repository for the collection of information regarding documented and verified incidents of bullying; and
3. Publish a report annually on the State Department of Education website regarding the number of documented and verified incidents of bullying in the public schools in the state.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

- (10) The policy shall address prevention of bullying by providing procedures at each school that contain:
 - (A) Consequences and remedial action for any person (including a student or school employee) who commits an act of bullying. All consequences and remedial action shall be appropriate to the age of the perpetrator(s) and severity of the incident. Such consequences may include, but are not limited to one or more of the following:
 - (i) Verbal or written warnings;
 - (ii) Conferences with the parent(s) and/or guardian(s) of the student(s) involved in an incident of bullying;
 - (iii) Detention;
 - (iv) Loss of school privileges;

- (v) Course and/or teacher reassignment;
 - (vi) Prohibition or suspension of participation in school activities;
 - (vii) In-school or out-of-school suspension in accordance with the provisions of 70 O.S. 24-101.3 and district policy and procedures;
 - (viii) Meetings or conferences with a school counselor, school psychologist, or school social worker;
 - (ix) Restitution of a victim's property that has been damaged as a result of a documented and verified bullying incident;
 - (x) Reassignment, suspension, and/or termination of school employment;
 - (xi) Referral to law enforcement;
- (B) Consequences and remedial action for a student found to have falsely accused another student of bullying as a means of retaliation, reprisal, or means of bullying that is appropriate to the age of the perpetrator and severity of the incident, provided that such consequences shall not be implemented or enforced in such a way as to deter credible reports of bullying incidents; and
- (C) A strategy for providing appropriate services as necessary for students who are targets of bullying; family members affected by bullying; and perpetrators of bullying. Such services and support may be provided by the school directly or through referrals to other providers and may include, but are not limited to one or more of the following:
- (i) Counseling;
 - (ii) Academic intervention;
 - (iii) Protection for students who are targets of bullying; and
 - (iv) Any other appropriate services as necessary to:
 - (I) Ensure the safety of all students involved in incidents of bullying; and
 - (II) Prevent further incidents of bullying.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§6-113.1. Effective classroom discipline techniques.

The State Department of Education shall provide each local board of education materials dealing with effective classroom discipline techniques as an alternative to the use of corporal punishment.

§24-100.4. Control and discipline of child.

D. Except concerning students on individualized education plans (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, the State Board of Education shall not have authority to prescribe student disciplinary policies for school districts or to proscribe corporal punishment in the public schools. The State Board of Education shall not have authority to require school districts to file student disciplinary action reports more often than once each year and shall not use disciplinary action reports in determining a school district's or school site's eligibility for program assistance including competitive grants.

§155. Exemptions from liability.

The state or a political subdivision shall not be liable if a loss or claim results from:

35. The use of necessary and reasonable force by a school district employee to control and discipline a student during the time the student is in attendance or in transit to and from the school, or any other function authorized by the school district.

§844. Ordinary force as means of discipline not prohibited.

Provided, however, that nothing contained in this Act shall prohibit any parent, teacher or other person from using ordinary force as a means of discipline, including but not limited to spanking, switching or paddling.

REGULATIONS

210:15-13-9. Guidelines for minimizing seclusion and restraint of students.

(a) Definitions. The following terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

(3) "Corporal punishment" means, as defined in 70 O.S. § 13-116, the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. [...]

(d) Corporal punishment of students with disabilities not authorized. For all students, the State Department of Education strongly encourages Oklahoma schools to implement disciplinary policies and practices that use evidence based, developmentally appropriate methods informed by an awareness that many students have endured Adverse Childhood Experiences (ACEs) and related trauma. As applied to students with disabilities entitled to special education services under the Individuals with Disabilities Education Act (IDEA), the use of corporal punishment by employees or agents of an Oklahoma public school is prohibited beginning in the 2020-2021 school year.

(e) Incident reporting. Each incident of seclusion, restraint, or corporal punishment of a student with disabilities shall be reported immediately to a school site administrator and documented using the

statewide online IEP reporting system. A copy of the documentation shall be placed in the student's file and provided to the student's parent(s) or guardian(s). For each incident of seclusion, restraint, or corporal punishment of a student, the student's parent(s) or guardian(s) shall be notified as soon as possible, and must be notified no later than the school day following the incident or within twenty-four (24) hours of the incident, whichever is first. An IEP meeting may be needed to review or implement a Behavior Intervention Plan (BIP) for the student.

(f) End-of-year reporting. At the end of each school year, and no later than June 30th, each school district or charter school shall report to the State Department of Education (OSDE) Office of Special Education Services information regarding all incidents of seclusion, restraint, or corporal punishment of a student with disabilities within the district during the school year that just closed. The end-of-year summary report shall include the total number of each type of incident, as well as the number and type of incidents associated with each student to whom seclusion, physical restraint, or corporal punishment was applied. This information will be used to identify districts in need of additional support, training, and guidance in the areas of conflict de-escalation, crisis intervention, Functional Behavior Assessments, the possible effects of seclusion and restraint, and effective behavior intervention planning.

Search and Seizure

LAWS

§24-102. Pupils - Dangerous weapons - Dangerous substances.

The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the

student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

210:15-13-9. Guidelines for minimizing seclusion and restraint of students.

(a) Definitions. The following terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Behavior Intervention Plan (BIP)" means a plan that is based on the results of a functional behavioral assessment (FBA) and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.

(2) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement, when such substance is not administered as prescribed to the student by a licensed physician or other qualified health professional acting under the scope of their professional authority.

(3) "Corporal punishment" means, as defined in 70 O.S. § 13-116, the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(4) "Functional Behavioral Assessment (FBA)" means a process that uses direct and indirect data collection to determine why a student engages in behaviors that impede learning, and how the student's behavior relates to the environment. The FBA includes, but is not limited to: the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior, and the formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it.

(5) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement. This term does not include motor vehicle safety restraints or devices utilized by a student, or appropriately trained school personnel, which are used as prescribed by a medical or related services professional for specific approved purposes such as: mechanical supports used to achieve proper body position or allow greater freedom of mobility, restraints for medical immobilization, or orthopedically prescribed devices.

(6) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of directing a student to move to a safe location if they are in distress or acting out.

(7) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. Physical restraint does not include an appropriately applied temporary physical escort.

(8) "Prone restraint" means a prohibited type of physical restraint that positions a student face down on their stomach, potentially restricting the student's ability to breathe freely.

(9) "Seclusion" means the involuntary confinement of a student alone in a room or area which the student is physically prevented from leaving. Seclusion does not include short-term monitored separation in a monitored and non-locked timeout setting.

(10) "Seclusion room" means a room or other confined area in which a student is involuntarily placed in isolation from other persons and which the student is physically prevented from leaving.

(11) "Timeout" means a technique that is part of an approved behavior management program and involves the monitored separation of the student in a non-locked setting for the purpose of calming.

(b) Student seclusion. Seclusion should never be used for the purposes of discipline, punishment, forcing compliance, or as a convenience to staff. Seclusion may only be used under emergency circumstances as outlined below.

(1) Circumstances under which seclusion of a student is authorized. A student may be placed in seclusion only if:

(A) The student's actions pose an imminent danger of serious physical harm to the student or other individuals, and not merely a threat to property;

(B) Positive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student are currently being implemented, but have not effectively de-escalated the threat of danger or harm;

(C) School personnel are present who have completed appropriate training that addresses conflict de-escalation, the crisis cycle and associated interventions, appropriate use of seclusion rooms, and possible effects of seclusion; and

(D) The seclusion only lasts as long as necessary to resolve the threat of danger or harm.

(2) Conditions required during an authorized use of seclusion. If a student is placed in seclusion during an emergency situation that meets the criteria of (b)(1) above, the following precautions must be exercised throughout the time the student is in seclusion:

(A) The student must be continuously monitored visually and aurally by an appropriately trained school employee;

(B) The student must be allowed to go to the restroom upon request;

(C) The student must be permitted to drink water upon request; and

(D) Immediate action must be taken if the student displays any signs of medical distress.

(3) Requirements for seclusion rooms. A room or area where a student is placed in seclusion must meet the following criteria:

(A) Continuous visual and aural monitoring of a secluded student is possible;

(B) There must be adequate space for the student to sit or lie down;

(C) There must be adequate lighting;

(D) The room must be equipped with heating, cooling, and ventilation systems comparable to such systems in the rest of the building where the seclusion room or area is located;

(E) The room or area used for seclusion must be free of any objects that pose a potential risk of harm to a student with disabilities or a student in distress; and

(F) If equipped with a door that locks, the lock must automatically disengage in case of an emergency such as a fire or severe weather.

(c) Student restraint. Chemical restraint and/or mechanical restraint of a student is prohibited in Oklahoma public schools. Physical restraint of a student should never be used for the purposes of discipline, punishment, forcing compliance, or as a convenience to staff. In cases where a student has a history of dangerous behavior for which physical restraint was used or considered, the school should have a plan in place for teaching and supporting more appropriate behavior and determining positive methods to prevent behavioral escalations that have previously resulted in the use or consideration of restraint. Physical restraint may only be used under emergency circumstances as outlined below.

(1) Circumstances under which physical restraint of a student is authorized. A student may be physically restrained only if:

(A) The student's actions pose an imminent danger of serious physical harm to the student or other individuals, and not merely a threat to property;

(B) Positive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student are currently being implemented, but have not effectively de-escalated the threat of danger or harm;

(C) The physical restraint is applied by school personnel who have completed appropriate training that addresses conflict de-escalation, the crisis cycle and associated interventions, CPR and First Aid (including certifications), possible effects of physical restraint, and monitoring the wellbeing of a restrained student; and

(D) The physical restraint lasts only as long as necessary to resolve the threat of danger or harm.

(2) Conditions required during an authorized use of physical restraint. If a student is placed in physical restraint during an emergency situation that meets the criteria of (c)(1) above, the following precautions must be exercised throughout the time the student is restrained:

(A) Under no circumstances may a student be restrained using a prone (facedown) restraint, any restraint that prevents the student from breathing or speaking, or any maneuver that places pressure or weight on the chest, sternum, lungs, diaphragm, neck, throat, or back;

(B) The degree of restriction of the student's freedom of movement may not exceed what is necessary to protect the student or other individuals from the threat of serious physical harm; and

(C) The restraint of the student is continuously witnessed by at least one school employee who is not involved in the physical restraint.

(d) Corporal punishment of students with disabilities not authorized. For all students, the State Department of Education strongly encourages Oklahoma schools to implement disciplinary policies and practices that use evidence based, developmentally appropriate methods informed by an awareness that many students have endured Adverse Childhood Experiences (ACEs) and related trauma. As applied to students with disabilities entitled to special education services under the Individuals with Disabilities Education Act (IDEA), the use of corporal punishment by employees or agents of an Oklahoma public school is prohibited beginning in the 2020-2021 school year.

(e) Incident reporting. Each incident of seclusion, restraint, or corporal punishment of a student with disabilities shall be reported immediately to a school site administrator and documented using the statewide online IEP reporting system. A copy of the documentation shall be placed in the student's file and provided to the student's parent(s) or guardian(s). For each incident of seclusion, restraint, or corporal punishment of a student, the student's parent(s) or guardian(s) shall be notified as soon as possible, and must be notified no later than the school day following the incident or within twenty-four (24) hours of the incident, whichever is first. An IEP meeting may be needed to review or implement a Behavior Intervention Plan (BIP) for the student.

(f) End-of-year reporting. At the end of each school year, and no later than June 30th, each school district or charter school shall report to the State Department of Education (OSDE) Office of Special Education Services information regarding all incidents of seclusion, restraint, or corporal punishment of a student with disabilities within the district during the school year that just closed. The end-of-year summary report shall include the total number of each type of incident, as well as the number and type of incidents associated with each student to whom seclusion, physical restraint, or corporal punishment was applied.

This information will be used to identify districts in need of additional support, training, and guidance in the areas of conflict de-escalation, crisis intervention, Functional Behavior Assessments, the possible effects of seclusion and restraint, and effective behavior intervention planning.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

- (10) The policy shall address prevention of bullying by providing procedures at each school that contain:
 - (A) Consequences and remedial action for any person (including a student or school employee) who commits an act of bullying. All consequences and remedial action shall be appropriate to the age of the perpetrator(s) and severity of the incident. Such consequences may include, but are not limited to one or more of the following:
 - (i) Verbal or written warnings;
 - (ii) Conferences with the parent(s) and/or guardian(s) of the student(s) involved in an incident of bullying;
 - (iii) Detention;
 - (iv) Loss of school privileges;
 - (v) Course and/or teacher reassignment;
 - (vi) Prohibition or suspension of participation in school activities;
 - (vii) In-school or out-of-school suspension in accordance with the provisions of 70 O.S. 24-101.3 and district policy and procedures;
 - (viii) Meetings or conferences with a school counselor, school psychologist, or school social worker;
 - (ix) Restitution of a victim's property that has been damaged as a result of a documented and verified bullying incident;

- (x) Reassignment, suspension, and/or termination of school employment;
- (xi) Referral to law enforcement;
- (B) Consequences and remedial action for a student found to have falsely accused another student of bullying as a means of retaliation, reprisal, or means of bullying that is appropriate to the age of the perpetrator and severity of the incident, provided that such consequences shall not be implemented or enforced in such a way as to deter credible reports of bullying incidents; and
- (C) A strategy for providing appropriate services as necessary for students who are targets of bullying; family members affected by bullying; and perpetrators of bullying. Such services and support may be provided by the school directly or through referrals to other providers and may include, but are not limited to one or more of the following:
 - (i) Counseling;
 - (ii) Academic intervention;
 - (iii) Protection for students who are targets of bullying; and
 - (iv) Any other appropriate services as necessary to:
 - (I) Ensure the safety of all students involved in incidents of bullying; and
 - (II) Prevent further incidents of bullying.

Limitations or Conditions on Exclusionary Discipline

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

C.2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of not less than one (1) year, to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for

students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

B.1. Students suspended out-of-school for ten (10) or fewer days shall have the right to appeal the decision of the administration as provided in the policy required in subsection A of this section. The policy shall specify whether appeals for short-term suspensions as provided in this subsection shall be to a local committee composed of district administrators or teachers or both, or to the district board of education. Upon full investigation of the matter, the committee or board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. If the policy requires appeals for short-term suspensions to a committee, the policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. A board of education may conduct the hearing and render the final decision or may appoint a hearing officer to conduct the hearing and render the final decision. The decision of the district board of education or the hearing officer, if applicable, shall be final.

§5-118. Meetings of boards of education of school districts.

Regular meetings of the board of education of each school district shall be held upon the first Monday of each month, or upon such day as may be fixed by the board. Special meetings may be held from time to time as circumstances may demand.

All meetings of the boards of education shall be public meetings, and in all such meetings the vote of each member must be publicly cast and recorded. Executive sessions will be permitted only for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining, or resignations of any or all of the employees or volunteers of the school district, and for the purpose of discussing negotiations concerning employees and representatives of employee groups, and for the purpose of hearing evidence and discussing the expulsion or suspension of a student or students only when requested by the student involved or his or her parent, attorney, or legal guardian; provided, however, that any vote or action thereon must be taken in a public meeting with the vote of each member publicly cast and recorded. It is required that the board of education shall provide notice to the student, his or her parent, attorney or legal guardian that said student is entitled to an executive session regarding the discussion of expulsion or suspension of said student.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or fewer days pursuant to the provisions of this subsection. The following provisions shall apply

to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed in subparagraphs a and b of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed. [...]

H. A student who has been suspended for a violent offense which is directed towards a classroom teacher shall not be allowed to return to that teacher's classroom without the approval of that teacher.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§24-100.6. Separation of victim and offender.

A. Students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

B. Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, within thirty (30) days of the time of the adjudication or withholding of adjudication of any juvenile offender for any offense subject to the Juvenile Sex Offender Registration Act, either the juvenile bureau in counties which have juvenile bureaus or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the juvenile offender is enrolled or intends to enroll of the adjudication and the offense for which the child was adjudicated. Upon receipt of such notice, the school district shall notify the victim and parent or guardian of the victim of their right to request to be separated from the offender at school and during school transportation. If the victim requests to be separated from the offender, the school district shall take appropriate action to effectuate the provisions of subsection C of this section. The decision of the victim shall be final and not reversible.

C. Any offender described in subsection B of this section shall, upon the request of the victim, not attend any school attended by the victim or a sibling of the victim or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district to attend another school within the district in which the offender resides, provided the other school is not attended by the victim or sibling of the victim. If the offender is unable to attend another school in the district in which the offender resides, the offender shall transfer to another school district pursuant to the provisions of the Education Open Transfer Act.

D. The offender or the parents of the offender, if the offender is a juvenile, shall be responsible for arranging and paying for transportation and any other cost associated with or required for the offender to attend another school or that is required as a consequence of the prohibition against attending a school

or riding on a school bus on which the victim or a sibling of the victim is attending or riding. However, the offender or the parents of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the school district.

§24-101.3. Out-of-school suspensions - Right to appeal.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

§1210.568. Statewide system of alternative education programs rules and regulations.

A.1. Beginning with the first semester of the 1996-1997 school year, the State Board of Education shall implement a statewide system of alternative education programs which shall be phased-in within seven (7) years. The statewide system shall include but not be limited to Alternative Approaches grant programs, funded pursuant to Section 1210.561 of this title, and alternative academies or alternative programs implemented pursuant to this section.

2. Beginning with the first semester of the 2020-2021 school year, the State Board of Education shall implement a statewide system of alternative education. The statewide system shall include alternative education programs implemented pursuant to this section.

B. All school districts of this state serving students in grades seven through twelve shall provide alternative education programs that conform to the requirements of statutes and rules applicable to alternative education. A program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;
2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;
3. Include an intake and screening process to determine eligibility of students;
4. Demonstrate that teaching faculty are appropriately certified teachers;
5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;
6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;
7. Provide courses that meet the academic curricula standards adopted by the State Board of Education and additional remedial courses;
8. Offer individualized instruction;
9. State clear and measurable program goals and objectives;
10. Include counseling and social services components;
11. Require a plan leading to graduation be developed for each student in the program which will allow the student to participate in graduation exercises at the sending school or district after meeting the requirements of the school district as specified in the individual graduation plan for that student; provided, the graduation plan required by this paragraph shall not be separate from the plan required by Section 1210.508-4 of this title;
12. Offer life skills instruction;

13. Provide opportunities for hands-on arts education to students, including artist residency programs coordinated with the Oklahoma Arts Council;

14. Provide a proposed annual budget;

15. Be appropriately designed to serve middle school, junior high school and high school students in grades seven through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title; and

16. Allow students in the alternative education program, who otherwise meet all of the participation requirements, to participate in vocational programs and extracurricular activities at the sending school or district, including but not limited to athletics, band, and clubs.

C. The alternative education program of a school district shall be operational and serving students by September 1 of each school year.

D.1. Each alternative education program of a school district shall receive funding based on the average daily membership (ADM) of students served by an alternative education program in the prior school year according to the annual statistical report conducted by the State Department of Education. The per-student funding amount shall be based on the funding available for the program each fiscal year.

2. Of the funding available for alternative education programs each fiscal year, the State Department of Education shall designate up to fifteen percent (15%) for districts participating in cooperative agreements for alternative education services, which shall be allocated on a pro rata basis as an incentive to each participating district. The incentive amount received by each district for participating in a cooperative agreement shall not exceed Six Thousand Dollars (\$6,000.00) per fiscal year and shall be in addition to the per-student funding amount required by paragraph 1 of this subsection. Any funds remaining after allocations required by this paragraph are made shall be distributed to districts in accordance with paragraph 1 of this subsection.

3. Statewide alternative education funding shall not be used to supplant existing school district resources or to support programs that do not meet all the criteria for the statewide alternative education system.

E. All statewide alternative education funds received and expended for students participating in an alternative education program shall be reported to the State Department of Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to Section 5-135 of this title.

F. Elementary school districts, as defined in Section 5-103 of this title, may request a waiver by May 15 of each year from the State Board of Education from the requirements of this section to implement and provide an alternative education program. Any request for a waiver shall be accompanied by an assurance that the school district does not have students in need of alternative education services. If a school district is granted a waiver, no statewide alternative education funding shall be allocated to the district.

G.1. The State Board of Education shall:

a. provide initial and ongoing training of personnel who will educate at-risk populations through alternative education programs,

b. provide technical assistance to school districts to enhance the probability of success of their alternative education programs,

c. evaluate state-funded alternative education programs,

d. report the evaluation results of state-funded alternative education programs, and

e. provide in-depth program analysis and evaluation of state-funded alternative education programs.

2. The State Board of Education may create an evaluation schedule for effective and highly effective programs, requiring them to be evaluated not less than once every three (3) years.

3. The State Board of Education may contract with a technical assistance provider in order to meet the requirements of this subsection.

4. The State Board of Education shall have the authority to suspend funds for an alternative education program that does not meet the requirements of subsection B of this section. Provided, any school district under consideration for suspension of funds may request a hearing before the Board with a review of the evaluation prior to the Board's final determination.

H. All alternative education programs shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

I. An alternative education program may be offered by an individual school district or may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title. Any school district submitting a plan for an alternative education program serving fewer than ten students shall enter into a cooperative agreement with another school district to jointly provide the program unless the program has been granted a waiver from this requirement by the State Board of Education. A school district participating in a cooperative agreement shall be required to send its alternative education funding allocation to the cooperative.

J. Any materials or equipment purchased by a school district with revenue received for students participating in an alternative education program shall be used only in or directly for the alternative education program offered by the district or any subsequent alternative education program offered to students enrolled in that district. Such materials and equipment shall be made available exclusively to alternative education students during the hours that the alternative education program is operating; provided, the material or equipment may be used for other purposes when the alternative education program is not operating.

REGULATIONS

210:35-29-2. Definitions.

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Alternative Education" means an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who have not utilized their capacity to do so within traditional educational settings. Alternative education programs must meet all requirements listed at 70 O.S. § 1210.568 and at section 210:35-29-7 of this title.

210:35-29-8. Requirements for alternative education programs.

(a) General requirements. Alternative education is an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who are at risk of failing to complete their secondary education for reasons which may include academic deficiency, behavioral difficulties, excessive absences, pregnancy or parenting, family issues, substance abuse, financial issues, physical or mental health issues, state custody, juvenile justice involvement, and/or other such factors, not including disability status. An alternative education program must provide the additional services and supports outlined in statute, and not merely an opportunity for credit recovery.

To qualify as an approved alternative education program, a school district's alternative school or alternative education program must meet all requirements listed at 70 O.S. § 1210.568, including:

- (1) Student-teacher ratios conducive to effective learning for at-risk students;
- (2) Appropriate structure, curriculum, interaction, and reinforcement strategies for effective instruction;
- (3) An intake and screening process to determine eligibility of students;
- (4) Appropriately certified teaching faculty;

- (5) Teaching faculty with experiences or personal traits that qualify them for successful work with at-risk students;
- (6) Collaboration with state and local agencies;
- (7) Courses that meet the curricular standards adopted by the State Board of Education and additional remedial courses;
- (8) Individualized instruction;
- (9) Clear and measurable program goals and objectives;
- (10) Counseling and social service components;
- (11) Graduation plan for each student;
- (12) Life skills instruction;
- (13) Opportunities for arts education;
- (14) A proposed annual budget;
- (15) An evaluation component that includes an annual written self-evaluation;
- (16) Service to students in grades six (6) through twelve (12) who are most at risk of not completing high school for reasons other than disability; and
- (17) Opportunities for student participation in vocational programs and extra-curricular activities such as athletics, band, and clubs.

(b) Submission of alternative education plan. Each school district shall submit and certify an Alternative Education Implementation Plan to the State Department of Education by September 15 of each year. This plan shall outline how the district will meet the criteria listed in subsection (a) to serve its at-risk students. The plan must be submitted and certified by school districts providing their own alternative education programs, as well as districts which offer alternative education through interlocal cooperative arrangements, and districts which have no alternative education program and receive no alternative education funding.

(c) Alternative education waiver available for elementary school districts. For an elementary school district, which does not offer high school grades, the State Board of Education is authorized at 70 O.S. § 1210.568(F) to grant a waiver from the statutory requirement to implement and provide an alternative education program. An elementary school district wishing to request such a waiver must submit an application to the State Department of Education Office of Accreditation no later than May 15 prior to the school year for which the waiver is requested. An elementary school district that has not received any alternative education funding pursuant to 70 O.S. § 1210.568 shall be granted this waiver automatically and need not apply, but an elementary district that has received any amount of alternative education funding must apply for the waiver by May 15 prior to the applicable school year in order to be exempt from implementing an alternative education program.

(d) Deregulation not necessary for conforming alternative education programs. A school district need not apply to the State Board of Education for a deregulation in order to implement an alternative education program that meets all requirements listed in this subchapter and at 70 O.S. § 1210.566 through 70 O.S. § 1210.568.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

C.2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of not less than one (1) year, to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

§24-102. Pupils - Dangerous weapons - Dangerous substances.

The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

§24-132.1. Duty to report unauthorized firearm and to deliver seized weapon to law enforcement.

A. Pursuant to the requirements of Section 1271.1 of Title 21 of the Oklahoma Statutes, every school authority shall immediately report the discovery of a firearm not otherwise authorized by law to be possessed to a law enforcement authority and deliver any weapon or firearm, removed or otherwise seized from any minor, to a law enforcement authority for appropriate disposition.

B. Every school authority shall also immediately report to a law enforcement authority the discovery of a firearm upon a student that is not a minor or upon any other person not otherwise authorized by law to possess a firearm on school property pursuant to Section 1280.1 of Title 21 of the Oklahoma Statutes and deliver any weapon or firearm that is removed or seized to a law enforcement authority for disposition pursuant to Section 1271.1 of Title 21 of the Oklahoma Statutes.

§ 1210.229-2. Findings and intent of legislature.

It is further the intent of the Legislature to encourage school districts to establish programs concerning the danger and criminal consequences of the possession and/or use of firearms or other dangerous or deadly weapons in school zones.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§10-106. Records of attendance of pupil - Report of absence.

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four- week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

§24-120. Truancy - Reports to Department of Public Welfare - Withholding of assistance payments.

- A. At the close of each attendance period of the school term, the board of education of each school district shall notify in writing the Department of Human Services of the name of any child who has not been present for instruction at least eighty percent (80%) of the time without valid excuse as defined in Section 10-105 of this title.
- B. Upon the receipt of such information from the school district, the Director of the Department of Human Services is authorized to withhold assistance payments to the payee of such child and to instigate an investigation for the purpose of improving the school attendance of such child. After such investigation, if the attendance record of the child investigated is satisfactory, such withheld payments may be released. In the event the investigation results in a change in custody and care of such child, payments to the payee shall be canceled or shall be made to the person qualified to receive benefits on behalf of the child.
- C. For purposes of the pilot project, the Department of Human Services and the State Board of Education shall establish a procedure to provide for the exchange of information required by this section concerning students subject to the provisions of this section. Any procedure thus established shall, if applicable, comply with the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g et seq., and any other applicable federal law.
- D. The district attorney shall file with the Department of Human Services a report identifying any child who has been convicted of truancy within thirty (30) days of such conviction.
- E. Beginning with the 2019-2020 school year, district attorneys shall submit to the Office of Child Abuse Prevention annual reports detailing the instances in which students were convicted of truancy pursuant to the provisions of this section. The reports shall comply with the Family Educational Rights and Privacy Act of 1974 (FERPA).

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

§24-101.3. Out-of-school suspensions - Right to appeal.

- C.1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:
- a. violation of a school regulation,
 - b. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and
 - c. possession of a dangerous weapon or a controlled dangerous substance while on or within two thousand (2,000) feet of public school property, or at a school event, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

§24-102. Pupils - Dangerous weapons - Dangerous substances.

The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be

reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

§24-132. Reporting students under influence of certain prohibited substances - Civil immunity.

A. Any public school administrator, teacher or counselor having reasonable cause to suspect that a student is under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance as defined in Section 2-101 of Title 63 of the Oklahoma Statutes or has in the student's possession low-point beer, alcoholic beverages or a controlled dangerous substance, who reports such information to the appropriate school official, court personnel, community substance abuse prevention and treatment personnel or any law enforcement agency, pursuant to the school's policy shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

B. Every school authority shall immediately deliver any controlled dangerous substance, removed or otherwise seized from any minor or other person, to a law enforcement authority for appropriate disposition.

§24-138. Students under the influence of certain prohibited substances - Reporting - Written policy.

A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.

No officer or employee of any public school district or member of any school board shall be subject to any civil liability for any statement, report, or action taken in assisting or referring for assistance to any medical treatment, social service agency or facility or any substance abuse prevention and treatment program any student reasonably believed to be abusing or incapacitated by the use of low-point beer, alcoholic beverages or a controlled dangerous substance unless such assistance or referral was made in

bad faith or with malicious purpose. No such officer or employee of any public school district, member of any school board, school or school district shall be responsible for any treatment costs incurred by a student as a result of any such assistance or referral to any medical treatment, social service agency or facility, or substance abuse prevention and treatment program.

B. Every school district shall have and deliver to each classroom teacher a written policy that such teachers shall follow if they have a student who appears to be under the influence of low-point beer, alcoholic beverages or a controlled dangerous substance in their classroom. The written policy shall be developed by the local superintendent of schools and adopted by the local board of education. The provisions of subsection A of this section shall be the minimum requirements of such written policy. The written policy shall be filed with the office of the State Superintendent of Public Instruction within ninety (90) days of the effective date of this act. If such filing is not timely made, the public schools in such school district shall lose their accreditation until the written policy is filed.

§1210.212. Definitions.

As used in the 24/7 Tobacco-free Schools Act:

1. "Chewing tobacco" means any Cavendish, twist, plug, scrap, and any other kinds and forms of tobacco suitable for chewing;
2. "Educational facility" shall mean any property, building, permanent structure, facility, auditorium, stadium, arena or recreational facility owned, leased or under the control of a public school district or private school located in the state. For purposes of this act, a public school district shall not include a technology center school district;
3. "School vehicle" means any transportation equipment or auxiliary transportation equipment as defined in Section 9-104 of Title 70 of the Oklahoma Statutes;
4. "Smoking tobacco" shall mean any granulated, plug cut, crimp cut, ready rubbed, and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette;
5. "Tobacco product" shall mean any bidis, cigars, cheroots, stogies, smoking tobacco and chewing tobacco, however prepared. Tobacco products shall include any other articles or products made of tobacco or any substitute thereof; and
6. "Vapor product" shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo or electronic device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

§1210.213. Use of tobacco products prohibited in educational facilities, school vehicles, and at school-sponsored events.

A. The use of a tobacco product or vapor product shall be prohibited in or on an educational facility that offers an early childhood education program or in which children in grades kindergarten through twelve are educated. The use of a tobacco product or vapor product shall also be prohibited in school vehicles, and at any school-sponsored or school-sanctioned event or activity.

B. Nothing in this section shall be construed to prohibit a public school district or private school from having more restrictive policies regarding tobacco products and vapor products in or on an educational facility, in school vehicles and at any school-sponsored or school-sanctioned event or activity.

§1210.229-2. Findings and intent of legislature.

The Legislature finds that for the purpose of preventing drug and alcohol abuse among our young people, and for preventing or alleviating problems which lead to and are closely associated with drug and alcohol abuse, it is desirable that all Oklahoma school districts develop and implement a curriculum for drug and alcohol abuse prevention for all grade levels. Such curriculum may include training in life skills, such as problem-solving, responsibility, communication and decision-making skills, which enable young people to successfully resist social and other pressures to engage in activities which are destructive to their health and future. The Legislature encourages all school districts to adopt as a goal for the year 1990 the full implementation of drug and alcohol abuse prevention programs in their schools. In order to expand and enhance the ability of school districts to implement drug and alcohol prevention programs, it is the intent of the Legislature that local school districts participate in the federal Drug-Free Schools and Communities Act of 1986, 20 A.S.C., Section 4601 et seq. and the provisions of Public Law No. 101-647, Drug-Free School Zones.

In order to derive maximum benefit from their drug and alcohol prevention programs, it is further the intent of the Legislature that the school districts coordinate their efforts and activities with the Oklahoma Drug and Alcohol Abuse Policy Board, and with appropriate state and local drug and alcohol abuse, health and law enforcement agencies and programs within the community which provide drug education, prevention, treatment and rehabilitation.

It is further the intent of the Legislature to encourage school districts to establish programs concerning the danger and criminal consequences of the possession and/or use of firearms or other dangerous or deadly weapons in school zones.

§1210.229-3. Definitions.

For purposes of the Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act, Section 1210.229-1 et seq. of this title:

1. "Alcohol" means any low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes or alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes;
2. "Board" means the State Board of Education;
3. "Department" means the State Department of Education;
4. "Drug" means a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes; and
5. "Life skills" includes but is not limited to fostering skills in responsibility, decision making, communication, self-confidence and goal setting. Life skills shall not include values clarification or sex education.

§1210.229-5. Duties of State Superintendent of Public Instruction, State Department of Education, and Oklahoma drug and alcohol abuse policy board - Distribution of information or reports - Final determination of materials and curriculum.

A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board shall:

1. establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs and the teaching of life skills in local schools and school districts;
2. establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;
3. develop and implement strategies which encourage all schools to employ guidance counselors trained in substance abuse prevention and life skills and to develop and begin implementing quality substance abuse and life skills education programs; and
4. develop guidelines and criteria to encourage teachers and administrators to receive in-service training on alcohol and drug abuse. The training or workshops should be included in the staff

development point system. The training or workshop shall be completed the first year a certified teacher is employed by a school district, and then once every third academic year.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

C. Final determination of materials to be used, means of implementation of the curriculum, and ages and times at which students receive instruction about said life skills and drug and alcohol abuse prevention shall be made by the local school board. The local school district, at least one (1) month prior to giving such instruction to students, shall conduct for parents and guardians of students involved, during weekend or evening hours, at least one presentation concerning the plans for instruction and the materials to be used. No student shall be required to receive instruction about said life skills and drug and alcohol abuse prevention if a parent or guardian of the student objects in writing.

REGULATIONS

210:15-26-1. Purpose.

These rules establish the Tobacco Use Prevention and Cessation School program pursuant to House Bill 2019. The purpose of the program is to establish, organize, and administer a program designed to:

- (1) Lower smoking rates among Oklahoma youths;
- (2) Reduce tobacco consumption by Oklahomans; and
- (3) Reduce exposure related to secondhand tobacco smoke.

210:15-26-2. Program cornerstones.

The components of the program shall consist of the following four cornerstones as defined by House Bill 2019:

- (1) Community-based initiatives;
- (2) Voluntary classroom programs in public schools;
- (3) Cessation assistance; and
- (4) Public education media programs.

210:15-26-3. Use of funds.

(a) Grantees shall use grant funds to hire school nurses to:

- (1) Implement comprehensive, evidence-based tobacco use prevention and cessation programs demonstrated to be effective by the United States Centers for Disease Control and Prevention; and
- (2) Perform other duties required by the district.

(b) A school nurse hired to implement the program must be a registered nurse and certified the same as a teacher by the State Department of Education.

210:15-26-6. Awarding of grants.

(a) An application form shall be sent to each school district superintendent that does not employ a full-time school nurse.

- (1) The original application and one (1) copy shall be submitted to the program administrator by the indicated deadline date.
- (2) The signature of the superintendent of the local educational agency shall appear on the application.

(b) Grant applications shall be read, evaluated, and scored by a committee of school nurses employed outside the State Department of Education.

(1) Members of the review committee shall not evaluate an application from his or her own district.

(2) Each application shall be evaluated in the following areas:

(A) Applicants eligibility to apply under the statutory priorities;

(B) Statement of Need;

(C) Specific activities for the implementation of the six (6) components described in the "Guidelines for Implementation of the Tobacco Use Prevention and Cessation School Program;" and

(D) Budget.

(c) After evaluation, the State Superintendent shall recommend to the State Board of Education those applications which have been determined to be eligible for funding.

(d) Each grantee shall:

(1) Utilize training, technical assistance, and materials provided by the State Department of Health to develop, implement, and evaluate the comprehensive evidence-based tobacco use prevention and cessation program approved in the application.

(2) Provide all requested reports.

Gang-related Activity

LAWS

§5-146.1. Reporting suspected gang activity - Immunity from liability.

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§24-100.2. Short title.

Sections 24-100.2 through 24-100.5 of this title shall be known and may be cited as the "School Safety and Bullying Prevention Act".

§24-100.3. Purpose and definitions.

A. As used in the School Safety and Bullying Prevention Act:

1. "Bullying" means any pattern of harassment, intimidation, threatening behavior, physical acts, verbal or electronic communication directed toward a student or group of students that results in or is reasonably perceived as being done with the intent to cause negative educational or physical results for the targeted individual or group and is communicated in such a way as to disrupt or interfere with the school's educational mission or the education of any student;

2. "At school" means on school grounds, in school vehicles, at school-sponsored activities, or at school-sanctioned events;
3. "Electronic communication" means the communication of any written, verbal, pictorial information or video content by means of an electronic device, including, but not limited to, a telephone, a mobile or cellular telephone or other wireless telecommunication device, or a computer; and
4. "Threatening behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

B. Nothing in this act shall be construed to impose a specific liability on any school district.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically address bullying by students at school and by electronic communication, if the communication is specifically directed at students or school personnel and concerns bullying at school;
2. Contain a procedure for reporting an act of bullying to a school official or law enforcement agency, including a provision that permits a person to report an act anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report;
3. Contain a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal;
4. Contain a statement of how the policy is to be publicized including a requirement that:
 - a. an annual written notice of the policy be provided to parents, guardians, staff, volunteers and students, with age-appropriate language for students,
 - b. notice of the policy be posted at various locations within each school site, including but not limited to cafeterias, school bulletin boards, and administration offices,
 - c. the policy be posted on the Internet website for the school district and each school site that has an Internet website, and
 - d. the policy be included in all student and employee handbooks;
5. Require that appropriate school district personnel involved in investigating reports of bullying make a determination regarding whether the conduct is actually occurring;
6. Contain a procedure for providing timely notification to the parents or guardians of a victim of documented and verified bullying and to the parents or guardians of the perpetrator of the documented and verified bullying;
7. Identify by job title the school official responsible for enforcing the policy;
8. Contain procedures for reporting to law enforcement all documented and verified acts of bullying which may constitute criminal activity or reasonably have the potential to endanger school safety;
9. Require annual training for administrators and school employees as developed and provided by the State Department of Education in preventing, identifying, responding to and reporting incidents of bullying;
10. Provide for an educational program as designed and developed by the State Department of Education and in consultation with the Office of Juvenile Affairs for students and parents in preventing, identifying, responding to and reporting incidents of bullying;
11. Establish a procedure for referral of a person who commits an act of bullying to a delinquency prevention and diversion program administered by the Office of Juvenile Affairs;

12. Address prevention by providing:

- a. consequences and remedial action for a person who commits an act of bullying,
- b. consequences and remedial action for a student found to have falsely accused another as a means of retaliation, reprisal or as a means of bullying, and
- c. a strategy for providing counseling or referral to appropriate services, including guidance, academic intervention, and other protection for students, both targets and perpetrators, and family members affected by bullying, as necessary;

13. Establish a procedure for:

- a. the investigation, determination and documentation of all incidents of bullying reported to school officials,
- b. identifying the principal or a designee of the principal as the person responsible for investigating incidents of bullying,
- c. reporting the number of incidents of bullying, and
- d. determining the severity of the incidents and their potential to result in future violence;

14. Establish a procedure whereby, upon completing an investigation of bullying, a school may recommend that available community mental health care, substance abuse or other counseling options be provided to the student, if appropriate; and Establish a procedure whereby a school may request the disclosure of any information concerning students who have received mental health, substance abuse, or other care pursuant to paragraph 14 of this subsection that indicates an explicit threat to the safety of students or school personnel, provided the disclosure of the information does not violate the requirements and provisions of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of the Oklahoma Statutes, or any other state or federal laws regarding the disclosure of confidential information.

B. In developing the policy, the district board of education shall make an effort to involve the teachers, parents, administrators, school staff, school volunteers, community representatives, local law enforcement agencies and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. The school district policy shall be implemented in a manner that is ongoing throughout the school year and is integrated with other violence prevention efforts.

C. The teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child according to district policies during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by the teacher.

D. Except concerning students on individualized education plans (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, the State Board of Education shall not have authority to prescribe student disciplinary policies for school districts or to proscribe corporal punishment in the public schools. The State Board of Education shall not have authority to require school districts to file student disciplinary action reports more often than once each year and shall not use disciplinary action reports in determining a school district's or school site's eligibility for program assistance including competitive grants.

E. The board of education of each school district in this state shall have the option of adopting a dress code for students enrolled in the school district. The board of education of a school district shall also have the option of adopting a dress code which includes school uniforms.

F. The board of education of each school district in this state shall have the option of adopting a procedure that requires students to perform campus-site service for violating the district's policy.

G. The State Board of Education shall:

1. Promulgate rules for periodically monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section;
2. Establish and maintain a central repository for the collection of information regarding documented and verified incidents of bullying; and
3. Publish a report annually on the State Department of Education website regarding the number of documented and verified incidents of bullying in the public schools in the state.

§24-100.5. Legislative intent - Safe school committee - Applicability.

A. Every year each public school site shall establish a Safe School Committee to be composed of at least seven (7) members. The Safe School Committee shall be composed of teachers, parents of enrolled students, students, and a school official who participates in the investigation of reports of bullying as required by subsection A of Section 24-100.4 of this title. The Committee may include administrators, school staff, school volunteers, community representatives, and local law enforcement agencies. The Committee shall assist the school board in promoting a positive school climate through planning, implementing and evaluating effective prevention, readiness and response strategies, including the policy required by Section 24-100.4 of this title.

B. The Safe School Committee shall study and make recommendations to the principal regarding:

1. Unsafe conditions, possible strategies for students, faculty and staff to avoid physical and emotional harm at school, student victimization, crime prevention, school violence, and other issues which prohibit the maintenance of a safe school;
2. Student bullying as defined in Section 24-100.3 of this title;
3. Professional development needs of faculty and staff to recognize and implement methods to decrease student bullying;
4. Methods to encourage the involvement of the community and students, the development of individual relationships between students and school staff, and use of problem-solving teams and resources that include counselors and other behavioral health and suicide prevention resources within or outside the school system; and
5. Professional development needs of faculty and staff to recognize and report suspected human trafficking.

In its considerations, the Safe School Committee shall review the district policy for the prevention of bullying and the list of research-based programs appropriate for the prevention of bullying of students at school compiled by the State Department of Education. In addition, the Committee may review traditional and accepted bullying prevention programs utilized by other states, state agencies, or school districts.

C. The Safe School Committee may study and make recommendations to the school district board of education regarding the development of a rape or sexual assault response program that may be implemented at the school site.

D. The State Department of Education shall:

1. Develop a model policy and deliver training materials to all school districts on the components that should be included in a school district policy for the prevention of bullying; and
2. Compile and distribute to each public school site, prominently display on the State Department of Education website and annually publicize in print media a list of research-based programs appropriate for the prevention of bullying of students. If a school district implements a commercial bullying prevention program, it shall use a program listed by the State Department of Education.

E. The provisions of this section shall not apply to technology center schools.

§24-100.6. Separation of victim and offender.

A. Students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

B. Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, within thirty (30) days of the time of the adjudication or withholding of adjudication of any juvenile offender for any offense subject to the Juvenile Sex Offender Registration Act, either the juvenile bureau in counties which have juvenile bureaus or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the juvenile offender is enrolled or intends to enroll of the adjudication and the offense for which the child was adjudicated. Upon receipt of such notice, the school district shall notify the victim and parent or guardian of the victim of their right to request to be separated from the offender at school and during school transportation. If the victim requests to be separated from the offender, the school district shall take appropriate action to effectuate the provisions of subsection C of this section. The decision of the victim shall be final and not reversible.

C. Any offender described in subsection B of this section shall, upon the request of the victim, not attend any school attended by the victim or a sibling of the victim or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district to attend another school within the district in which the offender resides, provided the other school is not attended by the victim or sibling of the victim. If the offender is unable to attend another school in the district in which the offender resides, the offender shall transfer to another school district pursuant to the provisions of the Education Open Transfer Act.

D. The offender or the parents of the offender, if the offender is a juvenile, shall be responsible for arranging and paying for transportation and any other cost associated with or required for the offender to attend another school or that is required as a consequence of the prohibition against attending a school or riding on a school bus on which the victim or a sibling of the victim is attending or riding. However, the offender or the parents of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the school district.

§24-100.7. Suicide awareness and prevention.

B. The board of education of each school district in this state may provide schoolwide training to all students in grades seven through twelve and staff addressing suicide awareness and prevention. The Department of Mental Health and Substance Abuse Services shall develop and make available to school districts curriculum which addresses suicide awareness and prevention, without cost to the school districts. The course outline for the curriculum shall be made available to the public online through the school district website. Beginning with the 2014-2015 school year, every school district may:

3. Provide a suicide prevention training program that is selected by the school district from a list maintained by the Department of Mental Health and Substance Abuse Services to students and school district staff that addresses suicide awareness and prevention. The training program may be combined with any other training provided by the school district addressing bullying prevention.

§1190. Prohibition against hazing - Presumption - Penalty - Definition.

A. No student organization or any person associated with any organization sanctioned or authorized by the governing board of any public or private school or institution of higher education in this state shall engage or participate in hazing.

B. Any hazing activity described in subsection F of this section upon which the initiation or admission into or affiliation with an organization sanctioned or authorized by a public or private school or by any institution of higher education in this state is directly or indirectly conditioned shall be presumed to be a forced activity, even if the student willingly participates in such activity.

C. A copy of the policy or the rules and regulations of the public or private school or institution of higher education which prohibits hazing shall be given to each student enrolled in the school or institution and shall be deemed to be part of the bylaws of all organizations operating at the public school or the institution of higher education.

D. Any organization sanctioned or authorized by the governing board of a public or private school or of an institution of higher education in this state which violates subsection A of this section, upon conviction, shall be guilty of a misdemeanor, and may be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) and the forfeit for a period of not less than one (1) year all of the rights and privileges of being an organization organized or operating at the public or private school or at the institution of higher education.

E. Any individual convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor, and may be punishable by imprisonment for not to exceed ninety (90) days in the county jail, or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

F. For purposes of this section:

1. "Hazing" means an activity which recklessly or intentionally endangers the mental health or physical health or safety of a student for the purpose of initiation or admission into or affiliation with any organization operating subject to the sanction of the public or private school or of any institution of higher education in this state;
2. "Endanger the physical health" shall include but not be limited to any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes, low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, drug, controlled dangerous substance, or other substance, or any other forced physical activity which could adversely affect the physical health or safety of the individual; and
3. "Endanger the mental health" shall include any activity, except those activities authorized by law, which would subject the individual to extreme mental stress, such as prolonged sleep deprivation, forced prolonged exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(a) Purpose. Bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include impact on school safety, student engagement, and the overall school environment. Successful school programs recognize, prevent, effectively identify, and intervene in incidents involving harassment, intimidation and bullying behavior. Schools that implement these programs have improved safety and create a more inclusive learning environment. The purpose of the Oklahoma School Bullying Prevention Act, 70 O.S. § 24-100.2, et seq., is to provide a comprehensive approach for public schools to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of bullying.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meaning:

- (1) "Bullying" means any pattern of harassment, intimidation, threatening behavior, physical acts, verbal or electronic communication directed toward a student or group of students that:
 - (A) Results in or is reasonably perceived as being done with the intent to cause negative educational or physical results for the targeted individual or group; and

(B) Is communicated in such a way as to disrupt or interfere with the school's educational mission or the education of any student.

(2) "At school" means on school grounds, in school vehicles, at school-sponsored activities, or at school-sanctioned events.

(3) "Electronic Communication" means the communication of any written, verbal, pictorial information or video content by means of an electronic device, including, but not limited to, a telephone, a mobile or cellular telephone or other wireless telecommunication device, or a computer.

(4) "Threatening Behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

(1) The policy shall specifically prohibit all bullying at school. The prohibition against bullying at school shall include all use of electronic communication that is specifically directed at students or school personnel and is used to perpetuate incidents at school which meet the definition of bullying set forth (b) of this Section;

(2) The policy shall require the district to establish a procedure at each school for reporting an act of bullying to a school official that includes:

(A) A process that ensures reports of bullying are kept confidential and private to the extent necessary to ensure the ability of individuals to report incidents without fear of retribution or retaliation. Such process shall include a procedure which enables any person to report an act of bullying anonymously, provided that an anonymous report shall not be used as the sole basis for formal disciplinary action;

(B) A process that contains a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal and provides guidelines to school administrators, teachers, and other personnel on specific actions to take if incidents of bullying occur; and

(C) A process that ensures tracking of multiple incidents in a way that enables school administrators to identify emerging patterns of bullying over extended periods of time and interventions used with specific bullies and victims of bullying; and

(D) A process that ensures that students are encouraged to report incidents of known bullying and that the system of reporting bullying incidents does not contain unnecessary obstacles to reporting that would serve as a deterrent to reporting;

(3) The policy shall contain procedures for publicizing the bullying policy that meet all of the following requirements:

(A) An annual written notice of the bullying policy, written in age-appropriate language, shall be provided to parents, guardians, staff, volunteers, and students at each school;

(B) A written notice of the school bullying policy shall be posted at various locations within each school site, including, but not limited to cafeterias, school bulletin boards, classrooms, and administration offices. The notice shall be written in age-appropriate language that is understandable and accessible by all students in the school in which the notice is distributed;

- (C) The bullying policy shall be posted on the internet websites of the school district and each school site in the district which has its own website; and
 - (D) The bullying policy shall be included in all student and employee handbooks;
- (4) The policy shall require that appropriate school district personnel involved in investigation of reports of bullying shall make a determination regarding whether or not the conduct alleged is actually occurring;
- (5) The policy shall require the district to establish a procedure at each school for providing timely notification of documented and verified incident(s) of bullying to the parents or guardians of a victim of documented to the parents or guardians of the perpetrator;
- (6) The policy shall require each school to identify by job title the official who is responsible for enforcement of the district's bullying policy;
- (7) The policy shall require the district to establish a procedure at each school for reporting all documented and verified acts of bullying to law enforcement that either:
- (A) May constitute criminal conduct; or
 - (B) Have a reasonable potential to endanger the safety of school students, school personnel, or school visitors;
- (8) The policy shall require administrators and school employees to participate in annual training in bullying identification, prevention, reporting, and response that is developed and/or provided by the State Department of Education;
- (9) The policy shall require the district to provide students and parents at each school with an educational program in bullying identification, prevention, reporting, and response that is designed and developed by the State Department of Education;
- (10) The policy shall address prevention of bullying by providing procedures at each school that contain:
- (A) Consequences and remedial action for any person (including a student or school employee) who commits an act of bullying. All consequences and remedial action shall be appropriate to the age of the perpetrator(s) and severity of the incident. Such consequences may include, but are not limited to one or more of the following:
 - (i) Verbal or written warnings;
 - (ii) Conferences with the parent(s) and/or guardian(s) of the student(s) involved in an incident of bullying;
 - (iii) Detention;
 - (iv) Loss of school privileges;
 - (v) Course and/or teacher reassignment;
 - (vi) Prohibition or suspension of participation in school activities;
 - (vii) In-school or out-of-school suspension in accordance with the provisions of 70 O.S. 24-101.3 and district policy and procedures;
 - (viii) Meetings or conferences with a school counselor, school psychologist, or school social worker;
 - (ix) Restitution of a victim's property that has been damaged as a result of a documented and verified bullying incident;
 - (x) Reassignment, suspension, and/or termination of school employment;
 - (xi) Referral to law enforcement;
 - (B) Consequences and remedial action for a student found to have falsely accused another student of bullying as a means of retaliation, reprisal, or means of bullying that is appropriate to the age of the perpetrator and severity of the incident, provided that such consequences shall not be implemented or enforced in such a way as to deter credible reports of bullying incidents; and

(C) A strategy for providing appropriate services as necessary for students who are targets of bullying; family members affected by bullying; and perpetrators of bullying. Such services and support may be provided by the school directly or through referrals to other providers and may include, but are not limited to one or more of the following:

- (i) Counseling;
- (ii) Academic intervention;
- (iii) Protection for students who are targets of bullying; and
- (iv) Any other appropriate services as necessary to:
 - (I) Ensure the safety of all students involved in incidents of bullying; and
 - (II) Prevent further incidents of bullying.

(11) The policy shall require the district to establish a procedure at each school for:

- (A) The investigation, documentation, and determination of all incidents of bullying reported to school officials;
- (B) Identification and designation of a school official at each school site who is responsible for investigation of incidents of bullying;
- (C) Reporting the number of incidents of bullying to the State Department of Education; and
- (D) Determination of the severity of the incident(s) and the potential of the incident(s) to result in future violence.

(12) The policy shall require the district to establish a procedure at each school which provides, upon the completion of an investigation, that a school may recommend that available community mental health care, substance abuse, or other counseling options be provide to the student, if appropriate. This may include information about the types of support services available to the student bully, victim, and any other students affected by the prohibited behavior.

(13) The policy shall require the district to establish a procedure at each school whereby a school may request the disclosure of any information concerning students who have received mental health, substance abuse, or other health care pursuant to (12) of this subsection, if that information indicates an explicit threat to the safety of students or school personnel provided, and if the disclosure of that information does not violate the provisions or requirements of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of Oklahoma Statutes, or any other state or federal laws relating to the disclosure of confidential information.

(d) Policy Adoption. The policy adopted by the local school board pursuant to 70 O.S. § 24-100.4 shall include the statutorily required sections outlined in section (c) of this rule. Failure to include such items shall result in action pursuant to (f) of this Section.

(e) Policy Development. In developing a district policy, each district board of education shall make an effort to involve teachers, parents, and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of the adoption of the policy and shall receive a copy upon request.

(f) Monitoring and Compliance. The State Board of Education shall monitor school districts for compliance with 70 O.S. § 24-100.4 and (c) of this Section.

(1) To assist the State Department of Education with compliance efforts pursuant to this section, each school district shall identify a Bullying Coordinator who will serve as the district contact responsible for providing information to the State Board of Education. The Bullying Coordinator shall maintain on file with the Department of Education updated contact information. Each school district shall notify the State Department of Education within fifteen (15) business days of the appointment of a new Bullying Coordinator.

(2) Every school district shall submit to the State Board of Education a copy of the district's bullying policy. The bullying policy shall be submitted to the State Department of Education by December 10th of each school year, and shall be submitted as a part of the school's Annual Performance Report.

(3) The State Department of Education shall conduct an annual comprehensive review of each school district's bullying policy to ensure compliance with 70 O.S. § 24-100.4. School districts that do not comply with the statutory requirements of the statute shall be notified in writing, and be required to make necessary changes to comply with state law.

(4) State Department of Education staff shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule. The State Department of Education may initiate a compliance review upon receipt of evidence which indicates noncompliance with 70 O.S. § 24-100.4. Evidence of potential noncompliance shall be based on the nature or frequency of confirmed complaints of non-compliance received by the State Department of Education. The scope of a compliance review initiated pursuant to (f) of this Section shall be limited to determining whether a school district has implemented policies required by 70 O.S. § 24-100.4.

(5) Records indicating substantial noncompliance with (c) of this Section shall be submitted to the school district's Regional Accreditation Officer (RAO) for review and consideration during the district's accreditation process. Record of a school district's failure to comply with 70 O.S. § 24-100.4, including the number of confirmed complaints of non-compliance involving the district, shall be documented in the district's compliance report and be considered for purposes of accreditation.

(g) Federal Applicability. Harassment, intimidation, and bullying behavior may also result in discriminatory harassment, prohibited by Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability. Each school district shall take necessary steps to ensure compliance with federal law.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§6-113.1. Effective classroom discipline techniques.

The State Department of Education shall provide each local board of education materials dealing with effective classroom discipline techniques as an alternative to the use of corporal punishment.

§24-100.4. Control and discipline of child.

G. The State Board of Education shall:

1. Promulgate rules for periodically monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section;
2. Establish and maintain a central repository for the collection of information regarding documented and verified incidents of bullying; and
3. Publish a report annually on the State Department of Education website regarding the number of documented and verified incidents of bullying in the public schools in the state.

§24-100.5. Legislative intent - Safe school committee - Applicability.

D. The State Department of Education shall:

1. Develop a model policy and deliver training materials to all school districts on the components that should be included in a school district policy for the prevention of bullying; and
2. Compile and distribute to each public school site, prominently display on the State Department of Education website and annually publicize in print media a list of research-based programs appropriate for the prevention of bullying of students. If a school district implements a commercial bullying prevention program, it shall use a program listed by the State Department of Education.

§1210.229-5. Duties of State Superintendent of Public Instruction, State Department of Education, and Oklahoma drug and alcohol abuse policy board - Distribution of information or reports - Final determination of materials and curriculum.

A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board shall:

1. establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs and the teaching of life skills in local schools and school districts;
2. establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;
3. develop and implement strategies which encourage all schools to employ guidance counselors trained in substance abuse prevention and life skills and to develop and begin implementing quality substance abuse and life skills education programs; and
4. develop guidelines and criteria to encourage teachers and administrators to receive in-service training on alcohol and drug abuse. The training or workshops should be included in the staff development point system. The training or workshop shall be completed the first year a certified teacher is employed by a school district, and then once every third academic year.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a

clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

C. Final determination of materials to be used, means of implementation of the curriculum, and ages and times at which students receive instruction about said life skills and drug and alcohol abuse prevention shall be made by the local school board. The local school district, at least one (1) month prior to giving such instruction to students, shall conduct for parents and guardians of students involved, during weekend or evening hours, at least one presentation concerning the plans for instruction and the materials to be used. No student shall be required to receive instruction about said life skills and drug and alcohol abuse prevention if a parent or guardian of the student objects in writing.

§1210.229-6. Program of character education - Grants for establishment of pilot projects.

A. The board of education of every school district in this state may develop and implement a comprehensive program for character education in any single grade or combination of grades, prekindergarten through twelfth. The character education program shall focus on development of character traits in students. The program of character education may include, but shall not be limited to, the voluntary reciting of the Pledge of Allegiance to the flag of the United States of America.

B. The State Department of Education shall develop and make available to all school districts through an Internet website, the following:

1. Technical assistance upon request of a school district;
2. A list of approved research-based character education programs, curricula, and materials which may be used by school districts;
3. A character education honor roll that will recognize school districts that have successfully implemented a comprehensive school-district-wide program of character education and will highlight the positive impacts the program has had on each school or school district; and
4. A character education reading list of books that may include, but is not limited to, books that illustrate models of good character and books that relate to the development of good character traits that may be used by schools in a character education program.

C. Subject to the availability of funding, the State Board of Education may award grants to ten school districts for the establishment of pilot projects which align character education with the state curriculum in reading, mathematics, science or social studies and demonstrate how character education teaches life skills that lead to career readiness. The amount of each grant shall be One Thousand Dollars (\$1,000.00). The projects shall be innovative programs that will serve as models for other school districts. Funding may cover the cost of purchasing curriculum, materials, or training teachers. The Board shall determine pilot project criteria and establish a process for the consideration of proposals. The proposals for pilot projects shall be considered on a statewide competitive basis. The Board shall promulgate rules for the operation of the projects.

REGULATIONS

210:40-91-1. Purpose.

This rule prescribes procedures for a competitive grant process to be used in selecting classroom(s), programs, sites within school districts, or entire school districts statewide to implement model comprehensive character programs.

210:40-91-3. Procedures for evaluation and recommendation of eligible grant applications.

(a) The State Department of Education shall identify and make grant awards to pilot sites based on the following criteria and the availability of funding:

(1) Programs, sites or classrooms within school districts, or entire school districts shall be selected as a comprehensive character education pilot based on a competitive grant process.

(2) The grant application shall be designed by the Oklahoma State Department of Education staff. Local Boards of Education shall submit the application to the SDE Grant Review and Selection Committee, Office of Innovation, Support, and Alternative Education.

(3) A Grant Review and Selection Committee will be chosen by the State Superintendent. The committee shall identify the grantees who meet the criteria for selection to establish innovative pilot character education programs and make a recommendation to the State Superintendent of Public Instruction and the State Board of Education for approval and funding. The number of grants to be awarded will be based on the total appropriated funds.

(b) Each school district applying for the Character Education grant shall:

(1) Describe the process that will enable the classroom, program, site within the district, or the entire district to become a "pilot."

(2) Describe the strategies or methods that will promote and maintain a character education model.

(3) Describe the materials, curricula and models to be used in the program.

(4) Describe the leadership roles and expectations of program participants in the school district, program, classroom, or site.

(5) Provide examples of communication and public relations efforts that will highlight the elements of character being promoted.

(6) Describe the methodology as well as the commitment to submitting the data necessary to support being named to the Character Education Honor Roll.

(7) Describe an objective procedure for documenting how the Character Education Grant program benefits the children served. Data and documentation will be collected, compiled and submitted to the State Department of Education.

(c) Districts, programs, sites or classrooms within a district that successfully implement a comprehensive character education program will be eligible for recognition by the Oklahoma State Board of Education for the "Character Education Honor Roll."

Multi-tiered Frameworks and Systems of Support

LAWS

§6-185. Incorporation of competencies and methods into programs approved for teacher preparation for competency-based teacher preparation system - Legislative intent.

A. The following competencies and methods shall be incorporated into the programs approved by the Commission for Educational Quality and Accountability for the competency-based teacher preparation system provided for in the Oklahoma Teacher Preparation Act:

2. The preservice program shall include the following methods to achieve the competencies listed in paragraph 1 of this subsection:

c. require teacher candidates in early childhood, elementary, secondary, and special education to study the philosophy, overarching framework, components, and implementation of multi-tiered systems of support (MTSS) designed to address the core academic and nonacademic needs of all students. The program shall provide for training that utilizes evidence-based assessment, intervention, and data-based decision-making procedures within a tiered system of support to identify

students at risk for negative academic or nonacademic outcomes. This training shall include, but not be limited to, the following areas as appropriate by grade band:

(3) the application of the behavioral sciences to classroom management that includes instruction on prevention of problematic behaviors, teaching appropriate behaviors, reinforcing appropriate behaviors, responding to problematic behaviors, and evaluating the effect of classroom management on student outcomes, and

(4) the identification and impact of trauma on student learning and trauma-informed responsive instruction,

REGULATIONS

No relevant regulations found.

Prevention

LAWS

§24-100.1. School violence prevention.

A. It is the intent of the Legislature to encourage and assist the public schools of this state to address school violence through an emphasis on prevention. Preventative services shall be encouraged through greater access to mental health counseling and social services for students. In order to make licensed professional counselors and licensed social workers more available and accessible on site, school districts may:

1. Contract with and allocate space for nonprofit agencies or other community-based service providers for the appropriate personnel and services;
2. Seek any available funding, including the use of Medicaid funds for students who are Medicaid eligible through targeted case management, and any other funding which may be available for related services; and
3. Encourage the State Board of Education to allow for the use of licensed professional counselors and licensed social workers in addition to academic counselors.

§24-100.4. Control and discipline of child.

B. In developing the policy, the district board of education shall make an effort to involve the teachers, parents, administrators, school staff, school volunteers, community representatives, local law enforcement agencies and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. The school district policy shall be implemented in a manner that is ongoing throughout the school year and is integrated with other violence prevention efforts.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§1210.229-6. Program of character education - Grants for establishment of pilot projects.

A. The board of education of every school district in this state may develop and implement a comprehensive program for character education in any single grade or combination of grades, prekindergarten through twelfth. The character education program shall focus on development of character traits in students. The program of character education may include, but shall not be limited to, the voluntary reciting of the Pledge of Allegiance to the flag of the United States of America.

B. The State Department of Education shall develop and make available to all school districts through an Internet website, the following:

1. Technical assistance upon request of a school district;
2. A list of approved research-based character education programs, curricula, and materials which may be used by school districts;
3. A character education honor roll that will recognize school districts that have successfully implemented a comprehensive school-district-wide program of character education and will highlight the positive impacts the program has had on each school or school district; and
4. A character education reading list of books that may include, but is not limited to, books that illustrate models of good character and books that relate to the development of good character traits that may be used by schools in a character education program.

C. Subject to the availability of funding, the State Board of Education may award grants to ten school districts for the establishment of pilot projects which align character education with the state curriculum in reading, mathematics, science or social studies and demonstrate how character education teaches life skills that lead to career readiness. The amount of each grant shall be One Thousand Dollars (\$1,000.00). The projects shall be innovative programs that will serve as models for other school districts. Funding may cover the cost of purchasing curriculum, materials, or training teachers. The Board shall determine pilot project criteria and establish a process for the consideration of proposals. The proposals for pilot projects shall be considered on a statewide competitive basis. The Board shall promulgate rules for the operation of the projects.

REGULATIONS

210:40-91-1. Purpose.

This rule prescribes procedures for a competitive grant process to be used in selecting classroom(s), programs, sites within school districts, or entire school districts statewide to implement model comprehensive character programs.

210:40-91-2. Procedures for solicitation, determination of eligibility, and acceptance of applications for districtwide comprehensive character education programs.

(a) At such time that state funds are appropriated for the Character Education Grant program grants to be awarded by the State Board of Education and administered by the State Department of Education, a notification letter will be sent to each district superintendent announcing the availability of the grant application. Such notice will also be posted on the State Department of Education website at < www.sde.state.ok.us>.

(b) The notification will clearly state the name and telephone number of the contact person for the Character Education Grant at the State Department of Education who administers the program.

(c) Only one application per district per grant will be accepted. The signature of the district superintendent must appear on the application.

(d) School districts, sites within a district, programs and classrooms may be eligible as a pilot for the grant with the intent of replication throughout the district.

210:40-91-3. Procedures for evaluation and recommendation of eligible grant applications.

(a) The State Department of Education shall identify and make grant awards to pilot sites based on the following criteria and the availability of funding:

(1) Programs, sites or classrooms within school districts, or entire school districts shall be selected as a comprehensive character education pilot based on a competitive grant process.

(2) The grant application shall be designed by the Oklahoma State Department of Education staff. Local Boards of Education shall submit the application to the SDE Grant Review and Selection Committee, Office of Innovation, Support, and Alternative Education.

(3) A Grant Review and Selection Committee will be chosen by the State Superintendent. The committee shall identify the grantees who meet the criteria for selection to establish innovative pilot character education programs and make a recommendation to the State Superintendent of Public Instruction and the State Board of Education for approval and funding. The number of grants to be awarded will be based on the total appropriated funds.

(b) Each school district applying for the Character Education grant shall:

(1) Describe the process that will enable the classroom, program, site within the district, or the entire district to become a "pilot."

(2) Describe the strategies or methods that will promote and maintain a character education model.

(3) Describe the materials, curricula and models to be used in the program.

(4) Describe the leadership roles and expectations of program participants in the school district, program, classroom, or site.

(5) Provide examples of communication and public relations efforts that will highlight the elements of character being promoted.

(6) Describe the methodology as well as the commitment to submitting the data necessary to support being named to the Character Education Honor Roll.

(7) Describe an objective procedure for documenting how the Character Education Grant program benefits the children served. Data and documentation will be collected, compiled and submitted to the State Department of Education.

(c) Districts, programs, sites or classrooms within a district that successfully implement a comprehensive character education program will be eligible for recognition by the Oklahoma State Board of Education for the "Character Education Honor Roll."

210:40-91-4. Procedures for awarding grants.

After committee review and scoring of the eligible applications, the State Superintendent will provide a list of recommended eligible applicants to the State Board of Education for approval and possible funding.

Trauma-informed Practices

LAWS

§6-185. Incorporation of competencies and methods into programs approved for teacher preparation for competency-based teacher preparation system - Legislative intent.

A. The following competencies and methods shall be incorporated into the programs approved by the Commission for Educational Quality and Accountability for the competency-based teacher preparation system provided for in the Oklahoma Teacher Preparation Act:

2. The preservice program shall include the following methods to achieve the competencies listed in paragraph 1 of this subsection:

c. require teacher candidates in early childhood, elementary, secondary, and special education to study the philosophy, overarching framework, components, and implementation of multi-tiered systems of support (MTSS) designed to address the core academic and nonacademic needs of all students. The program shall provide for training that utilizes evidence-based assessment, intervention, and data-based decision-making procedures within a tiered system of support to identify students at risk for negative academic or nonacademic outcomes. This training shall include, but not be limited to, the following areas as appropriate by grade band:

(4) the identification and impact of trauma on student learning and trauma-informed responsive instruction,

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§6-185. Incorporation of competencies and methods into programs approved for teacher preparation for competency-based teacher preparation system - Legislative intent.

A. The following competencies and methods shall be incorporated into the programs approved by the Commission for Educational Quality and Accountability for the competency-based teacher preparation system provided for in the Oklahoma Teacher Preparation Act:

2. The preservice program shall include the following methods to achieve the competencies listed in paragraph 1 of this subsection:
 - i. require teacher candidates to study, in existing coursework, substance abuse symptoms identification and prevention, mental illness symptoms identification and mental health issues, and classroom safety and discipline techniques.

§6-194.3. Development & availability of mental health information, training and resources for school district, training program for teachers.

A. The State Department of Education and the Department of Mental Health and Substance Abuse Services, in consultation with school district superintendents and school district boards of education, shall develop and make available to school districts information, training and resources to help school employees recognize and address the mental health needs of students. A local district board of education shall require a training program for teachers which shall emphasize the importance of recognizing and addressing the mental health needs of students. The program shall be completed the first year a certified teacher is employed by a school district, and then once every third academic year.

B. The information made available to school districts shall include but not be limited to:

1. about the services provided by community-based organizations related to mental health, substance abuse and trauma;
2. Information about the impact trauma and adverse childhood experiences can have on a student's ability to learn;
3. The availability of mental health evaluation and treatment available by telemedicine; and
4. Information about evidence-based strategies for prevention of at-risk behaviors

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 24-100.1. School violence prevention.

A. It is the intent of the Legislature to encourage and assist the public schools of this state to address school violence through an emphasis on prevention. Preventative services shall be encouraged through greater access to mental health counseling and social services for students. In order to make licensed professional counselors and licensed social workers more available and accessible on site, school districts may:

1. Contract with and allocate space for nonprofit agencies or other community-based service providers for the appropriate personnel and services;

2. Seek any available funding, including the use of Medicaid funds for students who are Medicaid eligible through targeted case management, and any other funding which may be available for related services; and
3. Encourage the State Board of Education to allow for the use of licensed professional counselors and licensed social workers in addition to academic counselors.

§ 24-100.5. Legislative intent - Safe school committee - Applicability .

B. The Safe School Committee shall study and make recommendations to the principal regarding:

4. Methods to encourage the involvement of the community and students, the development of individual relationships between students and school staff, and use of problem-solving teams and resources that include counselors and other behavioral health and suicide prevention resources within or outside the school system.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§5-146.1. Reporting suspected gang activity - Immunity from liability.

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

§10-106. Records of attendance of pupil - Report of absence.

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four- week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically address bullying by students at school and by electronic communication, if the communication is specifically directed at students or school personnel and concerns bullying at school;

2. Contain a procedure for reporting an act of bullying to a school official or law enforcement agency, including a provision that permits a person to report an act anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report;
3. Contain a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal.

§24-132. Reporting students under influence of certain prohibited substances - Civil immunity.

- A. Any public school administrator, teacher or counselor having reasonable cause to suspect that a student is under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance as defined in Section 2-101 of Title 63 of the Oklahoma Statutes or has in the student's possession low-point beer, alcoholic beverages or a controlled dangerous substance, who reports such information to the appropriate school official, court personnel, community substance abuse prevention and treatment personnel or any law enforcement agency, pursuant to the school's policy shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.
- B. Every school authority shall immediately deliver any controlled dangerous substance, removed or otherwise seized from any minor or other person, to a law enforcement authority for appropriate disposition.

§24-138. Students under the influence of certain prohibited substances - Reporting - Written policy.

- A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.
- No officer or employee of any public school district or member of any school board shall be subject to any civil liability for any statement, report, or action taken in assisting or referring for assistance to any medical treatment, social service agency or facility or any substance abuse prevention and treatment program any student reasonably believed to be abusing or incapacitated by the use of low-point beer, alcoholic beverages or a controlled dangerous substance unless such assistance or referral was made in bad faith or with malicious purpose. No such officer or employee of any public school district, member of any school board, school or school district shall be responsible for any treatment costs incurred by a student as a result of any such assistance or referral to any medical treatment, social service agency or facility, or substance abuse prevention and treatment program.
- B. Every school district shall have and deliver to each classroom teacher a written policy that such teachers shall follow if they have a student who appears to be under the influence of low-point beer, alcoholic beverages or a controlled dangerous substance in their classroom. The written policy shall be developed by the local superintendent of schools and adopted by the local board of education. The provisions of subsection A of this section shall be the minimum requirements of such written policy. The written policy shall be filed with the office of the State Superintendent of Public Instruction within ninety (90) days of the effective date of this act. If such filing is not timely made, the public schools in such school district shall lose their accreditation until the written policy is filed.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

(2) The policy shall require the district to establish a procedure at each school for reporting an act of bullying to a school official that includes:

(A) A process that ensures reports of bullying are kept confidential and private to the extent necessary to ensure the ability of individuals to report incidents without fear of retribution or retaliation. Such process shall include a procedure which enables any person to report an act of bullying anonymously, provided that an anonymous report shall not be used as the sole basis for formal disciplinary action;

(B) A process that contains a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal and provides guidelines to school administrators, teachers, and other personnel on specific actions to take if incidents of bullying occur; and

(C) A process that ensures tracking of multiple incidents in a way that enables school administrators to identify emerging patterns of bullying over extended periods of time and interventions used with specific bullies and victims of bullying; and

(D) A process that ensures that students are encouraged to report incidents of known bullying and that the system of reporting bullying incidents does not contain unnecessary obstacles to reporting that would serve as a deterrent to reporting.

Parental Notification

LAWS

§10-106. Records of attendance of pupil - Report of absence.

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the

warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four- week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

6. Contain a procedure for providing timely notification to the parents or guardians of a victim of documented and verified bullying and to the parents or guardians of the perpetrator of the documented and verified bullying.

§24-138. Students under the influence of certain prohibited substances - Reporting - Written policy.

A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.

§2002. Rights reserved to parents.

A. All parental rights are reserved to a parent of a minor child without obstruction or interference from this state, any political subdivision of this state, any other governmental entity or any other institution, including, but not limited to, the following rights:

10. The right to be notified promptly if an employee of this state, any political subdivision of this state, any other governmental entity or any other institution suspects that a criminal offense has been committed against the minor child by someone other than a parent, unless the incident has first been reported to law enforcement and notification of the parent would impede a law enforcement or Department of Human Services investigation. This paragraph does not create any new obligation for school districts and charter schools to report misconduct between students at school, such as fighting or aggressive play, that is routinely addressed as a student disciplinary matter by the school.

§2003. School district policy on parental involvement - Information to be provided to parents.

A. The board of education of a school district, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district, including:

1. A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define

standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

(5) The policy shall require the district to establish a procedure at each school for providing timely notification of documented and verified incident(s) of bullying to the parents or guardians of a victim of documented to the parents or guardians of the perpetrator. [...]

(10) The policy shall address prevention of bullying by providing procedures at each school that contain:

(ii) Conferences with the parent(s) and/or guardian(s) of the student(s) involved in an incident of bullying.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§3-168. Short title - Definitions - Purpose - Promulgation of rules.

B. As used in this act:

7. "Student data" means data collected and/or reported at the individual student level included in a student's educational record.

a. "Student data" includes:

(8) discipline reports limited to objective information sufficient to produce the federal Title IV Annual Incident Report. [...]

C. The State Board of Education shall:

1. Create, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields currently in the student data system including:

- a. any individual student data required to be reported by state and federal education mandates,
- b. any individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection, and
- c. any individual student data that the State Department of Education collects or maintains with no current purpose or reason.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

13. Establish a procedure for:

- a. the investigation, determination and documentation of all incidents of bullying reported to school officials,
- b. identifying the principal or a designee of the principal as the person responsible for investigating incidents of bullying,
- c. reporting the number of incidents of bullying, and
- d. determining the severity of the incidents and their potential to result in future violence. [...]

G. The State Board of Education shall:

3. Publish a report annually on the State Department of Education website regarding the number of documented and verified incidents of bullying in the public schools in the state.

§24-120. Truancy - Reports to Department of Public Welfare - Withholding of assistance payments.

E. Beginning with the 2019-2020 school year, district attorneys shall submit to the Office of Child Abuse Prevention annual reports detailing the instances in which students were convicted of truancy pursuant to the provisions of this section. The reports shall comply with the Family Educational Rights and Privacy Act of 1974 (FERPA).

§1210.229-5. Duties of State Superintendent of Public Instruction, State Department of Education, and Oklahoma drug and alcohol abuse policy board - Distribution of information or reports - Final determination of materials and curriculum.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

- (11) The policy shall require the district to establish a procedure at each school for:
 - (A) The investigation, documentation, and determination of all incidents of bullying reported to school officials;
 - (B) Identification and designation of a school official at each school site who is responsible for investigation of incidents of bullying;
 - (C) Reporting the number of incidents of bullying to the State Department of Education; and
 - (D) Determination of the severity of the incident(s) and the potential of the incident(s) to result in future violence.

210:1-3-8.1. Student Data Accessibility, Transparency and Accountability Act.

(b) Annual inventory of student data collection. The State Board of Education shall create and/or update and publish a data inventory and dictionary or an index of individual student data elements with definitions of individual student data fields currently collected by the State Department of Education in its student data system.

- (1) The inventory or index required to be created and published by this subsection shall include:
 - (A) Any student data required to be reported by state and federal education mandates;
 - (B) Any student data, if any, which have been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection; and
 - (C) Any student data, if any, that the State Department of Education collects or maintains with no current purpose or reason.
- (2) The inventory or index required to be created and published by this subsection shall identify which student data elements were collected by the State Department of Education on or before July 1, 2013. All data elements identified as a student data element collected by the State Department of Education on or before July 1, 2013 shall be considered an "existing collection of student data" exempt from the provisions of (c) of this Section pertaining to collection of "new student data."

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§5-146.1. Reporting suspected gang activity - Immunity from liability.

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

§24-100.4. Control and discipline of child.

A. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. The policy shall provide options for the discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically address bullying by students at school and by electronic communication, if the communication is specifically directed at students or school personnel and concerns bullying at school;
2. Contain a procedure for reporting an act of bullying to a school official or law enforcement agency, including a provision that permits a person to report an act anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report;
3. Contain a requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the principal or a designee of the principal. [...]
8. Contain procedures for reporting to law enforcement all documented and verified acts of bullying which may constitute criminal activity or reasonably have the potential to endanger school safety

§24-100.8. Threatening behavior-Notification of law enforcement-Good faith immunity from discipline.

A. As used in this section, "threatening behavior" means any verbal threat or threatening behavior, whether or not it is directed at another person, which indicates potential for future harm to students, school personnel or school property.

B. An officer or employee of a school district or member of a board of education shall notify law enforcement of any verbal threat or act of threatening behavior which reasonably may have the potential to endanger students, school personnel or school property.

C. Officers or employees of a school district or members of a board of education shall be immune from employment discipline and any civil liability for communicating information pursuant to subsection B of this section in good faith if they reasonably believe a person is making verbal threats or is exhibiting threatening behavior.

D. Nothing in this section shall be construed to impose a specific liability on any school district.

§24-132. Reporting students under influence of certain prohibited substances - Civil immunity.

A. Any public school administrator, teacher or counselor having reasonable cause to suspect that a student is under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance as defined in Section 2-101 of Title 63 of the Oklahoma Statutes or has in the student's possession low-point beer, alcoholic beverages or a controlled dangerous substance, who reports such information to the appropriate school official, court personnel, community substance abuse prevention and treatment personnel or any law enforcement agency, pursuant to the school's policy shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

B. Every school authority shall immediately deliver any controlled dangerous substance, removed or otherwise seized from any minor or other person, to a law enforcement authority for appropriate disposition.

§24-132.1. Duty to report unauthorized firearm and to deliver seized weapon to law enforcement.

A. Pursuant to the requirements of Section 1271.1 of Title 21 of the Oklahoma Statutes, every school authority shall immediately report the discovery of a firearm not otherwise authorized by law to be possessed to a law enforcement authority and deliver any weapon or firearm, removed or otherwise seized from any minor, to a law enforcement authority for appropriate disposition.

B. Every school authority shall also immediately report to a law enforcement authority the discovery of a firearm upon a student that is not a minor or upon any other person not otherwise authorized by law to possess a firearm on school property pursuant to Section 1280.1 of Title 21 of the Oklahoma Statutes and deliver any weapon or firearm that is removed or seized to a law enforcement authority for disposition pursuant to Section 1271.1 of Title 21 of the Oklahoma Statutes.

REGULATIONS

210:10-1-20. Implementation of policies prohibiting bullying.

(c) Implementation. Each district board of education shall adopt a policy for the discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents bullying. Such policy shall provide options for discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall meet all of the following requirements:

(10) The policy shall address prevention of bullying by providing procedures at each school that contain:

(A) Consequences and remedial action for any person (including a student or school employee) who commits an act of bullying. All consequences and remedial action shall be appropriate to the age of the perpetrator(s) and severity of the incident. Such consequences may include, but are not limited to one or more of the following:

(xi) Referral to law enforcement.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Oklahoma provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention, Oklahoma State Department of Education (OSDE)	Provides an overview of bullying prevention and includes lesson plans, resource library, prevention programs, professional development, other related resources.	https://sde.ok.gov/bullying-prevention
Chronic Absenteeism, OSDE	Provides an overview of chronic absenteeism and prevention including definitions, self-assessments, toolkits, and links to additional resources for schools and families.	https://sde.ok.gov/chronic-absenteeism
Office of School Safety and Security, OSDE	Addresses school safety and provides tools and resources related to school safety including links to submit a tip concerning the safety or security of any Oklahoma school, secure schools program, behavior threat assessment management system, and drill reporting.	https://sde.ok.gov/school-safety-and-security
Oklahoma Tiered Intervention System of Support (OTISS), OSDE	Provides an overview of OTISS including Response to Intervention (RTI) and Positive Behavioral Interventions and Supports (PBIS) and links related resources to RTI and PBIS.	https://sde.ok.gov/oklahoma-tiered-intervention-system-support-otiss
Prevention Services, OSDE	Presents programs and initiatives including bullying, cyberbullying, internet safety, substance abuse prevention, and violence prevention administered in Oklahoma's schools, providing links to report forms, help hotlines, crisis kit for counselors, and related resources to prevention services.	https://sde.ok.gov/prevention-education

Title	Description	Website address (if applicable)
Website		
Safe and Healthy Schools, OSDE	Provides information about Oklahoma's adoption of the Whole School, Whole Community, Whole Child (WSCC) model and includes professional learning opportunities and related resources.	https://sde.ok.gov/safe-and-healthy-schools
School-Based Prevention Programs, Social Emotional Learning Prevention, OSDE	Provides information and resources regarding social and emotional learning (SEL) including brief definition of SEL, links to prevention and counseling services, and toolkits and guidelines for SEL implementation.	https://sde.ok.gov/social-emotional-learning-prevention
School Climate Transformation Grant, OSDE	Provides training and technical assistance resources to schools and districts on the implementation of a multi-tiered behavioral framework to improve school climate.	https://sde.ok.gov/school-climate-transformation-grant
Documents		
Absenteeism Toolkit, OSDE	Toolkit provides online resources for preventing chronic absenteeism, best practices for chronic absenteeism prevention, and resources on building and strengthening healthy relationships with students.	https://sde.ok.gov/absenteeism-tool-kit
Model School District Policy for Prevention of Bullying at School, OSDE	Model policy addressing bullying prevention in Oklahoma's schools.	https://sde.ok.gov/sites/ok.gov.sde/files/OSDE%20Model%20Bullying%20Policy%20Final.pdf
Response to Intervention (RtI) Guidance Document (July 2010), OSDE	Guidance document for educators to develop and implement RtI in local school districts.	https://sde.ok.gov/sites/ok.gov.sde/files/RtIGuidanceDoc.pdf
Oklahoma Expulsion Prevention Policy (August 2016), Oklahoma Department of Human Services	Guidance document regarding the Oklahoma Expulsion Prevention Policy.	http://www.okdhs.org/services/cc/Pages/OklahomaExpulsionPreventionPolicy.aspx
Other Resources		
2020 Statewide Annual Incident Report, OSDE	Annual report of incidents related to substance, violence, firearms, and other weapons.	https://sde.ok.gov/sites/default/files/documents/files/Statewide-Incident2020_0.pdf



Oregon Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

336.235. State board rules.

In order to carry out the duties described in ORS 336.222 and 336.227, the State Board of Education, in consultation with the Oregon Health Authority and the Alcohol and Drug Policy Commission, shall adopt by rule, as a minimum, descriptions of the content of what shall be included in the policy and plan described in ORS 336.222 and 336.227.

339.240. Rules of student conduct, discipline and rights; duties of state board and district school boards.

(1) The State Board of Education in accordance with ORS chapter 183 shall adopt rules setting minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

(2) Every district school board shall adopt and attempt to give the widest possible distribution of copies of reasonable written rules regarding pupil conduct, discipline and rights and procedures pertaining thereto. Such rules must comply with minimum standards adopted by the State Board of Education under subsection (1) of this section.

(3) Every district school board shall enforce consistently and fairly its written rules regarding pupil conduct, discipline and rights. This subsection does not apply to a pupil who is eligible for special education as a child with a disability under ORS 343.035.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

(a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:

- (A) Willful disobedience;
- (B) Open defiance of the authority of a school employee;
- (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
- (D) Use or display of profane or obscene language;
- (E) Willful damage or injury to school property;
- (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
- (G) Assault of a school employee or another student; or
- (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.

(b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.

(c) Must limit the use of expulsion to the following circumstances:

- (A) For conduct that poses a threat to the health or safety of students or school employees;
- (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
- (C) When the expulsion is required by law.

(d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:

- (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
- (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
- (C) When the suspension or expulsion is required by law.

(e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

339.356. District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

- (a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.
- (b) Definitions of "harassment," "intimidation" or "bullying" and of "cyberbullying" that are consistent with ORS 339.351.
- (c) Definitions of "protected class" that are consistent with ORS 174.100 and 339.351.
- (d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.
- (e) A description of the type of behavior expected from each student.
- (f) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall:
 - (A) Identify by job title the school officials responsible for receiving such a report at a school.
 - (B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.
 - (C) Require the school official identified under subparagraph (A) of this paragraph to notify the parents or guardians of a student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying and the parents or guardians of a student who may have conducted an act of harassment, intimidation or bullying or an act of cyberbullying. Notification must occur with involvement and consideration of the needs and concerns of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying. For the purposes of this subparagraph:
 - (i) Notification is not required under this subparagraph if the school official reasonably believes notification could endanger the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying or if all of the following occur:
 - (I) The student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying requests that notification not be provided to the student's parents or guardians;
 - (II) The school official determines that notification is not in the best interest of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying; and
 - (III) The school official informs the student that federal law may require the student's parents or guardians to have access to the student's education record, including any requests made as provided by this sub-subparagraph.
 - (ii) If the school official does not make the determination described in sub-subparagraph (i)(II) of this subparagraph, the school official must inform the student of that determination prior to providing notification.

(iii) When notification is provided under this subparagraph, the notification must occur:

(I) Within a reasonable period of time; or

(II) Promptly, for acts that caused physical harm to the student

(D) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(E) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(h) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(i) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and, if applicable, confirmed.

(j) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(k) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(L) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(n) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district. The identification by job title of school officials and school district officials responsible for ensuring that the policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103.

343.155. Procedures to protect rights of child with disability; rules.

The State Board of Education shall establish by rule procedures to protect the rights of every child with a disability who is eligible for special education and every child who there is a reasonable cause to believe has a disability, including:

(5) Rules prescribing standards and procedures for disciplinary actions for behavior or misconduct of a child with a disability.

REGULATIONS

581-021-0050. Minimum standards for student conduct and discipline.

(1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

- (a) Assembly of students;
- (b) Dress and grooming;
- (c) Motorized and nonmotorized vehicles;
- (d) Search and seizure;
- (e) Attendance;
- (f) Freedom of expression;
- (g) Alcohol, drugs, and tobacco;
- (h) Student records;
- (i) Discipline, suspension, and expulsion.

(2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

581-021-0060. Discipline procedures, prohibition of corporal punishment.

(1) School district boards shall establish fair and reasonable procedures for discipline, suspension, or expulsion.

(2) No student in Oregon shall be subjected to corporal punishment in any public elementary or secondary school. A school administrator is not authorized to waive the prohibition against corporal punishment based upon the request of a parent or guardian.

581-021-0556. Procedures regarding restraint & seclusion.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.

(2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:

- (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.
- (b) Written documentation of the incident within 24 hours of the incident that provides:
 - (A) A description of the restraint or seclusion, including:
 - (i) The date of the restraint or seclusion;
 - (ii) The times when the restraint or seclusion began and ended; and
 - (iii) The location of the restraint or seclusion.
 - (B) A description of the student's activity that prompted the use of restraint or seclusion.
 - (C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.
 - (D) The names of the personnel of the public education program who administered the restraint or seclusion.
 - (E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this rule.
- (c) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent or, if the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives

moneys pursuant to ORS 343.243, the person who oversees the administration of the program, receive written notification of:

- (a) The lack of training; and
 - (b) The reason the restraint or seclusion was administered by a person without training.
- (4) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel. Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.
- (5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.
- (6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the Department of Human Services within 24 hours of the incident.
- (7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the following individuals within 24 hours of the incident:
- (a) The district superintendent and, if applicable, the union representative for the affected party; or
 - (b) If the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program and, if applicable, the union representative for the affected party.
- (8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.
- (9) Pursuant to ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303 and OAR 581-021-0553.
- (10) District school boards shall adopt written policies to implement restraint and seclusion procedures consistent with and as indicated in ORS 339.285 to 339.308 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers of those policies.

581-022-2312. Every Student Belongs.

- (1) It is the policy of the State Board of Education that all students, employees, and visitors in public schools are entitled to learn, work, and participate in an environment that is safe and free from discrimination, harassment, and intimidation.
- 4) To comply with the prohibition on discrimination required by ORS 659.850, each education provider must adopt a policy to address bias incidents and displays of symbols of hate. The policy must:
- (a) Affirm that all students are entitled to a high quality educational experience, free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin;
 - (b) Affirm that all employees of education providers are entitled to work in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin;
 - (c) Affirm that all visitors of an education provider are entitled to participate in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin;

- (d) Prohibit the display of symbols of hate on school property or in an education program; and
- (e) Establishes procedures for addressing bias incidents and displays of symbols of hate.

Scope

LAWS

339.356. District policy required.

- (1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.
- (2) School districts must include in the policy:
 - (a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.
 - (b) Definitions of "harassment," "intimidation" or "bullying" and of "cyberbullying" that are consistent with ORS 339.351.
 - (c) Definitions of "protected class" that are consistent with ORS 174.100 and 339.351.
 - (d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.
 - (e) A description of the type of behavior expected from each student.
 - (f) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall:
 - (A) Identify by job title the school officials responsible for receiving such a report at a school.
 - (B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.
 - (C) Require the school official identified under subparagraph (A) of this paragraph to notify the parents or guardians of a student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying and the parents or guardians of a student who may have conducted an act of harassment, intimidation or bullying or an act of cyberbullying. Notification must occur with involvement and consideration of the needs and concerns of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying. For the purposes of this subparagraph:
 - (i) Notification is not required under this subparagraph if the school official reasonably believes notification could endanger the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying or if all of the following occur:
 - (I) The student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying requests that notification not be provided to the student's parents or guardians;
 - (II) The school official determines that notification is not in the best interest of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying;
and
 - (III) The school official informs the student that federal law may require the student's parents or guardians to have access to the student's education record, including any requests made as provided by this sub-subparagraph.
 - (ii) If the school official does not make the determination described in sub-subparagraph (i)(II) of this subparagraph, the school official must inform the student of that determination prior to providing notification.

(iii) When notification is provided under this subparagraph, the notification must occur:

(I) Within a reasonable period of time; or

(II) Promptly, for acts that caused physical harm to the student.

(D) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(E) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(h) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(i) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and, if applicable, confirmed.

(j) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(k) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(L) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

(n) The identification by job title of school officials and school district officials responsible for ensuring that the policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103.

REGULATIONS

581-022-2312. Every Student Belongs.

(1) It is the policy of the State Board of Education that all students, employees, and visitors in public schools are entitled to learn, work, and participate in an environment that is safe and free from discrimination, harassment, and intimidation.

4) To comply with the prohibition on discrimination required by ORS 659.850, each education provider must adopt a policy to address bias incidents and displays of symbols of hate. The policy must:

(e) Establish procedures for addressing bias incidents and displays of symbols of hate. The procedures must:

(G) Require the education provider to develop and implement instructional materials to make this policy and related practices, including reporting procedures, educational processes and possible consequences, known to all school employees and students of the education provider.

Communication of Policy

LAWS

339.240. Rules of student conduct, discipline and rights; duties of state board and district school boards.

(1) The State Board of Education in accordance with ORS chapter 183 shall adopt rules setting minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are

consistent with orderly operation of the educational processes and with fair hearing requirements. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

(2) Every district school board shall adopt and attempt to give the widest possible distribution of copies of reasonable written rules regarding pupil conduct, discipline and rights and procedures pertaining thereto. Such rules must comply with minimum standards adopted by the State Board of Education under subsection (1) of this section.

(3) Every district school board shall enforce consistently and fairly its written rules regarding pupil conduct, discipline and rights. This subsection does not apply to a pupil who is eligible for special education as a child with a disability under ORS 343.035.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

(a) Defines and helps create a learning environment that students respect;

(b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;

(c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;

(d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and

(e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.

339.356. District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

339.366. Required policy on teen dating violence and domestic violence.

(1) As used in this section:

(a) "Dating" or "dating relationship" means an ongoing social relationship of a romantic or intimate nature between two persons. "Dating" or "dating relationship" does not include a casual relationship or ordinary fraternization between two persons in a business or social context.

(b) "Domestic violence" means abuse as defined in ORS 107.705 between family and household members, as those terms are defined in ORS 107.705.

(c) "Teen dating violence" means:

(A) A pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or

(B) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

(2) Each school district board shall adopt a policy that:

(a) States that teen dating violence is unacceptable and is prohibited and that each student has the right to a safe learning environment;

(b) Incorporates age-appropriate education about teen dating violence and domestic violence into new or existing training programs for students in grades 7 through 12 and school employees as recommended by the school officials identified under paragraph (d) of this subsection;

(c) Establishes procedures for the manner in which employees of a school are to respond to incidents of teen dating violence that take place at the school, on school grounds, at school-sponsored activities or in vehicles used for school-provided transportation;

(d) Identifies by job title the school officials who are responsible for receiving reports related to teen dating violence, which shall be the same school officials identified in the policy adopted by a school district under ORS 339.356; and

(e) Notifies students and parents of the teen dating violence and domestic violence policies adopted by the board.

(3) The policy adopted under subsection (2) of this section must be included in and consistent with the policy adopted by a school district under ORS 339.356.

REGULATIONS

581-021-0075. Distribution.

(1) School district boards, or designated representatives, shall attempt to give widest possible distribution to their rules of pupil conduct and discipline in order that students may understand the expectations of the district.

(2) School districts shall make reasonable attempts to give a copy of their current rules to each student, and a copy of the current rules shall be posted in a prominent place in the schools of the district.

(3) School districts shall make these rules available to the general public upon request.

In-School Discipline

Discipline Frameworks

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
 - (f) Must be limited so that:

- (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.
 - (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.
 - (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;

- (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;
 - (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;
 - (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
 - (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

- (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
- (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.
- (8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.
- (9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.
 - (b) As used in this subsection:
 - (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.
 - (B) "Corporal punishment" does not include:
 - (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
 - (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.
- (10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:
 - (a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and
 - (b) As a full day if the student is out of school for more than half of the scheduled school day.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
 - (f) Must be limited so that:
 - (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.

- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.
 - (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;
 - (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

- (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;
 - (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
 - (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

- (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
- (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.
- (8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.
- (9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.
 - (b) As used in this subsection:
 - (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.
 - (B) "Corporal punishment" does not include:
 - (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
 - (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.
- (10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:
 - (a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and
 - (b) As a full day if the student is out of school for more than half of the scheduled school day.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

(i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

REGULATIONS

581-021-0060. Discipline procedures, prohibition of corporal punishment.

(1) School district boards shall establish fair and reasonable procedures for discipline, suspension, or expulsion.

(2) No student in Oregon shall be subjected to corporal punishment in any public elementary or secondary school. A school administrator is not authorized to waive the prohibition against corporal punishment based upon the request of a parent or guardian.

581-021-0061. Corporal punishment.

(1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

(2) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) Recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips, or vocational education projects; or

(d) Physical restraint or seclusion when used as provided in ORS 339.291 and OAR 581-021-0553.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

581-021-0050. Minimum standards for student conduct and discipline.

(1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

(d) Search and seizure; [...]

(2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

Restraint and Seclusion

LAWS

161.205. Use of physical force generally.

The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person may use reasonable physical force upon such minor or incompetent person when and to the extent the person reasonably believes it necessary to maintain discipline or to promote the welfare of the minor or incompetent person.

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

(2) Subject to ORS 421.107, an authorized official of a jail, prison or correctional facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under the direction of the person, may use physical force when and to the extent that the person reasonably believes it necessary to maintain order, but the person may use deadly physical force only when the person reasonably believes it necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.

(5) A person may use physical force upon another person in self-defense or in defending a third person, in defending property, in making an arrest or in preventing an escape, as hereafter prescribed in chapter 743, Oregon Laws 1971.

339.285. Definitions for ORS 339.285 to 339.303.

As used in ORS 339.285 to 339.303:

(2)(a) "Restraint" means the restriction of a student's actions or movements by holding the student or using pressure or other means.

(b) "Restraint" does not include:

(A) Holding a student's hand or arm to escort the student safely and without the use of force from one area to another;

(B) Assisting a student to complete a task if the student does not resist the physical contact; or

(C) Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under ORS 339.288 and the intervention is necessary to:

(i) Break up a physical fight;

(ii) Interrupt a student's impulsive behavior that threatens the student's immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or

(iii) Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.

(3)(a) "Seclusion" means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving.

(b) "Seclusion" does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(4) "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

339.288. Prohibitions on use of certain restraints.

(1) The use of the following types of restraint on a student in a public education program is prohibited:

(a) Chemical restraint.

(b) Mechanical restraint.

(c) Prone restraint.

(d) Supine restraint.

(e) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon.

(f) Any restraint that places, or creates a risk of placing, pressure on a student's neck or throat.

(g) Any restraint that places, or creates a risk of placing, pressure on a student's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.

(h) Any restraint that impedes, or creates a risk of impeding, breathing.

(i) Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts.

(j) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on the stomach or back by a knee, foot or elbow bone.

(k) Any action designed for the primary purpose of inflicting pain.

(2) As used in this section:

(a) "Chemical restraint" means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(A) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition; and

(B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.

(b)(A) "Mechanical restraint" means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.

(B) "Mechanical restraint" does not include:

(i) A protective or stabilizing device ordered by a licensed physician; or

(ii) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(c) "Prone restraint" means a restraint in which a student is held face down on the floor.

(d) "Supine restraint" means a restraint in which a student is held face up on the floor.

339.291. Use of restraint or seclusion.

(1) Restraint or seclusion may not be used for discipline, punishment, retaliation or convenience of personnel, contractors or volunteers of a public education program.

(2)(a) Restraint may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Seclusion may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(3) If restraint or seclusion is used on a student, the restraint or seclusion must be:

(a) Used only for as long as the student's behavior poses a reasonable risk as described in subsection (2) of this section;

(b) Imposed by personnel of the public education program who are:

(A) Trained to use restraint or seclusion through programs described in ORS 339.300; or

(B) Otherwise available in the case of an emergency circumstance when personnel described in subparagraph (A) of this paragraph are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(c) Continuously monitored by personnel of the public education program for the duration of the restraint or seclusion.

(4) In addition to the requirements described in subsection (3) of this section, if restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and

(c) Every 15 minutes after the first 30 minutes of the restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the restraint or seclusion, including providing documentation for the reason the restraint or seclusion must be continued.

339.294. Procedures following incident; notification; records.

- (1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.
- (2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:
 - (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.
 - (b) Written documentation of the incident within 24 hours of the incident that provides:
 - (A) A description of the restraint or seclusion, including:
 - (i) The date of the restraint or seclusion;
 - (ii) The times when the restraint or seclusion began and ended; and
 - (iii) The location of the restraint or seclusion.
 - (B) A description of the student's activity that prompted the use of restraint or seclusion.
 - (C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.
 - (D) The names of the personnel of the public education program who administered the restraint or seclusion.
 - (E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this section.
 - (c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and the parent's or guardian's right to attend the meeting.
- (3) If the personnel of the public education program who administered the restraint or seclusion had not received training as provided by ORS 339.300, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:
 - (a) The lack of training; and
 - (b) The reason the restraint or seclusion was administered by a person without training.
- (4)(a) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.
- (b) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.
- (5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.
- (6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the Department of Human Services.
- (7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

339.297. Annual report.

(1) Each entity that has jurisdiction over a public education program must prepare and submit to the Department of Education an annual report detailing the use of restraint and seclusion for the preceding school year, including, at a minimum:

- (a) The total number of incidents involving restraint.
- (b) The total number of incidents involving seclusion.
- (c) The total number of seclusions in a locked room.
- (d) The total number of rooms available for use by the public education program for seclusion of a student and a description of the dimensions and design of the rooms.
- (e) The total number of students placed in restraint.
- (f) The total number of students placed in seclusion.
- (g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of restraint or seclusion.
- (h) The number of students who were placed in restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of restraint and seclusion for each student.
- (i) The number of incidents in which the personnel of the public education program administering restraint or seclusion were not trained as provided by ORS 339.300.
- (j) The demographic characteristics of all students upon whom restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2)(a) Each entity that has jurisdiction over a public education program shall make its annual report about restraint and seclusion available to:

- (A) The public at the entity's main office and the website of the entity;
- (B) The board or governing body overseeing the entity;
- (C) If the entity is an education service district, the component school districts of the education service district; and
- (D) If the entity is a public charter school, the sponsor of the public charter school.

(b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.

(3) A public education provider that does not comply with the requirement to submit a report to the Department of Education under subsection (1) of this section or to make the report available as described in subsection (2) of this section is considered nonstandard under ORS 327.103.

339.300. Training programs.

The Department of Education shall approve training programs in restraint and seclusion that:

- (1) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of restraint or seclusion;
- (2) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(3) Are consistent with the philosophies, practices and techniques for restraint and seclusion that are established by rule or policy of the Department of Human Services.

339.303. Rules for complaints, investigations and seclusion rooms.

The State Board of Education shall adopt by rule:

(1) A process for an organization or an individual to submit to the Superintendent of Public Instruction a written, signed complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303. The complaint must indicate that, prior to submitting the complaint to the superintendent, the organization or individual attempted to seek a remedy for the complaint from the board or governing body overseeing the entity that has jurisdiction over the public education program against which the complaint is being submitted.

(2) A process for investigating a complaint submitted under subsection (1) of this section.

(3) The minimum standards for any rooms used by a public education program for seclusion of a student. The standards must:

(a) Take into account the health and safety of students and personnel of the public education program and the respect and dignity of students; and

(b) Include consideration of the size, safety features, lighting and ventilation of the rooms.

339.308. Seclusion cell prohibition.

(1) As used in this section:

(a) "Public education program" means a program that:

(A) Is for students in early childhood education, elementary school or secondary school;

(B) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(C) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(b) "Seclusion cell" means a freestanding, self-contained unit that is used to:

(A) Isolate a student from other students; or

(B) Physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(2) A public education program may not:

(a) Purchase, build or otherwise take possession of a seclusion cell; or

(b) Use a seclusion cell.

(3) Nothing in this section prevents a public education program from using seclusion as allowed under ORS 339.285 to 339.303.

REGULATIONS

581-021-0061. Corporal punishment.

(1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

(2) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) Recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips, or vocational education projects; or

(d) Physical restraint or seclusion when used as provided in ORS 339.291 and OAR 581-021-0553.

581-021-0550. Definitions: Restraint and seclusion.

As used in OAR 581-021-0550 to 581-021-0570:

- (1) "Chemical restraint" means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:
 - (a) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition; and
 - (b) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.
- (2)(a) "Mechanical restraint" means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.
 - (b) "Mechanical restraint" does not include:
 - (A) A protective or stabilizing device ordered by a licensed physician; or
 - (B) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.
- (3) "Prone restraint" means a restraint in which a student is held face down on the floor.
- (4) "Public education program" means a program in this state that:
 - (a) Is for students in early childhood education, elementary school or secondary school;
 - (b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and
 - (c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.
- (5)(a) "Restraint" means the restriction of a student's actions or movements by holding the student or using pressure or other means.
 - (b) "Restraint" does not include:
 - (A) Holding a student's hand or arm to escort the student safely and without the use of force from one area to another;
 - (B) Assisting a student to complete a task if the student does not resist the physical contact; or
 - (C) Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under ORS 339.288 and the intervention is necessary to:
 - (i) Break up a physical fight;
 - (ii) Interrupt a student's impulsive behavior that threatens the student's immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or
 - (iii) Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.
- (6)(a) "Seclusion" means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked.
 - (b) "Seclusion" does not include:
 - (A) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving; or

(B) A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student's behavior.

(7) "Seclusion cell" means a freestanding, self-contained unit that is used to:

(a) Isolate the student from other students; or

(b) Physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(8) "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

(9) "Substantial physical or bodily injury" means any impairment of the physical condition of a person that requires some form of medical treatment.

(10) "Supine restraint" means a restraint in which a student is held face up on the floor.

581-021-0553. Use of restraint and seclusion in public education programs.

(1)(a) The use of the following types of restraint on a student in a public education program is prohibited:

(A) Chemical restraint;

(B) Mechanical restraint;

(C) Prone restraint;

(D) Supine restraint;

(E)(i) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon;

(ii) Notwithstanding paragraph (a)(E)(i) of this subsection, the use of a solid object, including a piece of furniture, a wall, or the floor, by public education program personnel performing a restraint is not prohibited if the object is used for the personnel's own stability or support while performing the restraint and not as a mechanism to apply pressure directly to the student's body;

(F)(i) Any restraint that places, or creates a risk of placing, pressure on a student's mouth, neck or throat, or that impedes, or creates a risk of impeding, a student's breathing;

(ii) Notwithstanding paragraph (a)(F)(i) of this subsection, a restraint that places, or creates a risk of placing, pressure on a student's mouth may be used if the restraint is necessary for the purpose of extracting a body part from a bite;

(G) Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts; and

(H) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a student's stomach or back by a knee, foot or elbow bone.

(b) The use of any action designed for the primary purpose of inflicting pain upon a student in a public education program is prohibited.

(2) Restraint or seclusion may not be used for discipline, punishment, retaliation or convenience of personnel, contractors or volunteers of a public education program.

(3)(a) Restraint may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Seclusion may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(4) If restraint or seclusion is used on a student, the restraint or seclusion must be:

(a) Used only for as long as the student's behavior poses a reasonable risk as described in subsection (3) of this rule;

(b) Imposed by personnel of the public education program who are:

(A) Trained to use restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(B) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(c) Continuously monitored by personnel of the public education program for the duration of the restraint or seclusion.

(5) If restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and

(c) Every 15 minutes after the first 30 minutes of the restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the restraint or seclusion, including providing documentation for the reason the restraint or seclusion must be continued.

581-021-0556. Procedures regarding restraint & seclusion.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.

(2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.

(b) Written documentation of the incident within 24 hours of the incident that provides:

(A) A description of the restraint or seclusion, including:

(i) The date of the restraint or seclusion;

(ii) The times when the restraint or seclusion began and ended; and

(iii) The location of the restraint or seclusion.

(B) A description of the student's activity that prompted the use of restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this rule.

(c) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent or, if the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program, receive written notification of:

- (a) The lack of training; and
- (b) The reason the restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel. Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the Department of Human Services within 24 hours of the incident.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the following individuals within 24 hours of the incident:

- (a) The district superintendent and, if applicable, the union representative for the affected party; or
- (b) If the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program and, if applicable, the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

(9) Pursuant to ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303 and OAR 581-021-0553.

(10) District school boards shall adopt written policies to implement restraint and seclusion procedures consistent with and as indicated in ORS 339.285 to 339.308 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers of those policies.

581-021-0563. Approval of restraint and seclusion training programs for school staff.

(1) The Department of Education shall approve training programs in restraint and seclusion that:

- (a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of restraint or seclusion;
- (b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and
- (c) Are consistent with the philosophies, practices and techniques for restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit program materials that meet the expectations of subsection (1) of this rule in writing to the Oregon Department of Education.

(3) Approved training programs remain in effect unless significant changes are made to the program. If significant changes are made, the training program must be re-submitted for approval.

(4) The Oregon Department of Education must remove training programs from the approved list if they no longer meet the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

581-021-0566. Required use of approved restraint and seclusion programs.

On or after July 1, 2012, a Public Education Program may only use training programs on restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

581-021-0568. Standards for seclusion rooms.

(1) Beginning with the 201415 school year, public education programs must meet the following standards for the structural and physical requirements for rooms designated by the school to be used for seclusion:

(a) Any wall that is part of the room used for seclusion must be part of the structural integrity of the room (not free standing cells or portable units attached to the existing wall or floor), and must be no less than 64 square feet; the distance between adjacent walls must be no less than 7 feet across.

(b) The room must not be isolated from school staff of the facility;

(c) Doors must be unlocked or equipped with immediate-release locking mechanisms;

(d) The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside; half doors are acceptable options as well where direct visual monitoring can occur.

(e) The room must contain no protruding, exposed, or sharp objects;

(f) The room must contain no free standing furniture.

(g) Windows must be transparent for both staff and the student to see in/out, and made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening;

(h) There must be no exposed pipes or electrical wiring in the room. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. The room must contain lights which must be recessed or covered with screening, safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws;

(i) The room must meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they must be recessed and/or covered with a cage. If pop-down type, sprinklers must have breakaway strength of less than 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation;

(j) The room must be ventilated; heating and cooling vents must be secure and out of reach;

(k) The room must be designed and equipped in a manner that would not allow a child to climb up a wall;

(l) Walls, floor and ceiling must be solidly and smoothly constructed, to be cleaned easily, and have no rough or jagged portions; and

(m) Seclusion cells are prohibited as provided in OAR 581-021-0569.

(2) These standards are first applicable on or after July 1, 2014.

581-021-0569. Use of seclusion cells prohibited.

(1) A public education program may not:

(a) Purchase, build or otherwise take possession of a seclusion cell; or

(b) Use a seclusion cell.

- (2) No later than July 1, 2013, a public education program shall ensure that all seclusion cells are removed from the classrooms of the public education program.
- (3) No later than September 1, 2013, a public education program shall ensure that all seclusion cells are removed from the premises of the public education program.
- (4) Notwithstanding the applicability date specified in OAR 581-021-0568 the prohibition on the use of seclusion cells under this rule is effective and applicable beginning on or after April 5, 2013.

581-021-0570. Complaint procedures.

- (1) An organization or an individual may file a complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0566. If the public education program is a school district, the organization or individual and the school district shall follow the school district's complaint procedure established under OAR 581-022-2370.
- (2) A complainant may appeal a final decision by a school district to the Department of Education as provided in OAR 581-002-0001 to OAR 581-002-0023 by:
 - (a) Mailing a complaint appeal to the Department of Education, or
 - (b) Submitting a complaint appeal through the Department of Education's website.

581-022-2267. Annual Report on use of Restraint and Seclusion.

- (1) Each entity that has jurisdiction over a public education program must prepare and submit an annual report detailing the use of restraint and seclusion for the preceding school year to the Oregon Department of Education. The annual report shall include, at a minimum:
 - (a) The total number of incidents involving restraint;
 - (b) The total number of students placed in restraint;
 - (c) The total number of incidents involving seclusion;
 - (d) The total number of students placed in seclusion;
 - (e) The total number of seclusions in a locked room;
 - (f) The total number of seclusion rooms available, including a description of the dimensions and design of the rooms;
 - (g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of restraint or seclusion;
 - (h) The number of students who were placed in restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of restraint and seclusion for each student;
 - (i) The number of incidents in which the personnel of the public education program administering restraint or seclusion were not trained; and
 - (j) The demographic characteristics of all students upon whom restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.
- (2)(a) Each entity that has jurisdiction over a public education program shall make its annual report about restraint and seclusion available to:
 - (A) The public at the entity's main office and the website of the entity;
 - (B) The school board or governing body overseeing the entity;
 - (C) If the entity is an education service district, the component school districts of the education service district; and
 - (D) If the entity is a public charter school, the sponsor of the public charter school.
- (b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

- (f) Must be limited so that:
 - (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.
- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
 - (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
 - (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.
 - (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
 - (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;

- (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;
 - (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;
 - (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
 - (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal

guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

(d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

(i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

(10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.

REGULATIONS

581-015-2405. Disciplinary removals for up to 10 school days for children with disabilities.

(1) School districts may remove a child with a disability who violates a code of student conduct from the child's current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. These removals are not considered a change in placement.

(2) During disciplinary removals described in section (1) of this rule:

(a) School districts are not required to provide access to special education and the general curriculum unless students without disabilities are provided access during this time.

(b) School districts are not required to determine whether the child's behavior resulting in disciplinary removal is a manifestation of the child's disability.

(3) For the purpose of counting days of suspensions under OAR 581-015-2405 through 581-015-2445:

(a) Suspensions of a half day or less are counted as a half day; and

(b) Suspensions of more than a half-day are counted as a whole day.

(4) For the purposes of determining "current educational placement" in subsection (1) of this rule:

(a) Children who received special education services in another state and are found eligible for special education in Oregon are treated as initially placed in special education in Oregon, and any days of suspension accrued in the former state are not counted toward the ten days.

(b) For children who move from one school district to another school district in Oregon, any days of suspension from the former district carry over to the new school district unless the school district does not have actual knowledge of the previous suspensions.

581-015-2410. Additional disciplinary removals of up to 10 school days each (no pattern).

(1) School districts may remove a child with a disability who violates a code of student conduct from the child's current educational placement to an appropriate interim alternative educational setting, another setting, or suspension for additional periods of up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities, if the removals do not constitute a pattern under section (2) of this rule. These removals are not considered a change in placement.

(2) School personnel must determine, on a case-by-case basis, whether the series of removals constitute a pattern:

(a) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(b) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of removals to one another.

(3) Services. During removals described in section (1) of this rule:

(a) School districts must provide services that are necessary to enable the child:

(A) To continue to participate in the general education curriculum, although in another setting; and

(B) To progress toward meeting the goals in the child's IEP.

(b) School personnel, in consultation with at least one of the child's teachers, determine the extent to which the services described in subsection (3)(a) of this rule are needed, and the location for delivery of those services.

(c) School districts are not required to determine whether the behavior resulting in removal is a manifestation of the child's disability.

(4) The determination in subsection (2) is subject to review under OAR 581-015-2445.

581-021-0055. Standards of conduct.

(1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful authority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

(a) Theft;

(b) Disruption of the school;

(c) Damage or destruction of school property;

(d) Damage or destruction of private property on school premises or during a school activity;

(e) Assault or threats of harm;

(f) Unauthorized use of weapons or dangerous instruments;

(g) Unlawful use of drugs, narcotics, or alcoholic beverages;

(h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

Limitations or Conditions on Exclusionary Discipline

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
 - (f) Must be limited so that:
 - (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.

- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.
 - (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;
 - (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

- (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;
 - (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
 - (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

- (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
- (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.
- (8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.
- (9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.
 - (b) As used in this subsection:
 - (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.
 - (B) "Corporal punishment" does not include:
 - (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
 - (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.
- (10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:
 - (a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and
 - (b) As a full day if the student is out of school for more than half of the scheduled school day.

REGULATIONS

581-015-2415. Disciplinary removals of more than 10 school days (pattern or consecutive).

- (1) A disciplinary removal is considered a change in educational placement and the school district must follow special education due process procedures if:
 - (a) The removal will be for more than 10 consecutive school days (e.g. expulsion); or
 - (b) The child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-2410(2).
- (2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal under subsection (1) for a child with a disability who violates a code of conduct.
- (3) Manifestation determination. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the students disability in accordance with OAR 581-015- 2420.
- (4) Manifestation. If the determination under subsection (3) is that the child's behavior is a manifestation of the child's disability, the school district must:
 - (a) Return the child to the placement from which the child was removed, unless:
 - (A) The parent and school district agree to a change of placement as part of the modification of the behavioral intervention plan under subsection (4)(b);

(B) The school district removes the child to an interim alternative educational setting under OAR 581-015-2425 for a weapons or drug violation or for infliction of serious bodily injury; or

(C) The school district obtains an order from an administrative law judge under OAR 581-015-2430 allowing a change in placement to an interim alternative educational setting for injurious behavior; and

(b) Either:

(A) Conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a behavior intervention plan; or

(B) If the student already has a behavior plan, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

(5) No manifestation. If the determination under subsection (3) is that the child's behavior is not a manifestation of the child's disability:

(a) The school district may proceed with disciplinary action applicable to children without disabilities under section (1) of this rule, in the same manner and for the same duration in which the procedures would be applied to children without disabilities.

(b) If the school district takes such action applicable to all children, the school district must:

(A) On the date on which the decision is made to remove the student under subsection (5), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315.

(B) Provide services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435; and

(C) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement related to the disciplinary removal in section (1) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the disciplinary removal under subsection (1), whichever occurs first, unless the parent and school district agree otherwise.

581-015-2420. Manifestation determination.

(1) In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(b) If the conduct in question was the direct result of the school district's failure to implement the IEP.

(2) If the school district, the parent, and relevant members of the IEP team determine that either subsection (1)(a) or (b) is applicable for the child, the conduct must be determined to be a manifestation of the child's disability.

(3) If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.

581-021-0065. Suspension.

(1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (OAR 581-021-0075), specification of charges, and an opportunity for the student to present his or her view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.

(2) Emergency situations shall be limited to those instances where there is a serious risk that substantial harm will occur if suspension does not take place immediately.

(3) School district boards shall provide students suspended under emergency conditions with the rights outlined in section (1) of this rule as soon as the emergency condition has passed.

(4) In all suspensions ordered by the executive officer of the school district or designated representative, the district school board shall have the right of final review if the action is not taken by the school board itself.

(5) School district boards shall limit suspension to a specific maximum number of days. That maximum shall not exceed ten school days.

(6) School district boards shall adopt policies that require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student. For students in fifth grade or lower, the policies must limit the use of out-of-school suspension to the following circumstances:

- (a) for non-accidental conduct causing serious physical harm to a student or school employee;
- (b) when a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
- (c) when the suspension or expulsion is required by law

(7) When an out of school suspension is imposed for a student who is fifth grade or younger, district policies must require schools to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the students' academic instruction is minimized.

(8) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

(9) In special circumstances a suspension may be continued until some specific pending action occurs, such as a physical or mental examination, or incarceration by court action.

581-021-0070. Expulsion.

(1) Each district school board shall adopt written policies that limit the use of expulsion to the following circumstances:

- (a) For conduct that poses a threat to the health or safety of students or school employees;
- (b) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
- (c) When the expulsion is required by law
- (d) In addition to any limitations imposed by paragraphs (a) to (c) of this subsection, board policies must limit the use of expulsion for students in fifth grade or lower to the following circumstances:

- (i) For nonaccidental conduct causing serious physical harm to a student or school employee;
- (ii) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees.

Due Process

LAWS

332.061. Hearing to expel minor students or to examine confidential records; exceptions to public meetings law.

Notwithstanding ORS 192.610 to 192.690 governing public meetings:

- (1) Any hearing held by a district school board or its hearings officer on any of the following matters shall be conducted in executive session of the board or privately by the hearings officer unless the student or the student's parent or guardian requests a public hearing:
 - (a) Expulsion of a minor student from a public elementary or secondary school.
 - (b) Matters pertaining to or examination of the confidential records of a student.
- (2) If an executive session is held by a district school board or a private hearing is held by its hearings officer under this section, the following shall not be made public:
 - (a) The name of the minor student.
 - (b) The issue, including a student's confidential records.
 - (c) The discussion.
 - (d) The school board member's vote on the issue.
- (3) The school board members may vote in an executive session conducted pursuant to this section.

REGULATIONS

581-021-0065. Suspension.

- (1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (OAR 581-021-0075), specification of charges, and an opportunity for the student to present his or her view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.
- (2) Emergency situations shall be limited to those instances where there is a serious risk that substantial harm will occur if suspension does not take place immediately.
- (3) School district boards shall provide students suspended under emergency conditions with the rights outlined in section (1) of this rule as soon as the emergency condition has passed.
- (4) In all suspensions ordered by the executive officer of the school district or designated representative, the district school board shall have the right of final review if the action is not taken by the school board itself.
- (5) School district boards shall limit suspension to a specific maximum number of days. That maximum shall not exceed ten school days.
- (6) School district boards shall adopt policies that require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student. For students in fifth grade or lower, the policies must limit the use of out-of-school suspension to the following circumstances:
 - (a) for non-accidental conduct causing serious physical harm to a student or school employee;

(b) when a school administrator determines, based upon the administrators observation or upon a report from a school employee, that the students conduct poses a direct threat to the health or safety of students or school employees; or

(c) when the suspension or expulsion is required by law

(7) When an out of school suspension is imposed for a student who is fifth grade or younger, district policies must require schools to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the students' academic instruction is minimized.

(8) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

(9) In special circumstances a suspension may be continued until some specific pending action occurs, such as a physical or mental examination, or incarceration by court action.

581-021-0070. Expulsion.

(1) Each district school board shall adopt written policies that limit the use of expulsion to the following circumstances:

(a) For conduct that poses a threat to the health or safety of students of school employees;

(b) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or

(c) When the expulsion is required by law

(d) In addition to any limitations imposed by paragraphs (a) to (c) of this subsection, board policies must limit the use of expulsion for students in fifth grade or lower to the following circumstances:

(i) For nonaccidental conduct causing serious physical harm to a student or school employee;

(ii) When a school administrator determines, based upon the administrators observation or upon a report from a school employee, that the students conduct poses a direct threat to the health or safety of students or school employees;

(2) A school district board may expel, or delegate authority to a hearings officer to expel, a student provided the student is not expelled without a hearing unless the student's parent(s) or guardian, or the student, if 18 years of age, waives the right to a hearing. Waiver may take place by the parent or the student, if 18 years of age, notifying the school district in writing of waiver of the right to a hearing. Waiver may also take place by the parent, or the student, if age 18 or over, failing to appear after notice, at the place and time set for the hearing:

(a) If the school board acts to expel, the hearing may be conducted by a hearings officer designated by the board. In cases where the hearings officer is conducting the expulsion hearing for the board, the hearings officer shall provide to the board the findings as to the facts, the recommended decision and whether or not the student is guilty of the conduct alleged. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over;

(b) If the authority to expel a student is delegated to a hearings officer, the parent, or student, if age 18 or over, shall have the right upon appeal to a board review of the decision. If the decision is appealed to the board for review, the board shall be provided findings as to the facts and the decision of the hearings officer. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over. When appealed, the board will affirm, modify, or rescind the decision of the hearings officer.

- (3) Student expulsion hearings shall be conducted pursuant to ORS 332.061.
- (4) Expulsion hearing policies or rules shall contain provisions for the following:
- (a) Notice to the student and to the parent or guardian shall be given by personal service or certified mail of the charge or charges and the specific facts that support the charge or charges. The notice shall include the statement of intent to consider the charges as reason for expulsion. Where notice is given by personal service, the person serving the notice shall file a return of service. Where notice is given by certified mail to a parent of a suspended student the notice shall be placed in the mail at least five days before the date of the hearing;
 - (b) Where the student or the student's parent cannot understand the spoken English language, an interpreter shall be provided by the district;
 - (c) The student may be represented by counsel or other persons;
 - (d) The student shall be permitted to introduce evidence by testimony, writings, or other exhibits;
 - (e) The student shall be permitted to be present and hear the evidence presented by the district;
 - (f) Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer's control of the hearing;
 - (g) The hearings officer or the student may make a record of the hearing.

Return to School Following Removal

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
- (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

REGULATIONS

581-021-0065. Suspension.

- (7) When an out of school suspension is imposed for a student who is fifth grade or younger, district policies must require schools to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the students' academic instruction is minimized.
- (8) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

Alternative Placements

LAWS

336.580. Education at youth care centers; rules.

- (1) Every child at a youth care center, as defined in ORS 420.855, is entitled to receive appropriate education suited to the needs of the child in the least restrictive environment in which the child can function until the child is no longer of compulsory school age or receives a high school diploma or an equivalent.
- (2)(a) Except as provided by paragraph (b) of this subsection, the school district in which the youth care center is located shall develop an educational plan for the children in the youth care center in consultation with the director of the center. The plan shall be approved annually by the school district board.
- (b) For children placed at a youth care center within a detention facility, as defined in ORS 419A.004, the children shall receive educational services through the Juvenile Detention Education Program as described in ORS 326.695.
- (3) The Superintendent of Public Instruction shall have the authority to enforce the provisions of ORS 336.575 and 339.137 and this section. If a district fails to comply, the superintendent shall find the district deficient and shall apply the penalty provided in ORS 327.103.
- (4) The State Board of Education shall adopt rules to implement this section.

336.585. Education for children enrolled in Juvenile Detention Education Program; costs; rules; notification to resident district.

- (1) As used in this section:
 - (a) "Juvenile Detention Education Program" means the program defined in ORS 326.695.
 - (b) "Resident district" means the school district in which the parents or legal guardian, if any, of a child resided at the time of the child's enrollment in the Juvenile Detention Education Program. If the child has no parents or legal guardian, or none can be located, the resident district is the school district in which the child is physically located.
- (2)(a) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Juvenile Detention Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Juvenile Detention Education Program.
 - (b) An education service district that provides education as provided by this subsection and that awards high school diplomas:
 - (A) May not impose requirements for a high school diploma that are in addition to the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education; and
 - (B) Must accept any credits previously earned by children in another school or educational program in this state and apply those credits toward the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education.
- (3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Juvenile Detention Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.
- (4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Juvenile Detention Education Program, including standards that allow a school district or an education service district under contract with the superintendent to:
 - (a) Implement an assessment system as provided by ORS 329.485 (3).
 - (b) Administer a nationally normed assessment as provided by ORS 329.488.

(c) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(d) Receive funds under ORS chapter 329.

(5) The superintendent shall ensure that the resident district of each child enrolled in an educational program under the Juvenile Detention Education Program is notified, if the resident district can be reasonably identified. The purposes of the notification include, but are not limited to:

(a) Removing the child from the resident district's census;

(b) Facilitating transfers of the child's educational records; and

(c) Facilitating planning for the child's possible return to the resident district.

336.590. Education for children enrolled in Youth Corrections Education Program; costs; rules.

(1) As used in this section, "Youth Corrections Education Program" means the program defined in ORS 326.695.

(2) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Youth Corrections Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Youth Corrections Education Program.

(3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Youth Corrections Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.

(4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Youth Corrections Education Program, including standards that allow a school district or an education service district under contract with the superintendent to:

(a) Award high school diplomas, modified diplomas, extended diplomas and alternative certificates as provided by ORS 329.451 and 339.877. An education service district that awards high school diplomas as provided by this paragraph:

(A) May not impose requirements for a high school diploma that are in addition to the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education; and

(B) Must accept any credits previously earned by children in another school or educational program in this state and apply those credits toward the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education.

(b) Implement an assessment system as provided by ORS 329.485 (3).

(c) Administer a nationally normed assessment as provided by ORS 329.488.

(d) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(e) Receive funds under ORS chapter 329.

336.615. Definition for ORS 336.615 to 336.665.

As used in ORS 336.615 to 336.665, "alternative education program" means a school or separate class group designed to best serve students' educational needs and interests and assist students in achieving the academic standards of the school district and the state.

336.625. Goals; district responsibility; registration; rules.

(1) In implementing alternative education programs, district school boards shall maintain learning situations that are flexible with regard to environment, time, structure and pedagogy.

(2) Students participating in alternative education programs are considered to be the responsibility of the resident district for purposes of ORS 332.072.

(3) The State Board of Education by rule:

- (a) Shall define the accountable activities and allowable credit for these activities in alternative education programs;
 - (b) Shall adopt a process for registering private alternative education programs that includes, but is not limited to, the requirements of ORS 336.631; and
 - (c) Shall establish standards for private alternative education programs to ensure a safe educational environment and an instructional program that provides students with the opportunity to make progress toward achieving state academic content and performance standards.
- (4) A school district may not waive the right to implement an alternative education program in a collective bargaining agreement.

336.631. Private alternative programs; requirements; applicability of laws; placement of students.

(1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

- (a) Annually approve the private alternative education program;
- (b) Determine that the private alternative education program is registered with the Department of Education; and
- (c) Determine that the private alternative education program complies with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

(2) The following laws apply to private alternative education programs that are registered with the Department of Education under ORS 336.635 in the same manner as the laws apply to school districts and public schools:

- (a) Federal law;
- (b) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
- (c) ORS 329.496 (physical education);
- (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);
- (e) ORS 659.850, 659.855 and 659.860 (discrimination);
- (f) ORS 339.122 (advertisement requirements);
- (g) Health and safety statutes and rules; and
- (h) Any statute, rule or school district policy that is specified in a contract between the school district board and the private alternative education program.

(3) Prior to placement of a student in a private alternative education program, the resident district shall determine whether the proposed placement best serves the student's educational needs and interests and assists the student in achieving the district and state academic standards.

(4) Contracts between a school district and a private alternative education program shall be included in the assessment of effectiveness provided for in ORS 329.085.

336.635. Enrollment in alternative education program; billing; rules; status of teachers.

(1) The parent or guardian of a student may enroll the student in one of the proposed public alternative education programs or private alternative education programs of instruction or instruction combined with counseling if:

- (a) The enrollment is necessary to meet the student's educational needs and interests.
- (b) The program is appropriate and accessible to the student.
- (c) For a program in a school district in which the student is a resident, the resident school district approves the enrollment.
- (d) For a program in a school district in which the student is not a resident, the resident school district and the attending school district approve the enrollment.

- (e) For a private alternative education program, the program is registered with the Department of Education.
- (2) If the student is eligible for special education under ORS 343.221 to 343.236 and 343.261 to 343.295, the program must be approved by the Department of Education prior to the placement of the student in the program.
- (3) A student enrolled pursuant to this section is considered enrolled in the schools of the district offering the program for purposes of the distribution of the State School Fund.
- (4) An alternative education program that is offered to a student who is not a resident of the school district may bill tuition to the school district where the student is a resident. The billing may be made annually or at the end of each term or semester of the alternative education program. For each full-time equivalent student enrolled in the alternative education program, the resident school district shall pay the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less, in accordance with rules adopted by the State Board of Education. The alternative education program is accountable for the expenditures of all State School Fund moneys and other local school support moneys and shall provide the resident school district with an annual statement of the expenditures.
- (5) A private alternative education program that is registered with the department is not required to employ only licensed teachers or administrators. Teachers and administrators in private programs are not considered employees of any school district for purposes of ORS 342.173.
- (6) A school district is not required to provide a public alternative education program if the student can be referred to public or approved private alternative education programs that are appropriate for and accessible to the student.
- (7) Any preliminary teaching license, professional teaching license or distinguished teacher leader license issued by the Teacher Standards and Practices Commission is valid for teaching all subjects and grade levels in an alternative education program operated by a school district or education service district.

336.637. Instruction in educational standards required; assessment of students in private alternative education programs.

- (1) A private alternative education program shall ensure that students receive instruction in the educational standards adopted by the State Board of Education for the grade level the program serves.
- (2) Students enrolled in a private alternative education program shall take the statewide assessment developed by the Department of Education under ORS 329.485. A private alternative education program shall be accountable for determining the progress of its students toward achieving academic content standards as defined in ORS 329.007. The private alternative education program shall report, at least annually, each student's academic progress, including the results of the state assessment to students, parents and the school district.

336.645. Notification of availability of program; rules.

The State Board of Education shall adopt rules to implement the provisions of ORS 336.615 to 336.665 that shall include rules regarding school district notification to parents and students of the availability of alternative education programs, the law regarding alternative education programs and the procedures for requesting district school boards to establish alternative education programs.

336.665. Effect of failure to propose alternative programs.

- (1) The Superintendent of Public Instruction shall find a school district to be deficient within the meaning of ORS 327.103 if the district fails to cause the proposal of alternative programs to be made under ORS 339.250 (5)(h) or (7)(c)(B).
- (2) The failure to cause the proposal of alternative programs shall not be grounds for a civil action against the school district.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
[...]
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

- (c) Allow a superintendent of a school district to:
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

339.331. Mission; duties; annual report; staff; funding.

- (2) To fulfill its mission, the Center for School Safety shall:
- (a) Establish a clearinghouse for information and materials concerning school violence prevention and intervention services. As used in this paragraph, "intervention services" means any preventive, developmental, corrective or supportive service or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime or has been expelled from the school district. "Intervention services" may include, but is not limited to:
 - (C) Alternative education programs.

REGULATIONS

581-021-0071. District information for parents and students regarding the availability of alternative education programs.

- (1) The following definitions apply to this rule:

- (a) "Erratic attendance" means the student is frequently absent to the degree that he/she is not benefiting from the educational program;
 - (b) "Notification" means written notice, by personal service or certified mail, to the parent or guardian and student as required by ORS 339.250(6).
- (2) District school boards shall adopt policies and procedures for notification to students and parents, or guardians of the availability of appropriate and accessible alternative programs. This notification shall be provided in the following situations:
- (a) Upon the occurrence of a second or any subsequent occurrence of a severe disciplinary problem within a three-year period;
 - (b) When the district finds a student's attendance pattern to be so erratic that the student is not benefiting from the educational program;
 - (c) When the district is considering expulsion as a disciplinary alternative;
 - (d) When a student is expelled pursuant to subsection (2) of ORS 339.250; and
 - (e) When an emancipated minor, parent, or legal guardian applies for a student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030(2).
- (3) The notification must include but is not limited to the following:
- (a) Student action which is the basis for consideration of alternative education;
 - (b) Listing of alternative programs available to this student for which the district would provide financial support in accordance with ORS 339.620 except that when notice is given in accordance with subsection (2)(e) of this rule the district shall not be obligated to provide financial support;
 - (c) The program recommended for the student based on students learning styles and needs;
 - (d) Procedures for enrolling the student in the recommended program; and
 - (e) When the parent or guardians language is other than English, the district must provide notification in manner that the parent or guardian can understand.
- (4) The district shall inform all parents or guardians of the law regarding alternative education and educational services available to students by such means as a statement in the student/parent handbook, notice in the newspaper, or an individual letter to a parent.
- (5) District school boards shall adopt a procedure for parents or guardians to request establishment of alternative programs within the district.
- (6) District school boards shall not approve the enrollment of a pupil in a private alternative program unless the private alternative program meets all requirements of OAR 581-021-0045.

581-021-0072. Registration of private alternative programs/schools.

- (1) All Sections of this rule apply to each private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term "program" includes "school."
- (2) For the purposes of ORS 336.635(1), all private alternative education programs receiving public school funds must comply with Private Alternative Education Standards established by the Oregon State Board of Education. Before contracting with or receiving public funds from any public school district, each private alternative program must register with the Oregon Department of Education (ODE) under this rule and must have an institution identification number assigned by the Department.
- (3) New registration and renewal applications must be received each year by a date to be determined by the Department. Annually by March 1, the Oregon Department of Education will provide registration renewal application forms to private alternative programs registered with the Department.
- (4) Each private alternative education program must apply to the Department for approval of registration renewal and the application for registration or renewal of registration must include information or documentation as required by the Department that the private alternative program meets:

- (a) Local and state fire, safety, health and occupancy codes and standards;
- (b) Health and safety standards and rules including, but not limited to, sanitation and prevention of communicable disease;
- (c) The requirements of:
 - (A) OAR 581-022-1420 (emergency plans and safety programs);
 - (B) OAR 581-022-1430 (asbestos management plans);
 - (C) OAR 581-022-1440 (infectious diseases);
 - (D) ORS 339.870 and OAR 581-021-0037 (administration of medications);
 - (E) OAR 437-002-1910.1030 (Oregon Occupational Safety and Health Division - blood borne pathogens);
 - (F) OAR 581-022-0705 (health services);
 - (G) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);
 - (H) ORS 181.539, 326.603, 326.607, 336.631, and 342.232 (criminal records checks) for all subject individuals as defined in OAR 581-022-1730, including private alternative school/program owner/operators who have direct, unsupervised contact with students;
 - (I) ORS 433.235 through 433.284 and OAR 333-050-0010 through 333-050-0120 (immunization records and reports); and
 - (J) ORS 659.850 and 659.855 (discrimination).
- (5) The annual application must also include assurances and verifying documentation, as required by the Department, that the private alternative program:
 - (a) Has a mission statement;
 - (b) Maintains commercial general liability insurance with policy limits of at least \$ 1,000,000 and annually provides ODE with requested information or documentation showing the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy;
 - (c) Identifies the grade levels to be served;
 - (d) Identifies which students will be served consistent with OAR 581-022-1350(4)(a)(A);
 - (e) Assists the contracting district in meeting its planned K-12 instructional program in compliance with OAR 581-022-1210;
 - (f) Provides instruction in the academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;
 - (g) Assists students in earning diploma credits consistent with OAR 581-022-2000 and 581-022-1131;
 - (h) Uses curriculum content, teaching practices, facilities, and management practices that do not violate constitutional prohibitions on religious entanglement;
 - (i) Develops, implements, and, if necessary, modifies an education plan consistent with OAR 581-022-1120(3)(a) and (b), and 581-022-2000(3), Diploma Requirements, for each student approved for placement in the program by the student's contracting district;
 - (j) In cooperation with each student's contracting district and parent, guardian, or other responsible adult, includes criteria in the student's education plan for determining if, how, when, and where the student may transition from the alternative education program;
 - (k) At least annually reports the results of each student's performance on district-wide and state-wide assessments to the student, the student's parents or legal guardians, and to the student's contracting district;
 - (l) Collects and reports to each contracting district and the state the student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

- (m) If providing special education services or related services identified in any child's IEP, is approved by the ODE under OAR 581-015-0126;
 - (n) Maintains the confidentiality of student records consistent with the Family Educational Rights and Privacy Act, 34 CFR 99 et. seq. and maintains student records in compliance with Oregon Administrative Rules on student records;
 - (o) The school shall provide training for all students which is designed to prevent child abuse.
 - (p) The school shall include training for all school employees on the prevention and identification of child abuse and on the obligations of school employees to report child abuse based on policies adopted by the school board or governing body. This training shall be updated and presented to all employees on an annual basis.
 - (q) The school shall make the training detailed in section (o) of this rule available to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under section (p) of this rule.
 - (r) Has procedures in place regarding staff hiring and evaluation that require:
 - (A) Checking personal and professional references for all potential employees;
 - (B) Criminal background checks in compliance with OAR 581-022-1730 and ORS 181.539, 326.603, 326.607 and 342.232 and to comply with section (9) of this rule, for all employees;
 - (C) A regular schedule of staff evaluations of the competencies of all employees that work with children; and
 - (D) Staff licensing/registration by the Oregon Teacher Standards and Practices Commission in compliance with OAR 584-036-0015;
 - (s) For purposes of claiming state school funds, has policies and procedures to ensure that:
 - (A) Students enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-1210 and who are individually placed by the school district in the alternative education program under ORS 336.635 are accounted for in compliance with OAR 581-023-0006(7);
 - (B) Students enrolled in schools consistent with ORS 336.135 and students enrolled in nonpublic schools or taught by a private teacher or parent under ORS 339.035 and who are supplementing their home, private, or other instruction by attending the alternative program part-time are accounted for in compliance with OAR 581-023-0006(6)(a); and
 - (C) The activities claimed for state school funds by the program are one or more of those in OAR 581-023-0008 as approved by the contracting school district; and
 - (t) Complies with each statute, rule or school district policy specified in a contract between the school district board and the private alternative education program; and
 - (u) Notifies the ODE and each contracting public school district of any written complaint it receives alleging non-compliance with this private alternative program registration rule.
- (6) Each annual renewal application must include a copy of the written annual evaluation of the applicant private alternative program completed by each contracting public school district for the prior school year.
- (7) Each private alternative program must provide an annual statement of program expenditures to each contracting district consistent with ORS 336.635(2).
- (8) The Oregon Department of Education may monitor the procedure used by the private alternative program for reporting Full Time Equivalent (FTE) student enrollment for the purposes of basic school support.
- (9) The Department of Education may deny, suspend, or revoke a private alternative program registration consistent with OAR 581-021-0073.

(10) No registered private alternative school/program shall be owned by or employ an individual who is not of good moral character and reputation.

(a) Upon review by the Department, the Superintendent may find a person not to be of good moral character and reputation when the person:

(A) Has been convicted of a felony or a misdemeanor that involves the illegal use, sale or possession of a controlled substance, or that involves any sexual offense, or any violent offense;

(B) Has been convicted of an offense involving fraud or misrepresentation, or has committed fraud, misrepresentation, or deceit or has committed unfair, deceptive, or unlawful trade practices regulated by the Oregon Unlawful Trade Practices Act (ORS 646.605-646.652); or

(C) Is currently subject to suspension or revocation under OAR 581-021-0073.

(b) The Superintendent shall not make a finding that a person is not of good moral character and reputation solely for the reason that the person has been convicted of a crime, but shall consider the relationship of the facts that support the conviction and all intervening circumstances as they relate to the specific occupational standards and requirements.

(11) As of the effective date of this rule, the Private Alternative Education Standards adopted by the State Board of Education December 5, 2002, are rescinded and replaced by sections (2)-(5) of this rule.

581-021-0073. Denial, suspension, or revocation of registration of private alternative program/school procedure.

(1) A registration applied for or issued under OAR 581-021-0072, Registration of Private Alternative Programs/Schools, may be denied, suspended, or revoked or renewal thereof denied, if:

(a) the private alternative program/school fails to comply with the requirements of OAR 581-021-0072;

(b) the program or its agents intentionally or knowingly make false, deceptive, inaccurate, or misleading representations of fact in any oral, written, visual, or electronic presentation in connection with the registration under OAR 581-021-0072; or

(c) requested information is not furnished when required.

(2) Suspension of private alternative school/program registration may be for a period of up to one year from the time of the suspension.

(3) Revocation of private alternative school/program registration will be for a period of one year from the time of the revocation.

(4) Consistent with ORS 336.631, a school district may not contract with or distribute public school funds to a private alternative program whose registration has been denied, suspended, or revoked under this rule. A contract with a private alternative program must provide that non-compliance with a statute or rule, or suspension or revocation of registration under this rule will result in termination of the contract.

(5) Denial, suspension or revocation of private alternative education school/program registration may be appealed under the provisions of ORS 183.484.

581-022-2505. Alternative education programs.

(1) Sections (2)(9) of this rule apply to each public or private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term "program" includes "school."

(2) In order to provide innovative and more flexible ways of educating children, school districts may establish alternative education options within the public school system.

(3) School districts must adopt policies and procedures for the approval and at least annual evaluation of public and private alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Those policies and procedures must provide that:

(a) The district's approval and at least annual evaluation must require that a public alternative program complies with all state statutes, rules and federal law applicable to public schools;

(b) Before contracting with or distributing any public school funds to a private alternative education program, the district must document that:

- (A) The program is registered with the Oregon Department of Education (ODE) under the provisions of OAR 581-021-0072 by receiving a copy of the Department's written notice that the program's registration is approved for the current school year;
- (B) The ODE has assigned the private alternative program an institution identification number;
- (C) Before contracting with or distributing any public school funds to any private alternative education program for special education services identified in a child's IEP, the program is approved by the Department in compliance with OAR 581-015-2270;
- (D) The program complies with the individual education plan for each student who is eligible to receive special education services;
- (E) An education plan and education profile that meet the requirements of OAR 581-022-2000 are designed and implemented with each student in the program;
- (F) The education plan includes criteria for determining if, when, where, and how the student may transition from the alternative program;
- (G) A transportation plan is in place ensuring that the program is accessible to each student approved for placement in the program;
- (H) The program assists the district in meeting its comprehensive K-12 instructional program in compliance with OAR 581-022-2030;
- (I) The program assures that it provides an instruction based on academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;
- (J) The program assists students in earning diploma credits consistent with OAR 581-022-2000, 581-022-2010 and 581-022-2020;
- (K) The program collects and reports to the district each student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;
- (L) Student data is included in the district's at least annual evaluation of the program;
- (M) The program complies with federal law; and
- (N) If applicable, the private alternative education program is in compliance with its existing district contract.

(4) The contract between a school district and a private alternative education program must state that non-compliance with a rule or statute under this rule (OAR 581-022-2505) will result in the termination of the contract, and suspension or revocation of registration by the Department will terminate the district's contract with the private alternative program and that the private alternative education program's annual statement of expenditures is reviewed in the district's evaluation in accordance with ORS 336.635(2).

(5) School districts shall adopt policies and procedures to approve placing students in district approved public alternative education programs and district approved private alternative education programs. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include:

- (A) Students identified pursuant to ORS 339.250:
 - (i) Who are being considered for suspension or expulsion pursuant to ORS 339.250;
 - (ii) Who have been suspended or expelled pursuant to ORS 339.250;
 - (iii) Whose attendance patterns have been found to be so erratic that the students are not benefiting from the regular educational program; or
 - (iv) Who have had a second or subsequent occurrence within any three-year period of a severe disciplinary problem;

- (B) Students identified pursuant to ORS 329.485 and OAR 581-022-1110(5) who do not meet the standards or who exceed all of the standards at any benchmark level;
 - (C) Students admitted to the district pursuant to ORS 339.115 who have not yet turned 21 prior to the start of the school year and who need additional instruction to earn a diploma in compliance with OAR 581-022-2000;
 - (D) Students whose parents or legal guardians apply for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 and OAR 581-021-0076; and
 - (E) Others who are individually approved for placement consistent with the district's board policies regarding the placement;
- (b) Placement of a student in a public or private alternative education program may be made only if:
- (A) The student is a resident of the district and the district has legal responsibility for the student's education consistent with ORS 327.006(7);
 - (B) After assessing the student's needs and interests and consulting with the parent or guardian, the district determines that the student is not benefiting, has not benefited, or will not benefit from attendance in other district schools or programs;
 - (C) The alternative program is determined by the district to best serve the student within local and state academic standards; and
 - (D) Placement in the program is made consistent with the student's education plan pursuant to OAR 581-022-1120(3)(a) and (b) and 581-022-2000(3) and with district policies and procedures;
- (c) Placement in a public or private alternative education program must be made with the approval of the student's resident school district and attending school district; and
- (d) Payment to private alternative education providers must be the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less.
- (6) A school district must adopt policies and procedures for notification of students, parents or guardians of students of:
- (a) The law regarding alternative education programs;
 - (b) The availability of existing alternative education programs; and
 - (c) The procedures for students, parents, or guardians of students residing in the district to request the establishment of new alternative education programs.
- (7) School districts must include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.
- (8) School districts must have policies and procedures in place to ensure that, for the purposes of making claims for state school funds;
- (a) Students enrolled in a public school district and receiving instruction in the district's comprehensive planned K12 curriculum consistent with OAR 581-022-2030 and who are individually placed by the school district in an alternative education programs are accounted consistent with 581-023-0006(7);
 - (b) Students supplementing home or private schooling by attending part-time and receiving less than comprehensive education from the district are accounted consistent with OAR 581-023-0006(6)(a);
 - (c) Students receiving online instruction are accounted consistent with reporting guidelines published in the Oregon Student Personnel Accounting Manual, and
 - (d) Activities claimed for state school funds and credits awarded in the alternative education program consistent with OAR 581-023-0008 are approved by the district and by the contract between a private alternative program and the district.
- (9) School districts must have policies and procedures in place to ensure that data for each student in public and private alternative education programs are included in district reporting as required by ODE.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

166.370. Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school.

(1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

(b) The presiding judge of a judicial district or a municipal court may enter an order permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1) of this section does not apply to:

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

(f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

(g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

(i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

- (j) Possession of a firearm on school property if the firearm:
 - (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and
 - (B) Is unloaded and locked in a motor vehicle.
- (4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.
- (b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.
- (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.
- (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:
 - (A) As part of a program approved by a school in the school by an individual who is participating in the program;
 - (B) By a law enforcement officer acting in the officer's official capacity; or
 - (C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.
- (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.
- (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this section, the district attorney may charge the person with only one of the offenses.
- (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.

- (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
 - (f) Must be limited so that:
 - (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.
 - (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a

school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

(d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.

(5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:

(a) Protect students and school employees from harm;

(b) Provide opportunities for students to learn from their mistakes;

(c) Foster positive learning communities;

(d) Keep students in school and attending class;

(e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

(f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;

(g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

(h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or

(B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);

(i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and

(j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
- (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
- (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.
- (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
- (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.
- (8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.
- (9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.
 - (b) As used in this subsection:
 - (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.
 - (B) "Corporal punishment" does not include:
 - (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
 - (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.
- (10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:
 - (a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.

339.315. Report required if person has unlawful firearm or destructive device; immunity; law enforcement investigation required.

(1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school director, the administrator's or director's designee or law enforcement agency within the county. A school administrator, school director or the administrator's or director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, "school" means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

REGULATIONS

581-015-2425. Removal to an interim alternative educational setting by school district.

(1) Definitions:

(a) "Drug" means illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or otherwise legally possessed. It does not include alcohol or tobacco.

(b) "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school function.

(c) "Serious bodily injury" means bodily injury, which involves substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(d) "Weapon" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(e) "Weapon violation" means carrying a weapon to school or to a school function or acquiring a weapon at school.

(2) School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days in a school year without regard to whether the behavior is determined to be a manifestation of the child's disability for:

(a) A drug or weapon violation as defined in subsection (1); or

(b) If the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Department or a school district.

(3) A removal for a drug or weapon violation, or for inflicting serious bodily injury, is considered a change in placement.

(4) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a removal under subsection (2) for a child with a disability who violates a code of conduct.

(5) For removals described in subsection (2) of this rule, school districts must:

(a) On the date on which the decision is made to remove the student under subsection (2), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315;

(b) Provide the services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435;

(c) Within 10 school days of any decision to remove a child under subsection (2), determine whether the child's behavior is a manifestation of the child's disability in accordance with OAR 581-015-2420; and

(d) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination, removal to the interim alternative educational setting, or any decision about placement related to a disciplinary removal under section (2) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the removal under section (2), whichever occurs first, unless the parent and school district agree otherwise.

581-021-0055. Standards of conduct.

(1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful authority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

- (a) Theft;
- (b) Disruption of the school;
- (c) Damage or destruction of school property;
- (d) Damage or destruction of private property on school premises or during a school activity;
- (e) Assault or threats of harm;
- (f) Unauthorized use of weapons or dangerous instruments;
- (g) Unlawful use of drugs, narcotics, or alcoholic beverages;
- (h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

Students with Chronic Disciplinary Issues

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;

- (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
- (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
- (f) Must be limited so that:
- (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.
- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:
- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

- (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;
 - (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;
 - (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;
 - (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
 - (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:

- (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
- (c) Allow a superintendent of a school district to:
- (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.
- (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
- (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.
- (8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.
- (9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.
- (b) As used in this subsection:
- (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.
 - (B) "Corporal punishment" does not include:
 - (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
 - (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.
- (10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:
- (a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and
 - (b) As a full day if the student is out of school for more than half of the scheduled school day.

REGULATIONS

581-015-2415. Disciplinary removals of more than 10 school days (pattern or consecutive).

- (1) A disciplinary removal is considered a change in educational placement and the school district must follow special education due process procedures if:
- (a) The removal will be for more than 10 consecutive school days (e.g. expulsion); or
 - (b) The child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-2410(2).

(2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal under subsection (1) for a child with a disability who violates a code of conduct.

(3) Manifestation determination. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability in accordance with OAR 581-015-2420.

(4) Manifestation. If the determination under subsection (3) is that the child's behavior is a manifestation of the child's disability, the school district must:

(a) Return the child to the placement from which the child was removed, unless:

(A) The parent and school district agree to a change of placement as part of the modification of the behavioral intervention plan under subsection (4)(b);

(B) The school district removes the child to an interim alternative educational setting under OAR 581-015-2425 for a weapons or drug violation or for infliction of serious bodily injury; or

(C) The school district obtains an order from an administrative law judge under OAR 581-015-2430 allowing a change in placement to an interim alternative educational setting for injurious behavior; and

(b) Either:

(A) Conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a behavior intervention plan; or

(B) If the student already has a behavior plan, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

(5) No manifestation. If the determination under subsection (3) is that the child's behavior is not a manifestation of the child's disability:

(a) The school district may proceed with disciplinary action applicable to children without disabilities under section (1) of this rule, in the same manner and for the same duration in which the procedures would be applied to children without disabilities.

(b) If the school district takes such action applicable to all children, the school district must:

(A) On the date on which the decision is made to remove the student under subsection (5), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315.

(B) Provide services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435; and

(C) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement related to the disciplinary removal in section (1) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the disciplinary removal under subsection (1), whichever occurs first, unless the parent and school district agree otherwise.

581-021-0055. Standards of conduct.

(1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful authority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

- (a) Theft;
- (b) Disruption of the school;
- (c) Damage or destruction of school property;
- (d) Damage or destruction of private property on school premises or during a school activity;
- (e) Assault or threats of harm;
- (f) Unauthorized use of weapons or dangerous instruments;
- (g) Unlawful use of drugs, narcotics, or alcoholic beverages;
- (h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

Chronic Absenteeism and Truancy

LAWS

327.871. Portion of funds for dropout-prevention strategies in high schools.

(1) A school district shall use a portion of the amount apportioned under ORS 327.859 to establish or expand dropout-prevention strategies in all high schools.

(2) For purposes of this section, the dropout-prevention strategies must include:

- (a) Implementing activities designed to reduce chronic absenteeism;
- (b) Establishing and maintaining data management systems that provide timely reports on students' grades, absences and discipline by school and by course;
- (c) Beginning with grade 8, using attendance, course grades, credits earned and disciplinary referrals to identify students at risk of not graduating;
- (d) Beginning in the summer after grade 8, providing academic and social supports for students at risk of not graduating to ensure that the students are on track to graduate by the time the students enter grade 10 and stay on track to graduate after entering grade 10, including such supports as summer programs, additional instructional time before and after school hours, tutoring or small-group instruction during the school day or counseling services; and
- (e) Providing counseling and coaching to provide early exposure for students to employment opportunities and requirements and options for post-secondary education.

(3) The portion of funds to be used as described in this section shall be determined as provided by ORS 327.874.

339.055. Duties of attendance supervisors.

The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090.

339.071. Attendance notification policy.

- (1) Each district school board shall adopt an attendance notification policy that satisfies the requirements of this section.
- (2) An attendance notification policy must:
 - (a) Be implemented by each school in the school district; and
 - (b) Require that each school ensure that a parent or other person in parental relationship to a child is notified by the end of the school day on any day that the child has an unplanned absence.
- (3)(a) Notification required by subsection (2)(b) of this section must be provided:
 - (A) In person;
 - (B) Directly by telephone; or
 - (C) By any other method identified in writing by the parent or person in parental relationship to the child.
- (b) If a parent or other person in parental relationship to a child cannot be contacted in person or directly by telephone and another method has not been identified by the parent or person, a message shall be left for the parent or person, if possible.
- (4) Notice of the child's absence shall be provided to the attendance supervisor, who shall proceed as provided in ORS 339.055, if:
 - (a) Notification is not provided in person or directly by telephone; and
 - (b) The parent or other person in parental relationship to the child has not confirmed within the timeline established by the attendance notification policy that the parent or person has received notification.

339.080. Nonattendance notice to parents, school officials and parole or probation officer.

- (1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under the control of the parent or other person to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person.
- (2) The notice required by subsection (1) of this section must inform the parent or other person in parental relation that:
 - (a) The child must appear at the public school on the next school day following the receipt of the notice.
 - (b) Regular attendance at school must be maintained during the remainder of the school year.
 - (c) The parent or other person in parental relation has the right to request:
 - (A) For a child who does not have an individualized education program, an evaluation to determine if the child should have an individualized education program; or
 - (B) For a child who has an individualized education program, a review of the individualized education program.
- (3) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.
- (4) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence.

339.090. Determination of compliance; notice to district superintendent.

The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If the attendance supervisor determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall notify the district superintendent.

339.095. Compulsory school attendance violation procedure; rules.

(1) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990 in the manner provided by ORS chapter 153.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;

(C) States that the superintendent may issue a citation;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official;

(E) States that the parent or guardian has the right to request:

(i) For a student who does not have an individualized education program, an evaluation to determine if the student should have an individualized education program; or

(ii) For a student who has an individualized education program, a review of the individualized education program; and

(F) Is written in the native language of the parent or guardian of the student.

(b) Schedule the conference described in paragraph (a)(D) of this subsection. A conference may not be scheduled until after any evaluations or reviews described in paragraph (a)(E) of this subsection have been completed.

(3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Education by rule shall establish the citation form to be used by superintendents in citing violations established under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall contain the information required by the state board.

REGULATIONS

581-020-0631. Definitions: Chronic Absenteeism.

The following definitions apply to Oregon Administrative Rules 581-020-0631 through 581-020-0655:

(1) "Chronic absenteeism" means not attending school for 10 percent or more than 10 percent of school days that the student is enrolled in a school year.

(2) "Community-Based Organization" as defined in 581-017-0550(6).

(3) "Community Voice" means that members representing the community served by the program will be involved in co-constructing the project design, implementation, evaluation and/or providing strategic guidance in the final decision-making.

(4) "Culturally responsive" means the implicit recognition and incorporation of the cultural knowledge, experience, and ways of being and knowing of students in teaching, learning and assessment. This includes identifying, valuing, and maintaining high commitment to: students' cultural assets in instruction

and assessment; diverse frames of reference that correspond to multifaceted cultural perspectives/experiences; and behaviors in the classroom that can differ from White-centered cultural views of what qualifies as achievement or success.

- (5) "Culturally Specific Organization" means an organization that serves a particular cultural community and is primarily staffed and led by members of that community; these organizations demonstrate: intimate knowledge of lived experience of the community, including but not limited to the impact of structural and individual discrimination based on structural and individual racism or discrimination, gender identity and/or sexual orientation as well as other intersecting oppressions on the community; knowledge of specific disparities, barriers or challenges documented in the community and how that influences the structure of their program or service; commitment to the community's strength-based and self-driven thriving and resilience; ability to describe and adapt their services to the community's cultural practices, health and safety beliefs/practices, positive cultural identity/pride, religious beliefs, etc.
- (6) "Education partners" includes students, parents, guardians, other family members, local governments, Community- Based Organizations, local businesses, culturally specific organizations, health care organizations and providers, public health agencies, transportation providers, and education based agencies and organizations.
- (7) "Education Service District" as defined in ORS 334.013(1).
- (8) "Focal student groups" means student groups as defined in 581-014-0001.
- (9) "Indian Community-Based Organization" means any organization that (a) is composed primarily of Indian parents, family members, and community members, tribal government education officials, and tribal members, from a specific community; (b) assists in the social, cultural, and educational development of Indians in such community; and (c) meets the unique cultural, language, and academic needs of Indian students.
- (10) "Rate of chronic absenteeism" means the percent of students who are chronically absent attending a school district or education institution.
- (11) "Root causes of chronic absenteeism" include barriers to attending school, aversions to attending school, misconceptions about attendance and engagement, disengagement from school, and other circumstances or beliefs that cause a student to not attend school regularly.
 - (a) "Aversion to attending school" means the result of a circumstance that causes a student to avoid attending school, including but not limited to unsafe school conditions, bullying, or harassment or embarrassment resulting from a lack of culturally responsive teaching, a disability, or discipline.
 - (b) "Barrier to attending school" means the result of a circumstance preventing a student from attending school, such as an illness, poor transportation, the need to work, the need to fulfill a family duty, or the need to fulfill an obligation for purposes related to juvenile justice.
 - (c) "Disengagement from school" means a circumstance that causes a student to become disconnected from school, such as not having a meaningful relationship with any adults who work at the school or not finding anything relevant to the student's life in school curriculum.
 - (d) "Misconception about attendance and engagement" means a misconception about impact of missing school on student learning that causes a student to not attend school.
- (12) "Partnership" as defined in 581-017-0550 (11)
- (13) "Regional Support Participants" means school districts, charter schools, youth correctional education programs, juvenile detention education programs, long term care and treatment educational programs participating in the Regional Support Model. ,
- (14) "Rural district" means a school district located in this state and in a city with a population of fewer than 2,500 people or in an unincorporated area. Rural areas consist of open countryside with population densities less than 500 people per square mile and places with fewer than 2,500 people, as determined by the US Census Bureau.
- (15) "Student" means any youth enrolled in PreK through 12th grade; unenrolled youth in the PreK through 12th grade age range who have not yet been awarded a high school diploma; youth enrolled in high school completion or GED preparation programs; and youth enrolled in Adult Transition Services.

- (16) "Suburban district" means a school district located in this state and in a city that is a suburb of Bend, Corvallis, Eugene, Medford, Portland, or Salem.
- (17) "Town district" means a school district located in this state and in a city with a population of 2,500 or more people.
- (18) "Trauma-Informed Practice" and "Trauma-Informed Principles and Practices" refers to a strengths-based, person-centered framework that recognized the physical, psychological, spiritual, and emotional impacts of trauma, and prioritizes creating safe spaces to promote healing. It recognizes and honors the inherent strengths, resilience and funds of knowledge within each person, and works to increase awareness of how these assets can be accessed, within the trusting spaces of human relationships, to promote healing and flourishing.
- (19) "Tribal Nation" or "Tribe" as defined in 581-017-0675(10).
- (20) "Urban district" means a school district located in Bend, Corvallis, Eugene, Medford, Portland, or Salem.

581-020-0634. Chronic Absenteeism Support Program.

A Chronic Absenteeism Support Program is established to:

- (1) Reduce chronic absenteeism;
- (2) Identify school districts that have a high rate of chronic absenteeism;
- (3) Inform identified school districts of their high rate of chronic absenteeism;
- (4) Provide identified school districts with information related to best practices for reducing chronic absenteeism and the technical assistance necessary to reduce chronic absenteeism;
- (5) Include stakeholder voice that mirrors the diversity of the community to facilitate an equitable and inclusive approach to reducing chronic absenteeism;
- (6) Develop regional consortia for the purpose of reducing chronic absenteeism throughout the state; and
- (7) Provide targeted assistance to school districts that have the highest rates of chronic absenteeism.

581-020-0637. Identifying School Districts with a High Rate of Chronic Absenteeism.

- (1) Each biennium, the Oregon Department of Education shall identify school districts with a rate of chronic absenteeism that is 10 percent or more than 10 percent of students attending the school district.
- (2) The department shall inform school districts identified under this rule of the rate at which chronic absenteeism occurs in the school district.

- (3) School districts identified under this rule may elect to be a part of a regional consortium as described in OAR 581-020-0639.
- (4) If selected by the department under OAR 581-020-0642, a school district identified under this rule may agree to receive targeted assistance under OAR 581-020-0645.

581-020-0640. Regional Consortia.

- (1) The Oregon Department of Education shall implement a regional consortia model for the purpose of reducing chronic absenteeism throughout the state.
- (2) The regional consortia model implemented under this rule must use regional consortia to provide regional support to school districts identified under OAR 581-020-0636 as having a high rate of chronic absenteeism that are located in the geographic area governed by the regional consortium.
- (3) Each regional consortium must:
 - (a) Have a regional governance structure;
 - (b) Use a regional coordinator to establish communications between the department and school districts that are members of the consortium;
 - (c) Disseminate to school districts that are members of the consortium information developed by the department related to best practices for reducing chronic absenteeism;
 - (d) Conduct activities to reduce chronic absenteeism;
 - (e) Develop plans to reduce chronic absenteeism in conjunction with school districts that are members of the consortium, and with the timely and meaningful involvement of stakeholders;
 - (f) Provide school districts that are members of the consortium with available resources for the purposes of participating in activities conducted under this rule and implementing plans developed under this rule;
 - (g) Collect data from school districts that are members of the consortium on the effectiveness of activities conducted under this rule and plans developed under this rule; and
 - (h) Provide data collected under this rule to the department.
- (4) In fulfilling its duties under this section, a school district must:
 - (a) Consider the root causes of chronic absenteeism;
 - (b) Identify student populations disproportionately affected by chronic absenteeism;
 - (c) Include stakeholders when developing a plan pursuant to subsection (3)(e) of this rule; and
 - (d) Include stakeholders when implementing and evaluating the plan developed pursuant to subsection (3)(e) of this rule.
- (5) Plans developed pursuant to subsection (3)(e) of this rule must:
 - (a) Target the circumstances or beliefs identified as causing chronic absenteeism, including any barrier to attending school, aversion to attending school, misconception concerning school, or disengagement from school;
 - (b) Account for student populations disproportionately affected by chronic absenteeism;
 - (c) Be equitable and inclusive in their application to those student populations;
 - (d) Be culturally responsive; and
 - (e) Be trauma sensitive.

581-020-0643. Selecting School Districts to Receive Targeted Assistance.

From among school districts identified under OAR 581-020-0637 as having a high rate of chronic absenteeism, the Oregon Department of Education may select school districts and education districts to receive targeted assistance under OAR 581-020-0646. In selecting school districts under this rule, the department shall consider:

- (1) Which urban districts among all urban districts have the highest rates of chronic absenteeism;
- (2) Which suburban districts among all suburban districts have the highest rates of chronic absenteeism;
- (3) Which town districts among all town districts have the highest rates of chronic absenteeism;
- (4) Which rural districts among all rural districts have the highest rates of chronic absenteeism;
- (5) Whether a school district has a student population disproportionately affected by chronic absenteeism; and
- (6) Whether a school district has a lower than average rate of graduation.

581-020-0646. Targeted Assistance.

- (1) If selected by the Oregon Department of Education under OAR 581-020-0642, a school district may agree to receive targeted assistance under this rule.
- (2) A school district that receives targeted assistance under this rule must file with the department a report assessing the school district's needs related to chronic absenteeism. The report must:
 - (a) Identify the root causes of chronic absenteeism in the school district;
 - (b) Identify student populations disproportionately affected by chronic absenteeism in the school district; and
 - (c) Identify resources that may reduce chronic absenteeism in the school district.

(3) In consideration of the report, the department shall develop a plan to reduce chronic absenteeism in the school district in conjunction with the school district and stakeholders. The plan must propose solutions to chronic absenteeism that:

- (a) Target the circumstances or beliefs identified as causing chronic absenteeism, including any barrier to attending school, aversion to attending school, misconception concerning school, or disengagement from school;
- (b) Account for student populations disproportionately affected by chronic absenteeism;
- (c) Are equitable and inclusive in its application to those student populations;
- (d) Are culturally responsive; and
- (e) Are trauma sensitive.

(4) In implementing a plan developed under this rule, a school district must collaborate with a coach approved by the department pursuant to OAR 581-020- 0648.

(5) Upon request, school districts shall submit to the department data on the effectiveness of plans developed under this rule.

581-020-0649. Chronic Absenteeism Coaches.

(1) For the purpose of assisting the implementation of a plan developed under OAR 581-020-0645, a school district must collaborate with a coach approved by the Oregon Department of Education who is knowledgeable about chronic absenteeism. A coach with whom a school district collaborates under this rule must be able to:

- (a) Identify students who are at risk of being chronically absent;
- (b) Identify student populations disproportionately affected by chronic absenteeism;
- (c) Propose solutions to chronic absenteeism that:
 - (A) Target the circumstances or beliefs identified as causing chronic absenteeism, including any barrier to attending school, aversion to attending school, misconception concerning school, or disengagement from school; and
 - (B) Account for student populations disproportionately affected by chronic absenteeism;
 - (C) Are equitable and inclusive in their application to those student populations;
 - (D) Are culturally responsive; and
 - (E) Are trauma sensitive.

(2) In addition to the other requirements described in this rule, a coach with whom a school district collaborates under this rule must:

- (a) Be experienced working with, and be able to engage, a wide variety of stakeholders; and
- (b) Have a demonstrated history of using a collaborative approach to problem solving.

581-021-0050. Minimum standards for student conduct and discipline.

(1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

- (a) Assembly of students;
- (b) Dress and grooming;
- (c) Motorized and nonmotorized vehicles;
- (d) Search and seizure;
- (e) Attendance;
- (f) Freedom of expression;
- (g) Alcohol, drugs, and tobacco;

- (h) Student records;
 - (i) Discipline, suspension, and expulsion.
- (2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

581-021-0077. Compulsory Attendance Notices and Citation.

- (1) Definitions for purposes of this rule:
- (a) "Parent" means parent, guardian or other person having control of a minor child who has not completed the 12th grade or is not otherwise legally exempt from compulsory attendance under ORS 339.030.
 - (b) "Student" means a minor between the ages of 7 and 18 who has not completed the 12th grade, and who is not exempt from compulsory attendance under ORS 339.030.
 - (c) "Superintendent" means the superintendent of a public school district or the superintendent's designee.
 - (d) "Attendance supervisor" means an official appointed under ORS 339.040.
 - (e) "Regular attendance" means attendance which does not include more than eight unexcused one-half day absences, or the equivalent thereof, in any four-week period in which the school is in session.
- (2) Notice of Attendance Supervisor. When an attendance supervisor determines a parent has failed to enroll his or her child and to maintain such child in regular attendance at a public school, the attendance supervisor shall give written notification to the parent within 24 hours of being informed of the failure. The notice may be served personally or by certified mail.
- (a) The notice shall state that the student must appear at the public school on the next school day following receipt of the notice and maintain regular attendance for the remainder of the school year.
 - (b) The notice shall state that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.
 - (c) The attendance officer, at the time the notice is served to the parent, shall notify the district superintendent, principal or other appropriate school official.
- (3) Notice of Superintendent. If the parent receiving the notice of the attendance supervisor does not comply with that notice, the attendance officer, within three days of knowledge of such noncompliance, shall notify the superintendent. Upon notification by the attendance officer, the superintendent may issue a citation as set forth in Attachment A of this rule.
- (4) Prior to issuing the citation set forth in Attachment A, the superintendent, by personal service or certified mail, shall serve the parent written notification that:
- (a) States that the student is required to regularly attend a full-time school;
 - (b) Explains that the failure to send the student and to maintain the student in regular attendance is a Class C violation;
 - (c) States that the superintendent may issue a citation;
 - (d) Requires the parent and the student to attend a conference with a designated school official; and
 - (e) States that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.
 - (f) Is written in the native language of the parent or guardian of the student.

(5) The superintendent shall schedule the conference described in section (4)(d) of this rule. A conference may not be scheduled until after any evaluations or reviews described in subsections 2(b) and 4(e) of this rule have been completed. If the parent does not attend the conference or fails to send the child to public school after the conference, the superintendent may issue a citation provided by the Department of Education in the form set forth as Attachment A which is incorporated by reference into this rule. The citation shall be served in person.

581-021-0081. Student Absences.

(1) Definitions for the purpose of this rule:

- (a) "Family member or Caregiver" means a family member or caregiver responsible for and appointed to represent a student.
- (b) "Student" means a minor between the ages of 6 and 18 who has not completed the 12th grade, and who is not exempt from compulsory attendance under ORS 339.030.
- (c) "Eligible Student" means a student who has reached 18 years of age, a legally emancipated student, or a student who is attending only an institution of postsecondary education and is not enrolled in a secondary school.
- (d) "Excused absence" means an absence from school as allowed in ORS 339.065.
- (e) "Mental or behavioral health absence" means an absence taken by a student to promote their mental and behavioral health as stated by the family member or caregiver.

(2) Absence Documentation. School districts can not require confirmation of a healthcare provider appointment following a student's absence, unless required by the public health authority.

(3) Absence Recording. For purposes of accurate tracking of regular attendance, the school must record military-connected absences separately from other absences per ORS 339.065.

(4) Notice of Excused Absence Allowances. Schools must include information about the number and type of allowed excused absences as outlined in ORS 339.065 in the student policy handbook as developed for ORS 339.250 that is distributed to students and families at the beginning of each school year. The following must be included in the student policy handbook:

- (a) Mental or behavioral health as excused absences.
- (b) Absences related to being a dependent of a member of the Armed Forces of the United States.

(5) School Response to Absence. When notified by a family member, caregiver, or eligible student of an excused or unexcused absence, schools must:

- (a) Allow work missed by the student to be made up within a reasonable period of time following the return to school, at a minimum of one day per day absent. Schools must work with students to determine what is reasonable based upon the student needs, academic situation, and amount of make up work to be completed. For a planned absence, schools should provide homework prior to the absence. Evaluation of student work received within the allowable time following return to school shall not incur a penalty or grade reduction related to being late.
- (b) Offer equitable access to community, academic, and social/emotional resources. Resources must be culturally and linguistically responsive and support mental/behavioral health and physical well-being.

Substance Use

LAWS

336.222. District policy and plan; content.

In accordance with rules adopted by the State Board of Education in consultation with the Oregon Health Authority and the Alcohol and Drug Policy Commission, each district school board shall adopt a comprehensive alcohol and drug abuse policy and implementation plan, including but not limited to:

- (1) Alcohol and drug abuse prevention curriculum and public information programs addressing students, parents, teachers, administrators and school board members;
- (2) The nature and extent of the district's expectation of intervention with students who appear to have drug or alcohol abuse problems;
- (3) The extent of the district's alcohol and other drug prevention and intervention programs; and
- (4) The district's strategy to gain access to federal funds available for drug abuse prevention programs.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances.

339.883. Possession of tobacco products or inhalant delivery systems by person under 21 prohibited at certain facilities.

- (1) As used in this section:
 - (a) "Facility" means a public or private school, college, community college, university, career school, technical education school, youth correction facility or juvenile detention facility.
 - (b) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
 - (c) "Tobacco products" has the meaning given that term in ORS 431A.175.
- (2) A facility shall not permit a person under 21 years of age to possess tobacco products or inhalant delivery systems while the person is present on facility grounds or in facility buildings or attending facility-sponsored activities.
- (3) A facility must have a written policy prohibiting the possession of tobacco products and inhalant delivery systems by persons under 21 years of age under the conditions described in subsection (2) of this section. The facility must have a written plan to implement the policy.
- (4) This section does not apply to a person for whom a tobacco or nicotine product or a substance to be used with an inhalant delivery system has been lawfully prescribed.

REGULATIONS

581-015-2425. Removal to an interim alternative educational setting by school district.

(1) Definitions:

(a) "Drug" means illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or otherwise legally possessed. It does not include alcohol or tobacco.

(b) "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school function.

(c) "Serious bodily injury" means bodily injury, which involves substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(d) "Weapon" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(e) "Weapon violation" means carrying a weapon to school or to a school function or acquiring a weapon at school.

(2) School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days in a school year without regard to whether the behavior is determined to be a manifestation of the child's disability for:

(a) A drug or weapon violation as defined in subsection (1); or

(b) If the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Department or a school district.

(3) A removal for a drug or weapon violation, or for inflicting serious bodily injury, is considered a change in placement.

(4) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a removal under subsection (2) for a child with a disability who violates a code of conduct.

(5) For removals described in subsection (2) of this rule, school districts must:

(a) On the date on which the decision is made to remove the student under subsection (2), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315;

(b) Provide the services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435;

(c) Within 10 school days of any decision to remove a child under subsection (2), determine whether the child's behavior is a manifestation of the child's disability in accordance with OAR 581-015-2420; and

(d) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination, removal to the interim alternative educational setting, or any decision about placement related to a disciplinary removal under section (2) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the removal under section (2), whichever occurs first, unless the parent and school district agree otherwise.

581-021-0050. Minimum standards for student conduct and discipline.

(1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

- (a) Assembly of students;
- (b) Dress and grooming;
- (c) Motorized and nonmotorized vehicles;
- (d) Search and seizure;
- (e) Attendance;
- (f) Freedom of expression;
- (g) Alcohol, drugs, and tobacco;
- (h) Student records;
- (i) Discipline, suspension, and expulsion.

(2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

581-021-0055. Standards of conduct.

(1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful authority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

- (a) Theft;
- (b) Disruption of the school;
- (c) Damage or destruction of school property;
- (d) Damage or destruction of private property on school premises or during a school activity;
- (e) Assault or threats of harm;
- (f) Unauthorized use of weapons or dangerous instruments;
- (g) Unlawful use of drugs, narcotics, or alcoholic beverages;
- (h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

581-021-0110. Tobacco free schools.

(1) For the purpose of this rule "tobacco" is defined to include any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, and spit tobacco, also known as smokeless, dip, chew, and snuff, in any form.

(2) No student, staff member, or school visitor is permitted to smoke, inhale, dip, or chew or sell tobacco at any time, including non-school hours

- (a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or
- (b) On school grounds, athletic grounds, or parking lots.

(3) No student is permitted to possess a tobacco product:

- (a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or
- (b) On school grounds, athletic grounds, or parking lots.

(4) By January 1, 2006, school districts must establish policies and procedures to implement and enforce this rule for students, staff and visitors.

(5) For purposes of this rule, the term "school district" includes the Oregon School for the Deaf (OSD). The Oregon School for the Deaf must establish, in cooperation with the Oregon Department of Education, policies and procedures to implement and enforce this rule for students, staff and visitors by June 30, 2006.

Gang-related Activity

LAWS

336.109. Policy to reduce gang involvement, violent activities and drug abuse.

(1) After consultation with appropriate agencies and officials including the Department of Education, each school district is encouraged to develop and adopt a comprehensive policy to reduce gang involvement, violent activities and drug abuse by public school students in the school district, including but not limited to:

(a) A statement that evaluates:

(A) The nature and extent of gang involvement, violent activities and drug abuse by public school students of the school district; and

(B) The impact of gang involvement, violent activities and drug abuse on the ability of public schools in the school district to meet curriculum requirements and improve the attendance of public school students.

(b) A statement that emphasizes the need to reduce gang involvement, violent activities and drug abuse by public school students.

(c) Strategies to reduce gang involvement, violent activities and drug abuse by students of the school district considering the needs of the public school students.

(d) Methods to communicate conflict resolution skills to the teachers and public school students of the school district.

(e) Strategies to inform the teachers of the school district, the parents of public school students and the public about the policy the school district developed pursuant to this section.

(2) As used in this section, "gang" means a group that identifies itself through the use of a name, unique appearance or language, including hand signs, the claiming of geographical territory or the espousing of a distinctive belief system that frequently results in criminal activity.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

- (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee.

339.329. Statewide tip line to report information concerning threats or potential threats to student safety; rules.

(1) As used in this section:

(a) "Cyberbullying" and "harassment, intimidation or bullying" have the meanings given those terms in ORS 339.351.

(f) "Threat to student safety" includes, but is not limited to, a threat or instance of:

(A) Harassment, intimidation or bullying or cyberbullying;

(2) The Department of State Police shall establish a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

339.341. Statewide School Safety and Prevention System; rules.

(1) As used in this section:

(a) "Cyberbullying" has the meaning given that term in ORS 339.351.

(b) "Harassment, intimidation or bullying" has the meaning given that term in ORS 339.351.

(2) The Department of Education shall establish and maintain the Statewide School Safety and Prevention System.

(3) The system required under this section shall consist of the following:

(a) Assistance to school districts and education service districts in decreasing acts of harassment, intimidation or bullying and acts of cyberbullying through the implementation of effective prevention programs that:

(A) Incorporate evidenced-based, multitiered practices; and

(B) Support resiliency building and trauma-informed care practices.

(4) The system required under this section shall be supported by school safety and prevention specialists who:

(a) Serve regions of this state;

(b) Are cross-trained in safety assessments and in the prevention of youth suicide, of acts of bullying, intimidation or harassment and of acts of cyberbullying; and

(c) Provide or facilitate training, the development of programs and plans, the coordination of local teams and the provision of ongoing consultation to regional partners, school districts and education service districts.

(5) The State Board of Education, in consultation with the Oregon Health Authority and other representatives of school districts, education service districts, school employees, human services, mental health professionals and law enforcement agencies, shall adopt rules related to the system required under this section.

339.351. Definitions for ORS 339.351 to 339.364.

As used in ORS 339.351 to 339.364:

(1) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully.

(2) "Harassment, intimidation or bullying" means any act that:

(a) Substantially interferes with a student's educational benefits, opportunities or performance;

(b) Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;

(c) Has the effect of:

(A) Physically harming a student or damaging a student's property;

(B) Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student's property; or

(C) Creating a hostile educational environment, including interfering with the psychological well-being of a student; and

(d) May be based on, but not be limited to, the protected class status of a person.

(3) "Protected class" means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income or disability.

339.353. Findings.

(1) The Legislative Assembly finds that:

(a) A safe and civil environment is necessary for students to learn and achieve high academic standards.

(b) Harassment, intimidation or bullying and cyberbullying, like other disruptive or violent behavior, are conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment.

(c) Students learn by example.

(2) The Legislative Assembly commends school administrators, faculty, staff and volunteers for demonstrating appropriate behavior, treating others with civility and respect, refusing to tolerate harassment, intimidation or bullying and refusing to tolerate cyberbullying.

339.356. District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.

(b) Definitions of "harassment," "intimidation" or "bullying" and of "cyberbullying" that are consistent with ORS 339.351.

(c) Definitions of "protected class" that are consistent with ORS 174.100 and 339.351.

(d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.

(e) A description of the type of behavior expected from each student.

(f) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall:

(A) Identify by job title the school officials responsible for receiving such a report at a school.

(B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.

(C) Require the school official identified under subparagraph (A) of this paragraph to notify the parents or guardians of a student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying and the parents or guardians of a student who may have conducted an act of harassment, intimidation or bullying or an act of cyberbullying. Notification must occur with involvement and consideration of the needs and concerns of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying. For the purposes of this subparagraph:

(i) Notification is not required under this subparagraph if the school official reasonably believes notification could endanger the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying or if all of the following occur:

(I) The student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying requests that notification not be provided to the student's parents or guardians;

(II) The school official determines that notification is not in the best interest of the student who was subjected to an act of harassment, intimidation or bullying or an act of cyberbullying;
and

(III) The school official informs the student that federal law may require the student's parents or guardians to have access to the student's education record, including any requests made as provided by this sub-subparagraph.

(ii) If the school official does not make the determination described in sub-subparagraph (i)(II) of this subparagraph, the school official must inform the student of that determination prior to providing notification.

(iii) When notification is provided under this subparagraph, the notification must occur:

(I) Within a reasonable period of time; or

(II) Promptly, for acts that caused physical harm to the student.

(D) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(E) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(h) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(i) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and, if applicable, confirmed.

(j) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(k) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(l) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

(n) The identification by job title of school officials and school district officials responsible for ensuring that the policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103.

339.362. Retaliation against victims and witnesses prohibited; school employee immunity.

(1) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to or person with reliable information about an act of harassment, intimidation or bullying or an act of cyberbullying.

(2)(a) A school employee who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation or bullying or an act of cyberbullying must report the act to the appropriate school official designated by the school district's policy.

(b) A student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation or bullying or an act of cyberbullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(3) A school employee who promptly reports an act of harassment, intimidation or bullying or an act of cyberbullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

339.364. Victim may seek redress under other laws.

ORS 339.351 to 339.364 may not be interpreted to prevent a victim of harassment, intimidation or bullying or a victim of cyberbullying from seeking redress under any other available law, whether civil or criminal. ORS 339.351 to 339.364 do not create any statutory cause of action.

REGULATIONS

581-022-2310. Equal Education Opportunities.

(1) Each district school board shall adopt written policies, and the school district shall implement in each school, programs which assure equity, opportunity and access for all students as provided in OAR 581- 021-0045 and 581-021-0046.

(2) Each district school board shall adopt a policy in accordance with ORS 339.356 prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

581-022-2312. Every Student Belongs.

(1) It is the policy of the State Board of Education that all students, employees, and visitors in public schools are entitled to learn, work, and participate in an environment that is safe and free from discrimination, harassment, and intimidation.

4) To comply with the prohibition on discrimination required by ORS 659.850, each education provider must adopt a policy to address bias incidents and displays of symbols of hate. The policy must:

(e) Establish procedures for addressing bias incidents and displays of symbols of hate. The procedures must:

(A) Apply broadly to include persons directly targeted by an act, as well as the community of students as a whole who are likely to be impacted by the act.

(B) Require the education provider to prioritize the safety and well-being of all persons impacted by the act.

(C) Require the education provider to recognize the experience of all persons impacted by the act, acknowledge the impact, commit to taking immediate action and prevent further harm against those persons impacted.

(D) Include educational components that:

(i) Address the history and impact of hate;

(ii) Advance the safety and healing of those impacted by bias and hate; and

(iii) Promote accountability and transformation for people who cause harm as well as transformation of the conditions that perpetuated the harm.

(E) Include communication protocols that provide all persons impacted by the act with information relating to the investigation and outcome of the investigation

(i) The information provided to the persons directly targeted by an act and the person who committed the act must include notice that an investigation has been initiated, notice when an investigation has been completed, findings of the investigation and the final determination based on those findings, actions taken to remedy a person's behavior and prevent reoccurrence, and, when applicable, the legal citation to any law prohibiting the disclosure of any of the information described in this subparagraph and an explanation of how that law applies to the current situation.

(ii) The information provided to the community of students as a whole who are likely to be impacted by the act must include notice that an investigation has been initiated and actions taken to prevent reoccurrence.

(F) Direct the education provider to consider whether the act implicates other civil rights laws and, if so, to respond accordingly. The nature of the conduct must determine:

(i) The process used to respond to the act;

(ii) The rights and protections available to the person impacted by the act; and

(iii) The right to appeal to the Oregon Department of Education or the United States Department of Education.

(G) Require the education provider to develop and implement instructional materials to make this policy and related practices, including reporting procedures, educational processes and possible consequences, known to all school employees and students of the education provider.

Dating and Relationship Violence

LAWS

339.366. Required policy on teen dating violence and domestic violence.

(1) As used in this section:

(a) "Dating" or "dating relationship" means an ongoing social relationship of a romantic or intimate nature between two persons. "Dating" or "dating relationship" does not include a casual relationship or ordinary fraternization between two persons in a business or social context.

(b) "Domestic violence" means abuse as defined in ORS 107.705 between family and household members, as those terms are defined in ORS 107.705.

(c) "Teen dating violence" means:

(A) A pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or

(B) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

(2) Each school district board shall adopt a policy that:

(a) States that teen dating violence is unacceptable and is prohibited and that each student has the right to a safe learning environment;

(b) Incorporates age-appropriate education about teen dating violence and domestic violence into new or existing training programs for students in grades 7 through 12 and school employees as recommended by the school officials identified under paragraph (d) of this subsection;

(c) Establishes procedures for the manner in which employees of a school are to respond to incidents of teen dating violence that take place at the school, on school grounds, at school-sponsored activities or in vehicles used for school-provided transportation;

(d) Identifies by job title the school officials who are responsible for receiving reports related to teen dating violence, which shall be the same school officials identified in the policy adopted by a school district under ORS 339.356; and

(e) Notifies students and parents of the teen dating violence and domestic violence policies adopted by the board.

(3) The policy adopted under subsection (2) of this section must be included in and consistent with the policy adopted by a school district under ORS 339.356.

REGULATIONS

581-022-2050. Human sexuality education.

(1) The following definitions apply to Oregon Administrative Rule 581-022-2050:

(k) "Healthy relationship" means one in which both people feel a healthy sense of "self". Each person feels comfortable and safe when spending time with the other person. Two individuals try to meet each other's needs, and each can ask for help and support, within and outside of the relationship without fear of criticism or harm. [...]

(6) The comprehensive plan of instruction shall include information that:

(g) Discusses the characteristics of the emotional, physical and psychological aspects of a healthy relationship;

(n) Teaches that consent is an essential component of healthy sexual behavior. Course material shall promote positive attitudes and behaviors related to healthy relationships and sexuality, and encourage active student bystander behavior. [...]

(10) Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced, perpetrated, or witnessed sexual abuse and relationship violence.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

339.341. Statewide School Safety and Prevention System; rules.

(1) As used in this section:

- (a) "Cyberbullying" has the meaning given that term in ORS 339.351.
- (b) "Harassment, intimidation or bullying" has the meaning given that term in ORS 339.351.
- (c) "Suicidal behavior" includes:
 - (A) Self-directed, injurious behavior with an intent to die as a result of the behavior;
 - (B) Nonfatal, self-directed, potentially injurious behavior with an intent to die as a result of the behavior that may not result in injury; or
 - (C) Thinking about, considering or planning suicide.
- (d) "Violence" means aggressive behavior with the intention to cause, or an outcome that poses a risk of causing, serious or lethal injury.

(2) The Department of Education shall establish and maintain the Statewide School Safety and Prevention System.

(3) The system required under this section shall consist of the following:

- (a) Assistance to school districts and education service districts in decreasing acts of harassment, intimidation or bullying and acts of cyberbullying through the implementation of effective prevention programs that:
 - (A) Incorporate evidenced-based, multitiered practices; and
 - (B) Support resiliency building and trauma-informed care practices.
- (b) Assistance to school districts and education service districts in decreasing youth suicidal behavior through the implementation of effective prevention programs and student wellness programs that focus on early identification and intervention by school safety and prevention specialists, as described in subsection (4) of this section, who:
 - (A) Provide training, outreach and technical assistance related to youth suicidal behavior prevention and wellness;
 - (B) Support coordination between schools and health agencies, including public and private behavioral health providers; and
 - (C) Support school districts and education service districts in the establishment of suicidal behavior prevention programs.
- (c) Assistance to school districts and education service districts in implementing a multidisciplinary student safety assessment system to identify, assess and support students who present a potential risk for violence to others. Multidisciplinary school safety assessment teams shall be made available to assist each school district and education service district in assessing students who are engaged in violence or who are posing a threat of violence to others. The teams shall:
 - (A) Assess potential danger and identify circumstances and risk factors that may increase risk for potential violence;
 - (B) Develop management and intervention plans in collaboration with community partners; and

(C) Connect students and families to community resources and supports.

(d) Promotion and use of the statewide school safety tip line established by ORS 339.329. School safety and prevention specialists, as described in subsection (4) of this section, shall work collaboratively with the Oregon State Police to support school districts and education service districts in accessing and implementing the school safety tip line.

(4) The system required under this section shall be supported by school safety and prevention specialists who:

(a) Serve regions of this state;

(b) Are cross-trained in safety assessments and in the prevention of youth suicide, of acts of bullying, intimidation or harassment and of acts of cyberbullying; and

(c) Provide or facilitate training, the development of programs and plans, the coordination of local teams and the provision of ongoing consultation to regional partners, school districts and education service districts.

(5) The State Board of Education, in consultation with the Oregon Health Authority and other representatives of school districts, education service districts, school employees, human services, mental health professionals and law enforcement agencies, shall adopt rules related to the system required under this section.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

339.341. Statewide School Safety and Prevention System; rules.

(3) The system required under this section shall consist of the following:

(a) Assistance to school districts and education service districts in decreasing acts of harassment, intimidation or bullying and acts of cyberbullying through the implementation of effective prevention programs that:

(A) Incorporate evidenced-based, multitiered practices; and

(B) Support resiliency building and trauma-informed care practices.

REGULATIONS

581-029-0001. School Safety and Prevention System.

(1) The following definitions apply to the School Safety and Prevention system established in ORS 339.341:

(a) "Evidenced-based, Multitiered Practice" means a practice implemented by the school-wide system that:

(A) Provides services across three tiers: universal, selected, and targeted supports;

(B) Promotes the mental health and well-being of students and supports academic, behavioral and social-emotional success for students, within a multitiered framework with an emphasis on protected classes, historically, traditionally and currently underserved students and youth, by matching increasing levels of culturally and linguistically responsive support to empower students to meet their needs and goals;

- (C) Operates within a continuous improvement framework in which decisions are based on research, evidence, and data;
- (D) Counters racial and other types of profiling and discriminatory acts; and
- (E) Directly and intentionally addresses implicit and explicit bias.

Prevention

LAWS

339.331. Mission; duties; annual report; staff; funding.

(1) There is created the Center for School Safety within the University of Oregon. The mission of the center shall be to:

- (a) Serve as the central point for data analysis;
- (b) Conduct research;
- (c) Disseminate information about successful school safety programs, research results and new programs; and
- (d) Provide technical assistance for improving the safety of schools in collaboration with the Department of Education and others.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention and intervention services. As used in this paragraph, "intervention services" means any preventive, developmental, corrective or supportive service or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime or has been expelled from the school district. "Intervention services" may include, but is not limited to:

- (A) Screening to identify students at risk for emotional disabilities or antisocial behavior;
- (B) Direct instruction in academic, social, problem-solving and conflict resolution skills;
- (C) Alternative education programs;
- (D) Psychological services;
- (E) Identification and assessment of abilities;
- (F) Counseling services;
- (G) Medical services;
- (H) Day treatment;
- (I) Family services; and
- (J) Work and community service programs.

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies and communities. The expertise and support may include coordinating training for administrators, teachers, students, parents and other community representatives.

REGULATIONS

581-029-0001. School Safety and Prevention System.

(1) The following definitions apply to the School Safety and Prevention system established in ORS 339.341:

- (a) "Evidenced-based, Multitiered Practice" means a practice implemented by the school-wide system that:
- (A) Provides services across three tiers: universal, selected, and targeted supports;
 - (B) Promotes the mental health and well-being of students and supports academic, behavioral and social-emotional success for students, within a multitiered framework with an emphasis on protected classes, historically, traditionally and currently underserved students and youth, by matching increasing levels of culturally and linguistically responsive support to empower students to meet their needs and goals;
 - (C) Operates within a continuous improvement framework in which decisions are based on research, evidence, and data;
 - (D) Counters racial and other types of profiling and discriminatory acts; and
 - (E) Directly and intentionally addresses implicit and explicit bias.
- (b) "Evidence-based" means an activity, strategy, or intervention that demonstrate s :
- (A) A statistically significant effect on improving student outcomes or other relevant outcomes based on:
 - (i) Strong evidence from at least one well-designed and well-implemented experimental study;
 - (ii) Moderate evidence from at least one well-designed and well-implemented quasi-experimental study using a large or multi-site sample; or
 - (iii) Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or
 - (B)(i) A rationale based on high quality research findings or positive evaluation that such activity, strategy, or intervention adheres to antidiscrimination laws, and is likely to improve student outcomes or other relevant outcomes based on a well-specified logic model informed by research or an evaluation that suggests how the intervention will improve relevant outcomes; and
 - (ii) Ongoing efforts to examine, evaluate and reflect upon the effectiveness of such activity, strategy, or intervention on the intended outcomes . .
 - (C) Improving outcomes for historically, traditionally, and currently underserved and marginalized students.
- (c) "Safety Assessment" means a psychosocial, behavioral assessment that is conducted by a multidisciplinary team to:
- (A) Assess and reduce the possibility of self-injury or injury to others;
 - (B) Provide support and intervention services; and
 - (C) Assess existing strengths, supports, needs and available resources.
- (d) "School Safety and Prevention Specialist" means the specialist as provided in ORS 339.341.
- (e) "System" means the Statewide School Safety and Prevention System as provided in ORS 339.341.
- (2) The System shall be supported by a School Safety and Prevention Specialist who:
- (a) Participates in ongoing information sharing and assistance to school districts and education service districts and may provide assistance to private alternative schools and nonprofits that support youth- centered activities for public school students;
 - (b) Ensures supports within the school safety and prevention system are accessible to historically, traditionally and currently underserved and marginalized students and youth, using the Department's equity lens as provided in 581-013-0010, including supports for the implementation of:
 - (A) Safety assessments;

- (B) Suicide prevention, intervention, and postvention; and
 - (C) Prevention of bullying, cyberbullying, sexual violence, harassment, or intimidation.
- (c) Develops and implements the System in a manner that is designed to result in fewer disproportionate and more equitable outcomes for historically, traditionally and currently underserved and marginalized students and youth.
- (d) Supports prevention, intervention and postvention programs that:
- (A) Are rooted in health education, social emotional learning, culturally and linguistically responsive and restorative practices, and trauma-informed principles and practices;
 - (B) Meaningfully engage and include voices and choices of youth, including but not limited to: youth of color; youth identifying as LGBTQIA 2S +; youth with disabilities; youth who are emergent bilinguals; youth bereaved by suicide; youth with mental illness or substance use disorders, youth navigating poverty, homelessness, and foster care;
 - (C) Are informed by family and community-based dialogue and discussions; and
 - (D) Align with or support:
 - (i) Suicide prevention, intervention and postvention plans as provided in ORS 339.343 (Adi's Act);
 - (ii) Safe Schools Act as provided in ORS 339.351 to 339.364; and
 - (iii) Oregon Health Education Standards as provided in ORS 329.045.
- (e) Completes equity training that is approved by the Department of Education;
- (f) Participates in regional, professional learning communities;
- (g) Participates in consultation with Tribal governments within the service area in the development and implementation of the School Safety and Prevention System;
- (h) Meaningfully engage the voice of disproportionately impacted youth in the development and implementation of the School Safety and Prevention System.
- (i) For the purpose of prevention, countering profiling, and enhancing the use of a racial equity lens and an equity lens, considers input from, shares information, and consults with the following:
- (A) Youth as provided in subsection (2)(d)(b);
 - (B) Primary care organizations;
 - (C) Families and other caregivers;
 - (D) Community-based organizations;
 - (E) School staff;
 - (F) School-based health centers;
 - (G) School-based mental health providers and behavioral specialists;
 - (H) Federally-recognized Tribal Governments in Oregon;
 - (I) Youth Development Council;
 - (J) Oregon Youth Authority;
 - (K) Local district attorneys and public defenders;
 - (L) Local law enforcement;
 - (M) Local mental health providers;
 - (N) State and county juvenile justice systems; and
 - (O) Other relevant partners.
- (j) Engage education stakeholders, community partners, and Tribal governments in the development and implementation of the School Safety and Prevention System.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

581-021-0200. Standard Education for Oregon Students.

A Standard Education for Oregon Students is comprised of:

(4) Character Education. Character Education is the process of helping students develop and practice the core ethical values that our diverse society shares and holds important. These values include, but are not limited to, respect, responsibility, caring, trustworthiness, justice and fairness, and civic virtue and citizenship.

581-022-2060. Comprehensive School Counseling.

(1)(a) District Comprehensive School Counseling. Each school district shall provide a coordinated comprehensive school counseling program to support the academic, career, social-emotional, and community involvement development of each and every student. The district shall:

(b) Adopt comprehensive school counseling program goals that assist students to:

- (A) Understand and utilize the educational opportunities and alternatives available to them;
- (B) Meet academic standards;
- (C) Establish tentative career and educational goals;
- (D) Create and maintain an education plan and education portfolio;
- (E) Demonstrate the ability to utilize personal qualities, education and training, in the world of work;
- (F) Develop decision-making skills;
- (G) Obtain information about self;
- (H) Accept increasing responsibility for their own actions, including the development of self-advocacy skills;
- (I) Develop skills in interpersonal relations, including the use of affective and receptive communication;
- (J) Utilize school and community resources;
- (K) Demonstrate and discuss personal contributions to the larger community; and
- (L) Know where and how to utilize personal skills in making contributions to the community. [...]

(3) Counseling Staff Assignments. Each school district shall maintain a licensed staff and promote effective counseling and advising practices consistent with the district's expected comprehensive school counseling program outcomes.

(a) A coordinated comprehensive school counseling program may be designed, delivered, or otherwise implemented by:

(C) A team consisting of a combination of staff who include one or more professionals licensed by the Teacher Standards and Practices Commission and the members of the team as a whole have professional training or experience in the following areas:

- (iii) Social-emotional learning.

Trauma-informed Practices

LAWS

339.341. Statewide School Safety and Prevention System; rules.

- (2) The Department of Education shall establish and maintain the Statewide School Safety and Prevention System.
- (3) The system required under this section shall consist of the following:
- (a) Assistance to school districts and education service districts in decreasing acts of harassment, intimidation or bullying and acts of cyberbullying through the implementation of effective prevention programs that:
 - (A) Incorporate evidenced-based, multitiered practices; and
 - (B) Support resiliency building and trauma-informed care practices.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

339.343. Comprehensive district plans on student suicide prevention; rules.

- (1) This section shall be known and may be cited as Adi's Act.
- (2) In accordance with rules adopted by the State Board of Education in consultation with the Oregon Health Authority, each school district shall adopt a policy requiring a comprehensive district plan on student suicide prevention for students in kindergarten through grade 12.
- (3) A plan required under this section must include:
- (e) A description of, and materials for, any training to be provided to school employees as part of the plan, which must include:
 - (A) When and how to refer youth and their families to appropriate mental health services.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

329.095. School district and school self-evaluations; local district continuous improvement plans; technical assistance.

- (4) The local district continuous improvement plan shall include:
- (d) A needs assessment, which shall:
 - (B) Address the following priorities:
 - (ii) Meeting students' mental or behavioral health needs.

339.331. Mission; duties; annual report; staff; funding.

(1) There is created the Center for School Safety within the University of Oregon. The mission of the center shall be to:

- (a) Serve as the central point for data analysis;
- (b) Conduct research;
- (c) Disseminate information about successful school safety programs, research results and new programs; and
- (d) Provide technical assistance for improving the safety of schools in collaboration with the Department of Education and others.

(2) To fulfill its mission, the Center for School Safety shall:

- (a) Establish a clearinghouse for information and materials concerning school violence prevention and intervention services. As used in this paragraph, "intervention services" means any preventive, developmental, corrective or supportive service or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime or has been expelled from the school district. "Intervention services" may include, but is not limited to:

- (A) Screening to identify students at risk for emotional disabilities or antisocial behavior.

339.341. Statewide School Safety and Prevention System; rules.

(2) The Department of Education shall establish and maintain the Statewide School Safety and Prevention System.

(3) The system required under this section shall consist of the following:

- (b) Assistance to school districts and education service districts in decreasing youth suicidal behavior through the implementation of effective prevention programs and student wellness programs that focus on early identification and intervention by school safety and prevention specialists, as described in subsection (4) of this section, who:

- (B) Support coordination between schools and health agencies, including public and private behavioral health providers [...]

(5) The State Board of Education, in consultation with the Oregon Health Authority and other representatives of school districts, education service districts, school employees, human services, mental health professionals and law enforcement agencies, shall adopt rules related to the system required under this section.

REGULATIONS

581-029-0001. School Safety and Prevention System.

(1) The following definitions apply to the School Safety and Prevention system established in ORS 339.341:

- (a) "Evidenced-based, Multitiered Practice" means a practice implemented by the school-wide system that:

- (A) Provides services across three tiers: universal, selected, and targeted supports;

- (B) Promotes the mental health and well-being of students and supports academic, behavioral and social-emotional success for students, within a multitiered framework with an emphasis on protected classes, historically, traditionally and currently underserved students and youth, by matching increasing levels of culturally and linguistically responsive support to empower students to meet their needs and goals.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:

(a) Staff reporting methods. [...]

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

339.329. Statewide tip line to report information concerning threats or potential threats to student safety; rules.

(2) The Department of State Police shall establish a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

(3) In consultation with state and local government behavioral health care providers, the department shall adopt rules necessary to establish and operate the tip line. The rules must include, but are not limited to:

(a) Provisions that protect the personally identifiable information of a person reporting information without compromising opportunities for follow-up contact from local law enforcement contacts or service providers to provide further information to or obtain further information from the person; and

(b) Written policies and procedures for:

(A) Logging reports received on the tip line;

(B) Verifying the authenticity and validity of a reported threat to student safety or potential threat to student safety;

(C) Relaying information concerning a threat to student safety or potential threat to student safety to local law enforcement contacts, service providers and appropriate education provider contacts;

(D) Connecting the tip line with other hotlines that are available for reports of violence or for crisis prevention; and

(E) Reporting for the purposes of tracking referrals to local law enforcement contacts and service providers resulting from information received on the tip line and tracking the outcome of any action taken in response to the referral.

(4) The contents of tips reported to the tip line may be disclosed only as allowed under ORS 192.345 (41), except that:

(a) Personally identifiable information may be disclosed only as provided in this section; and

(b) Personally identifiable information and other information reported through the tip line may be disclosed to the following persons for the purpose of follow-up contact to obtain or provide further information:

- (A) Tip line staff;
- (B) A school district, education service district, community college, private school that provides educational services to kindergarten through grade 12 students, career school or public university;
- (C) A service provider; or
- (D) Law enforcement.

(5) Any person authorized to receive tip line information under subsection (4) of this section must use the information only for the purpose of making follow-up contact to obtain or provide further information. Any further information obtained through follow-up contact may be disclosed only to the persons described in subsection (4) of this section.

(6) Persons authorized to receive tip line information under subsection (4) of this section may not disclose to the public the outcomes or actions taken as a result of tip line information unless the disclosure is required by a statute other than this section.

(7) Notwithstanding subsections (4) to (6) of this section, the department may release aggregated or summary information for reporting purposes and may provide information obtained through the tip line for the purpose of educating the public about the tip line, but may not disclose personally identifiable information under this subsection.

(8) The department may seek and accept gifts, grants and donations from any source for the purpose of carrying out its duties under this section.

REGULATIONS

257-095-0000. Purpose of rules.

Rules adopted herein prescribe the policies and procedures for operation and use of the statewide School Safety Tip Line Program (SSTL). The SSTL is established to facilitate the safety and health of students.

257-095-0010. Authority.

(1) SSTL was established by act of the 2016 Oregon Legislature, Oregon Laws 2016, Chapter 74, authorizing the Department of State Police to establish and operate a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

(2) Section 1(3) of Oregon Laws 2016, Chapter 74 requires the Department of State Police to adopt rules necessary to establish and operate the tip line.

(3) The SSTL is a program organized within the Public Safety Services Bureau of the Department of State Police for the purpose of facilitating the safety and health of students.

257-095-0030. Definitions.

As used in these rules:

- (1) "Anonymous" means not identified by name.
- (2) "Confidential Information" means any personally identifiable information acquired by the SSTL, its staff, schools, school districts, Education Service Districts, service providers and local law enforcement, or information that is confidential under other state or federal law.
- (3) "Cyberbullying" and "harassment, intimidation or bullying" have the meanings given those terms in ORS 339.351.
- (4) "Local law enforcement contact" means a local law enforcement officer designated by the Department of State Police to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety.

(5) "Personally Identifiable Information" means any information that would permit the identification of the person as a person reporting information to the SSTL. It includes, but is not limited to, name, phone number, physical address, email address, and information that identifies the machine or device from which the person made the report.

(6) "Service provider" means a person designated by the department to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety. "Service provider" includes:

- (a) A provider of behavioral health care or mental health care;
- (b) A provider of school-based health care;
- (c) A certificated school counselor;
- (d) A clinical social worker licensed under ORS 675.530; or
- (e) A professional counselor or a marriage and family therapist licensed under ORS 675.615.

(7) "Student" means a student of:

- (a) A school district, as defined in ORS 332.002;
- (b) A community college, as defined in ORS 341.005;
- (c) A private school that provides educational services to kindergarten through grade 12 students;
- (d) A public charter school as defined in ORS 338.005;
- (e) A career school, as defined in ORS 345.010; or
- (f) A public university listed under ORS 352.002.

(8) "Threat to student safety" includes, but is not limited to, a threat or instance of:

- (a) Harassment, intimidation, or bullying or cyberbullying;
- (b) Suicide or self-harm; and
- (c) Violence against others.

(9) "Tip" means reports of information concerning threats to student safety or potential threats to student safety made by phone call, text message, email, web-form submission, or an application on a mobile device submission accepted by the SSTL.

(10) "Tip line" means a statewide resource designed to accept information concerning threats to student safety or potential threats to student safety through methods of transmission including:

- (a) Telephone calls;
- (b) Text messages;
- (c) Electronically through the Internet; and
- (d) Use of an application on a mobile device.

(11) "Tip Line Technician" means contracted staff who receive, route and ensure follow-up occurs for calls, e-mails, text messages, and online tips 24 hours a day, seven days a week.

257-095-0040. Responsibilities.

(1) Department of State Police is responsible for:

- (a) Establishing a statewide tip line for students and other members of the public to confidentially report information concerning threats or potential threats to student safety;
- (b) The ownership and management of data entered into the SSTL;
- (c) Following all records retention laws and other applicable laws and rules;

- (d) Analyzing and interpreting data entered into the SSTL to help schools improve their response to safety issues;
 - (e) Maintaining strict confidentiality of confidential information received through tips, documents and communications submitted to the SSTL;
 - (f) Coordinating outreach and programmatic support to schools, school districts, Education Service Districts, law enforcement agencies and service providers involved in or entering the program;
 - (g) Establishing a process for documenting the closure of tips and ensuring that the process is being used.
 - (h) Generating analysis, reports and studies. Analysis, reports and studies shall contain only aggregated information and shall not contain any information that personally identifies reporters or any students. Reports may contain aggregated information concerning how referrals were handled by local law enforcement and service providers and the outcomes of the referrals.
 - (i) Ensuring training materials explain that reporters may make an anonymous report or, if they identify themselves, how their identity is protected and how it may be shared as set out in OAR 291-095-0080(2).
 - (j) Where possible, incorporate information on behavioral health treatment services standards under OAR chapter 309, division 019 in training and presentation information.
- (2) The SSTL vendor contracted by the Department of State Police is responsible for:
- (a) Receiving SSTL tips via phone, email, application on a mobile device, website submission and text message as described in OAR 257-095-0060 and processing those tips;
 - (b) Ensuring adequate staffing of Tip Line Technicians to handle tip volume;
 - (c) Ensuring SSTL is functional and capable of operation 24 hours per day, seven days per week;
 - (d) Providing SSTL database access and the ability to extract data for analysis to designated persons authorized by the Department of State Police;
 - (e) Following up on reported tips and documenting the status of tips through the SSTL;
 - (f) Prompting schools to provide updated responsible staff and service provider, if applicable, contact information on a regular basis;
 - (g) Providing physical and online information security protection including administrative, technical, and physical safeguards to protect assets and data from loss, misuse, unauthorized access, disclosure, alteration, and destruction.
 - (h) Ensuring Tip Line Technicians have the requested qualifications, training, and experience in taking crisis calls.
 - (i) Maintaining a policy and procedure manual that contains specific protocols to be used depending on the nature of the tip as well as general procedures regarding interviews and taking information.
- (3) The schools, school districts or Education Service Districts are responsible for:
- (a) Determining, keeping current, and providing to the SSTL lists of responsible staff and service providers capable of handling tips relayed to the school, school district or Education Service District by the SSTL;
 - (b) Verifying the authenticity and validity of received reported threat to student safety or potential threat to student safety;
 - (c) Forwarding tip information to law enforcement or service providers as appropriate;
 - (d) Following up on assigned tips, providing information about updates and outcomes to the SSTL to the extent not prohibited by any applicable federal or state confidentiality provisions, and closing tips through the SSTL.

257-095-0050. Incident reportable through the School Safety Tip Line Program.

Threats to student safety or potential threats to student safety that are reportable to the SSTL include, but are not limited to harassment, intimidation or bullying, cyberbullying, suicide or self-harm and violence against others.

257-095-0060. Receipt of tips of reportable incidents.

Tips received via the SSTL are classified and processed for appropriate school, school district or Education Service District, local law enforcement or service provider response.

- (1) When the SSTL receives an incoming communication, the Tip Line Technician shall:
 - (a) Ask the caller's identity (for tips provided via phone and text) or confirm the identity of the person making the tip (for tips provided via website or application on a mobile device). If the person making the tip does not wish to disclose their identity, the Tip Line Technician shall also accept an anonymous tip;
 - (b) The Tip Line Technician shall immediately assess the situation and ensure that students (and others) are safe from harm. The Tip Line Technician may not delay in contacting responders and/or school officials if there is an immediate threat to safety;
 - (c) Tip Line Technicians will attempt to capture and confirm the following data by asking questions identified on templates. Components of this factual accounting process may include but are not limited to:
 - (i) Who is/was involved in the incident? The name of any person reported to be involved in the incident must be documented. The reporter may choose to be anonymous;
 - (ii) The school where the individual making the tip (if applicable) and student(s) involved are enrolled and the age of the students involved;
 - (iii) Specific details about the location of incident (i.e. building name/number, floor, room number, etc.);
 - (iv) Whether the individual reporting an incident is reporting about him/herself or another party;
 - (v) If more than one person is involved in the incident, the relationship, if any, of those other individuals to the school or school system;
 - (vi) What happened, (who did/said what to whom, etc.);
 - (vii) When the incident occurred (time and date, prior events if any);
 - (viii) Whether a school staff member was notified, and how the school responded;
 - (ix) Whether treatment by a service provider was sought;
 - (x) Name of additional institutions/agencies involved.
 - (d) Tip Line Technicians will use their training and expertise to categorize by type of incident and prioritize a reported or potential threat to school safety by defined level of urgency for response.
- (2) The SSTL software may capture Caller ID information, email addresses, and/or Internet Protocol (IP) addresses as part of the technical solution. This information will only be retrieved, used or disclosed in accordance with Oregon Law and these rules.
- (3) The Tip Line Technician shall log all tip information into the SSTL system and transmit the tip electronically to the appropriate school, school district or Education Service District, service provider or local law enforcement contacts.

257-095-0070. Tip examination, classification and referrals.

- (1) Once a tip is received by the SSTL, Tip Line Technicians shall classify the reported tip based on a pre-identified set of values to designate the level of threats to student safety and level of response needed;
- (2) Tips received by Tip Line Technicians shall be referred to the appropriate school, school district or Education Service District, service provider or law enforcement;
 - (a) Suspicious activity or non-criminal, school-safety concerns (i.e. general tips about bullying, suspicious behavior/actions discovered on social media, fights between students, reports of individuals on school grounds who may not have an appropriate reason for being there) will be routed to schools, school districts, Education Service Districts, school administrators, service providers and also to local law enforcement if the severity of the incident warrants a law enforcement response;
 - (b) Tips concerning potential criminal activity shall be forwarded to the appropriate law enforcement agency for that jurisdiction in addition to the notifications in subsection (2)(a);
- (3) When an incoming tip received by the SSTL presents or appears to present a situation of immediate danger or threat of serious harm, the Tip Line Technician shall immediately contact the appropriate law enforcement contacts, appropriate education provider contacts, or service providers relaying all known information about the tip;
- (4) When Tip Line Technicians determine it appropriate based on the nature of the tip and their training and experience, they will forward the tip to other hotlines that are available for reports of violence or crisis prevention;
- (5) Tips or requests for social services that are not within the scope of the program will be referred to other hotlines or resources as available;
- (6) The Tip Line Technician shall document in the SSTL system the person[s] to whom the tip was referred.

257-095-0080. Information confidentiality and disclosure.

- (1) Any entity or person authorized to receive information and data from the SSTL is responsible for maintaining the confidentiality of confidential information and must use and disclose any information or data it receives only as provided in these rules or required by law;
- (2) The SSTL may not disclose the identity of any person who submits a tip except as provided in these rules or required by law. If a person making a report chooses to identify themselves, they do so with the expectation that their identity will be disclosed only to persons authorized to receive tip information under these rules and only for the purpose of following up on tips.
- (3) The SSTL may release aggregated or summary tip information for reporting purposes but shall not release any confidential information. In order to protect the reporting process, limited updates may be provided as long as they do not violate any laws or policies;
- (4) Photo, videos and other media images received of a sexual nature shall only be forwarded to law enforcement. Information regarding the tip can be sent to the school, but not the sexual images attached to the tip;
- (5) Information acquired by the SSTL will not be disclosed except as provided in these rules or as required by law.

257-095-0090. Anonymity.

Persons submitting a tip via the SSTL may choose to identify themselves or to remain anonymous. The identity of persons making reports who choose to identify themselves shall be protected and disclosed only as set out in OAR 257-095-0080(2).

581-021-0556. Procedures regarding restraint & seclusion.

- (1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.
- (2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:
 - (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.
 - (b) Written documentation of the incident within 24 hours of the incident that provides:
 - (A) A description of the restraint or seclusion, including:
 - (i) The date of the restraint or seclusion;
 - (ii) The times when the restraint or seclusion began and ended; and
 - (iii) The location of the restraint or seclusion.
 - (B) A description of the student's activity that prompted the use of restraint or seclusion.
 - (C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.
 - (D) The names of the personnel of the public education program who administered the restraint or seclusion.
 - (E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this rule.
 - (c) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.
- (3) If the personnel of the public education program who administered the restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent or, if the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program, receive written notification of:
 - (a) The lack of training; and
 - (b) The reason the restraint or seclusion was administered by a person without training.
- (4) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel. Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.
- (5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.
- (6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the Department of Human Services within 24 hours of the incident.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the following individuals within 24 hours of the incident:

- (a) The district superintendent and, if applicable, the union representative for the affected party; or
- (b) If the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program and, if applicable, the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

(9) Pursuant to ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303 and OAR 581-021-0553.

(10) District school boards shall adopt written policies to implement restraint and seclusion procedures consistent with and as indicated in ORS 339.285 to 339.308 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers of those policies.

Parental Notification

LAWS

336.645. Notification of availability of program; rules.

The State Board of Education shall adopt rules to implement the provisions of ORS 336.615 to 336.665 that shall include rules regarding school district notification to parents and students of the availability of alternative education programs, the law regarding alternative education programs and the procedures for requesting district school boards to establish alternative education programs.

339.071. Attendance notification policy.

(1) Each district school board shall adopt an attendance notification policy that satisfies the requirements of this section.

(2) An attendance notification policy must:

- (a) Be implemented by each school in the school district; and
- (b) Require that each school ensure that a parent or other person in parental relationship to a child is notified by the end of the school day on any day that the child has an unplanned absence.

(3)(a) Notification required by subsection (2)(b) of this section must be provided:

- (A) In person;
- (B) Directly by telephone; or
- (C) By any other method identified in writing by the parent or person in parental relationship to the child.

(b) If a parent or other person in parental relationship to a child cannot be contacted in person or directly by telephone and another method has not been identified by the parent or person, a message shall be left for the parent or person, if possible.

(4) Notice of the child's absence shall be provided to the attendance supervisor, who shall proceed as provided in ORS 339.055, if:

- (a) Notification is not provided in person or directly by telephone; and

(b) The parent or other person in parental relationship to the child has not confirmed within the timeline established by the attendance notification policy that the parent or person has received notification.

339.080. Nonattendance notice to parents, school officials and parole or probation officer.

(1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under the control of the parent or other person to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person.

(2) The notice required by subsection (1) of this section must inform the parent or other person in parental relation that:

(a) The child must appear at the public school on the next school day following the receipt of the notice.

(b) Regular attendance at school must be maintained during the remainder of the school year.

(c) The parent or other person in parental relation has the right to request:

(A) For a child who does not have an individualized education program, an evaluation to determine if the child should have an individualized education program; or

(B) For a child who has an individualized education program, a review of the individualized education program.

(3) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.

(4) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence.

339.090. Determination of compliance; notice to district superintendent.

The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If the attendance supervisor determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall notify the district superintendent.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

339.291. Use of restraint or seclusion.

(4) In addition to the requirements described in subsection (3) of this section, if restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and

(c) Every 15 minutes after the first 30 minutes of the restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the restraint or seclusion, including providing documentation for the reason the restraint or seclusion must be continued.

339.294. Procedures following incident; notification; records.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.

(2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.

(b) Written documentation of the incident within 24 hours of the incident that provides:

(A) A description of the restraint or seclusion, including:

(i) The date of the restraint or seclusion;

(ii) The times when the restraint or seclusion began and ended; and

(iii) The location of the restraint or seclusion.

(B) A description of the student's activity that prompted the use of restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this section.

(c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the restraint or seclusion had not received training as provided by ORS 339.300, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the restraint or seclusion was administered by a person without training.

(4)(a) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(b) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

339.327. Notification required if person possesses threatening list or when threats of violence or harm made; immunity.

(1) A superintendent of a school district or a superintendent's designee who has reasonable cause to believe that a person, while in a school, is or has been in possession of a list that threatens harm to other persons, shall notify:

- (a) The parent or guardian of any student whose name appears on the list as a target of the harm; and
- (b) Any teacher or school employee whose name appears on the list as a target of the harm.

(2) A superintendent or superintendent's designee who has reasonable cause to believe that a student, while in a school, has made threats of violence or harm to another student shall notify the parent or guardian of the threatened student.

(3) The superintendent or superintendent's designee shall attempt to notify the persons specified in subsections (1) and (2) of this section by telephone or in person promptly but not later than 12 hours after discovering the list or learning of the threat. The superintendent or superintendent's designee shall follow up the notice with a written notification sent within 24 hours after discovering the list or learning of the threat.

(4) Any school district or person participating in good faith in making the notification required by this section is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the notification.

(5) As used in this section, "school" has the meaning given that term in ORS 339.315.

REGULATIONS

581-021-0065. Suspension.

(1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (OAR 581-021-0075), specification of charges, and an opportunity for the student to present his or her view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.

581-021-0070. Expulsion.

(1) Each district school board shall adopt written policies that limit the use of expulsion to the following circumstances:

- (a) For conduct that poses a threat to the health or safety of students of school employees;
- (b) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
- (c) When the expulsion is required by law

(d) In addition to any limitations imposed by paragraphs (a) to (c) of this subsection, board policies must limit the use of expulsion for students in fifth grade or lower to the following circumstances:

- (i) For nonaccidental conduct causing serious physical harm to a student or school employee;
- (ii) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees;

(2) A school district board may expel, or delegate authority to a hearings officer to expel, a student provided the student is not expelled without a hearing unless the student's parent(s) or guardian, or the student, if 18 years of age, waives the right to a hearing. Waiver may take place by the parent or the student, if 18 years of age, notifying the school district in writing of waiver of the right to a hearing. Waiver may also take place by the parent, or the student, if age 18 or over, failing to appear after notice, at the place and time set for the hearing:

(a) If the school board acts to expel, the hearing may be conducted by a hearings officer designated by the board. In cases where the hearings officer is conducting the expulsion hearing for the board, the hearings officer shall provide to the board the findings as to the facts, the recommended decision and whether or not the student is guilty of the conduct alleged. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over;

(b) If the authority to expel a student is delegated to a hearings officer, the parent, or student, if age 18 or over, shall have the right upon appeal to a board review of the decision. If the decision is appealed to the board for review, the board shall be provided findings as to the facts and the decision of the hearings officer. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over. When appealed, the board will affirm, modify, or rescind the decision of the hearings officer.

(3) Student expulsion hearings shall be conducted pursuant to ORS 332.061.

(4) Expulsion hearing policies or rules shall contain provisions for the following:

(a) Notice to the student and to the parent or guardian shall be given by personal service or certified mail of the charge or charges and the specific facts that support the charge or charges. The notice shall include the statement of intent to consider the charges as reason for expulsion. Where notice is given by personal service, the person serving the notice shall file a return of service. Where notice is given by certified mail to a parent of a suspended student the notice shall be placed in the mail at least five days before the date of the hearing;

(b) Where the student or the student's parent cannot understand the spoken English language, an interpreter shall be provided by the district;

(c) The student may be represented by counsel or other persons;

(d) The student shall be permitted to introduce evidence by testimony, writings, or other exhibits;

(e) The student shall be permitted to be present and hear the evidence presented by the district;

(f) Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer's control of the hearing;

(g) The hearings officer or the student may make a record of the hearing.

581-021-0071. District information for parents and students regarding the availability of alternative education programs.

(1) The following definitions apply to this rule:

(a) "Erratic attendance" means the student is frequently absent to the degree that he/she is not benefiting from the educational program;

- (b) "Notification" means written notice, by personal service or certified mail, to the parent or guardian and student as required by ORS 339.250(6).
- (2) District school boards shall adopt policies and procedures for notification to students and parents, or guardians of the availability of appropriate and accessible alternative programs. This notification shall be provided in the following situations:
- (a) Upon the occurrence of a second or any subsequent occurrence of a severe disciplinary problem within a three-year period;
 - (b) When the district finds a student's attendance pattern to be so erratic that the student is not benefiting from the educational program;
 - (c) When the district is considering expulsion as a disciplinary alternative;
 - (d) When a student is expelled pursuant to subsection (2) of ORS 339.250; and
 - (e) When an emancipated minor, parent, or legal guardian applies for a student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030(2).
- (3) The notification must include but is not limited to the following:
- (a) Student action which is the basis for consideration of alternative education;
 - (b) Listing of alternative programs available to this student for which the district would provide financial support in accordance with ORS 339.620 except that when notice is given in accordance with subsection (2)(e) of this rule the district shall not be obligated to provide financial support;
 - (c) The program recommended for the student based on students learning styles and needs;
 - (d) Procedures for enrolling the student in the recommended program; and
 - (e) When the parent or guardians language is other than English, the district must provide notification in manner that the parent or guardian can understand.
- (4) The district shall inform all parents or guardians of the law regarding alternative education and educational services available to students by such means as a statement in the student/parent handbook, notice in the newspaper, or an individual letter to a parent.
- (5) District school boards shall adopt a procedure for parents or guardians to request establishment of alternative programs within the district.
- (6) District school boards shall not approve the enrollment of a pupil in a private alternative program unless the private alternative program meets all requirements of OAR 581-021-0045.

581-021-0556. Procedures regarding restraint & seclusion.

- (1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.
- (2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:
- (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.
 - (b) Written documentation of the incident within 24 hours of the incident that provides:
 - (A) A description of the restraint or seclusion, including:
 - (i) The date of the restraint or seclusion;
 - (ii) The times when the restraint or seclusion began and ended; and
 - (iii) The location of the restraint or seclusion.
 - (B) A description of the student's activity that prompted the use of restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this rule.

(c) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

329.841. Statewide education plan for students who are black or African-American who are members of student group not covered by existing culturally specific plan; advisory group; report; grants; rules.

(1) For the purposes of this section, "plan student" means a student enrolled in early childhood through post-secondary education who:

(a) Is black or African-American or a member of a student group that is not covered under an existing culturally specific statewide education plan; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) The department shall form an advisory group consisting of community members, education stakeholders and representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission to advise the department regarding:

(A) Development and implementation of the plan;

(B) Eligibility criteria, applicant selection process and expectations for recipients of grant awards described in this section; and

(C) Adoption of rules by the State Board of Education for the implementation of the plan.

(3) The plan developed under this section shall address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents for plan students compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood and kindergarten readiness for plan students;

- (e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;
- (f) Support plan student transitions to middle school and through the middle and high school grades to maintain and improve academic performance;
- (g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;
- (h) Support the development of culturally responsive curricula from early childhood through post-secondary education;
- (i) Increase attendance of plan students in community colleges and professional certification programs; and
- (j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section at each even-numbered year regular session of the Legislative Assembly in the manner provided by ORS 192.245 to an interim committee of the Legislative Assembly related to education.

(6) The department, in consultation with the advisory group, shall award grants to early learning hubs, providers of early learning services, school districts, post-secondary institutions of education and community-based organizations to implement the strategies developed in the plan developed and implemented under this section.

(7) To qualify for and receive a grant described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria established by the State Board of Education by rule.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

339.294. Procedures following incident; notification; records.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.

(2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.

(b) Written documentation of the incident within 24 hours of the incident that provides:

(A) A description of the restraint or seclusion, including:

- (i) The date of the restraint or seclusion;
- (ii) The times when the restraint or seclusion began and ended; and
- (iii) The location of the restraint or seclusion.

(B) A description of the student's activity that prompted the use of restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this section.

(c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the restraint or seclusion had not received training as provided by ORS 339.300, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the restraint or seclusion was administered by a person without training.

(4)(a) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(b) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

339.297. Annual report.

(1) Each entity that has jurisdiction over a public education program must prepare and submit to the Department of Education an annual report detailing the use of restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving restraint.

(b) The total number of incidents involving seclusion.

(c) The total number of seclusions in a locked room.

(d) The total number of rooms available for use by the public education program for seclusion of a student and a description of the dimensions and design of the rooms.

(e) The total number of students placed in restraint.

(f) The total number of students placed in seclusion.

(g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of restraint or seclusion.

- (h) The number of students who were placed in restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of restraint and seclusion for each student.
 - (i) The number of incidents in which the personnel of the public education program administering restraint or seclusion were not trained as provided by ORS 339.300.
 - (j) The demographic characteristics of all students upon whom restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.
- (2)(a) Each entity that has jurisdiction over a public education program shall make its annual report about restraint and seclusion available to:
- (A) The public at the entity's main office and the website of the entity;
 - (B) The board or governing body overseeing the entity;
 - (C) If the entity is an education service district, the component school districts of the education service district; and
 - (D) If the entity is a public charter school, the sponsor of the public charter school.
- (b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.
- (3) A public education provider that does not comply with the requirement to submit a report to the Department of Education under subsection (1) of this section or to make the report available as described in subsection (2) of this section is considered nonstandard under ORS 327.103.

REGULATIONS

257-095-0100. Reporting and data analysis.

- (1) Information gathered in operation of the SSTL may be utilized for the purpose of generating reports to track outcomes of actions taken in response to a tip, or used to analyze and adapt the operation of the SSTL Reports and analysis shall contain only aggregated information and shall not contain information that personally identifies reporters or any students;
- (2) Full SSTL data access is limited to the Department of State Police;
 - (a) Schools, school districts and Education Service Districts shall only have access to their own school(s) or jurisdiction data for following up on tips, analysis, reporting and managing school policies;
 - (b) Schools are responsible for the appropriate dissemination of information to law enforcement, service providers, and other authorities in accordance with these rules and any other applicable laws and rules;
 - (c) The Department of State Police shall create annual and other reports as necessary. Reports shall contain only aggregated information and shall not contain any information that personally identifies reporters, any students, or specific schools.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

166.370. Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school.

(1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

(b) The presiding judge of a judicial district or a municipal court may enter an order permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1) of this section does not apply to:

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

(f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

(g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

(i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

- (j) Possession of a firearm on school property if the firearm:
 - (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and
 - (B) Is unloaded and locked in a motor vehicle.
- (4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.
- (b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.
- (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.
- (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:
 - (A) As part of a program approved by a school in the school by an individual who is participating in the program;
 - (B) By a law enforcement officer acting in the officer's official capacity; or
 - (C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.
- (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.
- (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this section, the district attorney may charge the person with only one of the offenses.
- (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

336.187. When school authorized to disclose information about student; immunity of recipient.

- (1) A public school or school district shall disclose personally identifiable information or other information allowed to be disclosed by the federal Family Educational Rights and Privacy Act from an education record of a student to:
 - (a) Law enforcement, child protective services and health care professionals in connection with a health or safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals; and
 - (b) Courts and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies. Disclosure under this paragraph must relate to the court's or juvenile justice agency's ability to serve the needs of a student prior to the student's adjudication under ORS chapter 419C. A person to whom personally identifiable information is disclosed under this paragraph shall certify, in writing, that the person will not disclose the information to a third party other than another court or juvenile justice agency or a person or organization providing direct services to the student on behalf of a juvenile justice agency.
- (2) As used in this section, a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 419B.005 to 419B.050.
- (3) A person who receives information under this section is not liable civilly or criminally for failing to disclose the information.

339.250. Duty of student to comply with rules; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.

- (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.
- (2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:
 - (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:
 - (A) Willful disobedience;
 - (B) Open defiance of the authority of a school employee;
 - (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
 - (D) Use or display of profane or obscene language;
 - (E) Willful damage or injury to school property;
 - (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
 - (G) Assault of a school employee or another student; or
 - (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.
 - (b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.
 - (c) Must limit the use of expulsion to the following circumstances:
 - (A) For conduct that poses a threat to the health or safety of students or school employees;
 - (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
 - (C) When the expulsion is required by law.
 - (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:
 - (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
 - (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
 - (C) When the suspension or expulsion is required by law.
 - (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.
 - (f) Must be limited so that:
 - (A) The duration of an expulsion may not be more than one calendar year.
 - (B) The duration of a suspension may not be more than 10 school days.
 - (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.
- (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.
 - (C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.
 - (c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.
 - (d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.
- (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:
- (a) Protect students and school employees from harm;
 - (b) Provide opportunities for students to learn from their mistakes;
 - (c) Foster positive learning communities;
 - (d) Keep students in school and attending class;
 - (e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;
 - (f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;
 - (g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

- (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:
- (A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or
 - (B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);
 - (i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and
 - (j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.
- (6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.
- (7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:
- (a) Require expulsion from school for a period of not less than one year of any student who is determined to have:
 - (A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;
 - (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or
 - (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.
 - (b) Allow exceptions:
 - (A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and
 - (B) Identified by and adopted by the State Board of Education by rule.
 - (c) Allow a superintendent of a school district to:
 - (A) Modify the expulsion requirement for a student on a case-by-case basis.
 - (B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.
 - (d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.
 - (e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

(i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

(10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.

339.315. Report required if person has unlawful firearm or destructive device; immunity; law enforcement investigation required.

(1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school director, the administrator's or director's designee or law enforcement agency within the county. A school administrator, school director or the administrator's or director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable

cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, "school" means:

- (a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;
- (b) The grounds adjacent to the institution; and
- (c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

339.317. Notice to school district of person charged with crime; immunity.

(1)(a) No later than five days after a person under 18 years of age is waived under ORS 419C.349, 419C.352 or 419C.364, the district attorney or city attorney, if the person is waived to municipal court or, in the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall give notice of the charge to the school administrator of the school attended by the person or to the school administrator of the school district in which the person resides. For purposes of this section, "school administrator" has the meaning given that term in ORS 419A.305.

(b) The district attorney, city attorney or juvenile department shall include in the notice the following:

- (A) The crime with which the person is charged;
- (B) The name and date of birth of the person;
- (C) The names and addresses of the person's parents or guardians;
- (D) The name and contact information of the attorney for the person, if known;
- (E) The name and contact information of the individual to contact for further information about the notice;
- (F) Any conditions of release or terms of probation; and
- (G) Any other conditions required by the court.

(2) A person who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section.

339.319. Notice to school district of person convicted of crime; immunity.

(1)(a) When a person under 18 years of age is convicted of a crime following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 (1)(b), the agency supervising the person or, in the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall give notice of the conviction within five days following sentencing to the school administrator of the school attended by the person or to the school administrator of the school district in which the person resides. For purposes of this section, "school administrator" has the meaning given that term in ORS 419A.305.

(b) The agency supervising the person or the juvenile department shall include in the notice:

- (A) The name and date of birth of the person;
- (B) The names and addresses of the person's parents or guardians;

- (C) The crime of conviction;
- (D) The sentence imposed;
- (E) The name and contact information of the attorney for the person, if known;
- (F) The name and contact information of the individual to contact for further information about the notice;
- (G) Any conditions of release or terms of probation including, but not limited to, whether school attendance is a condition of the release; and
- (H) Any other conditions required by the court.

(2) An agency supervising a person or anyone employed by or acting on behalf of an agency supervising a person who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section.

339.321. Notice to school district and law enforcement agencies of release or discharge of person; immunity.

(1) No later than 15 days before the release or discharge of a person committed to the legal custody of the Department of Corrections or the supervisory authority of a county following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370, the department or supervisory authority or, in the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall notify the following of the release or discharge if the person is under 21 years of age at the time of the release:

- (a) Law enforcement agencies in the community in which the person is going to reside; and
- (b) The school administrator of the school the person will attend or the school administrator of the school district in which the person will reside.

(2) The department, supervisory authority or the juvenile department shall include in the notification:

- (a) The name and date of birth of the person;
- (b) The date of release or discharge;
- (c) The person's address;
- (d) The names and addresses of the person's parents or guardians;
- (e) The name and contact information of the attorney for the person, if known;
- (f) The name and contact information of the individual to contact for further information about the notice;
- (g) Any conditions of release or terms of probation including, but not limited to, the type of supervision under which the person is released and whether school attendance is a condition of release; and
- (h) Any other conditions required by the court.

(3) The department, supervisory authority or anyone employed by or acting on behalf of the department or supervisory authority who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section.

(4) As used in this section, "school administrator" has the meaning given that term in ORS 419A.305.

339.323. Disclosure of information regarding person charged with or convicted of crime or regarding release or discharge of person; immunity.

(1) When a school administrator as defined in ORS 419A.305 receives notice under ORS 339.317, 339.319, 339.321, 419A.015, 420.048 or 420A.122, the school administrator may disclose the information only to school personnel, as defined in ORS 339.326, who the school administrator determines need the information in order to safeguard the safety and security of the school, students and staff. A person to

whom personally identifiable information is disclosed under this subsection may not disclose the information to another person except to carry out the provisions of this subsection.

(2) A school administrator or anyone employed by or acting on behalf of a school administrator who receives notice under ORS 339.317, 339.319, 339.321 or 420A.122 is not civilly or criminally liable for failing to disclose the information.

Actions after receipt of notice under ORS 419A.305; transfers from outside state; enrollment in other school or program; confidentiality of information; use of information; immunity.

(1) As used in this section:

- (a) "School administrator" has the meaning given that term in ORS 419A.305.
- (b) "School personnel" means a person who is employed by or under contract with a school district, public charter school or private school to provide services to students, including but not limited to:
 - (A) Teachers and school staff.
 - (B) Transportation providers.
 - (C) Food service workers.
 - (D) Daytime building maintenance workers.
 - (E) Health center workers or nurses.
 - (F) Library personnel.
 - (G) Translators.

(2) Within 48 hours after receiving notice under ORS 419A.305, a school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel;
- (b) Arrange appropriate counseling or education for the person who is the subject of the notice; or
- (c) If the notice states that the court has set aside or dismissed the petition, or that the court has determined it does not have jurisdiction over the person who is the subject of the notice, inform school personnel previously notified of the petition under this subsection that the court has set aside or dismissed the petition or determined that the person who is the subject of the notice is not within the jurisdiction of the juvenile court and direct the appropriate school personnel to remove and destroy the notice and any documents or information related to the notice from the person's educational records.

(3) When a student transfers to a school in this state from a school outside the state, the school administrator of the school in this state shall, when requesting the transfer student's education records as provided under ORS 326.575, request any information that the transfer student's former school may have relating to the transfer student's history of engaging in activity that is likely to place at risk the safety of school personnel or students or that requires arrangement of appropriate counseling or education for the transfer student. Upon receipt of information that the transfer student has a history of engaging in activity that is likely to place at risk the safety of school personnel or students, the school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel; or
- (b) Arrange appropriate counseling or education for the transfer student.

(4) When a school administrator receives notice under ORS 419A.305 and determines that the youth is not enrolled in the school administrator's school but is enrolled in a school or program referred to in this subsection, the school administrator shall, within 48 hours of receiving notice, send a copy of the notice to:

- (a) The director of the Oregon School for the Deaf if the youth attends the Oregon School for the Deaf.
 - (b) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.
 - (c) The principal of the public charter school if the youth attends a public charter school.
 - (d) The principal of the private school if the youth attends a private school.
 - (e) The appropriate school administrator if the youth attends a school in another school district.
- (5) A school district, public charter school or private school may adopt policies and procedures for providing notification to school personnel under this section.
- (6)(a) Except as provided in this section, information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section is confidential.
- (b) Persons receiving information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section may not disclose any information received to anyone other than:
- (A) The person who is the subject of the notice or the transfer student;
 - (B) The parent or guardian of the person who is the subject of the notice or the transfer student;
 - (C) A school administrator;
 - (D) School personnel notified under subsection (2) or (3) of this section;
 - (E) Law enforcement personnel;
 - (F) The probation officer or juvenile counselor of the person who is the subject of the notice or the transfer student; and
 - (G) The attorney for the person who is the subject of the notice or the transfer student.
- (c) School personnel are not subject to discipline for disclosing the existence of a notice under ORS 419A.305 or for disclosing the contents of the notice, unless the disclosure was made in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another.
- (7)(a) Information obtained under this section or under ORS 419A.305 may not be used for admissions or disciplinary decisions concerning the person who is the subject of a notice or the transfer student unless the violation occurred in the school or classroom or at a school activity or event, whether or not the violation took place on school property.
- (b) Notwithstanding paragraph (a) of this subsection, information obtained under this section or under ORS 419A.305 may be used for making an educational placement for the person who is the subject of a notice or the transfer student, if necessary for arranging appropriate counseling or education for the person or transfer student. Placement procedures and decisions under this section regarding a person or transfer student who is receiving special education and related services must comply with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.
- (c) The receipt of a notice under ORS 419A.305 does not deprive the school of the authority to institute or continue a disciplinary action against the person who is the subject of the notice or the transfer student based on the same conduct alleged in the notice if the disciplinary proceedings are based on information obtained by the school or school district that is not derived from the notice.
- (8) A person is not civilly or criminally liable for giving or failing to give the notice required under this section. Nothing in this section creates a new cause of action or enlarges an existing cause of action for compensation or damages.

Notification required if person possesses threatening list or when threats of violence or harm made; immunity.

(1) A superintendent of a school district or a superintendent's designee who has reasonable cause to believe that a person, while in a school, is or has been in possession of a list that threatens harm to other persons, shall notify:

- (a) The parent or guardian of any student whose name appears on the list as a target of the harm; and
- (b) Any teacher or school employee whose name appears on the list as a target of the harm.

(2) A superintendent or superintendent's designee who has reasonable cause to believe that a student, while in a school, has made threats of violence or harm to another student shall notify the parent or guardian of the threatened student.

(3) The superintendent or superintendent's designee shall attempt to notify the persons specified in subsections (1) and (2) of this section by telephone or in person promptly but not later than 12 hours after discovering the list or learning of the threat. The superintendent or superintendent's designee shall follow up the notice with a written notification sent within 24 hours after discovering the list or learning of the threat.

(4) Any school district or person participating in good faith in making the notification required by this section is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the notification.

(5) As used in this section, "school" has the meaning given that term in ORS 339.315.

REGULATIONS

257-095-0040. Responsibilities.

(1) Department of State Police is responsible for:

- (a) Establishing a statewide tip line for students and other members of the public to confidentially report information concerning threats or potential threats to student safety;
- (b) The ownership and management of data entered into the SSTL;
- (c) Following all records retention laws and other applicable laws and rules;
- (d) Analyzing and interpreting data entered into the SSTL to help schools improve their response to safety issues;
- (e) Maintaining strict confidentiality of confidential information received through tips, documents and communications submitted to the SSTL;
- (f) Coordinating outreach and programmatic support to schools, school districts, Education Service Districts, law enforcement agencies and service providers involved in or entering the program;
- (g) Establishing a process for documenting the closure of tips and ensuring that the process is being used.
- (h) Generating analysis, reports and studies. Analysis, reports and studies shall contain only aggregated information and shall not contain any information that personally identifies reporters or any students. Reports may contain aggregated information concerning how referrals were handled by local law enforcement and service providers and the outcomes of the referrals.
- (i) Ensuring training materials explain that reporters may make an anonymous report or, if they identify themselves, how their identity is protected and how it may be shared as set out in OAR 291-095-0080(2).
- (j) Where possible, incorporate information on behavioral health treatment services standards under OAR chapter 309, division 019 in training and presentation information.

- (2) The SSTL vendor contracted by the Department of State Police is responsible for:
- (a) Receiving SSTL tips via phone, email, application on a mobile device, website submission and text message as described in OAR 257-095-0060 and processing those tips;
 - (b) Ensuring adequate staffing of Tip Line Technicians to handle tip volume;
 - (c) Ensuring SSTL is functional and capable of operation 24 hours per day, seven days per week;
 - (d) Providing SSTL database access and the ability to extract data for analysis to designated persons authorized by the Department of State Police;
 - (e) Following up on reported tips and documenting the status of tips through the SSTL;
 - (f) Prompting schools to provide updated responsible staff and service provider, if applicable, contact information on a regular basis;
 - (g) Providing physical and online information security protection including administrative, technical, and physical safeguards to protect assets and data from loss, misuse, unauthorized access, disclosure, alteration, and destruction.
 - (h) Ensuring Tip Line Technicians have the requested qualifications, training, and experience in taking crisis calls.
 - (i) Maintaining a policy and procedure manual that contains specific protocols to be used depending on the nature of the tip as well as general procedures regarding interviews and taking information.
- (3) The schools, school districts or Education Service Districts are responsible for:
- (a) Determining, keeping current, and providing to the SSTL lists of responsible staff and service providers capable of handling tips relayed to the school, school district or Education Service District by the SSTL;
 - (b) Verifying the authenticity and validity of received reported threat to student safety or potential threat to student safety;
 - (c) Forwarding tip information to law enforcement or service providers as appropriate;
 - (d) Following up on assigned tips, providing information about updates and outcomes to the SSTL to the extent not prohibited by any applicable federal or state confidentiality provisions, and closing tips through the SSTL.

581-021-0225. Records of law enforcement units.

- (1) "Law enforcement unit" means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to:
- (a) Enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself; or
 - (b) Maintain the physical security and safety of the agency or institution.
- (2) A component of an educational agency or institution does not lose its status as a law enforcement unit if it also performs other, nonlaw enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.
- (3) Records of a law enforcement unit means those records, files, documents, and other materials that are:
- (a) Created by a law enforcement unit;
 - (b) Created for a law enforcement purpose; and

- (c) Maintained by the law enforcement unit.
- (4) Records of a law enforcement unit does not mean:
 - (a) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or
 - (b) Records created and maintained by a law enforcement unit exclusively for a nonlaw enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.
- (5) Nothing in this rule prohibits an educational agency or institution from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, state, or federal law.
- (6) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act, including the disclosure provisions of OAR 581-021-0330, while in the possession of the law enforcement unit.
- (7) This rule neither requires nor prohibits the disclosure by an educational agency or institution of its law enforcement unit records.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

332.531. Law enforcement agency; personnel as peace officers.

- (1) The district school board of any school district may establish a law enforcement agency and employ such personnel as may be necessary to insure the safety of school district personnel and students upon and in the vicinity of school district premises and the security of the real and personal property owned, controlled or used by or on behalf of the school district.
- (2) Persons employed and compensated as members of a law enforcement agency of a school district, when appointed and duly sworn, are peace officers as defined in ORS 161.015 (4), but only for the purpose of carrying out the duties of their employment. They are not police officers within the meaning of ORS 243.736.
- (3) The district school board may:
 - (a) Provide for uniforms, badges, and other identification of members of such law enforcement agency;
 - (b) Withdraw or withhold from any person employed as a member of such law enforcement agency any part or all of the powers otherwise conferred by law upon peace officers; and
 - (c) Define the duties of persons employed as members of such law enforcement agency and assign additional duties to such persons as it may deem appropriate.

(4) Between meetings of the district school board, the district superintendent or the deputy of the superintendent shall have power to suspend any person employed as a member of such law enforcement agency pending review of such action as soon as practicable by the district school board.

339.312. Safe school alliance.

School districts are encouraged to form a safe school alliance composed of schools, law enforcement agencies, juvenile justice agencies and district attorneys. The purpose of a safe school alliance is to provide the safest school environment possible.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

339.341. Statewide School Safety and Prevention System; rules.

(3) The system required under this section shall consist of the following:

(c) Assistance to school districts and education service districts in implementing a multidisciplinary student safety assessment system to identify, assess and support students who present a potential risk for violence to others. Multidisciplinary school safety assessment teams shall be made available to assist each school district and education service district in assessing students who are engaged in violence or who are posing a threat of violence to others. The teams shall:

- (A) Assess potential danger and identify circumstances and risk factors that may increase risk for potential violence;
- (B) Develop management and intervention plans in collaboration with community partners; and
- (C) Connect students and families to community resources and supports.

REGULATIONS

257-095-0040. Responsibilities.

(1) Department of State Police is responsible for:

- (a) Establishing a statewide tip line for students and other members of the public to confidentially report information concerning threats or potential threats to student safety;
- (b) The ownership and management of data entered into the SSTL;
- (c) Following all records retention laws and other applicable laws and rules;
- (d) Analyzing and interpreting data entered into the SSTL to help schools improve their response to safety issues;
- (e) Maintaining strict confidentiality of confidential information received through tips, documents and communications submitted to the SSTL;
- (f) Coordinating outreach and programmatic support to schools, school districts, Education Service Districts, law enforcement agencies and service providers involved in or entering the program;
- (g) Establishing a process for documenting the closure of tips and ensuring that the process is being used.
- (h) Generating analysis, reports and studies. Analysis, reports and studies shall contain only aggregated information and shall not contain any information that personally identifies reporters or any

students. Reports may contain aggregated information concerning how referrals were handled by local law enforcement and service providers and the outcomes of the referrals.

(i) Ensuring training materials explain that reporters may make an anonymous report or, if they identify themselves, how their identity is protected and how it may be shared as set out in OAR 291-095-0080(2).

(j) Where possible, incorporate information on behavioral health treatment services standards under OAR chapter 309, division 019 in training and presentation information.

(2) The SSTL vendor contracted by the Department of State Police is responsible for:

(a) Receiving SSTL tips via phone, email, application on a mobile device, website submission and text message as described in OAR 257-095-0060 and processing those tips;

(b) Ensuring adequate staffing of Tip Line Technicians to handle tip volume;

(c) Ensuring SSTL is functional and capable of operation 24 hours per day, seven days per week;

(d) Providing SSTL database access and the ability to extract data for analysis to designated persons authorized by the Department of State Police;

(e) Following up on reported tips and documenting the status of tips through the SSTL;

(f) Prompting schools to provide updated responsible staff and service provider, if applicable, contact information on a regular basis;

(g) Providing physical and online information security protection including administrative, technical, and physical safeguards to protect assets and data from loss, misuse, unauthorized access, disclosure, alteration, and destruction.

(h) Ensuring Tip Line Technicians have the requested qualifications, training, and experience in taking crisis calls.

(i) Maintaining a policy and procedure manual that contains specific protocols to be used depending on the nature of the tip as well as general procedures regarding interviews and taking information.

(3) The schools, school districts or Education Service Districts are responsible for:

(a) Determining, keeping current, and providing to the SSTL lists of responsible staff and service providers capable of handling tips relayed to the school, school district or Education Service District by the SSTL;

(b) Verifying the authenticity and validity of received reported threat to student safety or potential threat to student safety;

(c) Forwarding tip information to law enforcement or service providers as appropriate;

(d) Following up on assigned tips, providing information about updates and outcomes to the SSTL to the extent not prohibited by any applicable federal or state confidentiality provisions, and closing tips through the SSTL.

257-095-0050. Incident reportable through the School Safety Tip Line Program.

Threats to student safety or potential threats to student safety that are reportable to the SSTL include, but are not limited to harassment, intimidation or bullying, cyberbullying, suicide or self-harm and violence against others

257-095-0060. Receipt of tips of reportable incidents.

Tips received via the SSTL are classified and processed for appropriate school, school district or Education Service District, local law enforcement or service provider response.

(1) When the SSTL receives an incoming communication, the Tip Line Technician shall:

(a) Ask the caller's identity (for tips provided via phone and text) or confirm the identity of the person making the tip (for tips provided via website or application on a mobile device). If the person making the tip does not wish to disclose their identity, the Tip Line Technician shall also accept an anonymous tip;

(b) The Tip Line Technician shall immediately assess the situation and ensure that students (and others) are safe from harm. The Tip Line Technician may not delay in contacting responders and/or school officials if there is an immediate threat to safety;

(c) Tip Line Technicians will attempt to capture and confirm the following data by asking questions identified on templates. Components of this factual accounting process may include but are not limited to:

(i) Who is/was involved in the incident? The name of any person reported to be involved in the incident must be documented. The reporter may choose to be anonymous;

(ii) The school where the individual making the tip (if applicable) and student(s) involved are enrolled and the age of the students involved;

(iii) Specific details about the location of incident (i.e. building name/number, floor, room number, etc.);

(iv) Whether the individual reporting an incident is reporting about him/herself or another party;

(v) If more than one person is involved in the incident, the relationship, if any, of those other individuals to the school or school system;

(vi) What happened, (who did/said what to whom, etc.);

(vii) When the incident occurred (time and date, prior events if any);

(viii) Whether a school staff member was notified, and how the school responded;

(ix) Whether treatment by a service provider was sought;

(x) Name of additional institutions/agencies involved.

(d) Tip Line Technicians will use their training and expertise to categorize by type of incident and prioritize a reported or potential threat to school safety by defined level of urgency for response.

(2) The SSTL software may capture Caller ID information, email addresses, and/or Internet Protocol (IP) addresses as part of the technical solution. This information will only be retrieved, used or disclosed in accordance with Oregon Law and these rules.

(3) The Tip Line Technician shall log all tip information into the SSTL system and transmit the tip electronically to the appropriate school, school district or Education Service District, service provider or local law enforcement contacts.

257-095-0070. Tip examination, classification and referrals.

(1) Once a tip is received by the SSTL, Tip Line Technicians shall classify the reported tip based on a pre-identified set of values to designate the level of threats to student safety and level of response needed;

(2) Tips received by Tip Line Technicians shall be referred to the appropriate school, school district or Education Service District, service provider or law enforcement;

(a) Suspicious activity or non-criminal, school-safety concerns (i.e. general tips about bullying, suspicious behavior/actions discovered on social media, fights between students, reports of individuals on school grounds who may not have an appropriate reason for being there) will be routed to schools, school districts, Education Service Districts, school administrators, service providers and also to local law enforcement if the severity of the incident warrants a law enforcement response;

- (b) Tips concerning potential criminal activity shall be forwarded to the appropriate law enforcement agency for that jurisdiction in addition to the notifications in subsection (2)(a);
- (3) When an incoming tip received by the SSTL presents or appears to present a situation of immediate danger or threat of serious harm, the Tip Line Technician shall immediately contact the appropriate law enforcement contacts, appropriate education provider contacts, or service providers relaying all known information about the tip;
- (4) When Tip Line Technicians determine it appropriate based on the nature of the tip and their training and experience, they will forward the tip to other hotlines that are available for reports of violence or crisis prevention;
- (5) Tips or requests for social services that are not within the scope of the program will be referred to other hotlines or resources as available;
- (6) The Tip Line Technician shall document in the SSTL system the person[s] to whom the tip was referred.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Oregon provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Everyday Matters - Increasing Regular Attendance and Reducing Chronic Absenteeism, Oregon Department of Education (ODE)	Provides resources and information on chronic absenteeism, including an overview of the Oregon Statewide Chronic Absenteeism Plan and links to resources and relevant research.	https://www.oregon.gov/ode/students-and-family/healthsafety/Pages/Chronic-Absenteeism.aspx
Health, Safety & Wellness, ODE	Provides resources and information on a range of health and safety related topics, including safe and inclusive schools, school health, and chronic absenteeism.	https://www.oregon.gov/ode/students-and-family/healthsafety/Pages/default.aspx
Positive Behavioral Interventions and Supports (PBIS), ODE	Defines Positive Behavioral Interventions and Supports (PBIS) and provides links to information on best practices in special education settings including Oregon's Response to Instruction and Intervention Initiative (Or-RTII) and Multi-Tiered System of Supports (MTSS).	https://www.oregon.gov/ode/students-and-family/SpecialEducation/RegPrograms_BestPractice/Pages/Positive-Behavioral-Interventions-and-Supports.aspx
School Discipline, Bullying, Restraint and Seclusion, ODE	Provides links to resources and tools related to discipline, bullying, restraint and seclusion.	http://www.oregon.gov/ode/students-and-family/healthsafety/Pages/School-Discipline,-Bullying,-Restraint-and-Seclusion.aspx
Title	Description	Website address (if applicable)
Documents		
Discipline Incidents Collection Manual (Revised May 2023), ODE	Manual providing guidance related to data reporting of discipline incidents.	https://odedistrict.oregon.gov/CollectionsValidations/Collections/Pages/DisciplineIncidents.aspx
Every Student Belongs Guidance on the Issue of Bullying (August 2021), ODE	A question and answer document that provides information to school personnel, parents, students, and community members regarding the rules and processes in place that	https://www.oregon.gov/ode/students-and-family/healthsafety/Documents/bullyin guidance.pdf

Title	Description	Website address (if applicable)
	address harassment, intimidation, and bullying in Oregon's public schools.	
HB 4002: Oregon Statewide Chronic Absenteeism State Plan (December 2016), ODE	Statewide education plan addressing chronic absences of students in Oregon public schools.	https://www.oregon.gov/ode/students-and-family/healthsafety/Documents/Oregon%20Chronic%20Absenteeism%20State%20Plan.pdf
Multi-Tiered System of Supports, OSDE	Document provides brief overview of MTSS and targeted indicators. Document also includes links to resources for further implementation guidance of MTSS.	https://www.oregon.gov/ode/students-and-family/GraduationImprovement/Documents/MTSS.pdf
Requirements for District Safety, Alcohol, Tobacco, and Other Drug and Violence Prevention Plans (March 2012), ODE	Guidance document assisting schools and districts with identifying the specific elements required to meet the planning provisions of the federal No Child Left Behind Act, Oregon Administrative Rule 581-022-1420 and Oregon Administrative Rule 581- 022-0413.	https://www.oregon.gov/ode/students-and-family/healthsafety/Documents/distplannreq-3-26-2012.pdf
Title	Description	Website address (if applicable)
Other Resources		
Oregon State Discipline Media Files, ODE	Statewide compilation of discipline data, including number of students involved in in-school and out-of-school discipline by grade, race, and offense category.	https://www.oregon.gov/ode/students-and-family/healthsafety/Pages/DisciplineRestraintSeclusionCollections.aspx
Discipline Flow Chart, Guidance Regarding Discipline of Special Education Students Under IDEA 2004, (January 2019), ODE	Discipline flow chart detailing procedures for disciplining students who are eligible for special education and students for whom the school is deemed to have knowledge that the child might have a disability.	http://www.oregon.gov/ode/students-and-family/healthsafety/Documents/disciplineflowchart.pdf
Restraint and Seclusion Incidents Manual (Revised May 2023), ODE	Manual providing guidance related to data reporting of restraint and seclusion incidents.	https://odedistrict.oregon.gov/CollectionsValidations/Collections/Pages/RestraintSeclusionCollections.aspx
Seclusion Rooms Data Collection Manual (May 2023), ODE	Manual providing guidance related to data reporting of seclusion rooms.	https://odedistrict.oregon.gov/CollectionsValidations/Collections/Pages/RestraintSeclusionCollections.aspx



Pennsylvania Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

24 P.S. § 13-1303.1-A. Policy relating to bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c)(relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

24 P.S. § 13-1317.3. Uniforms.

The board of directors in any school entity may impose limitations on dress and may require pupils to wear standard dress or uniforms. Dress policies may be applicable throughout the school entity or may be applicable to one or more school buildings within the school entity.

REGULATIONS

22 Pa. Code § 11.41. School district policies and rules.

(a) Each school board shall adopt written policies concerning district child accounting, attendance, admission, excusal and program procedures as necessary to implement this chapter. The policies shall be a matter of public record.

(b) Each school board shall adopt, and distribute yearly to parents, written rules governing student admissions, attendance, absences and excusals, that are in conformity with this chapter.

(c) Each school board shall adopt a written policy permitting students to be excused for participation in agricultural fairs in conformity with section 1329(b) of the Public School Code of 1949 (24 P. S. § 13- 1329.(b)).

22 Pa. Code § 12.3. School rules.

(a) The governing board has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.

(b) Governing boards may not make rules that are arbitrary, capricious, discriminatory or outside their grant of authority from the General Assembly. A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.

(c) Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students' rights and responsibilities as outlined in this chapter. This conduct code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.

Scope

LAWS

24 P.S. § 13-1317. Authority of teachers, vice principals and principals over pupils.

Every teacher, vice principal and principal in the public schools shall have the right to exercise the same authority as to conduct and behavior over the pupils attending his school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them.

REGULATIONS

22 Pa. Code § 10.1. Purpose.

The purpose of this chapter is to establish and maintain a cooperative relationship between school entities and local police departments in the reporting and resolution of incidents that occur on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

Communication of Policy

LAWS

24 P.S. § 5-510.2. Publication of rules, regulations and policies.

The board of school directors of a school district shall post on its publicly accessible Internet website the following rules, regulations and policies to the extent that they are required to be adopted by the school district under Federal or State law:

- (1) The following relating to students:
 - (i) Admission of beginners.
 - (ii) Attendance, excusals and truancy.
 - (iii) Withdrawal from school.
 - (iv) Student discipline.
 - (v) Suspension and expulsion of students.
 - (vi) Searches.
 - (vii) Audio interception on school buses or school vehicles for disciplinary or security persons.
 - (viii) Retention, maintenance and access to student records.
 - (ix) Use of personal electronic devices.
 - (x) Dress and grooming.
 - (xi) Student complaint process.
 - (xii) Parent appeal of a school district's placement of twins or multiple birth siblings.
 - (xiii) Participation by home school students in school district extracurricular activities.

24 P.S. § 13-1303.1-A. Policy relating to bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the

policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

REGULATIONS

22 Pa. Code § 11.41. School district policies and rules.

- (a) Each school board shall adopt written policies concerning district child accounting, attendance, admission, excusal and program procedures as necessary to implement this chapter. The policies shall be a matter of public record.
- (b) Each school board shall adopt, and distribute yearly to parents, written rules governing student admissions, attendance, absences and excusals, that are in conformity with this chapter.
- (c) Each school board shall adopt a written policy permitting students to be excused for participation in agricultural fairs in conformity with section 1329(b) of the Public School Code of 1949 (24 P. S. § 13- 1329.(b)).

22 Pa. Code § 12.3. School rules.

- (a) The governing board has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.
- (b) Governing boards may not make rules that are arbitrary, capricious, discriminatory or outside their grant of authority from the General Assembly. A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.
- (c) Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students' rights and responsibilities as outlined in this chapter. This conduct code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

24 P.S. § 13-1317. Authority of teachers, vice principals and principals over pupils.

Every teacher, vice principal and principal in the public schools shall have the right to exercise the same authority as to conduct and behavior over the pupils attending his school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

- (1) Conflict resolution or dispute management, including restorative justice strategies.

24 P.S. § 13-1306-B. School safety and security grant program.

(j) Specific purposes. The committee shall provide grants to school entities for programs that address school mental health and safety and security, including:

- (2) Conflict resolution or dispute management, including restorative justice strategies.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

22 Pa. Code § 12.5. Corporal punishment.

- (a) Corporal punishment is defined as physically punishing a student for an infraction of the discipline policy. Use of corporal punishment is prohibited.
- (b) Teachers and school authorities may use reasonable force under the following circumstances:
- (1) To quell a disturbance.
 - (2) To obtain possession of weapons or other dangerous objects.
 - (3) For the purpose of self-defense.
 - (4) For the protection of persons or property.

22 Pa. Code § 12.16. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Corporal punishment - A form of physical discipline that is intended to cause pain and fear and in which a student is spanked, paddled or hit on any part of the body with a hand or instrument.

22 Pa. Code § 14.133. Positive behavior support.

- (e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:
- (1) Corporal punishment.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

22 Pa. Code § 12.14. Searches.

- (a) The governing board of every school entity shall adopt reasonable policies and procedures regarding student searches. The local education agency shall notify students and their parents or guardians of the policies and procedures regarding student searches.
- (b) Illegal or prohibited materials seized during a student search may be used as evidence against the student in a school disciplinary proceeding.
- (c) Prior to a locker search, students shall be notified and given an opportunity to be present. When school authorities have a reasonable suspicion that the locker contains materials that pose a threat to the health, welfare or safety of students in the school, student lockers may be searched without prior warning.

Restraint and Seclusion

LAWS

24 P.S. § 13-1317.2. Possession of weapons prohibited.

(a) Except as otherwise provided in this section, a school district or area career and technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area career and technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area career and technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area career and technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

24 P.S. § 14-1401-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Education of the Commonwealth.

"Individualized educational program" or "IEP." An individualized education program established under 22 Pa. Code Ch. 14 (relating to special education services and programs).

"Private academic school." A private academic school as defined in section 2 of the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act, which is licensed under the requirements of the Private Academic Schools Act.

"Program." The Drug and Alcohol Recovery High School Program established under section 1402-A.

"Recovery high school." The school designated to serve as the drug and alcohol recovery high school for purposes of the program under section 1402-A(b).

"Resident school district." The school district in which the parent of a student enrolled in the recovery high school under the program resides.

24 P.S. § 14-1403-A. Scope of program and selection of students.

(a) Maximum participation.- Beginning in the 2017-2018 school year, a maximum of 20 students in grades 9 through 12 may be enrolled in the recovery high school under the program at any one time.

(b) Vacancies.- If a student enrolled in the recovery high school under the program withdraws or graduates from the recovery high school, the vacancy may be filled by another student.

(c) Student requirements.- A student may enroll in the recovery high school under the program if the following apply:

(1)(i) Subject to subparagraph (ii), the student resides in a school district of the first class, which has approved the student's enrollment in the recovery high school under the program and, with the written consent of the student's parent or guardian, has applied for enrollment in the recovery high school on the student's behalf.

(ii) If fewer than 20 students residing in a school district of the first class enroll in the recovery high school under the program at any time under subparagraph (i), a student who resides in a school district other than a school district of the first class may enroll in the recovery high school under the program if the student's resident school district has approved the student's enrollment in the recovery high school under the program and, with the written consent of the student's parent or guardian, has applied for enrollment in the recovery high school on the student's behalf.

(2) The student has at least 30 days of sobriety at the time of application for enrollment.

(3) The student commits to participate in a recovery plan, including, but not limited to, school-based drug testing, as designed by the recovery high school and approved by the Department of Drug and Alcohol Programs.

(4) The recovery high school approves the student's enrollment in the recovery high school. A determination by the recovery high school not to approve a student's enrollment in the recovery high school may not be appealed to the department.

(d) Approval or disapproval by resident school district.- Within 30 days after a student's parent or guardian submits a written request to the resident school district seeking the student's enrollment in the recovery high school under the program, the resident school district shall issue written notice to the parent or guardian approving or disapproving the request.

(e) Hearing.- If a parent or guardian disagrees with a resident school district's disapproval of the student's enrollment in the recovery high school under the program, the following shall apply:

(1) For a student with an IEP, the due process hearing requirements of 22 Pa. Code Ch. 14 (relating to special education services and programs) shall apply.

(2) For a student without an IEP, the resident school district shall follow a notice and hearing process that the department shall develop and post on its publicly accessible Internet website.

(3) If a student's enrollment in the recovery high school under the program is not approved by the student's resident school district or if the student's parent or guardian chooses not to participate in the program established under section 1402-A, the student's parent or guardian may pay the student's tuition to enroll in the recovery high school, provided that the recovery high school has approved the student's enrollment in the recovery high school.

24 P.S. § 14-1408-A. Audit required.

The recovery high school shall submit annually to the Secretary of Education, the Secretary of Drug and Alcohol Programs, the chairperson and minority chairperson of the Education Committee of the Senate, the chairperson and minority chairperson of the Education Committee of the House of Representatives, the chairperson and minority chairperson of the Public Health and Welfare Committee of the Senate and the chairperson and minority chairperson of the Health Committee of the House of Representatives a complete certified audit of the recovery high school's participation in the program. The audit shall be conducted by a qualified independent certified public accountant under generally accepted audit standards of the Governmental Accounting Standards Board and paid for by the department.

24 P.S. § 19-1903-C. Alternative education grants.

(1) A school entity may contract with a private alternative education institution.

(2) A contract under this section shall specify the policies established by the school entity to identify those students who are eligible for assignment to the institution and assure that the placement of a student will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c)(relating to hearings). Notice of the hearing should precede placement in the institution. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) A private alternative education institution shall:

(i) Be exempt from statutory requirements established in this act and from regulations of the State Board of Education and standards of the Secretary of Education, except the following: sections 111, 325, 326, 327, 431, 436, 437, 443, 518, 527, 736, 737, 738, 739, 740, 741, 753, 755, 771, 809, 810, 1112(a), 1303(a), 1317, 1317.1, 1317.2, 1327, 1332, 1361, 1366, 1501, 1513, 1517, 1518, 1546 and 1547 of this act; Articles XIII-A and XIV of this act; 22 Pa. Code Chs. 4 (relating to academic standards and assessment); 11 (relating to pupil attendance) and 14 (relating to special education services and programs); act of July 17, 1961 (P.L. 776, No. 341), known as the "Pennsylvania Fair Educational Opportunities Act"; and regulations promulgated pursuant to this article.

(ii) Comply with all Federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion or ancestry and shall provide for enrollment and hiring in a nondiscriminatory manner.

(iii) Be nonsectarian in all operations and shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the institution.

(iv) Be subject to any additional requirements established through regulation.

(v) Submit an application to the Department of Education as prescribed by the Department of Education.

(4) A private alternative education institution shall submit an annual report to the Department of Education containing information required by the Department of Education.

(5) A private alternative education institution that makes an application for approval to operate shall submit initial and renewal applications along with a fee of one thousand dollars (\$1,000) as prescribed by

the Department of Education. The funds collected shall be deposited into the Alternative Education Program Account established in section 1902-C(b).

24 P.S. § 21-2134. Placement of certain adjudicated students.

(a) No student returning from placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom.

(b) Prior to returning such student to the regular classroom, the school district shall:

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

(c) The transition plan developed under subsection (b)(2) may provide for the student's direct return to a regular classroom where the underlying offense did not involve any of the following:

(i) Possession of a weapon.

(ii) Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Possession, use or sale of alcohol or tobacco by any person on school property.

(iv) An act of violence as defined in section 1310-A(h)

(d) In the case of a student whose transition plan does not include immediate return to the regular classroom, the student shall be placed in one of the following as provided for in the student's transition plan:

(1) An alternative education program as defined in Article XIX-C

(2) A private alternative education institution as defined in Article XIX-E

(3) A general education development program.

(4) A program operating after the traditional school day.

(e)(1) Prior to the release of a student subject to this section from a residential or day treatment placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or returning from incarceration as a result of having been adjudged to have committed a crime under an adult criminal proceeding, the court shall provide to the person designated in charge of the school district's transition center the information required in the school notification provision under 42 Pa.C.S. § 6341(b.1)(relating to adjudication).

(2) The information shall be updated by the court with information pertaining to treatment reports and supervision plans or any other information deemed necessary by the transition plan and assure appropriate placement of the student.

REGULATIONS

22 Pa. Code § 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans

must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques - Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support - The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans - A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints -

(i) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.

(ii) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

(iii) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's or eligible young child's IEP when the following conditions apply:

(i) The restraint is utilized with specific component elements of positive behavior support.

- (ii) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
 - (iii) Staff are authorized to use the procedure and have received the staff training required.
 - (iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.
- (3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.
- (4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.
- (5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department.
- (d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.
- (e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:
- (1) Corporal punishment.
 - (2) Punishment for a manifestation of a student's disability.
 - (3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.
 - (4) Noxious substances.
 - (5) Deprivation of basic human rights, such as withholding meals, water or fresh air.
 - (6) Suspensions constituting a pattern under § 14.143(a)(relating to disciplinary placement).
 - (7) Treatment of a demeaning nature.
 - (8) Electric shock.
- (f) School entities have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures as provided in subsection (c).
- (g) In accordance with their plans, agencies may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.
- (h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

24 P.S. § 13-1317.2. Possession of weapons prohibited.

(a) Except as otherwise provided in this section, a school district or area career and technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area career and technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area career and technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area career and technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

24 P.S. § 13-1318. Suspension and expulsion of pupils.

Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the district superintendent or secretary of the board of school directors. The board may, after a proper hearing, suspend such child for such time as it may determine, or may permanently expel him. Such hearings, suspension, or expulsion may be delegated to a duly authorized committee of the board, or to a duly qualified hearing examiner, who need not be a member of the board, but whose adjudication must be approved by the board.

REGULATIONS

22 Pa. Code § 12.6. Exclusions from school.

- (a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519 - 300.529 (relating to discipline procedures).
- (b) Exclusion from school may take the form of suspension or expulsion.
- (1) Suspension is exclusion from school for a period of from 1 to 10 consecutive school days.
- (i) Suspensions may be given by the principal or person in charge of the public school.
- (ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.
- (iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.
- (iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c)(relating to hearings).
- (v) Suspensions may not be made to run consecutively beyond the 10 school day period.
- (vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.
- (2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.
- (c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).
- (d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.
- (e) Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.
- (1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400. - 1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b)(relating to free education and attendance).

Limitations or Conditions on Exclusionary Discipline

LAWS

No relevant laws found.

REGULATIONS

22 Pa. Code § 14.143. Disciplinary placements.

(a) Notwithstanding the requirements incorporated by reference in 34 CFR 300.530(b) and 300.536 (relating to authority of school personnel; and change of placement because of disciplinary removals), a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement.

(b) A removal from school is a change of placement for a student who is identified with mental retardation, except if the student's actions are consistent with 34 CFR 300.530(g)(1) - (3)(relating to authority of school personnel).

Due Process

LAWS

24 P.S. § 13-1318. Suspension and expulsion of pupils.

Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the district superintendent or secretary of the board of school directors. The board may, after a proper hearing, suspend such child for such time as it may determine, or may permanently expel him. Such hearings, suspension, or expulsion may be delegated to a duly authorized committee of the board, or to a duly qualified hearing examiner, who need not be a member of the board, but whose adjudication must be approved by the board.

REGULATIONS

22 Pa. Code § 12.6. Exclusions from school.

(a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519 - 300.529 (relating to discipline procedures).

(b) Exclusion from school may take the form of suspension or expulsion.

(1) Suspension is exclusion from school for a period of from 1 to 10 consecutive school days.

- (i) Suspensions may be given by the principal or person in charge of the public school.
- (ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.
- (iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.
- (iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c)(relating to hearings).
- (v) Suspensions may not be made to run consecutively beyond the 10 school day period.
- (vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.

(2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.

- (c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).
- (d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.
- (e) Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.

(1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400. - 1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b)(relating to free education and attendance).

22 Pa. Code § 12.8. Hearings.

(a) General. Education is a statutory right, and students shall be afforded due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing.

(b) Formal hearings. A formal hearing is required in all expulsion actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student. The following due process requirements shall be observed with regard to the formal hearing:

- (1) Notification of the charges shall be sent to the student's parents or guardians by certified mail.
 - (2) At least 3 days' notice of the time and place of the hearing shall be given. A copy of the expulsion policy, notice that legal counsel may represent the student and hearing procedures shall be included with the hearing notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.
 - (3) The hearing shall be held in private unless the student or parent requests a public hearing.
 - (4) The student may be represented by counsel, at the expense of the parents or guardians, and may have a parent or guardian attend the hearing.
 - (5) The student has the right to be presented with the names of witnesses against the student, and copies of the statements and affidavits of those witnesses.
 - (6) The student has the right to request that the witnesses appear in person and answer questions or be cross-examined.
 - (7) The student has the right to testify and present witnesses on his own behalf.
 - (8) A written or audio record shall be kept of the hearing. The student is entitled, at the student's expense, to a copy. A copy shall be provided at no cost to a student who is indigent.
 - (9) The proceeding shall be held within 15 school days of the notification of charges, unless mutually agreed to by both parties. A hearing may be delayed for any of the following reasons, in which case the hearing shall be held as soon as reasonably possible:
 - (i) Laboratory reports are needed from law enforcement agencies.
 - (ii) Evaluations or other court or administrative proceedings are pending due to a student invoking his rights under the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400. - 1482).
 - (iii) In cases in juvenile or criminal court involving sexual assault or serious bodily injury, delay is necessary due to the condition or best interests of the victim.
 - (10) Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.
- (c) Informal hearings. The purpose of the informal hearing is to enable the student to meet with the appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.
- (1) The informal hearing is held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses might be avoided.
 - (2) The following due process requirements shall be observed in regard to the informal hearing:
 - (i) Notification of the reasons for the suspension shall be given in writing to the parents or guardians and to the student.
 - (ii) Sufficient notice of the time and place of the informal hearing shall be given.
 - (iii) A student has the right to question any witnesses present at the hearing.
 - (iv) A student has the right to speak and produce witnesses on his own behalf.
 - (v) The school entity shall offer to hold the informal hearing within the first 5 days of the suspension.

Return to School Following Removal

LAWS

24 P.S. § 19-1901-C. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) "Alternative education program" or "program." Any applicant's program applying for funds under this article, which program is implemented by a school district, an area career and technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum.

Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts and private alternative education institutions operating pursuant to the provisions of Article XIX-E shall adopt a policy for periodic review of those students placed in their respective alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's or private alternative education institution's discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.

24 P.S. § 21-2134. Placement of certain adjudicated students.

(a) No student returning from placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom.

(b) Prior to returning such student to the regular classroom, the school district shall:

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

(c) The transition plan developed under subsection (b)(2) may provide for the student's direct return to a regular classroom where the underlying offense did not involve any of the following:

(i) Possession of a weapon.

(ii) Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Possession, use or sale of alcohol or tobacco by any person on school property.

(iv) An act of violence as defined in section 1310-A(h)

(d) In the case of a student whose transition plan does not include immediate return to the regular classroom, the student shall be placed in one of the following as provided for in the student's transition plan:

(1) An alternative education program as defined in Article XIX-C

(2) A private alternative education institution as defined in Article XIX-E

- (3) A general education development program.
- (4) A program operating after the traditional school day.
- (e)(1) Prior to the release of a student subject to this section from a residential or day treatment placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or returning from incarceration as a result of having been adjudged to have committed a crime under an adult criminal proceeding, the court shall provide to the person designated in charge of the school district's transition center the information required in the school notification provision under 42 Pa.C.S. § 6341(b.1)(relating to adjudication).
 - (2) The information shall be updated by the court with information pertaining to treatment reports and supervision plans or any other information deemed necessary by the transition plan and assure appropriate placement of the student.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

- (13) Alternative education programs provided for in Article XIX-C.
- (14) Counseling services for students enrolled in alternative education programs.

P.S. § 19-1901-C. Definitions.

For purposes of this article, the following terms shall have the following meanings:

- (1) "Alternative education program" or "program." Any applicant's program applying for funds under this article, which program is implemented by a school district, an area career and technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum. Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts and private alternative education institutions operating pursuant to the provisions of Article XIX-E shall adopt a policy for periodic review of those students placed in their respective alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's or private alternative education institution's discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.
- (2) "Applicant." A school district, a combination of school districts or a charter school that provides an alternative education program within or to a chartering school district or school districts as the central mission of its charter and that applies for funds under this article.

P.S. § 19-1902-C. Applications.

(a) Applicants shall submit applications at the time, in the manner and containing or accompanied by such information as the department may prescribe but, in any case, shall document the following:

(3) That school personnel assigned to the alternative education program for which funding is sought under this article possess a Level I or Level II Pennsylvania certificate as provided for in 22 Pa. Code Ch. 49 (relating to certification of professional personnel). [...]

(8) An applicant applying for funds under this section that contracts with a private alternative education institution under Article XIX-E shall be exempt from the application requirements in clauses (1), (3) and (6).

(9) Where the applicant is a charter school that provides an alternative education program within or to a chartering school district or school districts as the central mission of its charter, written support for the application from the chartering school district.

(b) A school district, combination of school districts or charter school that makes an application to establish an alternative education program shall submit initial and renewal applications along with a fee of four hundred dollars (\$400) as prescribed by the department. The money collected shall be deposited into a restricted account in the General Fund to be known as the Alternative Education Program Account. The money in the restricted account is hereby appropriated on a continuing basis to the department.

25 P.S. § 19-1903-C. Alternative education grants.

(1) A school entity may contract with a private alternative education institution.

(2) A contract under this section shall specify the policies established by the school entity to identify those students who are eligible for assignment to the institution and assure that the placement of a student will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c)(relating to hearings). Notice of the hearing should precede placement in the institution. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) A private alternative education institution shall:

(i) Be exempt from statutory requirements established in this act and from regulations of the State Board of Education and standards of the Secretary of Education, except the following: sections 111, 325, 326, 327, 431, 436, 437, 443, 518, 527, 736, 737, 738, 739, 740, 741, 753, 755, 771, 809, 810, 1112(a), 1303(a), 1317, 1317.1, 1317.2, 1327, 1332, 1361, 1366, 1501, 1513, 1517, 1518, 1546 and 1547 of this act; Articles XIII-A and XIV of this act; 22 Pa. Code Chs. 4 (relating to academic standards and assessment); 11 (relating to pupil attendance) and 14 (relating to special education services and programs); act of July 17, 1961 (P.L. 776, No. 341), known as the "Pennsylvania Fair Educational Opportunities Act"; and regulations promulgated pursuant to this article.

(ii) Comply with all Federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion or ancestry and shall provide for enrollment and hiring in a nondiscriminatory manner.

(iii) Be nonsectarian in all operations and shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the institution.

(iv) Be subject to any additional requirements established through regulation.

(v) Submit an application to the Department of Education as prescribed by the Department of Education.

(4) A private alternative education institution shall submit an annual report to the Department of Education containing information required by the Department of Education.

(5) A private alternative education institution that makes an application for approval to operate shall submit initial and renewal applications along with a fee of one thousand dollars (\$1,000) as prescribed by the Department of Education. The funds collected shall be deposited into the Alternative Education Program Account established in section 1902-C(b).

25 P.S. § 19-1906-C. Alternative education demonstration grants.

Grants to school districts from funds appropriated for alternative education demonstration grants shall be used only for behavioral programs and programs for disruptive students.

24 P.S. § 19-1901-E. Definitions.

For purposes of this article, the following terms shall have the following meanings:

"Private alternative education institution." An institution operated by an individual or a for-profit or not-for-profit entity to provide alternative education programs as defined in section 1901-C(1).

"School entity." A school district, joint school, charter school, area career and technical school, combination of school districts or intermediate unit.

P.S. § 19-1902-E. Contracts with private alternative education institutions.

(1) A school entity may contract with a private alternative education institution.

(2) A contract under this section shall specify the policies established by the school entity to identify those students who are eligible for assignment to the institution and assure that the placement of a student will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c)(relating to hearings). Notice of the hearing should precede placement in the institution. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) A private alternative education institution shall:

(i) Be exempt from statutory requirements established in this act and from regulations of the State Board of Education and standards of the Secretary of Education, except the following: sections 111, 325, 326, 327, 431, 436, 437, 443, 518, 527, 736, 737, 738, 739, 740, 741, 753, 755, 771, 809, 810, 1112(a), 1303(a), 1317, 1317.1, 1317.2, 1327, 1332, 1361, 1366, 1501, 1513, 1517, 1518, 1546 and 1547 of this act; Articles XIII-A and XIV of this act; 22 Pa. Code Chs. 4 (relating to academic standards and assessment); 11 (relating to pupil attendance) and 14 (relating to special education services and programs); act of July 17, 1961 (P.L. 776, No. 341), known as the "Pennsylvania Fair Educational Opportunities Act"; and regulations promulgated pursuant to this article.

(ii) Comply with all Federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion or ancestry and shall provide for enrollment and hiring in a nondiscriminatory manner.

(iii) Be nonsectarian in all operations and shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the institution.

(iv) Be subject to any additional requirements established through regulation.

(v) Submit an application to the Department of Education as prescribed by the Department of Education.

(4) A private alternative education institution shall submit an annual report to the Department of Education containing information required by the Department of Education.

(5) A private alternative education institution that makes an application for approval to operate shall submit initial and renewal applications along with a fee of one thousand dollars (\$1,000) as prescribed by

the Department of Education. The funds collected shall be deposited into the Alternative Education Program Account established in section 1902-C(b).

P.S. § 19-1903-E. Approval by Department of Education.

(a) A private alternative education institution may not operate in this Commonwealth unless it is approved by the Department of Education.

(b) The Department of Education shall be responsible for evaluating a private alternative education institution's initial application to operate in this Commonwealth, and each private alternative education institution operating in this Commonwealth shall be reevaluated for approval every three years.

(c) The Department of Education may issue guidelines for the operation of a private alternative education institution.

REGULATIONS

22 Pa. Code § 12.6. Exclusions from school.

(d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

18 Pa.C.S. § 912. Possession of weapon on school property.

(a) Definition. - Notwithstanding the definition of "weapon" in section 907 (relating to possessing instruments of crime), "weapon" for purposes of this section shall include but not be limited to any knife, cutting instrument, cutting tool, nun- chuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

(b) Offense defined. - A person commits a misdemeanor of the first degree if he possesses a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school.

(c) Defense. - It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.

24 P.S. § 13-1304-A. Sworn statement.

(a) Prior to admission to any school entity, the parent, guardian or other person having control or charge of a student shall, upon registration, provide a sworn statement or affirmation stating whether the pupil was previously or is presently suspended or expelled from any public or private school of this Commonwealth or any other state for an act or offense involving weapons, alcohol or drugs or for the wilful infliction of injury to another person or for any act of violence committed on school property. The registration shall include the name of the school from which the student was expelled or suspended for the above-listed reasons with the dates of expulsion or suspension and shall be maintained as part of the student's disciplinary record.

(b) Any willful false statement made under this section shall be a misdemeanor of the third degree.

24 P.S. § 13-1311-A. Standing.

(a) If a student in a school district of the first class is a victim of an act of violence involving a weapon on school property and the student who possessed the weapon was not expelled under section 1317.2, the parent or guardian of the victim shall have standing to institute a legal proceeding to obtain expulsion of the student.

(b) The Office of General Counsel shall have standing to bring an action on behalf of a victim or the parent or guardian of a victim of an act of violence in a school in a school district of the first class to modify, clarify or eliminate a consent decree that is related to discipline in the district if, in consultation with the advocate, the Office of General Counsel believes that the action is in the best interests of the students of the school district.

(c)(1) The Executive Director of the Pennsylvania Commission on Crime and Delinquency in consultation with the General Counsel may designate a portion of the funds provided for the safe schools advocate:

(i) For contracts for legal services to assist low-income parents or guardians of victims to obtain legal services for proceedings under subsection (a).

(ii) To challenge a consent decree under subsection (b) or to bring an action under sections 1310- A(c)(5) and 1312-A(a).

- (2) The designation of attorneys to receive funds under this subsection shall be within the discretion of the Office of General Counsel after consultation with the safe schools advocate.
- (3) Designated funds which are not expended under this subsection shall lapse to the General Fund.
- (d) Legal proceedings under this section shall be conducted by an attorney designated by the Office of General Counsel in consultation with the safe schools advocate. The attorney must be a member of the bar in good standing.
- (e) Deleted by 2011, June 30, P.L. 112, No. 24, § 22, effective in 60 days [Aug. 29, 2011].
- (f) As used in this section, "low-income parent or guardian" shall mean a parent whose family income is no greater than two hundred fifty per centum (250%) of the Federal poverty level.

24 P.S. § 13-1317.2. Possession of weapons prohibited.

- (a) Except as otherwise provided in this section, a school district or area career and technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.
- (b) Every school district and area career and technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.
- (c) The superintendent of a school district or an administrative director of an area career and technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).
- (d) The provisions of this section shall not apply to the following:
 - (1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or
 - (2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.
- (e) Nothing in this section shall be construed as limiting the authority or duty of a school or area career and technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.
- (e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.
- (f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:
 - (1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.
 - (2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

26 P.S. § 19-1906-C. Alternative education demonstration grants.

Grants to school districts from funds appropriated for alternative education demonstration grants shall be used only for behavioral programs and programs for disruptive students.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

24 P.S. § 13-1325. Purpose.

The purpose of this subdivision is to improve school attendance and deter truancy through a comprehensive approach to consistently identify and address attendance issues as early as possible with credible intervention techniques in order to:

- (1) Preserve the unity of the family whenever possible as the underlying issues of truancy are addressed.
- (2) Avoid the loss of housing, the possible entry of a child to foster care and other unintended consequences of disruption of an intact family unit.
- (3) Confine a person in parental relation to a child who is habitually truant only as a last resort and for a minimum amount of time.

24 P.S. § 13-1326. Definitions.

When used in this article, the following words and phrases shall have the following meanings: "Citation" shall mean a nontraffic citation or private criminal complaint.

"Compulsory school age" shall mean the period of a child's life from the time the child's parents elect to have the child enter school and which shall be no later than six (6) years of age until the child reaches eighteen (18) years of age. The term does not include a child who holds a certificate of graduation from a regularly accredited, licensed, registered or approved high school.

"Conviction" shall mean a conviction under section 1333.2 for violation of the requirement for compulsory school attendance.

"Court" shall mean a magisterial district court, the Philadelphia Municipal Court or a court of common pleas.

"Department" shall mean the Department of Education of the Commonwealth.

"Educational entity" shall mean a public school district, charter school, regional charter school, cyber charter school or area career and technical school.

"Excused absence" shall mean an absence from school which is permitted under section 1329.

"Governing body" shall mean the board of school directors of a school district or any other governing entity of a school.

"Habitually truant" shall mean six (6) or more school days of unexcused absences during the current school year by a child subject to compulsory school attendance under this article.

"Judge" shall mean a magisterial district judge, a municipal court judge or a judge of a court of common pleas.

"Juvenile act" shall mean the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

"Migratory child" shall mean a child domiciled temporarily in a school district for the purpose of seasonal employment, but not acquiring residence therein, and a child accompanying his or her person in parental relation who is so domiciled.

"Offense" shall mean each citation filed under section 1333.1 for a violation of the requirement for compulsory school attendance under this article regardless of the number of unexcused absences alleged in the citation.

"Person in parental relation" shall mean a:

- (1) Custodial biological or adoptive parent.
- (2) Noncustodial biological or adoptive parent.
- (3) Guardian of the person of a child.
- (4) Person with whom a child lives and who is acting in a parental role of a child.

This definition shall not include any county agency or person acting as an agent of the county agency in the jurisdiction of a dependent child defined under 42 Pa.C.S. § 6302 (relating to definitions). This definition shall not expand the right of a child under any other section of this act.

"School" shall mean the educational entity in which the child is enrolled.

"School attendance improvement conference" shall mean a conference where the child's absences and reasons for the absences are examined in an effort to improve attendance, with or without additional services. The following individuals shall be invited to the conference:

- (1) The child.
- (2) The child's person in parental relation.
- (3) Other individuals identified by the person in parental relation who may be a resource.
- (4) Appropriate school personnel.
- (5) Recommended service providers.

"School day" shall mean the length of time that a child subject to compulsory school attendance is expected to be receiving instruction during a calendar day, as determined by the governing body.

"School year" shall have the same meaning as "school term" as defined in section 102, as applicable to a school district, and as further defined in section 1327(b) for a day school which is operated by a bona fide church or other religious body, section 1327.1(c) for a day school or boarding school accredited by an accrediting association which is approved by the State Board of Education, section 1327.1(d) for a home education program, sections 1501 and 1504 for a public school or a school district, section 1715-A(9) for a charter school, section 1749-A(a)(1) for a cyber charter school and section 1718-A(c) for a regional charter school.

"School-based or community-based attendance improvement program" shall mean a program designed to improve school attendance by seeking to identify and address the underlying reasons for a child's absences. The term may include an educational assignment in an alternative education program, provided the program does not include a program for disruptive youth established pursuant to Article XIX- C.

"Truant" shall mean having incurred three (3) or more school days of unexcused absences during the current school year by a child subject to compulsory school attendance under this article.

"Unexcused absence" shall mean an absence from school which is not permitted by the provisions of section 1329 and for which an approved explanation has not been submitted within the time period and in the manner prescribed by the governing body. An out-of-school suspension may not be considered an unexcused absence.

24 P.S. § 13-1327. Compulsory school attendance.

(a) Except as hereinafter provided, every child of compulsory school age having a legal residence in this Commonwealth, as provided in this article, and every migratory child of compulsory school age, is required to attend a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. In lieu of such school attendance, any child fifteen years of age with the approval of the district superintendent and the approval of the Secretary of Education, and any child sixteen years of age with the approval of the district superintendent of schools, may enroll as a day student in a private trade school or in a private business school licensed by the Department of Education, or in a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board of Career and Technical Education. Except as hereinafter provided, every parent, guardian, or other person having control or charge of any child or children of compulsory school age is required to send such child or children to a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. Such parent, guardian, or other person having control or charge of any child or children, fifteen or sixteen years of age, in accordance with the provisions of this act, may send such child or children to a private trade school or private business school licensed by the Department of Education, or to a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board of Career and Technical Education. Such child or children shall attend such school continuously through the entire term, during which the public schools in their respective districts shall be in session, or in cases of children of migrant laborers during the time the schools are in session in the districts in which such children are temporarily domiciled. The financial responsibility for the education of such children of migrant laborers shall remain with the school district in which such children of migrant laborers are temporarily domiciled; except in the case of special schools or classes conducted by an intermediate unit and approved by the Department of Education or conducted by the Department of Education. The certificate of any principal or teacher of a private school, or of any institution for the education of children, in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language, setting forth that the work of said school is in compliance with the provisions of this act, shall be sufficient and satisfactory evidence thereof. Regular daily instruction in the English language, for the time herein required, by a properly qualified private tutor, shall be considered as complying with the provisions of this section. For the purposes of this section, "properly qualified private tutor" shall mean a person who is certified by the Commonwealth of Pennsylvania to teach in the public schools of Pennsylvania; who is teaching one or more children who are members of a single family; who provides the majority of the instruction to such child or children; and who is receiving a fee or other consideration for such instructional services. No person who would be disqualified from

school employment by the provisions of subsection (e) of section 111 may be a private tutor, as provided for in this section. The private tutor must file a copy of his Pennsylvania certification and the required criminal history record with the student's district of residence superintendent.

(b) A child enrolled in a day school which is operated by a bona fide church or other religious body, and the parent, guardian or other person having control or charge of any such child or children of compulsory school age shall be deemed to have met the requirements of this section if that school provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level or nine hundred ninety (990) hours per year of instruction at the secondary level and:

(1) At the elementary school level, the following courses are taught: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics; safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.

(2) At the secondary school level, the following courses are offered: English, to include language, literature, speech and composition; science, to include biology and chemistry; geography; social studies, to include civics, economics, world history, history of the United States and Pennsylvania; a foreign language; mathematics, to include general mathematics and statistics, algebra and geometry; art; music; physical education; health and physiology; and safety education, including regular and continuous instruction in the dangers and prevention of fires.

The requirements contained in sections 1511 and 1605 of this act shall not apply to such schools. The notarized affidavit of the principal of any such school, filed with the Department of Education and setting forth that such subjects are offered in the English language in such school, whether it is a nonprofit organization, and that such school is otherwise in compliance with the provisions of this act, shall be satisfactory and sufficient evidence thereof. It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the education and training for such child. Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content, faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school.

(c) A child enrolled in a day or boarding school accredited by an accrediting association which is approved by the State Board of Education, and the parent, guardian or other person having designated control or charge of any child or children of compulsory school age shall be deemed to have met the requirements of subsection (a).

(d) Instruction to children of compulsory school age provided in a home education program, as provided for in section 1327.1 of this act, shall be considered as complying with the provisions of this section, except that any student who has been identified pursuant to the provisions of the Education of the Handicapped Act (Public Law 91-230, 20 U.S.C. § 1401 et seq.) as needing special education services, excluding those students identified as gifted and/or talented, shall be in compliance with the requirements of compulsory attendance by participating in a home education program, as defined in section 1327.1, when the program addresses the specific needs of the exceptional student and is approved by a teacher with a valid certificate from the Commonwealth to teach special education or a licensed clinical or certified school psychologist, and written notification of such approval is submitted with the notarized affidavit required under section 1327.1(b). The supervisor of a home education program may request that the school district or intermediate unit of residence provide services that address the specific needs of the exceptional student in the home education program. When the provision of services is agreed to by both the supervisor and the school district or intermediate unit, all services shall be provided in the public schools or in a private school licensed to provide such programs and services.

24 P.S. § 13-1327.2. Attendance policy at charter, regional charter and cyber charter schools.

(a) Each charter, regional charter and cyber charter school shall establish an attendance policy designed to accurately determine when a child who is enrolled in a charter, regional charter or cyber charter school has an unexcused absence, which may differ from the policy of the school district in which the child resides. The policy must conform to the provisions of this act relating to compulsory attendance.

(b) Notwithstanding section 1333.2(a), in the case of a child enrolled in a cyber charter school the venue for the filing of a citation under section 1333.1 shall be based upon the residence of the child. A cyber charter school may participate in a proceeding under sections 1333.1, 1333.2 and 1333.3 in person, by phone conferencing, by video conferencing or by any other electronic means.

(c) Charter, regional charter and cyber charter schools shall report unexcused absences directly to the department annually through the Pennsylvania Information Management System (PIMS).

24 P.S. § 13-1332. Reports of enrollments; attendance and withdrawals; public and private schools.

Every principal or teacher in every public school, and every principal, teacher or tutor in every school other than a public school, and in every institution for children, and every private teacher in every school district, shall, immediately after their admission to such school or institution, or at the beginning of such private teaching, furnish to the district superintendents, attendance officers, home and school visitors, or secretaries of the boards of school directors of the districts wherein the parents or guardians of such children reside, lists of the names and residences of all children between six (6) and eighteen (18) years of age enrolled in such school or institution, or taught by such private teacher; and shall further report at once to such district superintendent, or secretary of the board of school directors, the name and date of withdrawal of any such pupil withdrawing from any such school or institution, or from such private instruction, if such withdrawal occurs during the period of compulsory attendance in said district. Every principal or teacher in a school other than a public school, and every private teacher, shall also report at once to the superintendent, attendance officer, home and school visitor, or secretary of the board of school directors of the district, any such child who has been absent three (3) days, or their equivalent, during the term of compulsory attendance, without lawful excuse.

24 P.S. § 13-1333. Procedure when child is truant.

(a) When a child is truant, the school shall notify in writing the person in parental relation with the child who resides in the same household as the child of the child's violation of compulsory school attendance within ten (10) school days of the child's third unexcused absence. The notice:

- (1) shall include a description of the consequences that will follow if the child becomes habitually truant;
- (2) shall be in the mode and language of communication preferred by the person in parental relation;
- (3) may include the offer of a school attendance improvement conference; or
- (4) when transmitted to a person who is not the biological or adoptive parent, shall also be provided to the child's biological or adoptive parent if the parent's mailing address is on file with the school and the parent is not precluded from receiving the information by court order.

(b) If the child continues to incur unexcused absences after the school has issued the notice under subsection (a), the school shall then offer by advance written notice a school attendance improvement conference to the child and the person in parental relation, unless a conference was previously held following the notice provided under subsection (a). The following shall apply:

- (1) This subsection does not place a legal requirement upon the child or person in parental relation to attend the conference. The conference shall occur even if the person in parental relation declines to participate or fails to attend the scheduled conference after advance written notice and attempts to communicate via telephone.

- (2) The outcome of the conference shall be documented in a written school attendance improvement plan. The department shall develop a form to be used for this purpose, and each school shall use a form substantially similar to the form developed by the department.
- (3) Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed.
- (c) Schools shall not expel or impose out-of-school suspension, disciplinary reassignment or transfer for truant behavior.
- (d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1333.1. Procedure by school when child habitually truant.

- (a) When a child is habitually truant and under fifteen (15) years of age at the time of referral, the school:
 - (1) Shall refer the child to either of the following:
 - (i) A school-based or community-based attendance improvement program.
 - (ii) The county children and youth agency for services or for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
 - (2) May file a citation in the office of the appropriate judge against the person in parental relation who resides in the same household as the child.
- (b) When a child is habitually truant and fifteen (15) years of age or older at the time of referral, the school shall either:
 - (1) Refer the child to a school-based or community-based attendance improvement program or service.
 - (2) File a citation in the office of the appropriate judge against the child or the person in parental relation who resides in the same household as the child.
- (c) If a child who is fifteen (15) years of age or older continues to incur additional unexcused absences after being referred to a school-based or community-based attendance improvement program or refuses to participate in a school-based or community-based attendance improvement program as recommended through the school attendance improvement conference, the school may refer the child to the county children and youth agency for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63.
- (d) When referring a habitually truant child to the county children and youth agency or filing a citation with the court because a child has been habitually truant, the school shall provide verification that a school attendance improvement conference was held.
- (e) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1333.2. Procedure upon filing of citation.

- (a) The venue for the filing of a citation under section 1333.1 shall be based on the location of the school in which the child is enrolled or shall be enrolled except where section 1327.2(b) applies.
- (b) When a citation is filed against a child or a person in parental relation who resides in the same household as the child under the provisions of section 1333.1, the judge shall provide the following notices:
 - (1) Written notice of the hearing with respect to the citation to the school, the person in parental relation, the child and the county children and youth agency.

- (2) Notice to the child or person in parental relation who resides in the same household as the child of the availability of a preconviction diversionary program authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program).
- (c) At the hearing with respect to the citation, the burden is on the school to prove beyond a reasonable doubt that, while subject to compulsory school attendance, the child was habitually and without justification truant from school.
- (d) It shall be an affirmative defense to a citation filed under this subdivision of this article against a person in parental relation to the child who resides in the same household as the child if the person in parental relation to the child who resides in the same household as the child took every reasonable step to ensure attendance of the child at school.
- (e) An affirmative defense under subsection (d) must be proven by a preponderance of the evidence.
- (f) The court shall determine whether the evidence has established that a child or person in parental relation has violated the compulsory school attendance requirements of this article and shall enter that verdict on the record.
- (g) The school shall, to the extent possible, inform the court of any prior conviction of the child or person in parental relation who resides in the same household as the child for a violation of the compulsory school attendance requirement of this article.
- (h) Before entering a sentence the judge shall permit the school, person in parental relation or child to present relevant information that will assist the judge in making an informed decision regarding the appropriate sentence. The child's school attendance after the citation has been filed and while the proceeding is pending may be considered for the purpose of imposing a sentence.

24 P.S. § 13-1333.3. Penalties for violating compulsory school attendance requirements.

- (a) When a child is truant, the school shall notify in writing the person in parental relation with the child who resides in the same household as the child of the child's violation of compulsory school attendance within ten (10) school days of the child's third unexcused absence. The notice:
- (1) shall include a description of the consequences that will follow if the child becomes habitually truant;
 - (2) shall be in the mode and language of communication preferred by the person in parental relation;
 - (3) may include the offer of a school attendance improvement conference; or
 - (4) when transmitted to a person who is not the biological or adoptive parent, shall also be provided to the child's biological or adoptive parent if the parent's mailing address is on file with the school and the parent is not precluded from receiving the information by court order.
- (b) If the child continues to incur unexcused absences after the school has issued the notice under subsection (a), the school shall then offer by advance written notice a school attendance improvement conference to the child and the person in parental relation, unless a conference was previously held following the notice provided under subsection (a). The following shall apply:
- (1) This subsection does not place a legal requirement upon the child or person in parental relation to attend the conference. The conference shall occur even if the person in parental relation declines to participate or fails to attend the scheduled conference after advance written notice and attempts to communicate via telephone.
 - (2) The outcome of the conference shall be documented in a written school attendance improvement plan. The department shall develop a form to be used for this purpose, and each school shall use a form substantially similar to the form developed by the department.
 - (3) Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed.

(c) Schools shall not expel or impose out-of-school suspension, disciplinary reassignment or transfer for truant behavior.

(d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1333.4. Study of truancy procedure.

a) Five (5) years after commencement of the first school year to which section 1333 applies, the Joint State Government Commission shall undertake a study of the procedures for how a school handles children who are truant and habitually truant and evaluate the effectiveness of the procedures in improving school attendance and whether the procedures should be revised, including to require court involvement sooner in certain truancy cases.

(b) The Joint State Government Commission shall establish an advisory committee that may include representatives of the Department of Education, educational entities and organizations, the judiciary, district attorneys, law enforcement, public organizations involved in truancy issues, representatives of county children and youth agencies and juvenile justice agencies and other organizations selected by the Joint State Government Commission to consult with the Joint State Government Commission in conducting the study.

(c) The Joint State Government Commission shall hold informational meetings to receive testimony from professionals or organizations with expertise in truancy and truancy prevention.

(d) The Joint State Government Commission shall issue a report of its findings and recommendations to the Education Committee of the Senate and the Education Committee of the House of Representatives not later than twelve (12) months after undertaking the study.

24 P.S. § 13-1338. Dependent children.

In case any child of compulsory school age cannot be kept in school in compliance with the provisions of this act, on account of incorrigibility, truancy, insubordination, or other bad conduct, or if the presence of any child attending school is detrimental to the welfare of such school, on account of incorrigibility, truancy, insubordination, or other bad conduct, the board of school directors may, by its superintendent, secretary, attendance officer or State, municipal, port authority, transit authority or housing authority police officer, under such rules and regulations as the board may adopt, proceed against said child before the juvenile court, or otherwise, as is now or may hereafter be provided by law for incorrigible, truant, insubordinate, or dependent children.

24 P.S. § 13-1339. Reports to Superintendent of Public Instruction.

Every school district shall report to the Superintendent of Public Instruction upon the enforcement of the provisions for compulsory attendance and the cost thereof, in such detail as said Superintendent of Public Instruction shall request.

24 P.S. § 13-1341. Duty to employ; power of arrest; certification.

(a) The board of school directors of every school district of the first, second, or third class, shall, and in any school district of the fourth class may, employ one or more persons to be known as attendance officers, or home and school visitors, whose duties shall be to enforce the provisions of this act regarding compulsory attendance. Such attendance officers, or home and school visitors, shall, in addition to the duties imposed upon them by the provisions of this act, have full police power without warrant, and may arrest or apprehend any child who fails to attend school in compliance with the provisions of this act, or who is incorrigible, insubordinate, or disorderly during attendance at school or on his way to or from school. All home and school visitors shall be legally certified as such by the Department of Education, upon meeting such standards as shall be prescribed by the State Board of Education.

(b) Any two or more school districts may join in the appointment of an attendance officer on such terms as they may mutually agree upon.

(c) State, municipal, port authority, transit authority, housing authority and school police officers shall have the same arrest powers as attendance officers or home and school visitors.

24 P.S. § 13-1342. Term of employment; compensation.

Attendance officers or home and school visitors may be employed for the full calendar year, and shall be paid such amounts and in such manner as the board of school directors appointing them may decide. They shall at all times perform the duties of their appointment under the direction of the board of school directors appointing them.

In districts of the first class the minimum salaries of attendance officers and home and school visitors in elementary schools shall be: Minimum annual salary, one thousand two hundred dollars (\$ 1200); minimum annual increment, one hundred dollars (\$ 100); minimum number of increments, ten (10). No school district of the first class shall reduce the compensation of any attendance officer below that paid on the second day of July, one thousand nine hundred thirty-seven.

24 P.S. § 13-1343. Arrest of children failing to attend school.

When an attendance officer or a State, municipal, port authority, transit authority, housing authority or school police officer arrests or apprehends any child who fails to attend school as required by the provisions of this act, he shall promptly notify the parents, guardian, or person in parental relation to such child, if such person can be found in the district, and unless requested by such parent, guardian, or person in parental relation to place said child in a school other than public school, he shall place said child in the public school in which the child is, or should be, enrolled.

24 P.S. § 13-1344. Inspecting places where children are employed.

Attendance officers shall have full power and authority to enter, during business hours, any place where any children are employed, to ascertain whether or not any child is engaged therein that should attend school as herein provided, and such attendance officer shall have the right to demand and inspect the employment certificate of any child engaged therein.

24 P.S. § 13-1345. Penalty for interfering with inspections.

Any officer, director, superintendent, manager, employee, or other person, at any place where any child of compulsory school age is engaged, who refuses to permit, or in any way interferes with, the entrance therein of the attendance officer, any member of the board of school directors, the secretary thereof, or the district superintendent of any school district, as provided for in this act, shall, on summary conviction thereof, be sentenced to pay a fine of not less than five dollars (\$ 5) or more than twenty-five dollars (\$ 25), and in default thereof he may be sentenced to imprisonment not exceeding thirty (30) days. Any person sentenced to pay any such fine may, upon giving proper surety in double the amount of penalty and costs, at any time within five (5) days thereafter, appeal to the court of quarter sessions of the proper county.

REGULATIONS

22 Pa. Code § 11.41. School district policies and rules.

(a) Each school board shall adopt written policies concerning district child accounting, attendance, admission, excusal and program procedures as necessary to implement this chapter. The policies shall be a matter of public record.

- (b) Each school board shall adopt, and distribute yearly to parents, written rules governing student admissions, attendance, absences and excusals, that are in conformity with this chapter.
- (c) Each school board shall adopt a written policy permitting students to be excused for participation in agricultural fairs in conformity with section 1329(b) of the Public School Code of 1949 (24 P. S. § 13- 1329.(b)).

22 Pa. Code § 12.1. Free education and attendance.

- (a) All persons residing in this Commonwealth between the ages of 6 and 21 years are entitled to a free and full education in the Commonwealth's public schools.
- (b) Parents or guardians of all children between the ages of 8 and 17 are required by the compulsory attendance law to ensure that their children attend an approved educational institution, unless legally excused. Students who have not graduated may not be asked to leave school merely because they have reached 17 years of age if they are fulfilling their responsibilities as students. A student may not be excluded from the public schools or from extracurricular activities because:
 - (1) The student is married.
 - (2) The student is pregnant.
 - (3) The student has a disability as identified by Chapter 15 (relating to protected handicapped students).
 - (4) The student is an eligible student identified under Chapter 14 (relating to special education services and programs).

Substance Use

LAWS

18 Pa.C.S. § 6306.1. Use of tobacco in schools prohibited.

- (a) Pupils. - A pupil commits a summary offense if the pupil possesses or uses a tobacco product:
 - (1) in a school building;
 - (2) on a school bus or other vehicle owned by, leased by or under the control of a school district; or
 - (3) on school property owned by, leased by or under the control of a school district.
- (a.1) Other persons.
 - (1) Any person, other than a pupil, commits a summary offense if the person uses a tobacco product:
 - (i) in a school building;
 - (ii) on a school bus or other vehicle owned by, leased by or under the control of a school district; or
 - (iii) on school property owned by, leased by or under the control of a school district.
 - (2) The board of school directors may designate certain areas on property owned by, leased by or under the control of the school district where tobacco product use by persons other than pupils is permitted. The areas must be no less than 50 feet from school buildings, stadiums or bleachers.
- (a.2) Policy.
 - (1) The board of school directors shall establish a policy to enforce the prohibition of tobacco product use under this section and may further establish policy relating to tobacco product use at school- sponsored events that are held off school premises.
 - (2) The board of school directors shall notify employees, pupils and parents of the policy developed in accordance with paragraph (1) by publishing the information in a student handbook and parent newsletter and on posters or other efficient means.

(b) Grading. - A pupil who commits an offense under this section shall be subject to prosecution initiated by the local school district and shall, upon conviction, be sentenced to pay a fine of not more than \$ 50 for the benefit of the school district in which such offending pupil resides and to pay court costs. When a pupil is charged with violating subsection (a), the court may admit the offender to an adjudication alternative as authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program) in lieu of imposing the fine.

(c) Nature of offense. - A summary offense under this section shall not be a criminal offense of record, shall not be reportable as a criminal act and shall not be placed on the criminal record of the offending school-age person if any such record exists.

(c.1) Preemption. - This section preempts any municipal ordinance or school board regulation to the contrary.

(d) Definitions.

As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electronic cigarette." -An electronic device that delivers nicotine or other substances through vaporization and inhalation.

"Electronic nicotine delivery system" or "ENDS." -A product or device used, intended for use or designed for the purpose of ingesting a nicotine product. The term includes an electronic cigarette.

"Nicotine product." -A product that contains or consists of nicotine in a form that can be ingested by chewing, smoking, inhaling or any other means.

"Pupil." -A person between the ages of 6 and 21 years who is enrolled in school.

"School." -A school operated by a joint board, board of directors or school board where pupils are enrolled in compliance with Article XIII of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, including a career and technical school, charter school and intermediate unit.

"Tobacco product." -As follows:

(1) The term includes:

(i) Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to, a cigarette, a cigar, a little cigar, chewing tobacco, pipe tobacco, snuff and snus.

(ii) Any electronic device that delivers nicotine or another substance to a person inhaling from the device, including, but not limited to, electronic nicotine delivery systems, an electronic cigarette, a cigar, a pipe and a hookah.

(iii) Any product containing, made or derived from either:

(A) tobacco, whether in its natural or synthetic form; or

(B) nicotine, whether in its natural or synthetic form, which is regulated by the United States Food and Drug Administration as a deemed tobacco product.

(iv) Any component, part or accessory of the product or electronic device under subparagraphs (i), (ii) and (iii), whether or not sold separately.

(2) The term does not include:

(i) A product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such approved purpose, so long as the product is not inhaled.

(ii) A device under paragraph (1)(ii) or (iii) if sold by a dispensary licensed under the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

24 P.S. § 13-1303-A. Reporting.

(a) The office shall conduct a one-time survey of all school entities to determine the number of incidents involving acts of violence on school property and all cases involving possession of a weapon by any person on school property which occurred within the last five (5) years. The survey shall be based on the best available information provided by school entities.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(1) Age or grade of student.

(2) Name and address of school.

(3) Circumstances surrounding the incident, including, but not limited to, type of weapon, controlled substance, alcohol or tobacco, the date, time and location of the incident, if a person other than a student is involved in the incident and any relationship to the school entity.

(3.1) Race of student.

(3.2) Whether the student has an Individualized Education Plan under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.), and if so, the type of disability.

(4) Sanction imposed by the school. (4.1) A list of criminal offenses...

(ii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act." [...]

REGULATIONS

22 Pa. Code § 12.42. Student assistance program.

School entities shall plan and provide for a student assistance program under section 1547(g) of the Public School Code of 1949 (24 P.S. § 15-1547(g) regarding alcohol, chemical and tobacco abuse program).

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

18 Pa.C.S. § 2709. Harassment.

(a) Offense defined. - A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:

- (1) strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same;
- (2) follows the other person in or about a public place or places;
- (3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose;
- (4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures;
- (5) communicates repeatedly in an anonymous manner;
- (6) communicates repeatedly at extremely inconvenient hours; or
- (7) communicates repeatedly in a manner other than specified in paragraphs (4), (5) and

(6). (a.1) Cyber harassment of a child.-

(1) A person commits the crime of cyber harassment of a child if, with intent to harass, annoy or alarm, the person engages in a continuing course of conduct of making any of the following by electronic means directly to a child or by publication through an electronic social media service:

- (i) seriously disparaging statement or opinion about the child's physical characteristics, sexuality, sexual activity or mental or physical health or condition; or
- (ii) threat to inflict harm.

(2)(i) If a juvenile is charged with a violation of paragraph (1), the judicial authority with jurisdiction over the violation shall give first consideration to referring the juvenile charged with the violation to a diversionary program under Pa.R.J.C.P. No. 312 (relating to Informal Adjustment) or No. 370 (relating to Consent Decree). As part of the diversionary program, the judicial authority may order the juvenile to participate in an educational program which includes the legal and nonlegal consequences of cyber harassment.

(ii) If the person successfully completes the diversionary program, the juvenile's records of the charge of violating paragraph (1) shall be expunged as provided for under section 9123 (relating to juvenile records).

18 Pa.C.S. § 2802. Hazing.

(a) Offense defined. - A person commits the offense of hazing if the person intentionally, knowingly or recklessly, for the purpose of initiating, admitting or affiliating a minor or student into or with an organization, or for the purpose of continuing or enhancing a minor or student's membership or status in an organization, causes, coerces or forces a minor or student to do any of the following:

- (1) Violate Federal or State criminal law.
- (2) Consume any food, liquid, alcoholic liquid, drug or other substance which subjects the minor or student to a risk of emotional or physical harm.
- (3) Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements.
- (4) Endure brutality of a mental nature, including activity adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment.

- (5) Endure brutality of a sexual nature.
- (6) Endure any other activity that creates a reasonable likelihood of bodily injury to the minor or student.
- (b) Grading.
 - (1) Except as provided under paragraph (2), hazing is a summary offense.
 - (2) Hazing shall be a misdemeanor of the third degree if it results in or creates a reasonable likelihood of bodily injury to the minor or student.
- (c) Limitation. - Hazing shall not include reasonable and customary athletic, law enforcement or military training, contests, competitions or events.

18 Pa.C.S. § 2803. Aggravated hazing.

- (a) Offense defined. - A person commits the offense of aggravated hazing if the person commits a violation of section 2802 (relating to hazing) that results in serious bodily injury or death to the minor or student and:
 - (1) the person acts with reckless indifference to the health and safety of the minor or student; or
 - (2) the person causes, coerces or forces the consumption of an alcoholic liquid or drug by the minor or student.
- (b) Grading. - Aggravated hazing shall be a felony of the third degree.

18 Pa.C.S. § 2808. Enforcement by institution and secondary school.

- (a) Antihazing policy.
 - (1) Each institution and each governing board of a secondary school shall adopt a written policy against hazing and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with an organization operating under the sanction of or recognized as an organization by the institution or secondary school from engaging in hazing or an offense under this chapter.
 - (2) Each institution shall provide a copy of the policy, including the institution's rules, penalties and program of enforcement to each organization within the institution. Each secondary school shall ensure that students are informed of the secondary school's policy, including the secondary school's rules, penalties and program of enforcement.
 - (3) Each institution and secondary school shall post the policy on the institution's or the secondary school's publicly accessible Internet website.
- (b) Enforcement and penalties.
 - (1) Each institution and each governing board of a secondary school shall provide a program for the enforcement of the policy required under subsection (a) and shall adopt appropriate penalties for violations of the policy to be administered by the individual or agency at the institution or secondary school responsible for the sanctioning or recognition of the organizations covered by the policy.
 - (2) Penalties under paragraph (1) may include any of the following:
 - (i) The imposition of fines.
 - (ii) The withholding of diplomas or transcripts pending compliance with the rules or payment of fines.
 - (iii) The rescission of permission for the organization to operate on campus or school property or to otherwise operate under the sanction or recognition of the institution or secondary school.
 - (iv) The imposition of probation, suspension, dismissal or expulsion.
 - (3) A penalty imposed under this section shall be in addition to a penalty imposed for violation of an offense under this chapter or the criminal laws of this Commonwealth or for violation of any other institutional or secondary school rule to which the violator may be subject.
 - (4) A policy adopted under this section shall apply to each act conducted on or off campus or school property if the acts are deemed to constitute hazing or any offense under this chapter.

18 Pa.C.S. § 2809. Institutional reports.

- (a) Maintenance. - An institution shall maintain a report of all violations of the institution's antihazing policy or Federal or State laws related to hazing that are reported to the institution.
- (b) Contents. - The report shall include all of the following:
 - (1) The name of the subject of the report.
 - (2) The date when the subject was charged with a violation of the institution's antihazing policy or Federal or State laws related to hazing.
 - (3) A general description of the violation, any investigation and findings by the institution and, if applicable, penalties.
 - (4) The date on which the matter was resolved.
- (c) Initial report. - This section shall apply beginning with the 2018-2019 academic year. The initial report shall include information concerning violations that have been reported to the institution for the five consecutive years prior to the effective date of this section to the extent the institution has retained information concerning the violations.
- (d) Personal identifying information. - The report shall not include the personal identifying information of an individual.
- (e) Time. - An institution shall post an initial report required under this section on its publicly accessible Internet website by January 15, 2019.
- (f) Update. - An institution shall update the report biannually on January 1 and August 1 and shall post the updated report on its publicly accessible Internet website.
- (g) Duration. - An institution shall retain reports for five years.

18 Pa.C.S. § 2810. Safe harbor.

- (a) Immunity for the individual seeking medical attention for another. - An individual shall not be prosecuted for an offense under this chapter if the individual can establish all of the following:
 - (1) A law enforcement officer first became aware of the individual's violation of this chapter because the individual placed a 911 call or contacted campus security, police or emergency services, based on a reasonable belief that another individual was in need of immediate medical attention to prevent death or serious bodily injury.
 - (2) The individual reasonably believed the individual was the first individual to make a 911 call or contact campus security, police or emergency services and report that an individual needed immediate medical attention to prevent death or serious bodily injury.
 - (3) The individual provided the individual's own name to the 911 operator or equivalent campus security officer, police or emergency services personnel.
 - (4) The individual remained with the individual needing medical assistance until a campus security officer, police or emergency services personnel arrived and the need for the individual's presence had ended.
- (b) Derivative immunity for the individual needing medical attention. - An individual needing medical attention shall be immune under this section from prosecution for an offense under this chapter or section 6308(a)(relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) only if another individual against whom probable cause exists to charge an offense under this chapter reported the incident and remained with the individual needing medical attention and the other individual qualifies for a safe harbor under this section.
- (c) Limitations. - The safe harbors described under this section shall be limited as follows:
 - (1) This section may not bar prosecuting a person for an offense under this chapter if a law enforcement officer learns of the offense prior to and independent of the action of seeking or obtaining emergency assistance as described in subsection (a).

(2) This section shall not interfere with or prevent the investigation, arrest, charging or prosecution of an individual for a crime other than an offense under this chapter or section 6308(a).

(3) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution for a crime other than an offense under this chapter or section 6308(a).

(4) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for a safe harbor under this section.

(d) Civil immunity.- In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer, campus security officer or prosecuting attorney who acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the filing of the charges.

24 P.S. § 13-1303.1-A. Policy relating to bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c)(relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

(c) Each school entity shall review its policy every three (3) years and annually provide the office with a copy of its policy relating to bullying, including information related to the development and implementation of any bullying prevention, intervention and education programs. The information required under this subsection shall be attached to or made part of the annual report required under section 1303-A(b)

(d) In its policy relating to bullying adopted or maintained under subsection (a), a school entity shall not be prohibited from defining bullying in such a way as to encompass acts that occur outside a school setting if those acts meet the requirements contained in subsection (e)(1), (3) and (4). If a school entity reports acts of bullying to the office in accordance with section 1303-A(b), it shall report all incidents that qualify as bullying under the entity's adopted definition of that term.

(e) For purposes of this article, "bullying" shall mean an intentional electronic, written, verbal or physical act, or a series of acts:

- (1) directed at another student or students;
- (2) which occurs in a school setting;
- (3) that is severe, persistent or pervasive; and
- (4) that has the effect of doing any of the following:
 - (i) substantially interfering with a student's education;
 - (ii) creating a threatening environment; or
 - (iii) substantially disrupting the orderly operation of the school; and

"school setting" shall mean in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervised or sanctioned by the school.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(a) There is hereby established in the Department of Education an Office for Safe Schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

(3) Risk assessment, safety-related, violence prevention curricula, including, but not limited to, dating violence curricula and restorative justice strategies.

24 P.S. § 13-1306-B. School safety and security grant program.

(j) Specific purposes. The committee shall provide grants to school entities for programs that address safety and security, including:

(6) Risk assessment, safety-related, violence prevention curricula, including dating violence curricula and restorative justice strategies.

24 P.S. § 15-1553. Dating violence education.

(a) The department, through its Office for Safe Schools, and in consultation with the State Board of Education, shall:

(1) Develop, within six (6) months of the effective date of this section, a model dating violence policy to assist school districts in developing policies for dating violence reporting and response.

(2) Consult with at least one (1) domestic violence center and at least one (1) rape crisis center in developing the model dating violence policy.

(b)(1) Each school district may establish a specific policy to address incidents of dating violence involving students at school.

(2) The policy may include, but need not be limited to: a statement that dating violence will not be tolerated; violence reporting procedures; discipline procedures for students that commit violence at school; and contact information for and resources available through domestic violence programs and rape crisis programs.

(3) A school district that establishes the policy shall:

(i) Publish the policy in any school district policy or handbook that specifies the comprehensive rules, procedures and standards of conduct for students at school.

(ii) Make the policy available on its publicly available Internet website.

(iii) Provide parents and guardians with a copy of the policy.

(4) The State Board of Education shall conduct a study of the benefits and detriments of mandatory dating violence education and shall submit a report of its recommendations to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives within three (3) years of the effective date of this section.

(c)(1) A school district may provide dating violence training to guidance counselors, nurses and mental health staff at the high school level. Upon the recommendation of the district superintendent, other staff may be included or may attend the training on a voluntary basis. The school district may also provide dating violence training to parents.

(2) The dating violence training may include, but need not be limited to: basic principles of dating violence; warning signs of dating violence; the school district's dating violence policy; appropriate responses to incidents of dating violence at school; and services and resources available through domestic violence programs and rape crisis programs.

(d)(1) A school district may incorporate dating violence education that is age appropriate into the annual health curriculum framework for students in grades nine (9) through twelve (12). In developing such a policy, the school district shall consult with at least one (1) domestic violence program or rape crisis program that serves the region where the school district is located.

(2) Dating violence education may include, but need not be limited to: defining dating violence and recognizing dating violence warning signs; characteristics of healthy relationships; information regarding peer support and the role friends and peers have in addressing dating violence; and contact information for and the services and resources available through domestic violence centers and rape crisis centers, including detailed information concerning safety planning, availability and enforcement of protection from abuse orders and the availability of other services and assistance for students and their families.

(3) The department, through its Office for Safe Schools, in consultation with at least one (1) domestic violence center and at least one (1) rape crisis center, shall provide school districts with grade-appropriate educational materials regarding dating violence and healthy relationships for the purpose of assisting school districts in preparing an instructional program on dating violence. The department may use educational materials that are already publicly available for this purpose.

(4) A parent or legal guardian of a student who is under eighteen (18) years of age, within a reasonable period of time after the request is made, shall be permitted to examine the dating violence education program instructional materials at the school in which the student is enrolled.

(5) At the request of a parent or guardian, a student shall be excused from all or parts of the dating violence education program. The principal shall notify all parents or guardians of their ability to withdraw their children from instruction in the program by returning a signed opt-out form.

(e) Nothing in this section shall be construed as preventing a person from seeking judicial relief from dating violence under any other law or as establishing or modifying any civil liability.

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"At school." The term shall have the meaning given to school property as defined in section 1301-A.

"Dating partner." A person, regardless of gender, involved in an intimate relationship with another person, primarily characterized by the expectation of affectionate involvement, whether casual, serious or long term.

"Dating violence." Behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control the person's dating partner.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

24 P.S. § 13-1302.1-A. Regulations.

(a) Within one year of the effective date of this section, the State Board of Education shall promulgate final-omitted regulations pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," necessary to implement this article. The regulations shall include the following:

(1) A model memorandum of understanding between school entities and local police departments. The model memorandum of understanding shall be reviewed on a biennial basis and revised where necessary. The State Board of Education may revise the model memorandum of understanding by publishing a notice in the Pennsylvania Bulletin that contains the complete revised model memorandum of understanding. The revised model memorandum of understanding shall be incorporated into the Pennsylvania Code in place of the existing model memorandum of understanding.

(2) Protocol for the notification of the police department when an offense listed under section 1303-A(b)(4.1) occurs on school property, which shall include a requirement that the local police department be notified immediately when such an offense occurs.

(3) Protocol for the notification of the police department at the discretion of the chief school administrator regarding an offense listed under section 1303-A(b)(4.2) or any other offense that occurs on school property.

(4) Protocol for emergency and nonemergency response by the police department, which shall include a requirement that the school district shall supply the police department with a copy of the comprehensive disaster response and emergency preparedness plan as required by 35 Pa.C.S. § 7701(g)(relating to duties concerning disaster prevention).

(5) Procedures and protocols for the response and handling of students with a disability, including procedures related to student behavior as required by 22 Pa. Code § 14.104 (relating to special education plans) and 14.133 (relating to positive behavior support).

(b)(1) In promulgating the regulations required under subsection (a), the State Board of Education shall convene and consult with a Statewide advisory committee which shall include a police chief, juvenile public defender, school superintendent, school principal, district attorney, solicitor of a school district, special education supervisor, special education advocate and in-school probation officer and one designee from the Department of Education, the Pennsylvania Commission on Crime and Delinquency, the Municipal Police Officers' Education and Training Commission, the Juvenile Court Judges' Commission and the Pennsylvania State Police.

(2) Members of the committee shall be selected to be representative of the rural, suburban and urban school entities of this Commonwealth.

(3) The advisory committee shall be convened no later than sixty (60) days after the effective date of this section and shall meet regularly to fulfill the requirements of this section.

24 P.S. § 13-1309-A. Technical assistance.

The Department of Education shall provide guidelines and technical assistance to assist school districts and nonpublic schools in implementing the provisions of this act.

24 P.S. § 13-1311-B. Trauma-informed approach.

No later than August 31, 2019, the committee shall develop a model trauma-informed approach plan that shall be used by a school entity applying for a grant under section 1306-B(j)(21). The plan must include the following:

- (1) Designation of at least one individual who:
 - (i) is assigned to the school;
 - (ii) oversees the implementation of the plan, integrating the coordination of services and professional development into the school entity's comprehensive plan; and
 - (iii) serves as a member of a school's student assistance program.
- (2) Coordination of services among:
 - (i) the student and the student's family;
 - (ii) the school; and
 - (iii) county-based services, community care organizations, public health entities, nonprofit youth service providers, community-based organizations, organizations that provide before or after-school care and other similar groups that are located in the community.
- (3) Indication of how coordinated services are provided based on a trauma-informed approach with an understanding, recognition and responsiveness to the effects of trauma on education, absenteeism and school completion, including the secondary impact of trauma on school employees.
- (4) Utilization of evidence-based or evidence-informed approaches that are tailored to the community to ensure that data is collected and the effectiveness of the trauma-informed approaches are determined.
- (5) Professional development and support for school staff which fosters a culture in the school entity and community that is informed about how to understand, recognize and respond to trauma and address the impact of trauma on students as a secondary impact on school employees.

24 P.S. § 15-1503-E. Department duties and powers.

The department shall:

- (1) Establish criteria and guidelines for the establishment and implementation of programs that are consistent with this article. These guidelines shall also include methods of evaluating the programs and curricula.
- (2) Provide resources and technical assistance to boards of directors of school districts regarding the establishment and implementation of successful programs, upon the request of the board of directors of the school district.
- (3) Identify and analyze effective programs and practices and related professional development for professional educators and provide such information to a school district upon request of the board of directors of the school district.
- (4) Collect and disseminate among school districts information regarding programs and practices and potential support sources, including character education programs that have been successfully established and implemented in other states.
- (5) Provide resources and technical assistance to boards of school directors of school districts that support the professional development of professional educators in the establishment and implementation of the program.
- (6) Collect and disseminate among school districts information regarding effective professional education for professional educators regarding the establishment and implementation of the program.

(7) Seek, apply for and accept grants or contributions of funds from any public or private source, including the acceptance of Federal funds appropriated by the General Assembly for the purposes of this article.

(8) To the extent that funds are available, establish and award grants under the grant program to assist school districts in establishing and implementing programs.

(9) Maintain a list of school districts that have established and implemented the program pursuant to this article.

(10) Prepare and submit an annual report to the Education Committee of the Senate and the Education Committee of the House of Representatives regarding the administration and operation of programs and grants awarded under the grant program. The report shall include:

(i) A summary of the guidelines and criteria established by the department and the establishment and operation of the grant program.

(ii) A listing of the sources of funding sought by the department for use in the grant program.

(iii) A listing of the number of school districts that established and implemented programs.

(iv) A description of each school district's program and the integration into the curriculum.

(v) A description of measures utilized by school districts to provide parent, professional educator and community involvement.

24 P.S. § 15-1526. Youth suicide awareness and prevention.

(a) Beginning with the 2015-2016 school year, each school entity shall:

(1) Adopt an age-appropriate youth suicide awareness and prevention policy consistent with subsection (c), inform each school entity employee and the parent or legal guardian of each student enrolled in the school entity of such policy and post such policy on the school entity's publicly accessible Internet website. The policy adopted by a school entity under this paragraph may be based upon the model policy developed by the department under subsection (b)(1).

(2) Include in the professional development plan submitted by the school entity to the secretary for approval pursuant to section 1205.1 four (4) hours of training in youth suicide awareness and prevention every five (5) years for professional educators in school buildings serving students in grades six through twelve. Training under this paragraph may be used to satisfy a professional educator's continuing professional education requirement under section 1205.2. A school entity may use the materials made available by the department under subsection (b)(2) to conduct such training.

(b) The department shall:

(1) In consultation with a youth suicide prevention organization operating in this Commonwealth, develop a model youth suicide awareness and prevention policy which shall be consistent with subsection (c).

(2) Compile, develop and post on its publicly accessible Internet website the following, which may include materials already publicly available:

(i) Recommended guidelines and educational materials for the training required under subsection (a)(2).

(ii) Recommended resources and age-appropriate educational materials on youth suicide awareness and prevention.

(3) Develop a model youth suicide awareness and prevention curriculum and make such curriculum available to all school entities and, upon request, to nonpublic schools. A school entity may incorporate such curriculum into its existing instructional program pursuant to the school entity's youth suicide awareness and prevention policy.

(c) The model policy developed by the department under subsection (b)(1) and any policy adopted by a school entity under subsection (a)(1) shall include the following:

- (1) A statement on youth suicide awareness and prevention.
- (2) Protocols for administering youth suicide awareness and prevention education to staff and students.
- (3) Methods of prevention, including procedures for early identification and referral of students at risk of suicide.
- (4) Methods of intervention, including procedures that address an emotional or mental health safety plan for students identified as being at increased risk of suicide.
- (5) Methods of responding to a student or staff suicide or suicide attempt.
- (6) Reporting procedures.
- (7) Recommended resources on youth suicide awareness and prevention programs, including current contact information for such programs.

(d) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Department." The Department of Education of the Commonwealth.

"Nonpublic school." A nonprofit school, other than a school entity, wherein a resident of this Commonwealth may legally fulfill the compulsory school attendance requirements of this act and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"Professional educator." As defined in section 1205.2(o).

"School entity." A school district, joint school district, charter school, regional charter school, cyber charter school, intermediate unit or area career and technical school.

"Secretary." The Secretary of Education of the Commonwealth.

24 P.S. § 15-1553. Dating violence education.

(a) The department, through its Office for Safe Schools, and in consultation with the State Board of Education, shall:

- (1) Develop, within six (6) months of the effective date of this section, a model dating violence policy to assist school districts in developing policies for dating violence reporting and response.
- (2) Consult with at least one (1) domestic violence center and at least one (1) rape crisis center in developing the model dating violence policy.

(b)(1) Each school district may establish a specific policy to address incidents of dating violence involving students at school.

(2) The policy may include, but need not be limited to: a statement that dating violence will not be tolerated; violence reporting procedures; discipline procedures for students that commit violence at school; and contact information for and resources available through domestic violence programs and rape crisis programs.

(3) A school district that establishes the policy shall:

- (i) Publish the policy in any school district policy or handbook that specifies the comprehensive rules, procedures and standards of conduct for students at school.
- (ii) Make the policy available on its publicly available Internet website.
- (iii) Provide parents and guardians with a copy of the policy.

(4) The State Board of Education shall conduct a study of the benefits and detriments of mandatory dating violence education and shall submit a report of its recommendations to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman

of the Education Committee of the House of Representatives within three (3) years of the effective date of this section.

(c)(1) A school district may provide dating violence training to guidance counselors, nurses and mental health staff at the high school level. Upon the recommendation of the district superintendent, other staff may be included or may attend the training on a voluntary basis. The school district may also provide dating violence training to parents.

(2) The dating violence training may include, but need not be limited to: basic principles of dating violence; warning signs of dating violence; the school district's dating violence policy; appropriate responses to incidents of dating violence at school; and services and resources available through domestic violence programs and rape crisis programs.

(d)(1) A school district may incorporate dating violence education that is age appropriate into the annual health curriculum framework for students in grades nine (9) through twelve (12). In developing such a policy, the school district shall consult with at least one (1) domestic violence program or rape crisis program that serves the region where the school district is located.

(2) Dating violence education may include, but need not be limited to: defining dating violence and recognizing dating violence warning signs; characteristics of healthy relationships; information regarding peer support and the role friends and peers have in addressing dating violence; and contact information for and the services and resources available through domestic violence centers and rape crisis centers, including detailed information concerning safety planning, availability and enforcement of protection from abuse orders and the availability of other services and assistance for students and their families.

(3) The department, through its Office for Safe Schools, in consultation with at least one (1) domestic violence center and at least one (1) rape crisis center, shall provide school districts with grade-appropriate educational materials regarding dating violence and healthy relationships for the purpose of assisting school districts in preparing an instructional program on dating violence. The department may use educational materials that are already publicly available for this purpose.

(4) A parent or legal guardian of a student who is under eighteen (18) years of age, within a reasonable period of time after the request is made, shall be permitted to examine the dating violence education program instructional materials at the school in which the student is enrolled.

(5) At the request of a parent or guardian, a student shall be excused from all or parts of the dating violence education program. The principal shall notify all parents or guardians of their ability to withdraw their children from instruction in the program by returning a signed opt-out form.

(e) Nothing in this section shall be construed as preventing a person from seeking judicial relief from dating violence under any other law or as establishing or modifying any civil liability.

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"At school." The term shall have the meaning given to school property as defined in section 1301-A.

"Dating partner." A person, regardless of gender, involved in an intimate relationship with another person, primarily characterized by the expectation of affectionate involvement, whether casual, serious or long term.

"Dating violence." Behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control the person's dating partner.

"Department." The Department of Education of the Commonwealth.

"Domestic violence center." The term shall have the meaning given in section 2333 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

"Domestic violence program." The term shall have the meaning given in section 2333 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

"Rape crisis center." The term shall have the meaning given in section 2333 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

"Rape crisis program." The term shall have the meaning given in section 2333 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

REGULATIONS

22 Pa. Code § 10.11. Memorandum of understanding.

(a) Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity.

(b) A memorandum of understanding between a school entity and a local police department, including its development and implementation, must meet the requirements of section 1303-A(c) of the Safe Schools Act (24 P. S. § 13-1303-A(c)).

(c) In developing a memorandum of understanding to execute with a local police department, a school entity shall consult and consider the model memorandum of understanding promulgated by the Board in Appendix A (relating to model memorandum of understanding).

(d) On a biennial basis, a school entity shall file with the Department's Office for Safe Schools a memorandum of understanding with each local police department having jurisdiction over property of the school entity. As part of its filing with the Department, a school entity shall identify substantive differences between the memorandum of understanding adopted by the school entity and the model memorandum of understanding and provide a statement of reasons for the differences.

(e) The Board, on a biennial basis, will review and, as necessary, revise its model memorandum of understanding in Appendix A. As part of its biennial review, the Board will consider the memoranda of understanding filed by school entities with the Department's Office for Safe Schools and statements explaining school entities' reasons for adopting memoranda of understanding having substantive differences with the model memorandum of understanding.

Multi-tiered Frameworks and Systems of Support

LAWS

24 P.S. § 13-1301-A. Definitions.

As used in this article,

"School-wide positive behavior support" means a school-wide, evidence-based and data-driven approach to improving school behavior that seeks to reduce unnecessary student disciplinary actions and promote a climate of greater productivity, safety and learning.

24 P.S. § 13-1302-A. Office for safe schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

(1.1) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities.

24 P.S. § 13-1306-B. School safety and security grant program.

(a) Establishment. The School Safety and Security Grant Program is established to make school entities within this Commonwealth safer places. [...]

(j) Specific purposes. The committee shall provide grants to school entities for programs that address safety and security, including:

(3) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities. [...]

(17) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

REGULATIONS

22 Pa. Code § 10.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

School-wide positive behavior support - A school-wide, evidence-based and data-driven approach to improving school behavior that seeks to reduce unnecessary student disciplinary actions and promotes a climate of greater productivity, safety and learning.

22 Pa. Code § 10.21. Immediate notification.

(d) In responding to students who commit an incident listed in section 1303-A(b)(4.1) of the Safe Schools Act, a school entity may consider the propriety of utilizing available school-based programs, such as school-wide positive behavior supports, to address the student's behavior and shall notify the local police department of the student's placement in the program. This subsection does not limit law enforcement's discretion.

Prevention

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

(1) Conflict resolution or dispute management, including restorative justice strategies.

(1.1) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities.

(1.2) School-based diversion programs.

(2) Peer helpers programs.

(3) Risk assessment, safety-related, violence prevention curricula, including, but not limited to, dating violence curricula and restorative justice strategies.

(4) Classroom management.

(5) Student codes of conduct.

(6) Training to undertake a districtwide assessment of risk factors that increase the likelihood of problem behaviors among students.

- (7) Development and implementation of research-based violence prevention programs that address risk factors to reduce incidents of problem behaviors among students including, but not limited to, bullying.
- (8) Comprehensive, districtwide school safety, violence prevention, emergency preparedness and all-hazards plans, including revisions or updates to such plans and conducting emergency preparedness drills and related activities with local emergency responders.
- (9) Security planning, purchase of security-related technology which may include metal detectors, protective lighting, surveillance equipment, special emergency communications equipment, electronic locksets, deadbolts and theft control devices and training in the use of security-related technology. Security planning and purchase of security-related technology shall be based on safety needs identified by the school entity's board of directors.
- (10) Institution of student, staff and visitor identification systems, including criminal background check software.
- (11) Deleted by 2013, July 18, P.L. 571, No. 70, § 1, imd. effective.
- (12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.
- (13) Alternative education programs provided for in Article XIX-C.
- (14) Counseling services for students enrolled in alternative education programs.
- (15) An Internet web-based system for the management of student discipline, including misconduct and criminal offenses.
- (16) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.
- (17) The implementation of Article XIII-E.

24 P.S. § 13-1306-B. School safety and security grant program.

(a) Establishment. The School Safety and Security Grant Program is established to make school entities within this Commonwealth safer places. [...]

the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, 134 Stat. 281) are fulfilled.

(i) Community violence prevention programs.

(1) Municipalities, institutions of higher education, community-based organizations and other entities approved by the committee are the only eligible applicants under subsection (j)(22).

(j) Specific purposes. The committee shall provide grants to school entities for programs that address safety and security, including:

(6) Risk assessment, safety-related, violence prevention curricula, including dating violence curricula and restorative justice strategies. [...]

(10) Development and implementation of research-based violence prevention programs that address risk factors to reduce incidents of problem behaviors among students, including, but not limited to, bullying.

(11) Thorough, districtwide school safety, violence prevention, emergency preparedness and all-hazards plans, including revisions or updates to such plans and conducting emergency preparedness drills and related activities with local emergency responders.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

24 P.S. § 15-1501-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Character education." A course of instruction designed to educate and assist students in developing basic civic values and character traits, a service ethic and community outreach and thus to improve the school environment and student achievement and learning.

"Character education program" or "program." A program designed and implemented by a school district to provide a course of character education to students in that school district. This term includes, but is not limited to:

(1) Professional education for professional educators for the delivery of character education.

(2) Participation in professional education programs by members of the Character Education Advisory Group.

"Department." The Department of Education of the Commonwealth.

"Grant program." The Character Education Grant Program established by section 1504-E

"Professional educator." An individual who holds a Pennsylvania teacher, educational specialist or administrative certification or letter of eligibility.

"Secretary." The Secretary of Education of the Commonwealth.

24 P.S. § 15-1502-E. Character education program. .

(a) AUTHORIZATION.- The board of school directors of a school district may establish and implement a character education program in its schools.

(b) CURRICULUM CONTENTS.- The program may include and teach the following basic civil values and character traits:

(1) Trustworthiness, including honesty, integrity, reliability and loyalty.

(2) Respect, including regard for others, tolerance and courtesy.

(3) Responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance and self-control.

(4) Fairness, including justice, consequences of bad behavior, principles of nondiscrimination and freedom from prejudice.

(5) Caring, including kindness, empathy, compassion, consideration, generosity and charity.

(6) Citizenship, including love of country, concern for the common good, respect for authority and the law and community mindedness.

(c) ADDITIONAL ELEMENTS.- The program may also include and teach the importance of a service ethic and community outreach.

(d) CHARACTER EDUCATION ADVISORY GROUP.-

(1) If a board of school directors elects to establish the program, the board of school directors shall develop the program in consultation with a character education advisory group. The board of directors of a school district shall appoint the members of the character education advisory group.

(2) A character education advisory group shall consult with and advise the board of school directors in the development of the program. The members of the character education advisory group shall elect a chairperson of the group.

(3) The board of school directors shall appoint to the character education advisory group no less than two representatives from each of the following groups:

- (i) Parents and legal guardians of students in the school district.
- (ii) Teachers and administrators employed by the school district.
- (iii) Other members of the community where the school district is located, including social, cultural, business and religious leaders.

(4) The board of school directors shall:

- (i) Cooperate and consult with the character education advisory group.
- (ii) Provide assistance and relevant materials to the character education advisory group.

(5)(i) The character education advisory group shall consult with and advise the board of school directors until such time that the program is fully developed and deemed completed.

(ii) The board of school directors shall have the sole authority to determine the completion of the program and may elect to continue the duration of the character education advisory group for up to two additional years for the purpose of receiving consultation and advice from the character education advisory group regarding the school district's implementation of the program.

(e) Integration of concepts into total curriculum.- The program shall be integrated into the school procedures and environment and structured to instruct primarily through example. Classroom instruction may also be used to supplement the program.

24 P.S. § 15-1503-E. Department duties and powers.

The department shall:

(4) Collect and disseminate among school districts information regarding programs and practices and potential support sources, including character education programs that have been successfully established and implemented in other states.

24 P.S. § 15-1504-E. Character Education Grant Program.

(a) Establishment.- There is hereby established in the department the Character Education Grant Program for the purpose of funding the establishment and implementation of a program by a school district.

(b) Eligibility.- A school district that establishes and implements the program in compliance with the requirements established under section 1502-E and with department criteria and guidelines established under section 1503-E may apply to the department for a grant. Grants shall be awarded to eligible school districts from funds appropriated and funds received by the department for this purpose.

(c) Permitted uses.- The grant shall be used by a school district to fund the establishment and implementation of the program.

(d) Adoption of application procedures.- The secretary shall adopt such procedures, rules and form as may be necessary to implement this grant program by regulation.

(e) Application forms.- Applications shall be made to the department in such form and at such time as the secretary may prescribe by regulation.

(f) Other funding sources.- Funds received under the grant program may be used in conjunction with funds received from any other public or private source.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

24 P.S. § 3-328. School director training programs.

(a) Beginning in the 2018-2019 school year and in each school year thereafter, the following shall apply:

(1) Each newly elected or appointed school director shall complete, during the first year of the school director's first term, a training program made available by the Department of Education, in consultation with a Statewide organization representing school directors and a Statewide organization representing school business officials, pertaining to the skills and knowledge necessary to serve as a school director. The training program shall consist of a minimum of five (5) hours of instruction, including, at a minimum, information regarding the following:

(i) Instruction and academic programs.

(i.1) Best practices related to trauma-informed approaches, which shall comprise a minimum of one

(1) hour of instruction.

24 P.S. § 12-1205.1. Continuing professional development.

(a) Upon the expiration of an existing professional development plan, each school entity shall submit to the secretary for approval a three-year professional education plan. [...]

(b.1) The professional education plan of each school entity shall include a minimum of one (1) hour of required training in trauma-informed approaches.

24 P.S. § 12-1205.7. Trauma-informed education.

(a) School entities shall provide school employees with training on trauma-informed approaches.

The following apply:

(1) Training shall address, but shall not be limited to:

(i) Recognition of the signs of trauma in students.

(ii) Best practices for schools and classrooms regarding trauma-informed approaches, including utilization of multitiered systems of support.

(iii) Recognition of the signs of the impact of secondary trauma on school employees and appropriate resources for school employees who are experiencing secondary trauma.

(iv) The school entity's policies regarding trauma-informed approaches.

(v) The school entity's policies regarding connecting students with appropriate services.

(2) Training shall be on evidence-based or evidence-informed programs that are tailored to the local community and reflect current best practices related to trauma-informed approaches.

(3) School employees required to undergo continuing professional education under section 1205.2 or 1205.5 shall receive credit toward the school employees' continuing professional education requirements if the training program has been approved by the Department of Education.

(4) The school entity shall make a reasonable effort to facilitate a time and location for school employees under this section to participate in the training during paid working hours or in-service training.

(b) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Evidence-based" shall have the meaning given in section 8101(21) of the Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802).

"School employee" shall have the meaning given to the term "professional employee" in section 1101(1).

"School entity" shall mean a public school, including a school district, charter school, cyber charter school, regional charter school, intermediate unit or area career and technical school, a private school or a nonpublic school.

24 P.S. § 13-1306-B. School safety and security grant program.

(j) Specific purposes. The committee shall provide grants to school entities for programs that address safety and security, including:

(20) Administration of evidence-based screenings for adverse childhood experiences that are proven to be determinants of physical, social and behavioral health and provide trauma-informed counseling services as necessary to students based upon the screening results.

(21) Trauma-informed approaches to education, including:

(i) Increasing student and school employee access to quality trauma support services and behavioral health care, including the following:

(A) Hiring or contracting with certified guidance counselors, licensed professional counselors, licensed social workers, licensed clinical social workers, school psychologists and other professional health personnel to provide services to students and school employees.

(B) Developing collaborative efforts between the school entity and behavioral health professionals to identify students in need of trauma support and to provide prevention, screening, referral and treatment services to students potentially in need of services.

(ii) Programs providing:

(A) Trauma-informed approaches to education in the curriculum, including training of school employees, school directors and behavioral health professionals to develop safe, stable and nurturing learning environments that prevent and mitigate the effects of trauma.

(B) Services for children and their families, as appropriate, who have experienced or are at risk of experiencing trauma, including those who are low-income, homeless, involved in the child welfare system or involved in the juvenile justice system.

(22) Programs designed to reduce community violence, including:

(i) Increase access to quality trauma-informed support services and behavioral health care by linking the community with local trauma support and behavioral health systems.

(ii) Provide health services and intervention strategies by coordinating the services provided by eligible applicants and coordinated care organizations, public health entities, nonprofit youth service providers and community-based organizations.

(iii) Provide mentoring and other intervention models to children and their families who have experienced trauma or are at risk of experiencing trauma, including those who are low-income, homeless, in foster care, involved in the criminal justice system, unemployed, experiencing a mental illness or substance abuse disorder or not enrolled in or at risk of dropping out of an educational institution.

(iv) Foster and promote communication between the school entity, community and law enforcement.

(v) Any other program or model designed to reduce community violence and approved by the committee.

24 P.S. § 13-1309-B. School safety and security coordinator.

(c) Specific duties. - The school safety and security coordinator shall: (2) Coordinate training and resources for students and school entity staff in matters relating to situational awareness, trauma-informed approaches, behavioral health awareness, suicide and bullying awareness, substance abuse awareness and emergency procedures and training drills, including fire, natural disaster, active shooter, hostage situation and bomb threat.

24 P.S. § 13-1310-B. School safety and security training.

(j) Specific purposes. - The committee shall provide grants to school entities for programs that address safety and security, including:

(20) Administration of evidence-based screenings for adverse childhood experiences that are proven to be determinants of physical, social and behavioral health and provide trauma-informed counseling services as necessary to students based upon the screening results.

(21) Trauma-informed approaches to education, including:

(i) Increasing student and school employee access to quality trauma support services and behavioral health care, including the following:

(A) Hiring or contracting with certified guidance counselors, licensed professional counselors, licensed social workers, licensed clinical social workers, school psychologists and other professional health personnel to provide services to students and school employees.

(B) Developing collaborative efforts between the school entity and behavioral health professionals to identify students in need of trauma support and to provide prevention, screening, referral and treatment services to students potentially in need of services.

(ii) Programs providing:

(A) Trauma-informed approaches to education in the curriculum, including training of school employees, school directors and behavioral health professionals to develop safe, stable and nurturing learning environments that prevent and mitigate the effects of trauma.

(B) Services for children and their families, as appropriate, who have experienced or are at risk of experiencing trauma, including those who are low-income, homeless, involved in the child welfare system or involved in the juvenile justice system.

(22) Programs designed to reduce community violence, including:

(i) Increase access to quality trauma-informed support services and behavioral health care by linking the community with local trauma support and behavioral health systems.

(ii) Provide health services and intervention strategies by coordinating the services provided by eligible applicants and coordinated care organizations, public health entities, nonprofit youth service providers and community-based organizations.

(iii) Provide mentoring and other intervention models to children and their families who have experienced trauma or are at risk of experiencing trauma, including those who are low-income, homeless, in foster care, involved in the criminal justice system, unemployed, experiencing a mental illness or substance abuse disorder or not enrolled in or at risk of dropping out of an educational institution.

24 P.S. § 13-1311-B. Trauma-informed approach.

No later than August 31, 2019, the committee shall develop a model trauma-informed approach plan that shall be used by a school entity applying for a grant under section 1306-B(j)(21). The plan must include the following:

- (1) Designation of at least one individual who:
 - (i) is assigned to the school;
 - (ii) oversees the implementation of the plan, integrating the coordination of services and professional development into the school entity's comprehensive plan; and
 - (iii) serves as a member of a school's student assistance program.
- (2) Coordination of services among:
 - (i) the student and the student's family;
 - (ii) the school; and
 - (iii) county-based services, community care organizations, public health entities, nonprofit youth service providers, community-based organizations, organizations that provide before or after-school care and other similar groups that are located in the community.
- (3) Indication of how coordinated services are provided based on a trauma-informed approach with an understanding, recognition and responsiveness to the effects of trauma on education, absenteeism and school completion, including the secondary impact of trauma on school employees.
- (4) Utilization of evidence-based or evidence-informed approaches that are tailored to the community to ensure that data is collected and the effectiveness of the trauma-informed approaches are determined.
- (5) Professional development and support for school staff which fosters a culture in the school entity and community that is informed about how to understand, recognize and respond to trauma and address the impact of trauma on students as a secondary impact on school employees.

P.S. § 13-1312-B. COVID-19 disaster emergency school health and safety grants for 2020-2021 school year.

- (a) Funding. For the 2020-2021 school year, the amount of money available under section 1306-B(h)(8)(i) shall be used by the committee to award COVID-19 disaster emergency school health and safety grants to school entities.
- (b) Purposes of grants. Each school entity shall be eligible for a COVID-19 disaster emergency school health and safety grant for the following purposes:
 - (5) Providing mental health services and supports, including trauma-informed approaches for students impacted by the COVID-19 disaster emergency.

P.S. § 26-2603-B. Powers and duties of the board.

- (d) The board shall also have the authority and duty to:
 - (9.1) adopt policies encouraging the inclusion of trauma-informed approaches in professional education curriculum in all public and private institutions of higher education in this Commonwealth issuing degrees to individuals who may desire to teach in the schools of this Commonwealth.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

24 P.S. § 13-1309-B. School safety and security coordinator.

- (c) Specific duties. - The school safety and security coordinator shall:

(2) Coordinate training and resources for students and school entity staff in matters relating to situational awareness, trauma-informed approaches, behavioral health awareness, suicide and bullying awareness, substance abuse awareness and emergency procedures and training drills, including fire, natural disaster, active shooter, hostage situation and bomb threat.

24 P.S. § 13-1310-B. School safety and security training.

School entities shall provide their employees with mandatory training on school safety and security subject to the following based on the needs of the school entity:

- (1) Training shall address any combination of one or more of the following, based on the needs of the school entity:
 - (i) Situational awareness.
 - (ii) Trauma-informed approaches.
 - (iii) Behavioral health awareness.
 - (iv) Suicide and bullying awareness.
 - (v) Substance use awareness.
- (2) Training may be provided through the Internet or other distance communication systems.
- (3) Employees shall complete a minimum of three hours of training every five years.
- (4) Employees required to undergo continuing professional education under section 1205.2 shall receive credit toward their continuing professional education requirements.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

- (12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.

24 P.S. § 13-1303-B. School safety and security committee.

(a) Duty to establish. - No later than September 30, 2018, the committee shall establish criteria to be used when conducting school safety and security assessments that include the following:

- (3) A student assistance and behavioral health support assessment. The student assistance and behavioral health support assessment shall consist of an analysis of the school entity's climate, including:
 - (i) The availability of student assistance programs and behavioral health professionals to provide assistance to the school entity.
 - (ii) A review of recommendations by behavioral and physical health professionals and consideration of their recommendations.

24 P.S. § 13-1306-B. School safety and security grant program.

(j) Specific purposes. The committee shall provide grants to school entities for programs that address safety and security, including:

(21) Trauma-informed approaches to education, including:

(i) Increasing student and school employee access to quality trauma support services and behavioral health care, including the following:

(A) Hiring or contracting with certified guidance counselors, licensed professional counselors, licensed social workers, licensed clinical social workers, school psychologists and other professional health personnel to provide services to students and school employees.

(B) Developing collaborative efforts between the school entity and behavioral health professionals to identify students in need of trauma support and to provide prevention, screening, referral and treatment services to students potentially in need of services.

24 P.S. § 13-1312-B. COVID-19 disaster emergency school health and safety grants for 2020-2021 school year.

(a) Funding. For the 2020-2021 school year, the amount of money available under section 1306-B(h)(8)(i) shall be used by the committee to award COVID-19 disaster emergency school health and safety grants to school entities.

(b) Purposes of grants. Each school entity shall be eligible for a COVID-19 disaster emergency school health and safety grant for the following purposes:

(5) Providing mental health services and supports, including trauma-informed approaches for students impacted by the COVID-19 disaster emergency.

24 P.S. § 13-1313-B. COVID-19 disaster emergency targeted health and safety grants for 2020-2021 school year.

(a) Funding. For the 2020-2021 school year, the amount of money available under section 1306-B(h)(8)(i) shall be used by the committee to award COVID-19 disaster emergency school health and safety grants to school entities.

(b) Purposes of grants. Each school entity shall be eligible for a COVID-19 disaster emergency school health and safety grant for the following purposes:

(5) Providing mental health services and supports, including trauma-informed approaches for students impacted by the COVID-19 disaster emergency.

REGULATIONS

22 Pa. Code § 12.41. Student Services.

(b) Though the variety of student services offered will differ from school to school depending upon its size and the needs of its students, the following categories of services shall be provided by each school entity in planning its student services:

(1) Developmental services for students that address their developmental needs throughout their enrollment in school. Developmental services include guidance counseling, psychological services, health services, home and school visitor services and social work services that support students in addressing their academic, behavioral, health, personal and social development issues. [...]

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(b) The office shall have the power and duty to implement the following:

(2.1) To direct all school entities to submit annual school violence statistics and reports to the office no later than July 31 of each year.

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(7) To publish and post on the Department of Education's Internet website a School Safety Annual Report no later than November 1 of each calendar year outlining all incidents required to be reported under section 1303-A and any school district that failed to submit a report under section 1303-A.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities, and to intermediate units on behalf of nonpublic schools, to fund programs which address school violence, including:

(15) An Internet web-based system for the management of student discipline, including misconduct and criminal offenses.

24 P.S. § 13-1303-A. Reporting.

(a) The office shall conduct a one-time survey of all school entities to determine the number of incidents involving acts of violence on school property and all cases involving possession of a weapon by any person on school property which occurred within the last five (5) years. The survey shall be based on the best available information provided by school entities.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(1) Age or grade of student.

(2) Name and address of school.

(3) Circumstances surrounding the incident, including, but not limited to, type of weapon, controlled substance, alcohol or tobacco, the date, time and location of the incident, if a person other than a student is involved in the incident and any relationship to the school entity.

(3.1) Race of student.

(3.2) Whether the student has an Individualized Education Plan under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.), and if so, the type of disability.

(4) Sanction imposed by the school.

(4.1) A list of criminal offenses which shall, at a minimum, include:

(i) The following offenses under 18 Pa.C.S. (relating to crimes and offenses):

Section 908 (relating to prohibited offensive weapons).
Section 912 (relating to possession of weapon on school property).
Chapter 25 (relating to criminal homicide).
Section 2702 (relating to aggravated assault).
Section 2709.1 (relating to stalking).
Section 2901 (relating to kidnapping).
Section 2902 (relating to unlawful restraint). Section 3121 (relating to rape).
Section 3122.1 (relating to statutory sexual assault).
Section 3123 (relating to involuntary deviate sexual intercourse).
Section 3124.1 (relating to sexual assault).
Section 3124.2 (relating to institutional sexual assault).
Section 3125 (relating to aggravated indecent assault).
Section 3126 (relating to indecent assault).
Section 3301 (relating to arson and related offenses).
Section 3307 (relating to institutional vandalism) when the penalty is a felony of the third degree.
Section 3502 (relating to burglary).
Section 3503(a) and (b)(1)(v)(relating to criminal trespass).
Section 5501 (relating to riot).
Section 6110.1 (relating to possession of firearm by minor).

(ii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Attempts, solicitation or conspiracy to commit any of the offenses listed in subclauses (i) and (ii).

(iv) An offense for which registration is required under 42 Pa.C.S. § 9795.1 (relating to registration).

(4.2) The following offenses under 18 Pa.C.S., and any attempt, solicitation or conspiracy to commit any of these offenses:

Section 2701 (relating to simple assault).
Section 2705 (relating to recklessly endangering another person).
Section 2706 (relating to terroristic threats).
Section 2709 (relating to harassment).
Section 3127 (relating to indecent exposure).
Section 3307 (relating to institutional vandalism) when the penalty is a misdemeanor of the second degree.
Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2)(relating to criminal trespass).
Chapter 39 (relating to theft and related offenses).
Section 5502 (relating to failure of disorderly persons to disperse upon official order).
Section 5503 (relating to disorderly conduct).
Section 6305 (relating to sale of tobacco).
Section 6306.1 (relating to use of tobacco in schools prohibited).

Section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

- (5) Notification of law enforcement.
- (6) Remedial programs involved.
- (7) Parental involvement required.
- (8) Arrests, convictions and adjudications, if known.

(b.1) Prior to submitting the report required under subsection (b), each chief school administrator and each police department having jurisdiction over school property of the school entity shall do all of the following:

(1) No later than thirty (30) days prior to the deadline for submitting the report to the office required under subsection (b), the chief school administrator shall submit the report to the police department with jurisdiction over the relevant school property. The police department shall review the report and compare the data regarding criminal offenses and notification of law enforcement to determine whether the report accurately reflects police incident data.

(2) No later than fifteen (15) days prior to the deadline for the chief school administrator to submit the report required under subsection (b), the police department shall notify the chief school administrator, in writing, whether the report accurately reflects police incident data. Where the police department determines that the report accurately reflects police incident data, the chief of police shall sign the report. Where the police department determines that the report does not accurately reflect police incident data, the police department shall indicate any discrepancies between the report and police incident data.

(3) Prior to submitting the report required under subsection (b), the chief school administrator and the police department shall attempt to resolve discrepancies between the report and police incident data. Where a discrepancy remains unresolved, the police department shall notify the chief school administrator and the office in writing.

(4) Where a police department fails to take action as required under paragraph (2) or (3), the chief school administrator shall submit the report required under subsection (b) and indicate that the police department failed to take action as required under paragraph (2) or (3).

(c) Each chief school administrator shall form an advisory committee composed of relevant school staff, including, but not limited to, principals, security personnel, school resource officers, guidance counselors and special education administrators, to assist in the development of a memorandum of understanding pursuant to this section. In consultation with the advisory committee, each chief school administrator shall enter into a memorandum of understanding with police departments having jurisdiction over school property of the school entity. Each chief school administrator shall submit a copy of the memorandum of understanding to the office by June 30, 2011, and biennially update and re-execute a memorandum of understanding with local law enforcement and file such memorandum with the office on a biennial basis. The memorandum of understanding shall be signed by the chief school administrator, the chief of police of the police department with jurisdiction over the relevant school property and principals of each school building of the school entity. The memorandum of understanding shall comply with the regulations promulgated by the State Board of Education under section 1302.1-A and shall also include:

- (1) The procedure for police department review of the annual report required under subsection (b) prior to the chief school administrator filing the report required under subsection (b) with the office.
- (2) A procedure for the resolution of school violence data discrepancies in the report prior to filing the report required under subsection (b) with the office.
- (3) Additional matters pertaining to crime prevention agreed to between the chief school administrator and the police department.

(d) Pursuant to section 615 of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1415(k)(6)), nothing in section 1302.1-A or this section shall be construed to prohibit a school entity from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(e)(1) Notwithstanding any provision of law to the contrary, the Department of Education may initiate disciplinary action before the Professional Standards and Practices Commission pursuant to the act of December 12, 1973 (P.L. 397, No. 141), known as the "Professional Educator Discipline Act," against a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense listed under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section.

(2) In addition to any other disciplinary actions set forth in the "Professional Educator Discipline Act," a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense cited under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section shall be subject to prosecution for violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The following civil penalties may be imposed by the Professional Standards and Practices Commission for violations of this article:

- (i) for a first violation, \$ 2,500;
- (ii) for a second violation, \$ 3,500; or
- (iii) for a third or subsequent violation, \$ 5,000.

Any penalty imposed under this paragraph shall be paid to the Department of Education and used for the support of the office.

24 P.S. § 13-1303-D. Safe2Say Program.

(a) Establishment. - The Safe2Say Program is established within the office.

(b) Administration. - The Attorney General shall:

- (1) administer the program pursuant to the requirements under subsection (c); and
- (2) promulgate regulations and adopt all guidelines necessary for the establishment of the program and administration of this article, in consultation with Statewide organizations.

(c) Program requirements. - Beginning January 14, 2019, the program shall be responsible for the following:

- (1) To ensure anonymous reporting concerning unsafe, potentially harmful, dangerous, violent or criminal activities in a school entity or the threat of the activities in a school entity.
- (2) To establish protocols and procedures to promptly notify the appropriate law enforcement agency via 911 centers and the Pennsylvania State Police when the program receives an anonymous report of violent or criminal activities in a school entity that poses an immediate threat of violence or criminal activity.
- (3) To ensure that the identity of the individual making a report remains unknown to any person, including law enforcement officers and employees of the office.

- (4) To ensure that information obtained from an individual making a report who voluntarily discloses his or her identity and verifies that he or she is willing to be identified may be shared with law enforcement officers, employees of the office and school officials.
 - (5) To ensure that if the identity of an individual making a report becomes known through a means other than voluntary disclosure, the identity is not further disclosed.
 - (6) To establish procedures to promptly forward information received by the program to the appropriate law enforcement agency, school official or organization, as determined by the office. The office may not be held liable for investigation of a report made to the program following confirmation of receipt of the report by the appropriate law enforcement agency, school official or organization.
 - (7) To train or provide instruction to individuals, including, but not limited to, emergency dispatch centers and school entities, on appropriate awareness and response to the program.
 - (8) To provide program awareness and education materials to school entities.
 - (9) To, in consultation with the Department of Education, establish guidelines school entities may utilize to respond to a report received from the program.
 - (10) To work with school entities, local law enforcement agencies and organizations to identify each person to whom a report from the program will be sent.
- (d) School entity. - Each school entity shall develop procedures for assessing and responding to reports received from the program.

24 P.S. § 13-1317.2. Possession of weapons prohibited.

- (a) Except as otherwise provided in this section, a school district or area career and technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.
- (b) Every school district and area career and technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.
- (c) The superintendent of a school district or an administrative director of an area career and technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).
- (d) The provisions of this section shall not apply to the following:
 - (1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or
 - (2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.
- (e) Nothing in this section shall be construed as limiting the authority or duty of a school or area career and technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.
 - (e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

24 P.S. § 13-1310-A. Safe schools advocate in school districts of the first class.

(d) Upon discovery of the commission of an act of violence upon a student, the school district of the first class shall immediately notify the victim's parent or guardian of the safe schools advocate. The form of this notice shall be developed by the advocate and provided to the school district. This form shall include the address and telephone number of the advocate and a brief description of the purposes and functions of the safe schools advocate. The principal of each school within the school district shall post a notice not less than 8 1/2 by 11 inches entitled "Safe Schools Advocate" at a prominent location within each school building, where such notices are usually posted. The form of this notice shall also be developed by the advocate and provided to the school district.

24 P.S. § 13-1333. Procedure when child is truant.

(a) When a child is truant, the school shall notify in writing the person in parental relation with the child who resides in the same household as the child of the child's violation of compulsory school attendance within ten (10) school days of the child's third unexcused absence. The notice:

(1) shall include a description of the consequences that will follow if the child becomes habitually truant;

(2) shall be in the mode and language of communication preferred by the person in parental relation;

(3) may include the offer of a school attendance improvement conference; or

(4) when transmitted to a person who is not the biological or adoptive parent, shall also be provided to the child's biological or adoptive parent if the parent's mailing address is on file with the school and the parent is not precluded from receiving the information by court order.

(b) If the child continues to incur unexcused absences after the school has issued the notice under subsection (a), the school shall then offer by advance written notice a school attendance improvement conference to the child and the person in parental relation, unless a conference was previously held following the notice provided under subsection (a). The following shall apply:

(1) This subsection does not place a legal requirement upon the child or person in parental relation to attend the conference. The conference shall occur even if the person in parental relation declines to

participate or fails to attend the scheduled conference after advance written notice and attempts to communicate via telephone.

(2) The outcome of the conference shall be documented in a written school attendance improvement plan. The department shall develop a form to be used for this purpose, and each school shall use a form substantially similar to the form developed by the department.

(3) Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed.

(c) Schools shall not expel or impose out-of-school suspension, disciplinary reassignment or transfer for truant behavior.

(d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1333.1. Procedure by school when child habitually truant.

(a) When a child is habitually truant and under fifteen (15) years of age at the time of referral, the school:

(1) Shall refer the child to either of the following:

(i) A school-based or community-based attendance improvement program.

(ii) The county children and youth agency for services or for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(2) May file a citation in the office of the appropriate judge against the person in parental relation who resides in the same household as the child.

(b) When a child is habitually truant and fifteen (15) years of age or older at the time of referral, the school shall either:

(1) Refer the child to a school-based or community-based attendance improvement program or service.

(2) File a citation in the office of the appropriate judge against the child or the person in parental relation who resides in the same household as the child.

(c) If a child who is fifteen (15) years of age or older continues to incur additional unexcused absences after being referred to a school-based or community-based attendance improvement program or refuses to participate in a school-based or community-based attendance improvement program as recommended through the school attendance improvement conference, the school may refer the child to the county children and youth agency for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63.

(d) When referring a habitually truant child to the county children and youth agency or filing a citation with the court because a child has been habitually truant, the school shall provide verification that a school attendance improvement conference was held.

(e) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1343. Arrest of children failing to attend school.

When an attendance officer or a State, municipal, port authority, transit authority, housing authority or school police officer arrests or apprehends any child who fails to attend school as required by the provisions of this act, he shall promptly notify the parents, guardian, or person in parental relation to such child, if such person can be found in the district, and unless requested by such parent, guardian, or person in parental relation to place said child in a school other than public school, he shall place said child in the public school in which the child is, or should be, enrolled.

REGULATIONS

22 Pa. Code § 10.25. Notification to parents/guardians.

- (a) A school entity shall immediately notify, as soon as practicable, the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P.S. § 13-1303-A(b)(4.1) and (4.2)). In making the notification, the school entity shall inform the parent or guardian as to whether the local police department having jurisdiction over property of the school entity has been, or may be, notified of the incident.
- (b) A school entity shall document attempts made to reach the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act.

22 Pa. Code § 12.6. Exclusions from school.

- (a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519 - 300.529 (relating to discipline procedures).
- (b) Exclusion from school may take the form of suspension or expulsion.
- (1) Suspension is exclusion from school for a period of from 1 to 10 consecutive school days.
- (i) Suspensions may be given by the principal or person in charge of the public school.
- (ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.
- (iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.
- (iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c)(relating to hearings).
- (v) Suspensions may not be made to run consecutively beyond the 10 school day period.
- (vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.
- (2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.
- (c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).
- (d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.
- (e) Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.
- (1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400. - 1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b)(relating to free education and attendance).

22 Pa. Code § 12.7. Exclusion from classes - In-school suspension.

(a) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(b) Communication to the parents or guardian shall follow the suspension action taken by the school.

(c) When the in-school suspension exceeds 10 consecutive school days, an informal hearing with the principal shall be offered to the student and the student's parent or guardian prior to the 11th school day in accordance with the procedures in § 12.8 (relating to hearings).

(d) The student's school entity has the responsibility to make provision for the student's education during the period of the in-school suspension.

22 Pa. Code § 14.133. Positive behavior support.

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

18 Pa.C.S. § 2809. Institutional reports.

(a) Maintenance. - An institution shall maintain a report of all violations of the institution's antihazing policy or Federal or State laws related to hazing that are reported to the institution.

(b) Contents. - The report shall include all of the following:

(1) The name of the subject of the report.

(2) The date when the subject was charged with a violation of the institution's antihazing policy or Federal or State laws related to hazing.

(3) A general description of the violation, any investigation and findings by the institution and, if applicable, penalties.

(4) The date on which the matter was resolved.

(c) Initial report. - This section shall apply beginning with the 2018-2019 academic year. The initial report shall include information concerning violations that have been reported to the institution for the five consecutive years prior to the effective date of this section to the extent the institution has retained information concerning the violations.

(d) Personal identifying information. - The report shall not include the personal identifying information of an individual.

(e) Time. - An institution shall post an initial report required under this section on its publicly accessible Internet website by January 15, 2019.

(f) Update. - An institution shall update the report biannually on January 1 and August 1 and shall post the updated report on its publicly accessible Internet website.

(g) Duration. - An institution shall retain reports for five years.

24 P.S. § 13-1302-A. Office for safe schools.

(b) The office shall have the power and duty to implement the following:

(2) To collect, develop and disseminate information, policies, strategies and other information to assist in the development of programs to impact school violence.

(2.1) To direct all school entities to submit annual school violence statistics and reports to the office no later than July 31 of each year.

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(7) To publish and post on the Department of Education's Internet website a School Safety Annual Report no later than November 1 of each calendar year outlining all incidents required to be reported under section 1303-A and any school district that failed to submit a report under section 1303-A.

(b.1) The office shall process and tabulate the data on an annual basis to assist school administrators and law enforcement officials in their duties under this article.

24 P.S. § 13-1303.1-A. Policy relating to bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c)(relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

(c) Each school entity shall review its policy every three (3) years and annually provide the office with a copy of its policy relating to bullying, including information related to the development and implementation

of any bullying prevention, intervention and education programs. The information required under this subsection shall be attached to or made part of the annual report required under section 1303-A(b)

(d) In its policy relating to bullying adopted or maintained under subsection (a), a school entity shall not be prohibited from defining bullying in such a way as to encompass acts that occur outside a school setting if those acts meet the requirements contained in subsection (e)(1), (3) and (4). If a school entity reports acts of bullying to the office in accordance with section 1303-A(b), it shall report all incidents that qualify as bullying under the entity's adopted definition of that term.

(e) For purposes of this article, "bullying" shall mean an intentional electronic, written, verbal or physical act, or a series of acts:

- (1) directed at another student or students;
- (2) which occurs in a school setting;
- (3) that is severe, persistent or pervasive; and
- (4) that has the effect of doing any of the following:
 - (i) substantially interfering with a student's education;
 - (ii) creating a threatening environment; or
 - (iii) substantially disrupting the orderly operation of the school; and

"school setting" shall mean in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervised or sanctioned by the school.

24 P.S. § 13-1317.2. Possession of weapons prohibited.

(f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

- (1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.
- (2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

24 P.S. § 13-1339. Reports to Superintendent of Public Instruction.

Every school district shall report to the Superintendent of Public Instruction upon the enforcement of the provisions for compulsory attendance and the cost thereof, in such detail as said Superintendent of Public Instruction shall request.

24 P.S. § 14-1407-A. Reporting.

(a) Report by recovery high school. - By December 31, 2021, and each year thereafter, the recovery high school shall submit annually to the Secretary of Education, the Secretary of Drug and Alcohol Programs, the chairperson and minority chairperson of the Education Committee of the Senate, the chairperson and minority chairperson of the Education Committee of the House of Representatives, the chairperson and minority chairperson of the Public Health and Welfare Committee of the Senate and the chairperson and minority chairperson of the Health Committee of the House of Representatives a written report concerning the program and all expenditures relating to the program. The report shall include, but not be limited to, all of the following, subject to the requirements of the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247,

20 U.S.C. § 1232g) and to the extent such reporting does not reveal identifying information concerning any individual student:

(1) The number of students who:

- (i) Enrolled in the recovery high school under the program for the preceding reporting period.
- (ii) Requested enrollment in the recovery high school under the program but were denied participation in the program for the preceding reporting period.
- (iii) Enrolled in the recovery high school but who were not participants in the program for the preceding reporting period.

(2) The number and percentage of students enrolled in the recovery high school during the previous reporting period to whom each of the following apply, reported separately based on whether or not the students were participants in the program:

- (i) Earned a high school diploma from the recovery high school.
- (ii) Withdrew from the recovery high school and requested transfer of educational records to another school.
- (iii) Withdrew from the recovery high school without requesting transfer of educational records to another school.
- (iv) Maintained enrollment in the recovery high school in good standing.

(3) A narrative description of the academic outcomes for students enrolled in the recovery high school, including aggregate assessment results, reported separately based on whether or not the students were participants in the program.

(4) A narrative description of student success in managing issues concerning drug or alcohol abuse or addiction, reported separately based on whether or not the students were participants in the program.

(5) Recommendations for improvements to the program.

(6) Any information regarding the program that the recovery high school determines would be useful to the General Assembly, the Department of Education and the Department of Drug and Alcohol Programs in determining whether changes to the program are necessary and whether the program should be continued.

(b) Report by Department of Education and Department of Drug and Alcohol Programs. - By December 31, 2021, the Department of Education and the Department of Drug and Alcohol Programs, jointly, shall submit to the chairperson and minority chairperson of the Education Committee of the Senate, the chairperson and minority chairperson of the Education Committee of the House of Representatives, the chairperson and minority chairperson of the Public Health and Welfare Committee of the Senate and the chairperson and minority chairperson of the Health Committee of the House of Representatives a written report assessing the success of the program and making recommendations regarding the possible extension and expansion of the program, including a proposed timeline for any potential expansion.

24 P.S. § 15-1547. Alcohol, chemical and tobacco abuse program.

(h.1) By September 1, 2020, and by September 1 of every fifth year thereafter, the Department of Education, in consultation with the Department of Health and the Department of Drug and Alcohol Programs, shall report to the General Assembly concerning the preceding school year activities of the Department of Education, the Department of Health and the Department of Drug and Alcohol Programs pertaining to the provisions of this section. The report shall include:

- (1) A description of efforts by the Department of Education, the Department of Health and the Department of Drug and Alcohol Programs to assist school districts in providing the instruction required under subsections (a) and (a.1), including efforts to develop and post the model curriculum required

under subsection (a.1) and to develop and make available the in-service training programs required under subsection (d)(2).

(2) An evaluation of the effectiveness of the instruction required under subsections (a) and (a.1) and of curriculum materials and in-service training programs developed by the Department of Education, the Department of Health and the Department of Drug and Alcohol Programs under this section in reducing the use of alcohol, tobacco and other drugs, including prescription opioids, by students.

(i) The State Board of Education shall adopt rules and regulations necessary for the implementation of this section.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

18 Pa.C.S. § 912. Possession of weapon on school property.

(a) Definition. - Notwithstanding the definition of "weapon" in section 907 (relating to possessing instruments of crime), "weapon" for purposes of this section shall include but not be limited to any knife, cutting instrument, cutting tool, nun- chuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

(b) Offense defined. - A person commits a misdemeanor of the first degree if he possesses a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school.

(c) Defense. - It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.

18 Pa.C.S. § 6306.1. Use of tobacco in schools prohibited.

(a) Pupils. - A pupil commits a summary offense if the pupil possesses or uses a tobacco product:

- (1) in a school building;
- (2) on a school bus or other vehicle owned by, leased by or under the control of a school district; or
- (3) on school property owned by, leased by or under the control of a school

district. (a.1) Other persons.

(1) Any person, other than a pupil, commits a summary offense if the person uses a tobacco product:

- (i) in a school building;
- (ii) on a school bus or other vehicle owned by, leased by or under the control of a school district; or
- (iii) on school property owned by, leased by or under the control of a school district.

(2) The board of school directors may designate certain areas on property owned by, leased by or under the control of the school district where tobacco product use by persons other than pupils is permitted. The areas must be no less than 50 feet from school buildings, stadiums or bleachers.

(a.2) Policy.

(1) The board of school directors shall establish a policy to enforce the prohibition of tobacco product use under this section and may further establish policy relating to tobacco product use at school- sponsored events that are held off school premises.

(2) The board of school directors shall notify employees, pupils and parents of the policy developed in accordance with paragraph (1) by publishing the information in a student handbook and parent newsletter and on posters or other efficient means.

(b) Grading. - A pupil who commits an offense under this section shall be subject to prosecution initiated by the local school district and shall, upon conviction, be sentenced to pay a fine of not more than \$ 50 for the benefit of the school district in which such offending pupil resides and to pay court costs. When a pupil is charged with violating subsection (a), the court may admit the offender to an adjudication alternative as authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program) in lieu of imposing the fine.

(c) Nature of offense. - A summary offense under this section shall not be a criminal offense of record, shall not be reportable as a criminal act and shall not be placed on the criminal record of the offending school-age person if any such record exists.

(c.1) Preemption. - This section preempts any municipal ordinance or school board regulation to the contrary.

(d) Definitions.

As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electronic cigarette." -An electronic device that delivers nicotine or other substances through vaporization and inhalation.

"Electronic nicotine delivery system" or "ENDS." -A product or device used, intended for use or designed for the purpose of ingesting a nicotine product. The term includes an electronic cigarette.

"Nicotine product." -A product that contains or consists of nicotine in a form that can be ingested by chewing, smoking, inhaling or any other means.

"Pupil." -A person between the ages of 6 and 21 years who is enrolled in school.

"School." -A school operated by a joint board, board of directors or school board where pupils are enrolled in compliance with Article XIII of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, including a career and technical school, charter school and intermediate unit.

"Tobacco product." -As follows:

(1) The term includes:

(i) Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to, a cigarette, a cigar, a little cigar, chewing tobacco, pipe tobacco, snuff and snus.

(ii) Any electronic device that delivers nicotine or another substance to a person inhaling from the device, including, but not limited to, electronic nicotine delivery systems, an electronic cigarette, a cigar, a pipe and a hookah.

(iii) Any product containing, made or derived from either:

(A) tobacco, whether in its natural or synthetic form; or

(B) nicotine, whether in its natural or synthetic form, which is regulated by the United States Food and Drug Administration as a deemed tobacco product.

(iv) Any component, part or accessory of the product or electronic device under subparagraphs (i), (ii) and (iii), whether or not sold separately.

(2) The term does not include:

(i) A product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such approved purpose, so long as the product is not inhaled.

(ii) A device under paragraph (1)(ii) or (iii) if sold by a dispensary licensed under the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

24 P.S. § 13-1302.1-A. Regulations.

(a) Within one year of the effective date of this section, the State Board of Education shall promulgate final-omitted regulations pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," necessary to implement this article. The regulations shall include the following:

(2) Protocol for the notification of the police department when an offense listed under section 1303-A(b)(4.1) occurs on school property, which shall include a requirement that the local police department be notified immediately when such an offense occurs.

(3) Protocol for the notification of the police department at the discretion of the chief school administrator regarding an offense listed under section 1303-A(b)(4.2) or any other offense that occurs on school property.

24 P.S. § 13-1302-A. Office for safe schools.

(b) The office shall have the power and duty to implement the following:

(1) To coordinate antiviolence efforts between school, professional, parental, governmental, law enforcement and community organizations and associations.

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(6) To verify that each school entity has a biennially updated and reexecuted memorandum of understanding with local law enforcement and has filed such memorandum with the office on a biennial basis.

(b.1) The office shall process and tabulate the data on an annual basis to assist school administrators and law enforcement officials in their duties under this article.

24 P.S. § 13-1303-A. Reporting.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(5) Notification of law enforcement.

(8) Arrests, convictions and adjudications, if known.

(b.1) Prior to submitting the report required under subsection (b), each chief school administrator and each police department having jurisdiction over school property of the school entity shall do all of the following:

(1) No later than thirty (30) days prior to the deadline for submitting the report to the office required under subsection (b), the chief school administrator shall submit the report to the police department with jurisdiction over the relevant school property. The police department shall review the report and compare the data regarding criminal offenses and notification of law enforcement to determine whether the report accurately reflects police incident data.

(2) No later than fifteen (15) days prior to the deadline for the chief school administrator to submit the report required under subsection (b), the police department shall notify the chief school administrator, writing, whether the report accurately reflects police incident data. Where the police department determines that the report accurately reflects police incident data, the chief of police shall sign the report. Where the police department determines that the report does not accurately reflect police incident data, the police department shall indicate any discrepancies between the report and police incident data.

(3) Prior to submitting the report required under subsection (b), the chief school administrator and the police department shall attempt to resolve discrepancies between the report and police incident data. Where a discrepancy remains unresolved, the police department shall notify the chief school administrator and the office in writing.

(4) Where a police department fails to take action as required under paragraph (2) or (3), the chief school administrator shall submit the report required under subsection (b) and indicate that the police department failed to take action as required under paragraph (2) or (3).

(d) Pursuant to section 615 of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1415(k)(6)), nothing in section 1302.1-A or this section shall be construed to prohibit a school entity from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

24 P.S. § 13-1303-D. Safe2Say Program.

(a) Establishment. - The Safe2Say Program is established within the office.

(b) Administration. - The Attorney General shall:

- (1) administer the program pursuant to the requirements under subsection (c); and
- (2) promulgate regulations and adopt all guidelines necessary for the establishment of the program and administration of this article, in consultation with Statewide organizations.

(c) Program requirements. - Beginning January 14, 2019, the program shall be responsible for the following:

- (1) To ensure anonymous reporting concerning unsafe, potentially harmful, dangerous, violent or criminal activities in a school entity or the threat of the activities in a school entity.
- (2) To establish protocols and procedures to promptly notify the appropriate law enforcement agency via 911 centers and the Pennsylvania State Police when the program receives an anonymous report of violent or criminal activities in a school entity that poses an immediate threat of violence or criminal activity.
- (3) To ensure that the identity of the individual making a report remains unknown to any person, including law enforcement officers and employees of the office.
- (4) To ensure that information obtained from an individual making a report who voluntarily discloses his or her identity and verifies that he or she is willing to be identified may be shared with law enforcement officers, employees of the office and school officials.
- (5) To ensure that if the identity of an individual making a report becomes known through a means other than voluntary disclosure, the identity is not further disclosed.
- (6) To establish procedures to promptly forward information received by the program to the appropriate law enforcement agency, school official or organization, as determined by the office. The office may not be held liable for investigation of a report made to the program following confirmation of receipt of the report by the appropriate law enforcement agency, school official or organization.
- (7) To train or provide instruction to individuals, including, but not limited to, emergency dispatch centers and school entities, on appropriate awareness and response to the program.
- (8) To provide program awareness and education materials to school entities.
- (9) To, in consultation with the Department of Education, establish guidelines school entities may utilize to respond to a report received from the program.
- (10) To work with school entities, local law enforcement agencies and organizations to identify each person to whom a report from the program will be sent.

(d) School entity. - Each school entity shall develop procedures for assessing and responding to reports received from the program.

24 P.S. § 13-1311-A. Standing.

(a) If a student in a school district of the first class is a victim of an act of violence involving a weapon on school property and the student who possessed the weapon was not expelled under section 1317.2, the parent or guardian of the victim shall have standing to institute a legal proceeding to obtain expulsion of the student.

(b) The Office of General Counsel shall have standing to bring an action on behalf of a victim or the parent or guardian of a victim of an act of violence in a school in a school district of the first class to modify, clarify or eliminate a consent decree that is related to discipline in the district if, in consultation with the advocate, the Office of General Counsel believes that the action is in the best interests of the students of the school district.

(c)(1) The Executive Director of the Pennsylvania Commission on Crime and Delinquency in consultation with the General Counsel may designate a portion of the funds provided for the safe schools advocate:

(i) For contracts for legal services to assist low-income parents or guardians of victims to obtain legal services for proceedings under subsection (a).

(ii) To challenge a consent decree under subsection (b) or to bring an action under sections 1310- A(c)(5) and 1312-A(a).

(2) The designation of attorneys to receive funds under this subsection shall be within the discretion of the Office of General Counsel after consultation with the safe schools advocate.

(3) Designated funds which are not expended under this subsection shall lapse to the General Fund.

(d) Legal proceedings under this section shall be conducted by an attorney designated by the Office of General Counsel in consultation with the safe schools advocate. The attorney must be a member of the bar in good standing.

(e) Deleted by 2011, June 30, P.L. 112, No. 24, § 22, effective in 60 days [Aug. 29, 2011].

(f) As used in this section, "low-income parent or guardian" shall mean a parent whose family income is no greater than two hundred fifty per centum (250%) of the Federal poverty level.

24 P.S. § 13-1312-A. Enforcement.

(a)(1) If the school district of the first class fails to comply with requirements to provide information to the safe schools advocate under section 1310-A, the advocate shall provide documentation of the failure to the Secretary of Education and the Pennsylvania Commission on Crime and Delinquency.

(2) If the secretary determines that there is noncompliance, the secretary shall notify the advocate and the Office of General Counsel. The Office of General Counsel, in consultation with the safe schools advocate, shall designate an attorney to bring an action in a court of competent jurisdiction to enforce section 1310-A.

(3) If the secretary determines that the school district of the first class has complied with the requirements to provide information to the safe schools advocate under section 1310-A, the secretary shall convene a public hearing at which the safe schools advocate shall be permitted to testify regarding the alleged noncompliance.

(b) Legal proceedings under subsection (a) shall be conducted by an attorney designated by the Office of General Counsel in consultation with the safe schools advocate. The attorney must be a member of the bar in good standing.

24 P.S. § 13-1317.2. Possession of weapons prohibited.

(a) Except as otherwise provided in this section, a school district or area career and technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area career and technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area career and technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area career and technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area career and technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

24 P.S. § 13-1333.1. Procedure by school when child habitually truant.

(a) When a child is habitually truant and under fifteen (15) years of age at the time of referral, the school:

(1) Shall refer the child to either of the following:

(i) A school-based or community-based attendance improvement program.

(ii) The county children and youth agency for services or for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

- (2) May file a citation in the office of the appropriate judge against the person in parental relation who resides in the same household as the child.
- (b) When a child is habitually truant and fifteen (15) years of age or older at the time of referral, the school shall either:
 - (1) Refer the child to a school-based or community-based attendance improvement program or service.
 - (2) File a citation in the office of the appropriate judge against the child or the person in parental relation who resides in the same household as the child.
- (c) If a child who is fifteen (15) years of age or older continues to incur additional unexcused absences after being referred to a school-based or community-based attendance improvement program or refuses to participate in a school-based or community-based attendance improvement program as recommended through the school attendance improvement conference, the school may refer the child to the county children and youth agency for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63.
- (d) When referring a habitually truant child to the county children and youth agency or filing a citation with the court because a child has been habitually truant, the school shall provide verification that a school attendance improvement conference was held.
- (e) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1333.2. Procedure upon filing of citation.

- (a) The venue for the filing of a citation under section 1333.1 shall be based on the location of the school in which the child is enrolled or shall be enrolled except where section 1327.2(b) applies.
- (b) When a citation is filed against a child or a person in parental relation who resides in the same household as the child under the provisions of section 1333.1, the judge shall provide the following notices:
 - (1) Written notice of the hearing with respect to the citation to the school, the person in parental relation, the child and the county children and youth agency.
 - (2) Notice to the child or person in parental relation who resides in the same household as the child of the availability of a preconviction diversionary program authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program).
- (c) At the hearing with respect to the citation, the burden is on the school to prove beyond a reasonable doubt that, while subject to compulsory school attendance, the child was habitually and without justification truant from school.
- (d) It shall be an affirmative defense to a citation filed under this subdivision of this article against a person in parental relation to the child who resides in the same household as the child if the person in parental relation to the child who resides in the same household as the child took every reasonable step to ensure attendance of the child at school.
- (e) An affirmative defense under subsection (d) must be proven by a preponderance of the evidence.
- (f) The court shall determine whether the evidence has established that a child or person in parental relation has violated the compulsory school attendance requirements of this article and shall enter that verdict on the record.
- (g) The school shall, to the extent possible, inform the court of any prior conviction of the child or person in parental relation who resides in the same household as the child for a violation of the compulsory school attendance requirement of this article.

(h) Before entering a sentence the judge shall permit the school, person in parental relation or child to present relevant information that will assist the judge in making an informed decision regarding the appropriate sentence. The child's school attendance after the citation has been filed and while the proceeding is pending may be considered for the purpose of imposing a sentence.

24 P.S. § 13-1333.3. Penalties for violating compulsory school attendance requirements.

(a) A person convicted of an offense under this article may be:

(1) sentenced to pay a fine for the benefit of the school that is responsible for the truancy proceedings in an amount not exceeding three hundred dollars (\$300) together with court costs except that, in the case of a second offense, the maximum fine for a person in parental relation may be a higher amount within their ability to pay not exceeding five hundred dollars (\$500) together with court costs and, in the case of a third or subsequent offense, the maximum fine for a person in parental relation may be a higher amount within their ability to pay not exceeding seven hundred and fifty dollars (\$750) together with court costs;

(2) sentenced to perform community service; or

(3) required to complete an appropriate course or program designed to improve school attendance which has been approved by the president judge of the judicial district.

(b) The court may suspend the sentence of a person convicted of an offense and may remit or waive fines and costs if the child attends school in accordance with a plan devised by the court.

(c) A person convicted of an offense under this article shall have a right to appeal de novo to a court of common pleas of the proper county within thirty (30) days of the conviction. After thirty (30) days, the appeal shall proceed similar to other appeals of summary convictions.

(d) No citation may be filed against a child or a person in parental relation with the child who resides in the same household as the child for a subsequent violation of compulsory school attendance if any of the following circumstances apply:

(1) A proceeding is already pending under sections 1333.1 and 1333.2 against the child or a person in parental relation with the child who resides in the same household as the child and judgment in the first proceeding has not yet been entered, unless a warrant has been issued for failure of the child or person in parental relation to appear before the court and the warrant has not yet been served.

(2) A referral for services has been made to the county children and youth agency under this subdivision of this article and the agency has not closed the case.

(3) A petition has been filed alleging the child is dependent due to being habitually truant under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) and the case remains under the jurisdiction of the juvenile court.

(e) Upon a second or subsequent conviction of a child or a person in parental relation with the child who resides in the same household as the child for a violation of the requirements of compulsory school attendance in a court within this Commonwealth within a three-year period, the court shall refer the child for services or possible disposition as a dependent child under 42 Pa.C.S. Ch. 63.

(f) Upon failure of a person to satisfy the penalty imposed by the court under subsection (a), the person in parental relation may be found in contempt of court and, upon conviction, may be sentenced to the county jail for a period not to exceed three (3) days in any one case. The court shall make such a determination based on specific finding that the person in parental relation had reasonable ability to comply with the penalty imposed and that noncompliance was willful. The following shall apply:

(1) In the case of a child, the failure to satisfy a fine or costs imposed under this section shall not be considered a delinquent act.

(2) The president judge of a judicial district may adopt a local policy under 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers) and the Pennsylvania Rules of Juvenile Court Procedure to provide that a juvenile probation officer may receive allegations that the child who fails to satisfy a fine or costs imposed under this section is dependent for the purpose of considering the commencement of proceedings under 42 Pa.C.S. Ch. 63.

(g)(1) If a child is convicted of a violation of the compulsory school attendance requirements of this article, the court may send the Department of Transportation a certified record of the conviction on a form prescribed by the department only if the child fails to comply with a lawful sentence entered for the violation and is not subject to an exception to compulsory attendance under section 1330.

(2) The Department of Transportation shall suspend for ninety (90) days the operating privilege of a child upon receiving a certified record that the child was convicted of a summary offense under the compulsory school attendance requirements of this article. If the Department of Transportation receives a certified record of a second or subsequent conviction of a child pursuant to this section, the department shall suspend the child's operating privilege for six (6) months.

(3) A child whose record is received by the Department of Transportation under this section and who does not have a driver's license shall be ineligible to apply for a driver's license under 75 Pa.C.S. § 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time period specified in paragraph (2). If the child is under sixteen (16) years of age when convicted, suspension of operating privileges shall commence in accordance with 75 Pa.C.S.

§ 1541 (relating to period of disqualification, revocation or suspension of operating privilege) for the time specified in paragraph (2).

(4) A child whose driving privileges have been suspended or whose eligibility for a permit or license is delayed under this section may have that license or eligibility restored by providing the Department of Transportation with a form developed by the Department of Transportation containing the following information in the form of a certified record from the child's school that the child:

- (i) has attended school for a period of at least two (2) months after the first conviction or four (4) months after the second conviction without an unexcused absence or unexcused tardy;
- (ii) is subject to an exception to compulsory attendance under section 1330; or
- (iii) graduates, withdraws from school pursuant to compulsory attendance requirements under section 1327, receives a general education diploma or enlists in the military.

(5) An insurer may not increase premiums, impose a surcharge or rate penalty, make a driver record point assignment for automobile insurance or cancel or refuse to renew an automobile insurance policy on account of a suspension under this section.

(6) Nothing in this section shall prohibit a child who is convicted of a violation of the compulsory school attendance requirements of this article from being eligible for an occupational limited license under 75 Pa.C.S. § 1553 (relating to occupational limited license).

(h)(1) Upon application from a child who has a conviction of a summary offense under section 1333.2, the court shall grant an expungement of the conviction from the child's record if all of the following apply:

- (i) The child has earned a high school diploma, a Commonwealth secondary school diploma or another Department of Education-approved equivalent, or is subject to an exception to compulsory attendance under section 1330.
- (ii) The child has satisfied any sentence imposed by the court with respect to the conviction, including payment of fines and costs.

(2) If the court grants an expungement under paragraph (1), the court shall order the Department of Transportation to expunge all administrative records related to the convictions.

(i) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

24 P.S. § 13-1338. Dependent children.

In case any child of compulsory school age cannot be kept in school in compliance with the provisions of this act, on account of incorrigibility, truancy, insubordination, or other bad conduct, or if the presence of any child attending school is detrimental to the welfare of such school, on account of incorrigibility, truancy, insubordination, or other bad conduct, the board of school directors may, by its superintendent, secretary, attendance officer or State, municipal, port authority, transit authority or housing authority police officer, under such rules and regulations as the board may adopt, proceed against said child before the juvenile court, or otherwise, as is now or may hereafter be provided by law for incorrigible, truant, insubordinate, or dependent children.

REGULATIONS

22 Pa. Code § 10.1. Purpose.

The purpose of this chapter is to establish and maintain a cooperative relationship between school entities and local police departments in the reporting and resolution of incidents that occur on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

22 Pa. Code § 10.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Charter school - A charter school or cyber charter school as defined in section 1703-A of the Charter School Law (24 P. S. § 17-1703-.A).

Chief school administrator - The superintendent of a public school district, executive director of an area vocational-technical school, executive director of an intermediate unit or chief executive officer of a charter school.

IEP - Individualized education program.

Incident - An instance involving one or more of the following:

- (i) An act of violence.
- (ii) The possession of a weapon by a person.
- (iii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in section 2 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-102.).
- (iv) The possession, use or sale of alcohol or tobacco by a person on school property.
- (v) Conduct that constitutes an offense under section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P. S. § 13-1303-.A(b)(4.1) and (4.2)).

Local police department - A police department having jurisdiction over school property of the school entity.

Memorandum of understanding - A confirmation of mutually agreed upon terms between two or more parties in the form of a document mutually agreed to by a school entity and a local police department as required under section 1303-A(c) of the Safe Schools Act.

Positive behavior support plan - A plan for a student with a disability or eligible young child who requires specific intervention to address behavior that interferes with learning. A plan is developed by the IEP team, based on a functional behavior assessment and becomes part of the individual eligible young

child's or student's IEP. A plan includes methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards. See §§ 14.133 and 711.46 (relating to positive behavior support).

Safe Schools Act - Article XIII-A of the School Code (24 P. S. §§ 13-1301-A - 13-1313-A). School-based diversion program - A program that, in partnership with other stakeholders, diverts youth out of the juvenile justice system. A program may include a youth aid panel in which a panel of community members decides an appropriate resolution to hold a student accountable for the student's actions by, among other options, requiring the student to complete educational activities, community service, restitution and any other related program or service.

School entity - A public school district, intermediate unit, area vocational-technical school or charter school.

School-wide positive behavior support - A school-wide, evidence-based and data-driven approach to improving school behavior that seeks to reduce unnecessary student disciplinary actions and promotes a climate of greater productivity, safety and learning.

22 Pa. Code § 10.21. Immediate notification.

(a) The chief school administrator, or a designee, shall immediately notify the local police department when an offense listed in section 1303-A(b)(4.1) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1)) occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

(b) Notification shall be made to the local police department by the most expeditious means practicable.

(c) As part of its notification of the incident to the local police department, the chief school administrator or a designee shall provide as much of the information in this subsection as is available at the time of notification. The gathering of information should not unnecessarily delay notification.

(1) Whether the incident is in-progress or has concluded.

(2) Nature of the incident.

(3) Exact location of the incident.

(4) Number of persons involved in the incident.

(5) Names and ages of the individuals involved.

(6) Weapons involved in the incident.

(7) Whether the weapons have been secured and the custodian of the weapons.

(8) Injuries.

(9) Whether emergency medical services or the fire department was notified.

(10) Identity of the school contact person.

(11) Identity of the witnesses.

(12) Whether the incident involves a student with a disability, the type of disability and its impact on the student's behavior.

(13) Other information as is known to the school entity and believed to be relevant to the incident.

(d) In responding to students who commit an incident listed in section 1303-A(b)(4.1) of the Safe Schools Act, a school entity may consider the propriety of utilizing available school-based programs, such as school-wide positive behavior supports, to address the student's behavior and shall notify the local police

department of the student's placement in the program. This subsection does not limit law enforcement's discretion.

22 Pa. Code § 10.22. Discretionary notification.

(a) The chief school administrator, or a designee, may notify the local police department having jurisdiction when an offense listed in section 1303-A(b)(4.2) of the Safe Schools Act (24 P. S. § 13-1303- A(b)(4.2)) occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

(b) In determining whether to notify the local police department of an incident described in subsection (a), the chief school administrator, or a designee, may consider the following factors:

- (1) The seriousness of the situation.
- (2) The school's ability to defuse or resolve the situation.
- (3) The child's intent.
- (4) The child's age.
- (5) Whether the student has a disability, the type of disability and its impact on the student's behavior.
- (6) Other factors believed to be relevant.

(c) In making a determination whether to notify law enforcement when an offense listed in section 1303-A(b)(4.2) of the Safe Schools Act occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity, and to the extent that it has authority, a school entity may consider addressing the student's behavior through the use of available school-based diversion programs and available school-wide positive behavior supports.

(d) Upon notification of the incident to the local police department, the chief school administrator or a designee shall provide as much of the information in this subsection as is available at the time of notification. The gathering of information should not unnecessarily delay notification.

- (1) Whether the incident is in-progress or has concluded.
- (2) Nature of the incident.
- (3) Exact location of the incident.
- (4) Number of persons involved in the incident.
- (5) Names and ages of the individuals involved.
- (6) Weapons involved in the incident.
- (7) Whether the weapons have been secured and the custodian of the weapons.
- (8) Injuries.
- (9) Whether emergency medical services or the fire department was notified.
- (10) Identity of the school contact person.
- (11) Identity of the witnesses.
- (12) Whether the incident involves a student with a disability, the type of disability and its impact on the student's behavior.
- (13) Other information known to the school entity and believed to be relevant to the incident.

22 Pa. Code § 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive

techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques - Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support - The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans - A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints -

(i) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.

(ii) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

(iii) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

- (2) The use of restraints may only be included in a student's or eligible young child's IEP when the following conditions apply:
- (i) The restraint is utilized with specific component elements of positive behavior support.
 - (ii) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
 - (iii) Staff are authorized to use the procedure and have received the staff training required.
 - (iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.
- (3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.
- (4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.
- (5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department.
- (d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.
- (e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:
- (1) Corporal punishment.
 - (2) Punishment for a manifestation of a student's disability.
 - (3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.
 - (4) Noxious substances.
 - (5) Deprivation of basic human rights, such as withholding meals, water or fresh air.
 - (6) Suspensions constituting a pattern under § 14.143(a)(relating to disciplinary placement).
 - (7) Treatment of a demeaning nature.
 - (8) Electric shock.
- (f) School entities have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures as provided in subsection (c).
- (g) In accordance with their plans, agencies may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.
- (h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(c.1)(1) In addition to the powers and duties set forth under subsections (b) and (c), the office is authorized to make targeted grants to school entities, municipalities, local law enforcement agencies and approved vendors to fund programs which address school violence by establishing or enhancing school security, including costs associated with the training and compensation of school resource officers and school police officers. Municipalities or local law enforcement agencies that receive grants under this subsection shall, with the prior consent of the governing board of the school entity or nonpublic school, assign school resource officers to carry out their official duties on the premises of the school entity or nonpublic school.

(2) Municipalities or local law enforcement agencies may not receive grant funds under this subsection for any purpose other than for costs associated with school resource officers and are not eligible for other grants provided to school entities under this section. In assigning school resource officers pursuant to this subsection, municipalities shall take into consideration the proportion of students enrolled in each school entity or nonpublic school.

(3) Nonpublic schools are authorized to apply to the office for grant funding under paragraph (1) to be used for the costs associated with obtaining the services of a school police officer from a list of approved vendors certified by the office. Grant awards for this purpose shall be awarded and paid directly to the approved vendor with which the nonpublic school contracts for services. Nonpublic schools may not apply for grant funding under this section for any purpose other than obtaining the services of a school police officer under this paragraph.

24 P.S. § 13-1303-C. Annual report .

A school entity or nonpublic school which employs or contracts for a school police officer shall report annually to the department and the commission the following information regarding school police officers receiving training as required under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training):

- (1) The identity of the school entity or nonpublic school and the number of school police officers employed or contracted by the school entity or nonpublic school.
- (2) The municipalities comprising the school entity or in which the nonpublic school is located.
- (3) The date and type of training provided to each school police officer.

24 P.S. § 13-1305-C. Training.

(a) General rule.- A school police officer who has been granted powers under section 1306-C(a)(3) or (b) or has been authorized to carry a firearm must, before entering upon the duties of the office, satisfy the following:

- (1) Successfully complete basic training as required by the Municipal Police Officers' Education and Training Commission under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training) or has graduated from the Pennsylvania State Police Academy, has been employed as a State trooper with the Pennsylvania State Police and has separated from that service in good standing.

(2)(i) Successfully complete the Basic School Resource Officer Course offered by the National Association of School Resource Officers or an equivalent course of instruction approved by the commission.

(ii) A school police officer who is employed or contracted by a school entity or nonpublic school before September 2, 2019, shall have until the beginning of the 2020-2021 school year to complete the instruction.

(b) In-service training.- Notwithstanding any other provision of law, a school police officer shall also attend annual in-service training approved by the Municipal Police Officers' Education and Training Commission under 53 Pa.C.S. Ch. 21 Subch. D.

24 P.S. § 13-1313-C. School resource officers.

(a) Powers and duties.- A school entity or nonpublic school may confer the following powers and duties upon school resource officers:

(1) To assist in the identification of physical changes in the environment which may reduce crime in or around the school.

(2) To assist in developing school policy which addresses crime and to recommend procedural changes.

(3) To develop and educate students in crime prevention and safety.

(4) To train students in conflict resolution, restorative justice and crime awareness.

(5) To address crime and violence issues, gangs and drug activities affecting or occurring in or around a school.

(6) To develop or expand community justice initiatives for

students. (a.1) Training.

(1) Prior to entering upon the duties of the office, a school resource officer shall successfully complete the Basic School Resource Officer Course of Instruction offered by the National Association of School Resource Officers or an equivalent course of instruction approved by the commission.

(2) A school resource officer who is stationed in a school entity or nonpublic school before September 2, 2019, shall have until the beginning of the 2020-2021 school year to complete the instruction.

(b) Intergovernmental agreements for school resource officers.

(1) The board of school directors of a school district may enter into agreements with other political subdivisions to provide for school resource officers, subject to the statutory authority of school resource officers.

(2) The board of school directors may use school funds to share costs with municipalities and counties for such expenses as benefits and salaries of school resource officers.

(3) School resource officers are not required to be employees of the school district and may be employees of other political subdivisions.

24 P.S. § 13-1314-C. School security guards.

(a) Scope of services.- A school security guard may provide the following services as determined by the school entity or nonpublic school:

(1) School safety support services.

(2) Enhanced campus supervision.

(3) Assistance with disruptive students.

(4) Monitoring visitors on campus.

(5) Coordination with law enforcement officials, including school police officers and school resource officers.

(6) Security functions which improve and maintain school safety.

(b) Training.- The following shall apply:

(1) Prior to entering upon the duties of the office, a school security guard shall successfully complete the Basic School Resource Officer Course offered by the National Association of School Resource Officers or an equivalent course of instruction approved by the commission.

(2) An unarmed school security guard who is employed or contracted by a school entity or nonpublic school before September 2, 2019, shall have until the beginning of the 2020-2021 school year to complete the instruction.

(3) An armed school security guard who is employed or contracted by a school entity or nonpublic school before September 2, 2019, shall have until February 28, 2020, to complete the instruction under paragraph (1) unless an extension is approved through the following process:

(i) The governing body of a school entity or nonpublic school may approve an extension of the deadline specified in this paragraph for armed school security guards to complete the required instruction due to a hardship in complying with the deadline. The deadline may be extended to no later than the beginning of the 2020-2021 school year. The following shall apply:

(A) The governing body must determine that complying with the instruction deadline would present a hardship for the school entity or nonpublic school.

(B) The governing body of a school entity which is subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) may discuss the issue of a hardship extension in executive session, except that approval of the hardship extension must occur at a public meeting.

(C) The school entity or nonpublic school shall submit the approved hardship extension to the Office of Safe Schools within the department not later than 15 days from the date of approval. Any documentation submitted under this clause may not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) For the purposes of this section, a hardship shall include any of the following:

(A) Increased risk to students, staff or visitors due to the absence of school security guards while school is in session because of compliance with the instruction deadline.

(B) Deployment or active military service, illness, family emergency, death in the immediate family or other approved leave of absence which would prevent school security guards from complying with the instruction deadline.

(c) Armed school security guards.- A school entity or nonpublic school may employ or contract with an independent contractor or a third-party vendor under section 1311-C for an armed school security guard if all of the following conditions are met:

(1) Except as set forth in subsection (d) or (e), the school security guard is licensed under 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act).

(2) Except as set forth in subsection (d) or (e), the school security guard has successfully completed and is currently certified under the act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act.

(3) The school security guard has completed the instructional requirements under subsection (b).

(4) The school security guard has satisfied the requirements under sections 111 and 111.1 and 23 Pa.C.S. § 6344 (relating to employees having contact with children; adoptive and foster parents).

(d) Active law enforcement officers.- Active law enforcement officers shall be exempt from the training requirements for school security guards under subsection (c)(1) and (2) upon presentation to the school entity or nonpublic school of evidence of their completion of the training requirements under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(e) Retired law enforcement officers.- A retired law enforcement officer shall be exempt from the training requirements for school security guards under subsection (c)(1) and (2) if the retired officer:

- (1) complies with section 8.1 of the Lethal Weapons Training Act; or
- (2) has been issued a firearm training and qualification card under section 5 of the act of December 13, 2005 (P.L.432, No.79), known as the Retired Law Enforcement Identification Act.

24 P.S. § 13-1315-C. Duties of commission.

The commission shall have the following duties under this article:

- (1) In conjunction with the department and the Pennsylvania State Police, periodically reassess the training requirements for all school security personnel, including the Basic School Resource Officer Course of Instruction offered by the National Association of School Resource Officers.
- (2) Establish criteria for certifying approved third- party vendors to provide school security guard services to school entities and nonpublic schools.
- (3) Publish and post on the commission's publicly accessible Internet website a listing of all approved third-party vendors for school security guard services.
- (4) Submit an annual report to the General Assembly on school security, including all data collected from school entities and nonpublic schools and recommendations for improvements in school security personnel training requirements.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

24 P.S. § 13-1302-A. Office for safe schools.

(b) The office shall have the power and duty to implement the following:

(6) To verify that each school entity has a biennially updated and reexecuted memorandum of understanding with local law enforcement and has filed such memorandum with the office on a biennial basis.

(c.1)(1) In addition to the powers and duties set forth under subsections (b) and (c), the office is authorized to make targeted grants to school entities, municipalities, local law enforcement agencies and approved vendors to fund programs which address school violence by establishing or enhancing school security, including costs associated with the training and compensation of school resource officers and school police officers. Municipalities or local law enforcement agencies that receive grants under this subsection shall, with the prior consent of the governing board of the school entity or nonpublic school, assign school resource officers to carry out their official duties on the premises of the school entity or nonpublic school.

(2) Municipalities or local law enforcement agencies may not receive grant funds under this subsection for any purpose other than for costs associated with school resource officers and are not eligible for other grants provided to school entities under this section. In assigning school resource officers pursuant to this subsection, municipalities shall take into consideration the proportion of students enrolled in each school entity or nonpublic school.

(3) Nonpublic schools are authorized to apply to the office for grant funding under paragraph (1) to be used for the costs associated with obtaining the services of a school police officer from a list of approved vendors certified by the office. Grant awards for this purpose shall be awarded and paid directly to the approved vendor with which the nonpublic school contracts for services. Nonpublic

schools may not apply for grant funding under this section for any purpose other than obtaining the services of a school police officer under this paragraph.

24 P.S. § 13-1303-A. Reporting.

(b) The office shall have the power and duty to implement the following:

(6) To verify that each school entity has a biennially updated and reexecuted memorandum of understanding with local law enforcement and has filed such memorandum with the office on a biennial basis.

(c.1)(1) In addition to the powers and duties set forth under subsections (b) and (c), the office is authorized to make targeted grants to school entities, municipalities, local law enforcement agencies and approved vendors to fund programs which address school violence by establishing or enhancing school security, including costs associated with the training and compensation of school resource officers and school police officers. Municipalities or local law enforcement agencies that receive grants under this subsection shall, with the prior consent of the governing board of the school entity or nonpublic school, assign school resource officers to carry out their official duties on the premises of the school entity or nonpublic school.

(2) Municipalities or local law enforcement agencies may not receive grant funds under this subsection for any purpose other than for costs associated with school resource officers and are not eligible for other grants provided to school entities under this section. In assigning school resource officers pursuant to this subsection, municipalities shall take into consideration the proportion of students enrolled in each school entity or nonpublic school.

(3) Nonpublic schools are authorized to apply to the office for grant funding under paragraph (1) to be used for the costs associated with obtaining the services of a school police officer from a list of approved vendors certified by the office. Grant awards for this purpose shall be awarded and paid directly to the approved vendor with which the nonpublic school contracts for services. Nonpublic schools may not apply for grant funding under this section for any purpose other than obtaining the services of a school police officer under this paragraph.

24 P.S. § 13-1302.1-A. Regulations.

(a) Within one year of the effective date of this section, the State Board of Education shall promulgate final-omitted regulations pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," necessary to implement this article. The regulations shall include the following:

(1) A model memorandum of understanding between school entities and local police departments. The model memorandum of understanding shall be reviewed on a biennial basis and revised where necessary. The State Board of Education may revise the model memorandum of understanding by publishing a notice in the Pennsylvania Bulletin that contains the complete revised model memorandum of understanding. The revised model memorandum of understanding shall be incorporated into the Pennsylvania Code in place of the existing model memorandum of understanding.

(2) Protocol for the notification of the police department when an offense listed under section 1303-A(b)(4.1) occurs on school property, which shall include a requirement that the local police department be notified immediately when such an offense occurs.

(3) Protocol for the notification of the police department at the discretion of the chief school administrator regarding an offense listed under section 1303-A(b)(4.2) or any other offense that occurs on school property.

(4) Protocol for emergency and nonemergency response by the police department, which shall include a requirement that the school district shall supply the police department with a copy of the

comprehensive disaster response and emergency preparedness plan as required by 35 Pa.C.S. § 7701(g)(relating to duties concerning disaster prevention).

(5) Procedures and protocols for the response and handling of students with a disability, including procedures related to student behavior as required by 22 Pa. Code § 14.104 (relating to special education plans) and 14.133 (relating to positive behavior support).

(b)(1) In promulgating the regulations required under subsection (a), the State Board of Education shall convene and consult with a Statewide advisory committee which shall include a police chief, juvenile public defender, school superintendent, school principal, district attorney, solicitor of a school district, special education supervisor, special education advocate and in-school probation officer and one designee from the Department of Education, the Pennsylvania Commission on Crime and Delinquency, the Municipal Police Officers' Education and Training Commission, the Juvenile Court Judges' Commission and the Pennsylvania State Police.

(2) Members of the committee shall be selected to be representative of the rural, suburban and urban school entities of this Commonwealth.

(3) The advisory committee shall be convened no later than sixty (60) days after the effective date of this section and shall meet regularly to fulfill the requirements of this section.

24 P.S. § 13-1303-B. School safety and security committee.

(a) Duty to establish. - No later than September 30, 2018, the committee shall establish criteria to be used when conducting school safety and security assessments that include the following:

(1) A physical assessment. The physical assessment shall be conducted during calendar months when school is in session and shall consist of an evaluation of the school entity's structural facilities and surrounding property that includes:

(v) An analysis of the school entity's cooperative agreements with the local law enforcement agencies that are primarily responsible for protecting and securing the school.

24 P.S. § 13-1301-C. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." The Pennsylvania Commission on Crime and Delinquency.

"Department." The Department of Education of the Commonwealth.

"Independent contractor." An individual, including a retired Federal agent or retired State, municipal or military police officer or retired sheriff or deputy sheriff, whose responsibilities, including work hours, are established in a written contract with a school entity or a nonpublic school for the purpose of performing school security services.

"School entity." A school district, intermediate unit, area career and technical school, charter school or private residential rehabilitative institution.

"School police officer." Any of the following:

(1) A law enforcement officer employed by a school entity or nonpublic school whose responsibilities, including work hours, are established by the school entity or nonpublic school.

(2) An independent contractor or an individual provided through a third-party vendor who has been appointed under section 1302-C.

"School resource officer." A law enforcement officer commissioned and employed by a law enforcement agency whose duty station is located in a school entity or nonpublic school and whose stationing is established by an agreement between the law enforcement agency and the school entity or nonpublic school. The term includes an active certified sheriff or deputy sheriff whose stationing in the school entity or nonpublic school is established by a written agreement between the county, the sheriff's office and the school entity or nonpublic school.

"School security guard." An individual employed by a school entity, nonpublic school or a third-party vendor or an independent contractor who is assigned to a school for routine safety and security duties and has not been granted powers under section 1306-C(a)(3) or (b).

"School security personnel." School police officers, school resource officers and school security guards.

24 P.S. § 13-1302-C. School police officer.

(a) Application to court.- A school entity or nonpublic school may apply to a judge of the court of common pleas of the county within which the school entity or nonpublic school is situated to appoint a person or persons, as the board of directors of the school entity or the administration of the nonpublic school may designate, to act as a school police officer for the school entity or nonpublic school.

(b) Appointment.-

(1) The judge, upon the application, may appoint a person or persons, as the judge deems proper, to be the school police officer and shall note the fact of the appointment to be entered upon the records of the court.

(2) The judge may, at the request of the school entity or nonpublic school, grant the school police officer the authority to issue citations for summary offenses as provided in section 1306-C(3) or the authority to detain students until the arrival of local law enforcement or any combination thereof.

(3) The judge shall, at the request of the school entity or nonpublic school, grant the school police officer the authority to carry a firearm if the school police officer satisfies the requirements under section 1305-C.

24 P.S. § 13-1304-C. Oath of office.

Every school police officer appointed under section 1302-C(b) shall, before entering upon the duties of the office, take and subscribe to the oath required by section 3 of Article VII of the Constitution of Pennsylvania, before a magisterial district judge or prothonotary. The oath shall be filed by the magisterial district judge or prothonotary among his papers, and a note made upon his docket of the fact of the oath having been taken.

24 P.S. § 13-1306-C. Powers and duties.

A school police officer appointed under section 1302-C(b) shall possess and exercise all the following powers and duties:

(1) To enforce good order in school buildings, on school buses and on school grounds in the respective school entities or nonpublic schools. For purposes of this paragraph, the term "school bus" shall include a vehicle leased by the school entity or nonpublic school to transport students and a vehicle of mass transit used by students to go to and from school and school activities when the school police officer responds to a report of an incident involving a breach of good order or violation of law.

(3) If authorized by the court, to issue summary citations or to detain individuals in school buildings, on school buses and on school grounds in the respective school entities or nonpublic schools until local law enforcement is notified.

24 P.S. § 13-1309-C. Cooperative police service agreements.

(a) General rule.- A school entity or nonpublic school and municipality may enter into a cooperative police service agreement under 42 Pa.C.S. § 8953(e)(relating to Statewide municipal police jurisdiction) and 53 Pa.C.S. § 2303 (relating to intergovernmental cooperation authorized) to authorize the exercise of concurrent jurisdiction with local law enforcement within the municipality where the school entity or nonpublic school is located or within the municipality in which a school event or activity will take place.

(b) Municipalities without municipal police departments.-

(1) If a school entity or nonpublic school is located within a municipality where no municipal police department exists, the school entity or nonpublic school may enter into a cooperative police service

agreement under 42 Pa.C.S. § 8953(e) and 53 Pa.C.S. § 2303 with a municipality providing full-time or part-time police coverage that is located adjacent to the school entity or nonpublic school.

(2) At least 30 days prior to executing a cooperative police service agreement under this subsection, the school entity or nonpublic school shall provide written notice of its intent to enter into the agreement to the municipality where the school entity or nonpublic school is located.

(3) A copy of the executed agreement shall be provided to the commanding officer of the Pennsylvania State Police installation that provides primary police services to the municipality where the school entity or nonpublic school is located.

(4) A cooperative police service agreement entered into under this subsection shall only pertain to actions taken on school property under the agreement and shall not affect the jurisdiction of the Pennsylvania State Police.

24 P.S. § 13-1313-C. School resource officers.

(a) Powers and duties.- A school entity or nonpublic school may confer the following powers and duties upon school resource officers:

(1) To assist in the identification of physical changes in the environment which may reduce crime in or around the school.

(2) To assist in developing school policy which addresses crime and to recommend procedural changes.

(3) To develop and educate students in crime prevention and safety.

(4) To train students in conflict resolution, restorative justice and crime awareness.

(5) To address crime and violence issues, gangs and drug activities affecting or occurring in or around a school.

(6) To develop or expand community justice initiatives for

students. (a.1) Training.

(1) Prior to entering upon the duties of the office, a school resource officer shall successfully complete the Basic School Resource Officer Course of Instruction offered by the National Association of School Resource Officers or an equivalent course of instruction approved by the commission.

(2) A school resource officer who is stationed in a school entity or nonpublic school before September 2, 2019, shall have until the beginning of the 2020-2021 school year to complete the instruction.

(b) Intergovernmental agreements for school resource officers.

(1) The board of school directors of a school district may enter into agreements with other political subdivisions to provide for school resource officers, subject to the statutory authority of school resource officers.

(2) The board of school directors may use school funds to share costs with municipalities and counties for such expenses as benefits and salaries of school resource officers.

(3) School resource officers are not required to be employees of the school district and may be employees of other political subdivisions.

24 P.S. § 13-1314-C. School security guards.

(a) Scope of services.- A school security guard may provide the following services as determined by the school entity or nonpublic school:

(1) School safety support services.

(2) Enhanced campus supervision.

(3) Assistance with disruptive students.

(4) Monitoring visitors on campus.

(5) Coordination with law enforcement officials, including school police officers and school resource officers.

(6) Security functions which improve and maintain school safety.

(b) Training.- The following shall apply:

(1) Prior to entering upon the duties of the office, a school security guard shall successfully complete the Basic School Resource Officer Course offered by the National Association of School Resource Officers or an equivalent course of instruction approved by the commission.

(2) An unarmed school security guard who is employed or contracted by a school entity or nonpublic school before September 2, 2019, shall have until the beginning of the 2020-2021 school year to complete the instruction.

(3) An armed school security guard who is employed or contracted by a school entity or nonpublic school before September 2, 2019, shall have until February 28, 2020, to complete the instruction under paragraph (1) unless an extension is approved through the following process:

(i) The governing body of a school entity or nonpublic school may approve an extension of the deadline specified in this paragraph for armed school security guards to complete the required instruction due to a hardship in complying with the deadline. The deadline may be extended to no later than the beginning of the 2020-2021 school year. The following shall apply:

(A) The governing body must determine that complying with the instruction deadline would present a hardship for the school entity or nonpublic school.

(B) The governing body of a school entity which is subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) may discuss the issue of a hardship extension in executive session, except that approval of the hardship extension must occur at a public meeting.

(C) The school entity or nonpublic school shall submit the approved hardship extension to the Office of Safe Schools within the department not later than 15 days from the date of approval. Any documentation submitted under this clause may not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) For the purposes of this section, a hardship shall include any of the following:

(A) Increased risk to students, staff or visitors due to the absence of school security guards while school is in session because of compliance with the instruction deadline.

(B) Deployment or active military service, illness, family emergency, death in the immediate family or other approved leave of absence which would prevent school security guards from complying with the instruction deadline.

(c) Armed school security guards.- A school entity or nonpublic school may employ or contract with an independent contractor or a third-party vendor under section 1311-C for an armed school security guard if all of the following conditions are met:

(1) Except as set forth in subsection (d) or (e), the school security guard is licensed under 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act).

(2) Except as set forth in subsection (d) or (e), the school security guard has successfully completed and is currently certified under the act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act.

(3) The school security guard has completed the instructional requirements under subsection (b).

(4) The school security guard has satisfied the requirements under sections 111 and 111.1 and 23 Pa.C.S. § 6344 (relating to employees having contact with children; adoptive and foster parents).

(d) Active law enforcement officers.- Active law enforcement officers shall be exempt from the training requirements for school security guards under subsection (c)(1) and (2) upon presentation to the

school entity or nonpublic school of evidence of their completion of the training requirements under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(e) Retired law enforcement officers.- A retired law enforcement officer shall be exempt from the training requirements for school security guards under subsection (c)(1) and (2) if the retired officer:

(1) complies with section 8.1 of the Lethal Weapons Training Act; or

(2) has been issued a firearm training and qualification card under section 5 of the act of December 13, 2005 (P.L.432, No.79), known as the Retired Law Enforcement Identification Act.

24 P.S. § 13-1341. Duty to employ; power of arrest; certification.

(a) The board of school directors of every school district of the first, second, or third class, shall, and in any school district of the fourth class may, employ one or more persons to be known as attendance officers, or home and school visitors, whose duties shall be to enforce the provisions of this act regarding compulsory attendance. Such attendance officers, or home and school visitors, shall, in addition to the duties imposed upon them by the provisions of this act, have full police power without warrant, and may arrest or apprehend any child who fails to attend school in compliance with the provisions of this act, or who is incorrigible, insubordinate, or disorderly during attendance at school or on his way to or from school. All home and school visitors shall be legally certified as such by the Department of Education, upon meeting such standards as shall be prescribed by the State Board of Education.

(b) Any two or more school districts may join in the appointment of an attendance officer on such terms as they may mutually agree upon.

(c) State, municipal, port authority, transit authority, housing authority and school police officers shall have the same arrest powers as attendance officers or home and school visitors.

REGULATIONS

22 Pa. Code § 10.1. Purpose.

The purpose of this chapter is to establish and maintain a cooperative relationship between school entities and local police departments in the reporting and resolution of incidents that occur on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

22 Pa. Code § 10.11. Memorandum of understanding.

(a) Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity.

(b) A memorandum of understanding between a school entity and a local police department, including its development and implementation, must meet the requirements of section 1303-A(c) of the Safe Schools Act (24 P. S. § 13-1303-A(c)).

(c) In developing a memorandum of understanding to execute with a local police department, a school entity shall consult and consider the model memorandum of understanding promulgated by the Board in Appendix A (relating to model memorandum of understanding).

(d) On a biennial basis, a school entity shall file with the Department's Office for Safe Schools a memorandum of understanding with each local police department having jurisdiction over property of the school entity. As part of its filing with the Department, a school entity shall identify substantive differences between the memorandum of understanding adopted by the school entity and the model memorandum of understanding and provide a statement of reasons for the differences.

(e) The Board, on a biennial basis, will review and, as necessary, revise its model memorandum of understanding in Appendix A. As part of its biennial review, the Board will consider the memoranda of understanding filed by school entities with the Department's Office for Safe Schools and

statements explaining school entities' reasons for adopting memoranda of understanding having substantive differences with the model memorandum of understanding.

22 Pa. Code § 10.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Charter school - A charter school or cyber charter school as defined in section 1703-A of the Charter School Law (24 P. S. § 17-1703-.A).

Chief school administrator - The superintendent of a public school district, executive director of an area vocational-technical school, executive director of an intermediate unit or chief executive officer of a charter school.

IEP - Individualized education program.

Incident - An instance involving one or more of the following:

- (i) An act of violence.
- (ii) The possession of a weapon by a person.
- (iii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in section 2 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-102.).
- (iv) The possession, use or sale of alcohol or tobacco by a person on school property.
- (v) Conduct that constitutes an offense under section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P. S. § 13-1303-.A(b)(4.1) and (4.2)).

Local police department - A police department having jurisdiction over school property of the school entity.

Memorandum of understanding - A confirmation of mutually agreed upon terms between two or more parties in the form of a document mutually agreed to by a school entity and a local police department as required under section 1303-A(c) of the Safe Schools Act.

Positive behavior support plan - A plan for a student with a disability or eligible young child who requires specific intervention to address behavior that interferes with learning. A plan is developed by the IEP team, based on a functional behavior assessment and becomes part of the individual eligible young child's or student's IEP. A plan includes methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards. See §§ 14.133 and 711.46 (relating to positive behavior support).

Safe Schools Act - Article XIII-A of the School Code (24 P. S. §§ 13-1301-.A - 13-1313-A).

School-based diversion program - A program that, in partnership with other stakeholders, diverts youth out of the juvenile justice system. A program may include a youth aid panel in which a panel of community members decides an appropriate resolution to hold a student accountable for the student's actions by, among other options, requiring the student to complete educational activities, community service, restitution and any other related program or service.

School entity - A public school district, intermediate unit, area vocational-technical school or charter school.

School-wide positive behavior support - A school-wide, evidence-based and data-driven approach to improving school behavior that seeks to reduce unnecessary student disciplinary actions and promotes a climate of greater productivity, safety and learning.

Threat Assessment Protocols

LAWS

24 P.S. § 13-1301-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Team." A threat assessment team established by a school entity under section 1302-E(a).

24 P.S. § 13-1302-E. Threat assessment teams.

(a) Duties of school entities and chief school administrators.-

(1) A school entity shall establish at least one team as provided under subsection (b) for the assessment of and intervention with students whose behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others.

(2) The chief school administrator or a designee, after consultation with the school entity's safety and security coordinator, shall:

(i) Appoint the members of the team and designate a member to serve as team leader.

(ii) Ensure and establish procedures for the implementation of this section.

(iii) Annually facilitate opportunities for members of the team to complete group or individual training consistent with nationally recognized best practices during paid working hours or as in-service training.

(iv) Annually ensure that students, school employees and parents and guardians are informed of the existence and purpose of the team. The information under this subparagraph shall be posted on the school entity's publicly accessible Internet website.

(v) Annually develop and present to the school entity's board of directors at an executive session a report generally outlining the school entity's approach to threat assessment. The report shall also be submitted to the school entity's school safety and security coordinator for inclusion in the required report under section 1309-B(c)(5) to the committee, which shall include:

(A) A verification that the school entity is in compliance with this article.

(B) The number and composition of established teams.

(C) The total number of threats assessed in the school entity.

(D) Additional information determined by the chief school administrator or designee.

(vi) Annually present to the school entity's board of directors at an executive session the following:

(A) A summary of interactions with outside law enforcement, juvenile probation and behavioral service providers.

(B) An assessment of the operation of the school entity's teams.

(C) Recommendations for improvement of the school entity's threat assessment processes.

(D) Any additional information determined by the chief school administrator or designee.

(b) Team requirements.- The following shall apply to teams established under subsection (a):

(1) Each team shall:

(i) Include individuals with expertise in:

(A) School health.

(B) Counseling, school psychology, or social work.

(C) Special education.

(D) School administration.

(ii) Include:

- (A) The school safety and security coordinator appointed under section 1309-B or a designee.
 - (B) Other school staff or community resources who may serve as regular team members or be consulted during the threat assessment process, as appropriate, and as determined necessary by the team, including:
 - (I) School security personnel.
 - (II) Law enforcement agency representation.
 - (III) Behavioral health professionals.
 - (IV) The individual identified by the school entity to receive reports from the Safe2Say Program.
 - (V) An individual who serves on the student assistance program.
 - (VI) Juvenile probation professionals.
 - (iii) Have a designated leader.
 - (iv) Be responsible, at a minimum, for the following:
 - (A) Making age-appropriate informational materials available to students regarding recognition of threatening or at-risk behavior that may present a threat to the student, other students, school employees, school facilities, the community or others and how to report their concerns, including through the Safe2Say Program.
 - (B) Making informational materials available to school employees regarding recognition of threatening or at-risk behavior that may present a threat to the student, other students, school employees, school facilities, the community or others and how to report their concerns, including through the Safe2Say Program.
 - (C) Ensuring that school employees are aware of the staff members who are appointed to the team and how to report threatening or at-risk behavior, including through the Safe2Say program.
 - (D) Assisting in assessing and responding to reports received through the Safe2Say Program. Where a school entity has only one team, that team may also serve as the school entity's team for assessing and responding to reports received through the Safe2Say Program.
 - (E) Assessing and responding to reports of students exhibiting self-harm or suicide risk factors or warning signs as provided for under section 1526.
 - (F) Assessing, responding and making appropriate determinations and referrals under subsection (c) based on the information available to the team. The team, when appropriate, may coordinate with the student assistance program.
 - (A) Providing required information to the chief school administrator or designee to make the report provided for under subsection (a)(2)(v).
 - (ii) Ensure that parents and guardians are notified as provided under subsection (c).
 - (iii) Undergo training which shall address, at a minimum, the following:
 - (A) Responsibilities of team members.
 - (B) The process of identifying, reporting, assessing, responding to and intervening with threats, including identifying and avoiding racial, cultural or disability bias.
 - (C) Confidentiality requirements under Federal and State law.
- (2) The training required under this section shall be credited toward a professional educator's continuing professional education requirement under section 1205.2, any staff development requirements for paraprofessionals under 22 Pa. Code § 14.105 (relating to personnel), a school or system leader's continuing professional education requirement under section 1205.5 and the school safety and security training required under section 1310-B.
- (3) A school entity may satisfy the requirements of subsection (a)(1) by assigning the duties listed under paragraph (1) to an existing team established by the school entity. For purposes of this

paragraph, the existing team established may include, but is not limited to, the student assistance program.

(4) A team established by a school entity may serve one or more schools within the school entity.

(c) Notification and referral.- Upon a preliminary determination that a student's behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others, the following shall apply:

(1) The team shall immediately notify the chief school administrator or a designee, the student's building principal and the school safety and security coordinator. The building principal or designee shall then immediately notify the student's parent or guardian.

(2) Following notification of the parent or guardian, the team may refer the student, as appropriate, to:

(i) a student assistance program;

(ii) a law enforcement agency;

(iii) an evaluation under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.);

(iv) a student's existing individualized education program team established under the Individuals with Disabilities Education Act and 22 Pa. Code Ch. 14 (relating to special education services and programs); or

(v) an existing team established to implement a student's section 504 service agreement established under section 504 of the Rehabilitation Act of 1973 and 22 Pa. Code Ch. 15 (relating to protected handicapped students).

(3) A parent or guardian shall provide consent prior to a team referring a student to:

(i) a behavioral service provider;

(ii) a health care provider; or

(iii) a county agency.

(4) Nothing in this section shall:

(i) Preclude school employees from acting immediately to address an imminent threat. Imminent threats and emergencies shall be promptly reported to a law enforcement agency.

(ii) Limit the responsibilities of school employees or other mandated reporters to report suspected child abuse as required by law.

(iii) Limit the authority of a school entity to refer a student to the student assistance program without referral by a team, so long as the student's behavior does not indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others.

(d) Access to student information.- In order to carry out the duties under subsections (b) and (c) and facilitate the timely assessment of, and intervention with, students whose behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others, a team shall have access to the following student information to the extent permissible under Federal law:

(1) Notwithstanding any provision of section 1409 to the contrary, student health records.

(2) Prior school disciplinary records.

(3) Records or information shared with the school entity under Article XIII-A and 42 Pa.C.S. § 6341(b.1) (relating to adjudication).

(4) Records of any prior behavioral or mental health or psychological evaluations or screenings maintained by the school entity.

(5) Other records or information that may be relevant to evaluating a threat or determining treatment or referral options for a student that are maintained by the school entity.

(e) Cooperation of county agency or juvenile probation department.- Notwithstanding 42 Pa.C.S. § 6352.2 (relating to interagency information sharing), upon a preliminary determination that a student's behavior indicates a threat to the safety of the student, other students, school employees, school facilities, the community or others, a team may request that the county agency or juvenile probation department consult and cooperate with the team in assessing the student who is the subject of the preliminary determination. The county agency or juvenile probation department shall comply with the team's request except as prohibited by the following:

(1) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists).

(2) The act of February 13, 1970 (P.L.19, No.10), entitled "An act enabling certain minors to consent to medical, dental and health services, declaring consent unnecessary under certain circumstances."

(3) The act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act.

(4) The act of November 29, 1990 (P.L.585, No.148), known as the Confidentiality of HIV-Related Information Act.

(5) Federal law, including the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g), the Individuals with Disabilities Education Act, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936), and the procedures, limitations and criteria set forth in regulations adopted by the Department of Health and Human Services relating to the confidentiality of drug and alcohol treatment records.

(f) Use of information or records.- The team shall use the information or records obtained under subsection (d) or (e) in fulfilling the team's duty to evaluate a threat or the recommended disposition of a threat. No member of a team may redisclose any record or information obtained under this section or otherwise use any record of a student beyond the purpose for which the disclosure was made to the team.

(g) Disclosure.- The following shall apply:

(1) Records or documentation developed or maintained by a team shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(2) The report and information presented to the school entity's board of directors and submitted to the committee under subsection (a)(2)(v) shall not be subject to the Right-to-Know Law.

(3) School entities shall not be required to report any data on the functioning of the team other than specifically required under this article.

24 P.S. § 13-1303-E. Threat assessment guidelines, training and information materials.

(a) Duties of committee.- No later than 180 days from the effective date of this section, the committee shall:

(1) Research, develop and publish best practices in implementing this article.

(2) Develop and offer, at no charge to school entities through the Internet or other distance communications systems, all of the following:

(i) A model training program for members of teams that may be used and adapted by school entities and team members to meet the requirements of section 1302-E(b)(1).

(ii) A model training program for school employees, other than members of teams, that may be used and adapted by school entities to meet the requirements of section 1310-B(1).

(iii) Model, age-appropriate informational materials for students that may be used and adapted by school entities to meet the requirements of section 1302-E(a)(2)(iv) and (b)(1)(iv)(A).

- (iv) Model informational materials for parents and school employees that may be used and adapted by school entities to meet the requirements of section 1302-E(a)(2)(iv) and (b)(1)(iv)(B).
- (3) Develop model procedures and guidelines that school entities may use in implementing this article. The model procedures and guidelines shall, at a minimum:
- (i) Establish standard definitions and terminology.
 - (ii) Reflect best practices in identifying, reporting, assessing and responding to threats, including threats reported through the Safe2Say Program and coordinating with stakeholders.
 - (iii) Provide for flexibility and local decision- making and recognize the differing levels of available resources in each school entity.
 - (iv) Be posted on the Pennsylvania Commission on Crime and Delinquency's publicly accessible Internet website.
- (4) Comply with Federal and State student record confidentiality laws and regulations.
- (5) Provide guidance to teams for communications and coordination with student assistance program and individualized education program teams.
- (6) Annually review school entity threat assessment reports and use them when developing the requirements under this subsection.
- (7) Annually review the training programs, informational materials and model procedures and guidelines and make updates or revisions as necessary.
- (8) Notify school entities when the training programs, informational materials, model procedures and guidelines become available or are updated or revised.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Pennsylvania provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention, Pennsylvania Department of Education (PDE)	Provides resources for parents, educators, and professionals serving children and youth in school and out-of-school settings and includes links to the bullying prevention toolkit and bullying prevention consultation line for individuals experiencing chronic and unresolved bullying.	https://www.education.pa.gov/Schools/safeschools/bullying/Pages/default.aspx
Center for Safe Schools	Serves as a statewide clearinghouse for schools, law enforcement, parents and others on school safety and youth violence prevention. Provides links to bullying prevention toolkit and other resources related to school safety.	http://www.safeschools.info/
Disciplinary Equity: School/District Resources (PDE)	Provides links to resources to support equitable disciplinary practices.	https://www.education.pa.gov/Schools/safeschools/equityandinclusion/EPH/DisciplinaryEquity/DistrictSchool/Pages/default.aspx
Mental Health, PDE	Presents mental health related resources for parents, educators, and professionals serving children and youth in the school and community settings.	https://www.education.pa.gov/Schools/safeschools/MentalHealth/Pages/default.aspx
Multi-Tiered System of Supports (PA-MTSS), Pennsylvania Training and Technical Assistance Network,	Provides information and resources regarding Pennsylvania's MTSS and Response to Intervention (RTI) initiatives including guidance documents and links to both state and national resources for implementation.	https://www.pattan.net/Multi-Tiered-System-of-Support/MULTI-TIERED-SYSTEM-OF-SUPPORTS

Title	Description	Website address (if applicable)
Pennsylvania School Attendance Improvement and Truancy Reduction Toolkit (PDE)	Provide resources and strategies for educators, child welfare professionals, court personnel to effectively address truancy in their local community.	https://www.education.pa.gov/Schools/safeschools/resources/Pages/Pennsylvania-School-Attendance-Improvement-and-Truancy-Reduction-Toolkit.aspx
Safe Schools, PDE	Presents an introduction to services and supports from Pennsylvania Department of Education's Office for Safe Schools and provides links to resources and tools for bullying prevention, laws, reports, SAP/PBIS, toolkits, and school climate.	https://www.education.pa.gov/Schools/safeschools/Pages/default.aspx
Student-Centered Discipline	Provides resources on student-centered discipline, which refers to approaches to schoolwide and classroom behavioral management that emphasizes the role of student engagement, social emotional learning and cultural responsiveness in supporting positive outcomes for all children.	https://www.education.pa.gov/Schools/safeschools/SchoolClimate/SCIP/ActionPlanning/Pages/StudentCenteredDiscipline.aspx
School Climate, PDE	Provides an overview of school climate in Pennsylvania schools and includes steps schools can take to improve school climate, standards and guidelines, participation in school climate leadership initiative, and other related resources.	https://www.education.pa.gov/Schools/safeschools/SchoolClimate/Pages/default.aspx
Social Emotional Learning, PDE	Provides information on social emotional learning and additional resources for learning and implementation in school districts.	https://www.education.pa.gov/Schools/safeschools/SchoolClimate/SCIP/ActionPlanning/Pages/SocialEmotional.aspx
Documents		
Every Student Succeeds Act, Pennsylvania Consolidated State Plan (August 2019), PDE	Includes guidelines for implementation of school improvement initiatives including evidence-based interventions, MTSS, and RTI.	https://www.education.pa.gov/Documents/K-12/ESSA/PennsylvaniaConsolidatedStatePlan.pdf
Other Resources		
No relevant resources found.		



Rhode Island Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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1.3.1. Academic supports and interventions

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- 2.2. Definitions
- 2.3. School climate
- 2.4. Policy oversight and responsibility
- 2.5. Information dissemination
- 2.6. Reporting
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- 4.4. General requirements
- 4.40. School safety
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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

16-2-9. General powers and duties of school committees.

(a) Unless the responsibility is otherwise delegated by this chapter, the entire care, control, and management of all public school interests of the several cities and towns shall be vested in the school committees of the several cities and towns. School committees shall have, in addition to those enumerated in this title, the following powers and duties:

(16) To establish standards for conduct in the schools and for disciplinary actions.

16-21-21. Student discipline codes.

Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning. The department of elementary and secondary education shall provide necessary technical assistance in the development of the student discipline code. The school committee shall cause the school discipline code to be distributed to each student enrolled in the district. Each student and his or her parent, guardian, or custodian shall sign a statement verifying that they have been given a copy of the student discipline code of their respective school district.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

1. Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success.

200-RICR-30-10-2 Section 2.4. Policy oversight and responsibility.

A. The school principal, director, or head of school shall be responsible for the implementation and oversight of this bullying policy.

Scope

LAWS

16-21-33. Safe schools act.

(a) Definitions. As used in this chapter:

(1) "Bullying" means the use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that:

- (i) Causes physical or emotional harm to the student or damage to the student's property;
- (ii) Places the student in reasonable fear of harm to himself/herself or of damage to his/her property;
- (iii) Creates an intimidating, threatening, hostile, or abusive educational environment for the student;

- (iv) Infringes on the rights of the student to participate in school activities; or
- (v) Materially and substantially disrupts the education process or the orderly operation of a school. The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may be reasonably perceived as being motivated by characteristics such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression or mental, physical, or sensory disability, intellectual ability or by any other distinguishing characteristic.

(2) "Cyber-bullying" means bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data, texting or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, Internet communications, instant messages or facsimile communications. For purposes of this section, cyber-bullying shall also include:

- (i) The creation of a web page or blog in which the creator assumes the identity of another person;
- (ii) The knowing impersonation of another person as the author of posted content or messages; or
- (iii) The distribution by electronic means of a communication to more than one person or the posting of materials on an electronic medium that may be accessed by one or more persons, if the creation, impersonation, or distribution results in any of the conditions enumerated in clauses (i) to (v) of the definition of bullying herein.

(3) "At school" means on school premises, at any school-sponsored activity or event whether or not it is held on school premises, on a school-transportation vehicle, at an official school bus stop, using property or equipment provided by the school, or creates a material and substantial disruption of the education process or the orderly operation of the school.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

D. Right to a Safe School

1. Each LEA shall ensure that students who are on school grounds before, during, and after school, during recess, and during other intermissions are appropriately supervised by adults.

Communication of Policy

LAWS

16-21-21. Student discipline codes.

Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning. The department of elementary and secondary education shall provide necessary technical assistance in the development of the student discipline code. The school committee shall cause the school discipline code to be distributed to each student enrolled in the district. Each student and his or her parent, guardian, or custodian shall sign a statement verifying that they have been given a copy of the student discipline code of their respective school district.

16-21-34. Statewide bullying policy implemented.

- (a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The

statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(12) Provisions for informing parents and guardians about the bullying policy of the school district or school shall include, but not be limited to:

- (i) A link to the policy prominently posted on the home page of the school district's website and distributed annually to parents and guardians of students;
- (ii) A provision for notification, within twenty-four (24) hours, of the incident report, to the parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

2. Each LEA shall ensure that:

- b. Students and parents/guardians are notified of district and school rules related to conduct and shall receive regular instruction regarding these rules. In addition, parents/guardians, and students shall be provided with information about early warning signs of harassing and intimidating behaviors, such as bullying, as well as prevention and intervention strategies.

200-RICR-30-10-2 Section 2.5. Information dissemination.

A. The school principal, director or head of school shall ensure that students, staff, volunteers, and parents/legal guardians are provided information regarding this Policy. This information shall include methods of discouraging and preventing this type of behavior, the procedure to file a complaint, and the disciplinary action that may be taken against those who commit acts in violation of this policy.

B. This Policy shall be:

1. Distributed annually to students, staff, volunteers, and parents/legal guardians;
2. Included in student codes of conduct, disciplinary policies, and student handbooks;
3. A prominently posted link on the home page of the school /district website.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

1. Admonitions and warnings;
2. Parental/ Guardian notification and meetings;
3. Detention;
4. In-school suspension;
5. Loss of school-provided transportation or loss of student parking pass;
6. Loss of the opportunity to participate in extracurricular activities;
7. Loss of the opportunity to participate in school social activities;
8. Loss of the opportunity to participate in graduation exercises or middle school promotional activities;
9. Police contact; or,
10. School suspension, though no student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

200-RICR-20-30-2 Section 2.2. Definitions.

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

6. "Corporal punishment" means the infliction of bodily pain as a penalty for disapproved behavior.
 - a. Corporal punishment as defined shall not be used in public education programs.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

200-RICR-20-30-2 Section 2.1. Authority, scope, purpose, and construction.

A. Authority.

1. These regulations are promulgated by the Rhode Island Council on Elementary and Secondary Education pursuant to R.I. Gen. Laws § 16-60-4 and R.I. Gen. Laws Chapter 16-97.

B. Scope.

1. These regulations govern the use of physical restraint and crisis intervention on all students in publicly funded elementary and secondary education programs, including all Rhode Island public school districts and regional public school districts, all Rhode Island State Operated Schools, all Public Charter Schools, educational programs operated by the Department for Children Youth and Families, Educational Collaborative Programs, and Local Educational Agencies operating a public education program; all of which shall hereafter be referred to as public education programs.

C. Purpose.

1. The purpose of these regulations is to ensure that every student participating in a Rhode Island public education program be free from the unreasonable use of physical restraint and crisis intervention. Physical intervention, the use of manual or mechanical restraint or escort involving physical contact

should only be used as a crisis intervention for the purpose of preventing harm or injury. The crisis intervention must not include procedures that intentionally cause pain, injury, trauma or humiliation. A physical restraint crisis intervention should not be used for the purpose of changing behavior in situations where no protection from harm or injury is needed. Only the least intrusive physical interaction needed to adequately protect the child or others shall be used and shall be terminated as soon as the need for protection has abated.

D. Construction.

1. Nothing in these regulations shall be construed to limit the protection offered publicly funded students under other state or federal laws nor do these regulations preclude any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from imminent, serious, physical harm.

200-RICR-20-30-2 Section 2.2. Definitions.

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

2. "Aversive interventions/strategies" means the specific strategies set forth in R.I. Gen. Laws § 40.1-26-4.1, including but not limited to the following:

- a. Noxious, painful, intrusive stimuli or activities that result in pain;
- b. Any form of noxious, painful or intrusive spray or inhalant;
- c. Electric shock;
- d. Water spray to the face;
- e. Pinches and deep muscle squeezes;
- f. Shouting, screaming or using a loud, sharp, harsh voice to frighten or threaten or the use of obscene language;
- g. Withholding adequate sleep;
- h. Withholding adequate shelter or bedding;
- i. Withholding bathroom facilities;
- j. Withholding meals, essential nutrition or hydration;
- k. Removal of an individual's personal property as punishment;
- l. Unobserved time-out or room/area solely used for time out;
- m. Facial or auditory screening devices; and
- n. Use of chemical restraints instead of positive programs or medical treatments. [...]

16. "Mechanical restraint" means the use of devices such as mittens, straps, or restraint chairs to limit a person's movement or hold a person immobile as an intervention precipitated by the person's behavior. Mechanical restraint applies to uses intended to prevent injury with persons who engage in behaviors such as head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a person's medical needs or to position a person with physical disabilities. [...]

20. "Physical restraint/crisis intervention" means:

- a. "Manual restraint" means the use of physical intervention intended to hold a person immobile or limit a person's movement by using body contact as the only source of physical restraint. Prone restraint is a type of manual restraint or hold that limits or controls the movement or normal functioning of any portion, or all, of a person's body while the person is in a face-down position, but

does not include the temporary controlling of a person in a prone position while transitioning to an alternative, safer form of restraint.

b. "Seclusion restraint" means physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint." The use of seclusion restraint is prohibited in public education programs.

c. "Chemical restraint" means the administration of medication for the purpose of restraint. The use of medication restraint is prohibited in public education programs. [...]

24. "Seclusion" means placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island. [...]

27. "Timeout" means a Punishment (Type II) procedure in which access to reinforcement is withdrawn for a certain period of time.

a. Isolation "from the group" - Reinforcement is withdrawn and the student remains in a separate room or booth for a certain period of time. The small room or booth may or may not have a door.

200-RICR-20-30-2 Section 2.3. Procedures and training.

A. Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require the use of physical restraint/crisis intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;
2. A school policy regarding intervention that provides a description and explanation of the school's or program's method of physical restraint/crisis intervention, a description of the school's or program's training requirements, monitoring and reporting requirements, internal review and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

B. Required Training For All Staff. Each public education program shall designate personnel to determine a time and methods to provide all staff with training regarding the school's physical restraint/crisis intervention policies. Such training shall occur at least annually not later than within the first month of each school year. For employees hired after the school year begins, this training shall take place within the first month of their employment. Training shall be approved by the Commissioner of Elementary and Secondary Education and shall include information as required by R.I. Gen. Laws § 42-158-5 in addition to the following:

1. The program's restraint policy;
2. Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;
3. Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;
4. Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and
5. Identification of program staff who have received advanced training pursuant to § 2.3(C) of this Part in the use of physical restraint/crisis intervention.

C. Advanced Staff Training on the Use of Physical Restraint/Crisis Intervention. At the start of each school year, every public education program shall identify staff that are authorized to serve as a school-wide based resource to assist other staff in ensuring proper administration of physical restraint and crisis

interventions. These staff members shall participate in advanced training in the use of physical restraint/crisis intervention beyond the basic training offered to all staff and the public education program shall document the extent of such training.

D. Content of Advanced Training. The advanced training required by § 2.3(C) of this Part in the proper administration of physical restraint/crisis intervention shall include, but not be limited to:

1. Appropriate procedures for preventing the need for physical restraint/crisis intervention, including the de-escalation of problematic behavior, relationship building and the use of alternatives to such restraints;
2. A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint/ crisis intervention and methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint and crisis interventions are warranted;
3. The simulated experience of administering and receiving physical restraint/crisis intervention, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
4. Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
5. Demonstration by participants of proficiency in administering physical restraint/crisis intervention.

200-RICR-20-30-2 Section 2.4. Determining when physical restraint/crisis intervention may be used.

A. Use of Restraint/Intervention. Physical restraint/crisis intervention may be used only in the following circumstances:

1. Non-physical interventions would not be effective; and
2. The student's behavior poses a threat of imminent, serious, physical harm to self and/or others; and
3. If a behavioral intervention plan has been developed for the student, those various positive reinforcement techniques have been implemented appropriately and the child has failed to respond to those reinforcement techniques.

200-RICR-20-30-2 Section 2.5. Limitations and prohibitions.

A. Limitations on the Use of Restraints. Physical restraint/crisis intervention in a public education program shall be limited to the use of such reasonable force as necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

B. Prohibitions. Physical restraint/crisis intervention are prohibited in the following circumstances:

1. As a means of punishment;
2. As an intervention designed to, or likely to cause physical pain;
3. As in any intervention which denies adequate sleep, food, water, shelter, bedding or access to bathroom facilities;
4. As in any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, physical pain, or which can be expected to cause excessive emotional trauma;
5. As in a restrictive intervention which employs a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment may be used by trained personnel as a limited emergency intervention when a documented part of a previously agreed upon written behavioral intervention plan;

6. As in seclusion, unless under constant surveillance and observation when documented as part of a previously agreed upon written behavioral intervention plan;
7. As in any intervention that precludes adequate supervision of the child;
8. Any intervention which deprives the individual of one or more of his or her senses.

200-RICR-20-30-2 Section 2.6. Proper administration of physical restraint/crisis intervention.

A. Trained Personnel. Only personnel who have had training pursuant to § 2.3 of this Part may administer physical restraint/crisis intervention with students. Whenever possible, the administration of a physical restraint/crisis intervention shall be witnessed by at least one adult who does not participate in the restraint. The training requirement contained in § 2.3 of this Part shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons, or themselves from imminent, serious physical harm.

B. Use of Force. A person administering a physical restraint/crisis intervention shall use only the amount of force necessary to protect the student or others from physical injury or harm and shall discontinue the physical restraint/crisis intervention as soon as possible.

C. Safety Requirements. Additional requirements for the use of physical restraint/crisis intervention are:

1. No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.
2. Restraint shall be administered in such a way so as to prevent or minimize physical harm. Prone restraint shall not be used. If, at any time during a physical restraint/crisis intervention, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.
3. Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint/crisis intervention on an individual student.
4. Following the release of a student from a restraint, the Public Education Program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student, as appropriate, to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

200-RICR-20-30-2 Section 2.7. Reporting requirements.

A. Informing School Administration. The staff member who administered the physical restraint/crisis intervention shall inform the administration of any public education program of the use of a physical restraint/crisis intervention as soon as possible, and by a written report not later than the next working day. The administration shall maintain an ongoing written record of all reported instances of physical restraint/crisis intervention.

B. Informing Parents. The school administration shall have procedures to inform the student's parent(s) or guardian(s) of the use of a restraint as soon as possible, and not later than two (2) school days after each incident. Written documentation of this notification shall be maintained by the public education program.

C. Contents of Report. The written report required by § 2.7(A) of this Part shall include:

1. The names and job titles of the staff who administered the restraint, and observers, if any, the date of the restraint, the time the restraint began and ended, and the name of the administrator who was verbally informed following the restraint;
2. A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint/crisis intervention, the behavior that prompted the restraint, the efforts made to deescalate the situation, alternatives to restraint that were attempted, and the justification for initiating physical restraint/crisis intervention;
3. A description of the administration of the restraint including the holds used and reasons such holds were necessary, the student's behavior and reactions during the restraint, how the restraint ended, and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;
4. Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student, and a behavioral intervention plan was developed or modified as a result of the restraint;
5. Information regarding opportunities for the student' parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

D. Report to the R.I. Department of Education. Each public educational program shall provide the R.I. Department of Education a record of every incident of the use of a physical restraint/crisis intervention on an annual basis.

200-RICR-20-30-2 Section 2.8. Emergency situations.

These regulations shall not create a barrier to maintaining a safe school environment. While these regulations govern the use of physical restraint/crisis interventions, they do not limit the ability of school personnel or their agents from using reasonable force to protect students, other persons or themselves from imminent, serious physical harm.

200-RICR-20-30-2 Section 2.9. Behavioral intervention plans.

Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

200-RICR-20-30-2 Section 2.10. Continuum of behavioral interventions.

A. It is important to note that strategies and interventions may be positive or negative based on the response of the child.

B. Proactive Planning Strategies:

1. Room Arrangement
2. Appropriate and Motivating Curriculum
3. High Rates of Positive Responses from Teachers
4. Structured Daily Schedules
5. Staff Training - including but not limited to:
 - a. Factual information regarding numbers, frequency, duration, antecedents
 - b. Behavior Disorders - Understanding behavior
 - c. functional assessment
 - d. behavioral plans

- e. behavioral contracting
- f. Emotional Disorders - DSM IV
- g. Legal Issues
- h. Discipline Codes
- i. Zero Tolerance
- j. Conflict Management
- k. Peer Mediation
- l. Crisis Intervention
 - (1) comfort zone
 - (2) verbal & non-verbal communication
 - (3) fight/flight/fright
 - (4) Restraint Training
 - (5) Token Economy
 - (6) Avoid Power/Control Issues
 - (7) Medications, Logs, Side Effects, Communication
 - (8) Surface Management
 - (9) Reality Therapy
- 6. Environmental Engineering
- 7. Instructional Pacing
- 8. Home Notes
- 9. Precision Commands
- 10. Data Collection
- 11. Parent Conference
- 12. Special Equipment
- 13. Supervision
- 14. Rule Out Physiological/Medical Factors.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

16-2-17. Right to a safe school.

(a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who is subject to compulsory school attendance, who exhibits persistent conduct which substantially impedes the ability of other students to learn, or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of this conduct, or of violation of those school regulations which relate to the rights set forth in subsection (a), or where a student represents a threat to those rights of students, teachers, or administrators, as described in subsection (a). Nothing in this section shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities.

16-21-18. Students prohibited from bringing or possessing firearms on school premises.

The school penalty for bringing or possessing a weapon as defined in 18 U.S.C. § 921, a firearm or realistic replica of a firearm within school premises, premises being used for school purposes or activities, into a vehicle used for school transportation, or onto a roadway or path along which school children or teachers are walking to school shall be suspension from school for one year. This penalty will also be incurred when a student is not on school premises but when he or she aims a firearm or realistic replica of a firearm at school premises, school vehicles, or students, staff, or visitors attending school or in transit to or from school. This term of suspension may be shortened by the superintendent of schools on a case- by-case basis and under guidelines to be developed by the school committee with broad parent, teacher, and community involvement.

REGULATIONS

200-RICR-20-30-2 Section 2.2. Definitions.

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

28. "Zero tolerance" means (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supersede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and

Rhode Island Regulations Governing The Education Of Children With Disabilities (Part 1 of this Subchapter).

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

1. Admonitions and warnings;
2. Parental/ Guardian notification and meetings;
3. Detention;
4. In-school suspension;
5. Loss of school-provided transportation or loss of student parking pass;
6. Loss of the opportunity to participate in extracurricular activities;
7. Loss of the opportunity to participate in school social activities;
8. Loss of the opportunity to participate in graduation exercises or middle school promotional activities;
9. Police contact; or,
10. School suspension, though no student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy.

Limitations or Conditions on Exclusionary Discipline

LAWS

16-2-17.1. In school suspensions.

Suspensions issued shall not be served out of school unless the student's conduct meets the standards set forth in § 16-2-17(a) or the student represents a demonstrable threat to students, teachers, or administrators.

16-19-1. Attendance required.

(d) No school shall use a student's truancy or absenteeism as the sole basis for using an out-of-school suspension as a disciplinary action.

16-21-18. Students prohibited from bringing or possessing firearms on school premises.

The school penalty for bringing or possessing a weapon as defined in 18 U.S.C. § 921, a firearm or realistic replica of a firearm within school premises, premises being used for school purposes or activities, into a vehicle used for school transportation, or onto a roadway or path along which school children or teachers are walking to school shall be suspension from school for one year. This penalty will also be incurred when a student is not on school premises but when he or she aims a firearm or realistic replica of a firearm at school premises, school vehicles, or students, staff, or visitors attending school or in transit to or from school. This term of suspension may be shortened by the superintendent of schools on a case- by-case basis and under guidelines to be developed by the school committee with broad parent, teacher, and community involvement.

16-21-21.1. Penalties for drug, alcohol or weapons offenses.

The discipline of any public school student for violating a school policy relating to the possession or use of alcohol, drugs or weapons not described in § 16-21-18 of this chapter, shall be imposed on a case-by-case basis pursuant to guidelines developed and promulgated by the school committee for that district. The guidelines and any discipline imposed shall take into account the nature and circumstances of the violation and the applicability of any federal laws governing students with disabilities.

16-21-34. Statewide bullying policy implemented.

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(5) The range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; and provided, further:

(i) A parental engagement strategy; and

(ii) A provision that states punishments for violations of the bullying policy shall be determined by the school's appropriate authority; however, no student shall be suspended from school unless it is deemed a necessary consequence of the violations.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

2. Each LEA shall ensure that:

e. Disciplinary actions are fairly administered for all students and comply with state laws mandating that certain violations be considered on a case by case basis; recognizing that there is no mechanism in Rhode Island law for expulsion of students.

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

1. Admonitions and warnings;
2. Parental/ Guardian notification and meetings;
3. Detention;
4. In-school suspension;
5. Loss of school-provided transportation or loss of student parking pass;
6. Loss of the opportunity to participate in extracurricular activities;
7. Loss of the opportunity to participate in school social activities;
8. Loss of the opportunity to participate in graduation exercises or middle school promotional activities;
9. Police contact; or,

10. School suspension, though no student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy.

216-RICR-20-10-4 Section 4.41. Weapons and firearms.

A. All schools are required to have policies prohibiting possession of firearms and other weapons and imposing penalties for such possession in conformity with R.I. Gen. Laws § 16-21-18 and the " Gun Free Schools Act ", 20 U.S.C. § 8921 et seq.

1. All school districts must ensure the discipline policies regarding incidents of students in possession of weapons are imposed on a case-by-case basis.

Due Process

LAWS

16-2-17. Right to a safe school.

(c) A student suspended under this section may appeal the action of the school committee, or a school principal as designee, to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. Any decision of the commissioner in these matters shall be subject to appeal by the student to the board of regents for elementary and secondary education and any decision of the board of regents may be appealed by the student to the family court for the county in which the school is located as provided in § 42-35-15.

REGULATIONS

200-RICR-20-30-2 Section 2.2. Definitions.

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

28. "Zero tolerance" means (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supersede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Rhode Island Regulations Governing The Education Of Children With Disabilities (Part 1 of this Subchapter).

200-RICR-30-10-2 Section 2.7. Investigation.

A. The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

16-19-1. Attendance required.

(b) A waiver to the compulsory attendance requirement may be granted by the superintendent only upon has an alternative learning plan for obtaining either a high school diploma or its equivalent.

(1) Alternative-learning plans shall include age-appropriate academic rigor and the flexibility to incorporate the pupil's interests and manner of learning. These plans may include, but are not limited to, such components, or combination of components, of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and online courses that are currently funded and available to the school department and/or the community. In developing these alternative-learning plans, consideration shall be given to the unique difficulties and interruptions that many students are experiencing because of the COVID-19 pandemic. Accordingly, these alternative-learning plans may incorporate alternatives and extended breaks in study which that would not be considered preferable under non-pandemic circumstances.

(2) Alternative-learning plans shall be developed, and amended if necessary, in consultation with the pupil, a school guidance counselor, the school principal, and at least one parent or guardian of the pupil, and submitted to the superintendent for approval. An alternative-learning plan may, but is not required to, incorporate an extended withdrawal as set forth in this section.

(3) If the superintendent does not approve the alternative-learning plan, the parent or guardian of the pupil may appeal such decision to the school committee. A parent or guardian may appeal the decision of the school committee to the commissioner of education pursuant to chapter 39 of title 16(hereinafter collectively referred to as the "reviewing body") .

(ii) In making decisions regarding the approval of an alternative-learning plan, consideration shall be given to the unique difficulties and interruptions that many students are experiencing because of the COVID-19 pandemic. Accordingly, alternative-learning plans may be approved which that may incorporate alternatives and extended breaks in study which that would not be considered preferable under non-pandemic circumstances. The provisions of this section shall not require the approval of an alternative-learning plan which that the reviewing body determines is not in the best interests of the child.

(iii) In addition, this section authorizes the granting of an extended withdrawal from school. An extended withdrawal from school is a withdrawal that may be authorized which that is not intended to be a permanent withdrawal but which that is extended because of unique difficulties and interruptions that many students are experiencing because of the COVID-19 pandemic. A student in an extended withdrawal shall still be considered to be enrolled in school and will not need to be re-enrolled for purposes of returning to the student's regular classes. An extended withdrawal may authorize a student to be excused from taking any classes during the withdrawal period or to undertake a reduced number of classes than the student would otherwise take as an enrolled student. An extended withdrawal shall include provisions to periodically monitor and check-in on the status of the student and the student's

ability to return to the public school learning environment. An extended withdrawal pursuant to this subsection may be granted to any student, regardless of age.

16-21-20. Alternative placement and prevention activities.

The department of elementary and secondary education in conjunction with the attorney general's task force to prevent violence in schools shall develop requirements for the alternative placement of students suspended under the provision of § 16-21-18. The placements shall be cooperative efforts between the local school district, which shall be responsible for instruction of students, and other appropriate state and local agencies. Further, the department of elementary and secondary education in conjunction with the attorney general's task force shall establish policies in support of locally developed prevention and education activities that include broad parent, teacher, and community involvement.

16-21-27. Alternative education programs.

Each school district shall adopt a plan to ensure continued education of students who are removed from the classroom because of a suspension of more than ten (10) days or who are chronically truant. The plan shall be adopted by the school committee and shall be submitted to Rhode Island department of elementary and secondary education as part of its annual strategic plan submission.

REGULATIONS

200-RICR-20-10-1 Section 1.1.4. Expectations for the local education agency in implementing the basic education program.

B. Functions of the Local Education Agency

1. Each LEA shall address seven core functions in order to ensure that all of its schools are providing an adequate education to every student:

e. Engage Families and the Community. The LEA shall implement effective family and community communication systems; engage families and the community to promote positive student achievement and behavior; and provide adult and alternative learning opportunities integrated with community needs.

f. Foster Safe and Supportive Environments for Students and Staff. The LEA shall address the physical, social, and emotional needs of all students; ensure safe school facilities and learning environments; and require that every student has at least one adult accountable for his or her learning. [...]

2. Each LEA shall ensure that:

f. Schools shall provide a continuum of interim alternative educational placement options to continue a student's education while suspended that ensure the safety of the student and the school community.

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

2. Each LEA shall ensure that:

f. Schools shall provide a continuum of interim alternative educational placement options to continue a student's education while suspended that ensure the safety of the student and the school community.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

11-47-60.2. Possession of weapons on school grounds - Notification.

(a) If a student is found to be carrying a weapon, as defined in § 11-47-42, a firearm or replica of a firearm, or commits an aggravated assault on school grounds as defined in § 11-47-60, the principal or designee shall immediately notify the student's parents and the local police and turn the weapon over, if any, to the local enforcement agency.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

(c) School superintendents shall receive notice from the clerk of the family court regarding the disposition of all cases involving juveniles from their school districts adjudged pursuant to this statute. This information shall remain confidential and be shared with school officials who deal directly with the student.

16-21-18. Students prohibited from bringing or possessing firearms on school premises.

The school penalty for bringing or possessing a weapon as defined in 18 U.S.C. § 921, a firearm or realistic replica of a firearm within school premises, premises being used for school purposes or activities, into a vehicle used for school transportation, or onto a roadway or path along which school children or teachers are walking to school shall be suspension from school for one year. This penalty will also be incurred when a student is not on school premises but when he or she aims a firearm or realistic replica of a firearm at school premises, school vehicles, or students, staff, or visitors attending school or in transit to or from school. This term of suspension may be shortened by the superintendent of schools on a case- by-case basis and under guidelines to be developed by the school committee with broad parent, teacher, and community involvement.

16-21-21.1. Penalties for drug, alcohol or weapons offenses.

The discipline of any public school student for violating a school policy relating to the possession or use of alcohol, drugs or weapons not described in § 16-21-18 of this chapter, shall be imposed on a case-by-case basis pursuant to guidelines developed and promulgated by the school committee for that district. The guidelines and any discipline imposed shall take into account the nature and circumstances of the violation and the applicability of any federal laws governing students with disabilities.

REGULATIONS

200-RICR-20-30-2 Section 2.2. Definitions.

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

28. "Zero tolerance" means (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in

possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supersede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Rhode Island Regulations Governing The Education Of Children With Disabilities (Part 1 of this Subchapter).

216-RICR-20-10-4 Section 4.41. Weapons and firearms.

A. All schools are required to have policies prohibiting possession of firearms and other weapons and imposing penalties for such possession in conformity with R.I. Gen. Laws § 16-21-18 and the " Gun Free Schools Act ", 20 U.S.C. § 8921 et seq.

1. All school districts must ensure the discipline policies regarding incidents of students in possession of weapons are imposed on a case-by-case basis.

Students with Chronic Disciplinary Issues

LAWS

16-2-17. Right to a safe school.

(a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who is subject to compulsory school attendance, who exhibits persistent conduct which substantially impedes the ability of other students to learn, or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of this conduct, or of violation of those school regulations which relate to the rights set forth in subsection (a), or where a student represents a threat to those rights of students, teachers, or administrators, as described in subsection (a). Nothing in this section shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities.

16-19-6. Proceedings against habitual truants and offenders.

Every habitual truant, that is, every child who is required under § 16-19-1 to attend school and who willfully and habitually absents himself or herself from attending school; and every habitual school offender, that is, every child who is required to attend school under the provision of § 16-19-1, but who persistently violates the rules and regulations of the school which he or she attends, or otherwise persistently misbehaves in the school which he or she attends, so as to render him or herself a fit subject for exclusion; shall be deemed a wayward child as provided in chapter 1 of title 14, and shall be subject to all the provisions of chapter 1 of title 14, and may be proceeded against and dealt with as a wayward child in accordance with the provisions of chapter 1 of title 14.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

16-19-1. Attendance required.

(a) Every child who has completed, or will have completed, six (6) years of life on or before September 1 of any school year, or is enrolled in kindergarten, and has not completed eighteen (18) years of life, shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town in which the child resides. The public school shall be responsible for regular attendance data monitoring of all students and early identification of emergent truant behavior. Prior to referring truant students to family court, schools must do their due diligence to assure all interventions have taken place. This includes, and is not limited to:

- (1) Consultation with the parent or guardian; and
- (2) Coordination with the student's school-identified support team such as the individualized education plan, behavioral support, or attendance teams.

Every person having under his or her control a child, as described in this section, shall cause the child to attend school as required by this section, and for every neglect of this duty, the person having control of the child shall be fined not exceeding fifty dollars (\$50.00) for each day, or part of a day, that the child fails to attend school, and if the total of these days is more than thirty (30) school days during any school year, then the person shall, upon conviction, be imprisoned not exceeding six (6) months or shall be fined not more than five hundred dollars (\$500), or both; provided, that if the person so charged shall prove that the child has attended, for the required period of time, a private day school approved by the commissioner of elementary and secondary education pursuant to § 16-60-6(10); or a course of at-home instruction approved by the school committee of the town where the child resides; or has been accepted into an accredited postsecondary education program; or has obtained a waiver under subsection (b); or that the physical or mental condition of the child was such as to render his or her attendance at school inexpedient or impracticable; or that the child was excluded from school by virtue of some other general law or regulation, then attendance shall not be obligatory nor shall the penalty be incurred.

(d) No school shall use a student's truancy or absenteeism as the sole basis for using an out-of-school suspension as a disciplinary action.

16-19-3. Appointment and compensation of truant officers - Supplies and assistance - Joint officers - Tenure.

The school committee of each city or town shall annually in the month of December appoint one or more persons as truant officers, who shall by virtue of their appointment be clothed with the power of special constables, and fix their compensation, which shall be payable from the appropriation for public schools. The school committee may also furnish all necessary supplies and clerical assistance for the proper and efficient performance of the duties of the truant officer. The school committee of two (2) or more cities or towns may appoint the same truant officer or officers, and any school committee that appoints other employees on a different tenure of office than annual appointments may appoint truant officers on a similar tenure in lieu of the annual appointment mentioned in this section and may fix their compensation from time to time.

16-19-4. Prosecution of violations - Process - Fees.

The truant officers shall, under the direction of the school committee, inquire into all cases arising under the provisions of this chapter, and shall be authorized, with the assistance of police officers upon request in case of violation of any of the provisions of this chapter, to make complaint for violations of this chapter. They may also serve all legal processes issued in pursuance of this chapter, but shall not be entitled to receive any fees for the service; provided, however, that in case of the commitment of any

person under the provisions of any section of this chapter, or for default of payment of any fine and costs imposed, the officer shall be entitled to the regular fees allowed by law for similar service.

16-19-6. Proceedings against habitual truants and offenders.

Every habitual truant, that is, every child who is required under § 16-19-1 to attend school and who willfully and habitually absents himself or herself from attending school; and every habitual school offender, that is, every child who is required to attend school under the provision of § 16-19-1, but who persistently violates the rules and regulations of the school which he or she attends, or otherwise persistently misbehaves in the school which he or she attends, so as to render him or herself a fit subject for exclusion; shall be deemed a wayward child as provided in chapter 1 of title 14, and shall be subject to all the provisions of chapter 1 of title 14, and may be proceeded against and dealt with as a wayward child in accordance with the provisions of chapter 1 of title 14.

16-19-10. Notification of pupil absence.

(a) Whenever any pupil in grades kindergarten through nine (9) fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify, by telephone, the parent or guardian shall be made by school personnel or volunteers organized by the school committee of each city, town, or regional school district or the director or other person in charge of private schools of elementary and secondary grades.

(b) School committees, school personnel, or volunteers organized pursuant to this section shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give the notice required by this section.

16-21-27. Alternative education programs.

Each school district shall adopt a plan to ensure continued education of students who are removed from the classroom because of a suspension of more than ten (10) days or who are chronically truant. The plan shall be adopted by the school committee and shall be submitted to Rhode Island department of elementary and secondary education as part of its annual strategic plan submission.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

2. Each LEA shall ensure that:

d. Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

- (1) Procedures for noting daily absenteeism and investigating unexcused absences;
- (2) Procedures for noting the required period of attendance of students attending at-home instruction approved by the school committee or at a private day school approved by the Commissioner of Education; and
- (3) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court.

Substance Use

LAWS

16-1-5. Duties of commissioner of elementary and secondary education.

It shall be the duty of the commissioner of elementary and secondary education:

(14) To establish health education, alcohol and substance abuse programs for students in grades kindergarten (K) through twelve (12), in accordance with § 35-4-18. The program will consist of the following: A mandated state health education, alcohol and substance abuse curriculum for grades kindergarten (K) through twelve (12), a mandated assessment program in the areas of health, fitness, alcohol and substance abuse, and an in-service training program that will be developed specifically for the implementation of the mandated curriculum.

16-12-10. Immunity for reports of suspected substance abuse.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher, or attendance officer having reasonable cause to suspect that an elementary or secondary school student is abusing a controlled substance or alcohol, or is under the influence of a dangerous drug or alcohol, or has in his or her possession a controlled substance or alcohol, who reports this information to the appropriate elementary or secondary school officials pursuant to the school's drug policy, or if the school has no drug policy to the school's principal or the parents of the student under eighteen (18) years of age, or to a police agency,

shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of the report.

16-21-16. Students suspected of narcotic addiction.

Any teacher having reasonable cause to suspect that a secondary or elementary student under eighteen (18) years of age is addicted to a narcotic drug or under the influence of a dangerous drug who reports this information to the appropriate secondary or elementary school officials pursuant to the school's drug policy, or if the school has no drug policy to the school's principal or the parents of the student under eighteen (18) years of age, shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of the report.

16-21-21.1. Penalties for drug, alcohol or weapons offenses.

The discipline of any public school student for violating a school policy relating to the possession or use of alcohol, drugs or weapons not described in § 16-21-18 of this chapter, shall be imposed on a case-by-case basis pursuant to guidelines developed and promulgated by the school committee for that district. The guidelines and any discipline imposed shall take into account the nature and circumstances of the violation and the applicability of any federal laws governing students with disabilities.

16-21.2-1. Short title.

This chapter shall be known as "The Rhode Island Substance Abuse Prevention Act".

16-21.2-2. Declaration of purpose.

In recognition of the growing problem of substance use and abuse that municipalities face the purpose of this chapter is as follows:

- (1) To promote the opportunity for municipalities to establish a comprehensive substance abuse prevention program addressing the specific needs of each individual municipality.
- (2) To encourage the development of partnership among municipal governments, school systems, parents, and human service providers to serve the interest of the community in addressing the need for a comprehensive substance abuse prevention program.
- (3) To promote a substance abuse prevention program in every community.
- (4) To provide financial assistance for the planning, establishment, and operation of substance abuse prevention programs.
- (5) To encourage municipal governments, in cooperation with school systems and human services organizations to jointly assess the extent of the substance abuse problem in their community.

16-21.2-3. Authority of municipal governments.

- (a) All municipal governments or their designated agents shall have the power to establish, operate, conduct, and/or make provision for programs to provide a comprehensive substance abuse prevention program.
- (b) The appropriate municipal authority shall adopt rules and regulations governing the substance abuse prevention program including an application and contracting procedure by which qualified groups may apply to operate a substance abuse prevention program.
- (c) Substance abuse prevention programs shall comply with all applicable provisions of the general laws with all applicable state rules and regulations.

16-21.2-4. Substance abuse prevention program.

(a) The department of behavioral healthcare, developmental disabilities and hospitals shall be charged with the administration of this chapter and shall provide grants to assist in the planning, establishment, and operation of substance abuse prevention programs. Grants under this section shall be made to municipal governments or their designated agents according to the following guidelines:

(1) The maximum grant shall be one hundred twenty-five thousand dollars (\$125,000); provided, however, in the event that available funding exceeds \$1.6 million in a fiscal year, those surplus funds are to be divided proportionately among the cities and towns on a per capita basis but in no event shall the city of Providence exceed a maximum grant cap of \$175,000.00.

(2) In order to obtain a grant, the municipality or its designated agent must in the first year:

(i) Demonstrate the municipality's need for a comprehensive substance abuse program in the areas of prevention and education.

(ii) Demonstrate that the municipality has established by appropriate legislative or executive action, a substance abuse prevention council which shall assist in assessing the needs and resources of the community, developing a three (3) year plan of action addressing the identified needs, the operation and implementation of the overall substance abuse prevention program; coordinating existing services such as law enforcement, prevention, treatment, and education; consisting of representatives of the municipal government, representatives of the school system, parents, and human service providers.

(iii) Demonstrate the municipality's ability to develop a plan of implementation of a comprehensive three (3) year substance abuse prevention program based on the specific needs of the community to include high risk populations of adolescents, children of substance abusers, and primary education school aged children.

(iv) Agree to conduct a survey/questionnaire of the student population designed to establish the extent of the use and abuse of drugs and alcohol in students throughout the local community's school population.

(v) Demonstrate that at least twenty percent (20%) of the cost of the proposed program will be contributed either in cash or in-kind by public or private resources within the municipality.

(b) The department of behavioral healthcare, developmental disabilities and hospitals shall adopt rules and regulations necessary and appropriate to carry out the purposes of this section.

16-21.2-5. Funding of substance abuse prevention program.

(a) Money to fund the Rhode Island Substance Abuse Prevention Act shall be appropriated from state general revenues and shall be raised by assessing an additional penalty of thirty dollars (\$30.00) for all speeding violations as set forth in § 31-43-5.1. The money shall be deposited as general revenues. The department of behavioral healthcare, developmental disabilities and hospitals may utilize up to ten percent (10%) of the sums appropriated for the purpose of administering the substance abuse prevention program.

(b) Grants made under this chapter shall not exceed money available in the substance abuse prevention program.

16-21.3-1. Declaration of purpose.

In recognition of the growing problem of substance use and abuse among youth and that the average age of onset of substance use and abuse is middle school age, the purpose of this chapter is as follows:

(1) To establish a student assistance program in every public junior high/middle school based upon the model currently operating successfully in Rhode Island high schools.

- (2) The student assistance program will address the following areas:
- (i) Identification and supportive services for high risk youth;
 - (ii) Primary prevention programming in junior high/middle schools;
 - (iii) Assessment and referral services for substance abuse problems;
 - (iv) School staff training on integration of prevention/intervention program;
 - (v) Parent and community programming for substance abuse prevention;
 - (vi) Focused prevention/support groups for high risk youth;
 - (vii) Development and integration of school substance abuse policy with prevention/intervention services;
 - (viii) To promote integration between student assistance programs and community substance abuse prevention task forces.
- (3) To establish a pilot student assistance program in public elementary schools to the extent that funds are available from the junior high/middle school student assistance fund for that purpose.
- (4) To establish a student assistance program in every public high school to the extent that funds are available.

16-21.3-2. Junior high/middle school student assistance program.

- (a) The department of behavioral healthcare, developmental disabilities and hospitals shall be charged with the administration of this chapter and shall contract with appropriate substance abuse prevention/intervention agencies to provide student assistance services in junior high/middle schools.
- (b) Following the first complete year of operation, school systems receiving junior high/middle school student assistance services will be required to contribute twenty percent (20%) of the costs of student assistance counselors to the service provider agency in order to continue the services.

16-21.3-3. Funding of junior high/middle school student assistance program.

- (a) Money to fund this program shall be raised by assessing an additional substance abuse prevention assessment of thirty dollars (\$30.00) for all moving motor vehicle violations handled by the traffic tribunal including, but not limited to, those violations set forth in § 31-41.1-4, except for speeding. The money shall be deposited in a restricted purpose receipt account separate from all other accounts within the department of behavioral healthcare, developmental disabilities and hospitals. The restricted purpose receipt account shall be known as the junior high/middle school student assistance fund and the traffic tribunal shall transfer money from the junior high/middle school student assistance fund to the department of behavioral healthcare, developmental disabilities and hospitals for the administration of the Rhode Island Student Assistance Junior High/Middle School Act.
- (b) The department of behavioral healthcare, developmental disabilities and hospitals may utilize up to ten percent (10%) of the sums collected from the additional penalty for the purpose of administering the program.

16-97.1-1. Performances of local education agencies and individual public schools - Evaluation system - Assessment instruments - Reports.

- (n) Each school district shall file a description of the following instructional procedures and programs with the department every year:
- (9) Drug, tobacco, and alcohol abuse programs.

23-1-36. Director's duties regarding health education, alcohol, and substance abuse programs.

The director shall establish health education, alcohol, and substance abuse programs for students in grades kindergarten through twelve (12), in accordance with § 35-4-18. The director shall make an annual report to the governor and the general assembly on the administration of the program.

23-1.10-4. Duties of department.

The department shall:

(4) Cooperate with the board of regents for elementary and secondary education, board of governors for higher education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials for use at all levels of school education. [...]

(18) Establish alcohol and substance abuse prevention programs for students in kindergarten through grade twelve (12), in accordance with § 35-4-18. The director shall make an annual report to the governor and the general assembly on the administration of the program and shall submit to the governor and the general assembly the results of an independent evaluation of the alcohol and substance abuse prevention program established in accordance with this section. This evaluation shall address the following areas:

- (i) Program development;
- (ii) Implementation;
- (iii) Impact; and
- (iv) Recommendations for future needs.

23-20.9-3. Legislative intent - Purpose.

As tobacco now kills over four hundred and thirty-four thousand (434,000) people in the United States each year, it is the intent of this health legislation to eliminate the exposure of children attending school, and other persons working in schools, to the school-site health hazard of tobacco smoke and other tobacco product usage. It is the intent of this health legislation to protect the health and welfare of children in school by eliminating the exposure of children in school to the significant, life-threatening health hazard of tobacco smoke. It is the intent of this health legislation to create a tobacco-free school environment in Rhode Island.

23-20.9-4. Definitions.

As used in this chapter:

- (1) "Electronic nicotine-delivery system usage" means any vaping, inhaling, or use of any device defined in § 11-9-13.4.
- (2) "Governing body" means the body, board, committee or individual, or its designated agent(s) or designee(s), responsible for, or who or that has control over, the administration of any elementary or secondary school, public or private, in the state.
- (3) "Person" means any person or persons including but not limited to contract or other workers on school property, school students, school administrators, school employees, school faculty, and school visitors.
- (4) "School or schools" means any nonresidential school building, public or private, of any city or town or community educational system regulated, directly or secondarily, by the council on elementary and secondary education or the department of elementary and secondary education or any other state education board or local city or town school board or school committee or other legal educational

subdivision acting under it. As used in this chapter, the term "school or schools" includes, but is not limited to: school playgrounds; school administration buildings; indoor school athletic facilities; school gymnasiums; school locker rooms; school buses; other school vehicles; other school buildings whose use is not primarily residential; and outside areas within twenty-five feet (25') of any school building.

(5) "Tobacco product usage" means the smoking or use of any substance or item that contains tobacco, including, but not limited to: cigarettes, cigars, pipes, or other smoking tobacco, or the use of snuff or smokeless tobacco, or having in one's possession a lighted cigarette, cigar, pipe, or other substance or item containing tobacco.

23-20.9-5. Regulation of smoking in schools.

(a) The governing body of each school in Rhode Island shall be responsible for the development of enforcement procedures to prohibit tobacco product usage and electronic nicotine-delivery system usage by any person utilizing school facilities. All facilities used by a school, whether owned, leased, or rented, shall be subject to the provisions of this chapter. Enforcement procedures shall be promulgated and conspicuously posted in each building.

(b) This chapter shall not modify, or be used as a basis for modifying, school policies or regulations in effect prior to the passage of this chapter if the existing policies or regulations prohibit tobacco product usage and electronic nicotine-delivery system usage in the school.

(c) All school areas where tobacco product usage is prohibited shall be clearly marked with "nonsmoking area" signs with bold block lettering at least three inches (3") high stating "Tobacco-Free School - Tobacco Use Prohibited." All school areas where electronic nicotine-delivery system usage is prohibited shall be clearly marked with "nonsmoking area" signs with bold block lettering at least three inches (3") high stating "E-Cigarettes and Vapor Devices Prohibited." There shall be at least one "nonsmoking area" sign, in conformance with the above, at every building entrance and in other areas as designated by the governing body. Signs shall also be posted in every school bus and every school vehicle. Signs as detailed above shall be provided, without charge, by the department of health.

35-4-18. Health education, alcohol, and substance abuse prevention program.

There is hereby created and established a program to be known as the "health education, alcohol, and substance abuse prevention program", which shall be funded annually by the general assembly. All moneys now or hereafter in the health education, alcohol, and substance abuse prevention program are hereby appropriated for the purpose of establishing continuous health education programs dealing primarily in the areas of alcohol and substance abuse for students in grades kindergarten (K) through twelve (12). The department of behavioral healthcare, developmental disabilities and hospitals and the department of elementary and secondary education are charged with administration of the program for the purposes specified in this section. Independent evaluation of the programs in grades kindergarten (K) through twelve (12) shall be made annually. Funds for evaluation shall emanate from the health education, alcohol, and substance abuse appropriations. Claims against the funds shall be examined, audited, and allowed in the manner now or hereafter provided by law.

REGULATIONS

200-RICR-20-10-1 Section 1.3.3. Health and social service supports.

C. Psychological and Mental Health Services

1. Mental and emotional health issues directly impede students' abilities to learn. Such issues include bullying, alcohol and drug abuse, depression, anxiety, and domestic violence, as well as psychiatric disorders.

2. Therefore, each LEA shall:

- a. Ensure that students have access to a coordinated program of culturally and linguistically responsive psychological and mental health services, on site or through effective referral systems;
- b. Ensure that school psychological and mental health services will be provided by appropriately credentialed, high quality staff. Services must provide for identification of risks and assessment of service needs; primary prevention; individual, family, and group counseling; consultative services; and resource and service coordination; and
- c. To the extent practicable, ensure that schools coordinate with community youth development, prevention, and treatment efforts.

216-RICR-20-10-4 Section 4.4. General requirements.

C. The administrative head of school(s) is responsible for the comprehensive school health program and is required to:

- 1. Develop a manual of procedures (protocols) governing health education, health services and a healthful school environment. This manual must be available at the Superintendent's office and at each school. Procedures must address the statutory and regulatory requirements of this Part and include provisions pertaining to, but not limited to, the following:
 - b. Substance abuse;
 - c. The use of alcohol and tobacco products on school premises and at authorized school activities.

216-RICR-20-10-4 Section 4.42. Alcohol and other drugs.

A. All schools are required to have policies regarding possession of alcohol and other drugs and must have on-going prevention activities and programs as supported by the " Safe and Drug-Free Schools and Communities Act ", 20 U.S.C. § 7101 et seq.

- 1. All school districts must ensure that the discipline policies regarding incidents of students in possession of alcohol or drugs are imposed on a case-by-case basis.

216-RICR-20-10-4 Section 4.42. Alcohol and other drugs.

A. All schools are required to have policies regarding possession of alcohol and other drugs and must have on-going prevention activities and programs as supported by the " Safe and Drug-Free Schools and Communities Act ", 20 U.S.C. § 7101 et seq.

- 1. All school districts must ensure that the discipline policies regarding incidents of students in possession of alcohol or drugs are imposed on a case-by-case basis.

Gang-related Activity

LAWS

42-26-18. Gang violence prevention advisory committee.

(a) There is established in the Rhode Island justice commission the gang violence prevention advisory committee. The committee exists as a permanent sub-committee of the Rhode Island justice commission, juvenile justice advisory committee. The committee shall be composed of members of the Rhode Island justice commission, juvenile justice advisory committee, which currently exists within the Rhode Island justice commission and is charged by the governor and the office of juvenile justice and delinquency prevention, to address issues relating to delinquency and youth violence within the state. Membership qualifications are described in subparagraphs (i) - (iii) of § 223(A)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. § 5633(a)(A)(i) - (iii)] as amended. The function and

structure of this committee along with its historic activities in gang intervention/prevention will enable it to carry out the intent of this section.

(b) The gang violence prevention advisory committee shall coordinate, review, purpose and oversee gang prevention, intervention, and suppression programs on a state level. The committee shall also coordinate with Rhode Island justice commission in efforts to obtain federal funds, grants, or other appropriations necessary and useful to carry out the purpose of this section.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

11-21-1. Penalty for hazing.

(a) Any organizer of, or participant in, an activity constituting hazing, as defined in subsection (b) of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500), or punished by imprisonment for not less than thirty (30) days nor more than one year, or both.

(b) "Hazing" as used in this chapter, means any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. This conduct shall include, but not be limited to, whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug, or other substance, or any brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of the student or any other person, or which subjects the student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

16-21-33. Safe schools act.

(a) Definitions. As used in this chapter:

(1) "Bullying" means the use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that:

- (i) Causes physical or emotional harm to the student or damage to the student's property;
- (ii) Places the student in reasonable fear of harm to himself/herself or of damage to his/her property;
- (iii) Creates an intimidating, threatening, hostile, or abusive educational environment for the student;
- (iv) Infringes on the rights of the student to participate in school activities; or
- (v) Materially and substantially disrupts the education process or the orderly operation of a school.

The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may be reasonably perceived as being motivated by characteristics such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression or mental, physical, or sensory disability, intellectual ability or by any other distinguishing characteristic.

(2) "Cyber-bullying" means bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data, texting or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail,

Internet communications, instant messages or facsimile communications. For purposes of this section, cyber-bullying shall also include:

- (i) The creation of a web page or blog in which the creator assumes the identity of another person;
- (ii) The knowing impersonation of another person as the author of posted content or messages; or
- (iii) The distribution by electronic means of a communication to more than one person or the posting of materials on an electronic medium that may be accessed by one or more persons, if the creation, impersonation, or distribution results in any of the conditions enumerated in clauses (i) to (v) of the definition of bullying herein.

(3) "At school" means on school premises, at any school-sponsored activity or event whether or not it is held on school premises, on a school-transportation vehicle, at an official school bus stop, using property or equipment provided by the school, or creates a material and substantial disruption of the education process or the orderly operation of the school.

16-21-34. Statewide bullying policy implemented.

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

- (1) Descriptions of and statements prohibiting bullying, cyber-bullying and retaliation of school;
- (2) Clear requirements and procedures for students, staff, parents, guardians and others to report bullying or retaliation;
- (3) A provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report;
- (4) Clear procedures for promptly responding to and investigating reports of bullying or retaliation;
- (5) The range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; and provided, further:
 - (i) A parental engagement strategy; and
 - (ii) A provision that states punishments for violations of the bullying policy shall be determined by the school's appropriate authority; however, no student shall be suspended from school unless it is deemed a necessary consequence of the violations;
- (6) Clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection;
- (7) Strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying;
- (8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator;
- (9) A provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action;

- (10) A strategy for providing counseling or referral to appropriate services currently being offered by schools or communities for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law;
- (11) A provision that requires a principal or designee to be responsible for the implementation and oversight of the bullying policy;
- (12) Provisions for informing parents and guardians about the bullying policy of the school district or school shall include, but not be limited to:
- (i) A link to the policy prominently posted on the home page of the school district's website and distributed annually to parents and guardians of students;
 - (ii) A provision for notification, within twenty-four (24) hours, of the incident report, to the parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying;
- (13) A school employee, school volunteer, student, parent, legal guardian, or relative caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy is immune from a cause of action for damages arising from reporting bullying;
- (14) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability;
- (15) Students shall be prohibited from accessing social networking sites at school, except for educational or instructional purposes and with the prior approval from school administration. Nothing in this act shall prohibit students from using school department or school websites for educational purposes. School districts and schools are encouraged to provide in-service training on Internet safety for students, faculty and staff; and
- (16) All school districts, charter schools, career and technical schools, approved private day or residential schools and collaborative schools shall be subject to the requirements of this section. School districts and schools must adopt the statewide bullying policy promulgated pursuant to this section by June 30, 2012.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

E. Prevention of Bullying, Harassment, Hazing, Teen Dating Violence, and Sexual Violence.

1. Each LEA shall:
 - a. Prevent and respond appropriately to incidents of bullying, hazing, teen dating violence, sexual violence, and related issues;
 - b. Promote nonviolent conflict resolution techniques in order to encourage attitudes and behaviors that foster harmonious relations;
 - c. Provide professional development, training, resources, and other means to assist students, staff, and other adults in the school building or at school sponsored activities in carrying out these responsibilities; and
 - d. Comply with relevant state and federal statutes regarding these issues. [...]

F. Positive Behavioral Supports and Discipline

2. Each LEA shall ensure that:
 - b. Students and parents/guardians are notified of district and school rules related to conduct and shall receive regular instruction regarding these rules. In addition, parents/guardians, and students shall be provided with information about early warning signs of harassing and intimidating behaviors, such as bullying, as well as prevention and intervention strategies.

200-RICR-20-10-1 Section 1.3.3. Health and social service supports.

C. Psychological and Mental Health Services

1. Mental and emotional health issues directly impede students' abilities to learn. Such issues include bullying, alcohol and drug abuse, depression, anxiety, and domestic violence, as well as psychiatric disorders.
2. Therefore, each LEA shall:
 - a. Ensure that students have access to a coordinated program of culturally and linguistically responsive psychological and mental health services, on site or through effective referral systems;
 - b. Ensure that school psychological and mental health services will be provided by appropriately credentialed, high quality staff. Services must provide for identification of risks and assessment of service needs; primary prevention; individual, family, and group counseling; consultative services; and resource and service coordination; and
 - c. To the extent practicable, ensure that schools coordinate with community youth development, prevention, and treatment efforts.

200-RICR-30-10-2 Section 2.1. Introduction.

2.1.1 Authority and purpose

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in R.I. Gen. Laws § 16-21-34. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

200-RICR-30-10-2 Section 2.2. Definitions.

A. "Bullying" means:

1. The use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that:
 - a. Causes physical or emotional harm to the student or damage to the student's property;
 - b. Places the student in reasonable fear of harm to himself/herself or of damage to his/her property;
 - c. Creates an intimidating, threatening, hostile, or abusive educational environment for the student;
 - d. Infringes on the rights of the student to participate in school activities; or,
 - e. Materially and substantially disrupts the education process or the orderly operation of a school.
2. The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may be reasonably perceived as being motivated by characteristics such as:
 - a. Race;
 - b. Color;
 - c. Religion;
 - d. Ancestry;
 - e. National origin;
 - f. Gender;
 - g. Sexual orientation;
 - h. Gender identity and expression;

- i. Mental, physical, or sensory disability, intellectual ability; or,
- j. By any other distinguishing characteristic.

3. Bullying most often occurs as repeated behavior and often is not a single incident between the bullying/cyber-bullying offender(s) and the bullying victim(s).

B. "Cyber-bullying" means:

1. Bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data, texting or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, Internet communications, instant messages or facsimile communications.

2. Forms of cyber-bullying may include but are not limited to:

- a. The creation of a web page or blog in which the creator assumes the identity of another person;
- b. The knowing impersonation of another person as the author of posted content or messages; or,
- c. The distribution by electronic means of a communication to more than one person or the posting of materials on an electronic medium that may be accessed by one or more persons, if the creation, impersonation, or distribution results in any of the conditions enumerated in §§ 2.2(A)(1)(a) through (e) of this Part.

C. "At school" means:

- 1. On school premises;
- 2. At any school-sponsored activity or event whether or not it is held on school premises;
- 3. On a school-transportation vehicle;
- 4. At an official school bus stop;
- 5. Using property or equipment provided by the school; or,
- 6. Acts which create a material and substantial disruption of the education process or the orderly operation of the school.

200-RICR-30-10-2 Section 2.3. School climate.

A. Bullying, cyber-bullying, and retaliation against any person associated with a report of bullying or the investigation thereof is prohibited in all schools that are approved for the purpose of the compulsory attendance statute. R.I. Gen. Laws §§ 16-19-1 and 16-19-2.

B. School staff shall take all reasonable measures to prevent bullying at school. Such measures may include professional development and prevention activities, parental workshops, and student assemblies among other strategies.

C. School faculty, administration and staff, at all times, will model courteous behavior to each other, to students, and to school visitors. Abusive or humiliating language or demeanor will not be accepted.

D. Students and their families are expected to exhibit courteous behavior to all members of the learning community in school and at school sponsored events.

200-RICR-30-10-2 Section 2.4. Policy oversight and responsibility.

A. The school principal, director, or head of school shall be responsible for the implementation and oversight of this bullying policy.

B. The school principal, director, or head of school shall provide the superintendent, school committee and/or school governing board with a summary report of incidents, responses, and any other bullying-related issues at least twice annually.

C. For public schools, the prevention of bullying shall be part of the school district strategic plan and school safety plan. R.I. Gen. Laws §§ 16-7.1-2(e); 16-21-24.

200-RICR-30-10-2 Section 2.5. Information dissemination.

A. The school principal, director or head of school shall ensure that students, staff, volunteers, and parents/legal guardians are provided information regarding this Policy. This information shall include methods of discouraging and preventing this type of behavior, the procedure to file a complaint, and the disciplinary action that may be taken against those who commit acts in violation of this policy.

B. This Policy shall be:

1. Distributed annually to students, staff, volunteers, and parents/legal guardians;
2. Included in student codes of conduct, disciplinary policies, and student handbooks;
3. A prominently posted link on the home page of the school /district website.

200-RICR-30-10-2 Section 2.6. Reporting.

A. The school principal, director or head of school shall establish, and prominently publicize to students, staff, volunteers, and parents/guardians, how a report of bullying may be filed and how this report will be acted upon. (See § 2.13 of this Part for sample Report Form).

B. The victim of bullying, anyone who witnesses an incidence of bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

C. Any student or staff member who believes he/she is being bullied should immediately report such circumstances to an appropriate staff member, teacher or administrator.

D. Parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying shall be notified within twenty-four hours of the incident report. When there is a reasonable suspicion that a child is either a bully or a victim of bullying, the parents/ guardians of the child will be notified immediately by the principal, director or head of school.

E. Responsibility of Staff:

1. School staff, including volunteers, who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities.
2. Failure to do so may result in disciplinary action.

F. Responsibility of Students:

1. Students who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities.
2. Failure to do so may result in disciplinary action.
3. The victim of bullying, however, shall not be subject to discipline for failing to report the bullying. Student reports of bullying or retaliation may be made anonymously, provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report.

G. Prohibition against Retaliation:

1. Retaliation or threats of retaliation in any form designed to intimidate the victim of bullying, those who are witnesses to bullying, or those investigating an incident of bullying shall not be tolerated.
2. Retaliation or threat of retaliation will result in the imposition of discipline in accordance with the school behavior code.

H. False Reporting/Accusations:

1. A school employee, school volunteer or student who knowingly makes a false accusation of bullying or retaliation shall be disciplined in accordance with the school behavior code.

I. Reports in Good Faith:

1. A school employee, school volunteer, student, parent/ legal guardian, or caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy shall be immune from a cause of action for damages arising from reporting bullying.

200-RICR-30-10-2 Section 2.7. Investigation.

A. The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

B. The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

C. Police Notification:

1. Immediate notification of the local law enforcement agency will be made when circumstances warrant the pursuit of criminal charges against the perpetrator.

D. Protection:

1. If a student is the victim of serious or persistent bullying:
 - a. The school principal, director or head of school will intervene immediately to provide the student with a safe educational environment.
 - b. The interventions will be developed, if possible, with input from the student, his or her parent or guardian, and staff.
 - c. The parents/ guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation.

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

1. Admonitions and warnings;
2. Parental/ Guardian notification and meetings;
3. Detention;
4. In-school suspension;
5. Loss of school-provided transportation or loss of student parking pass;
6. Loss of the opportunity to participate in extracurricular activities;
7. Loss of the opportunity to participate in school social activities;
8. Loss of the opportunity to participate in graduation exercises or middle school promotional activities;
9. Police contact; or,
10. School suspension, though no student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy.

200-RICR-30-10-2 Section 2.9. Social services or counseling.

Referral to appropriate counseling and/or social services currently being offered by schools or communities shall be provided for bullying victims, perpetrators and appropriate family members of said students.

200-RICR-30-10-2 Section 2.10. Social networking.

Students shall be prohibited from accessing social networking sites in school, except for educational or instructional purposes and with the prior approval from school administration.

200-RICR-30-10-2 Section 2.11. Other redress.

This section does not prevent a victim of bullying, cyber-bullying or retaliation from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

200-RICR-30-10-2 Section 2.12. Adoption of policy.

The governing bodies of all schools approved for the purpose of R.I. Gen. Laws §§ 16-19-1 and 16-19-2 shall adopt this Policy by June 30, 2012.

216-RICR-20-10-4 Section 4.40. School safety.

4.40.4 Statewide Bullying Policy

In accordance with R.I. Gen. Laws §§ 16-21-33 and 16-21-34, any form or degree of bullying at school is prohibited. All school districts, charter schools, career and technical schools, approved private day or residential schools and collaborative schools must adopt the Rhode Island Department of Education " Rhode Island Statewide Bullying Policy ".

Dating and Relationship Violence

LAWS

16-21-30. Dating violence policy.

(a) As used in this section:

(1) "At school" means in a classroom, on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at any school-sponsored activity or event whether or not it is on school grounds.

(2) "Dating partner" means any person, regardless of gender, involved in an intimate relationship with another primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term.

(3) "Dating violence" means a pattern of abusive or coercive behaviors used to exert power and control over a current or former dating partner. Behaviors may occur online, in person, or through the use of technology. Abuse may be physical, verbal, emotional, sexual, financial, or psychological and includes threats, isolation, and intimidation.

(b) The department of education shall develop a model dating violence policy to assist school districts in developing policies for dating violence reporting and response. The model policy shall be issued on or before April 1, 2008.

(c) Each school district shall establish a specific policy to address incidents of dating violence involving students at school by December 1, 2008. Each school district shall verify compliance with the department of education on an annual basis through the annual school health report.

(1) The policy shall include, but not be limited to: a statement that dating violence will not be tolerated; dating violence reporting procedures, guidelines to responding to at school incidents of dating violence and discipline procedures specific to the incidents.

(2) To ensure notice of the school district's dating violence policy, the policy shall be published in any school district policy and handbook that sets forth the comprehensive rules, procedures and standards of conduct for students at school.

(d) Each school district shall provide dating violence training to all administrators, teachers, nurses and mental health staff at the middle and high school levels. Upon the recommendation of the administrator, other staff may be included or may attend the training on a volunteer basis. The dating violence training shall include, but not be limited to: basic principles of dating violence; warnings signs of dating violence; and the school district's dating violence policy, to ensure that they are able to appropriately respond to incidents of dating violence at school. Thereafter, this training shall be provided yearly to all newly hired staff deemed appropriate to receive the training by the school's administration.

(e) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians with the school district's dating violence policy and relevant information. It is strongly recommended that the school district provide parent awareness training.

(f) Each school district shall collect data regarding instances of student misconduct that are considered dating violence. As part of the usual course of discipline data submission to the department of education, each school district shall specify when a particular infraction is also considered dating violence.

(g) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

16-22-24. Dating violence education.

(a) Each school district shall incorporate dating violence education that is age-appropriate into the annual health curriculum framework for students in grades seven (7) through twelve (12).

(1) Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs and characteristics of healthy relationships. Additionally, students shall be provided with the school district's dating violence policy as provided in subsection 16-21-30(c).

(2) For the purposes of this section:

(i) "At school" means in a classroom, on or immediately adjacent to the school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at any school sponsored activity or event whether or not it is on school grounds.

(ii) "Dating partner" means any person involved in an intimate association with another primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term.

(iii) "Dating violence" means a pattern of abusive or coercive behaviors used to exert power and control over a current or former dating partner. Behaviors may occur online, in person, or through the use of technology. Abuse may be physical, verbal, emotional, sexual, financial, or psychological and includes threats, isolation, and intimidation.

(3) To assist school districts in developing a dating violence education program, the department of education shall review and approve the grade level topics relating to dating violence and healthy relationships in the "health literacy for all students: the Rhode Island health education framework".

(4) The provisions of this section shall be amended in the health education curriculum sections of the Rhode Island rules and regulations for school health programs, R16-21-SCHO, and the Rhode Island basic education program at their next revisions.

(b) Upon written request to the school principal, a parent or legal guardian of a pupil less than eighteen (18) years of age, within a reasonable period of time after the request is made, shall be permitted to examine the dating violence education program instruction materials at the school in which his or her child is enrolled.

16-85-2. Legislative findings.

The general assembly hereby finds, determines and declares that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The general assembly therefore finds that a policy to create an environment free of dating violence shall be a part of each school district. It is the intent of the general assembly to enact legislation that would require each school district to establish a policy for responding to incidents of dating violence and to provide dating violence education to students, parents, staff, faculty and administrators, in order to prevent dating violence and to address incidents involving dating violence. All students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation and violence.

REGULATIONS

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

E. Prevention of Bullying, Harassment, Hazing, Teen Dating Violence, and Sexual Violence.

1. Each LEA shall:

- a. Prevent and respond appropriately to incidents of bullying, hazing, teen dating violence, sexual violence, and related issues;
- b. Promote nonviolent conflict resolution techniques in order to encourage attitudes and behaviors that foster harmonious relations;
- c. Provide professional development, training, resources, and other means to assist students, staff, and other adults in the school building or at school sponsored activities in carrying out these responsibilities; and
- d. Comply with relevant state and federal statutes regarding these issues.

F. Positive Behavioral Supports and Discipline

1. Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success.

216-RICR-20-10-4 Section 4.3. Definitions.

Section 4.3 Definitions

A. Wherever used in these rules and regulations the terms listed below shall be construed as follows:

16. "Dating violence" means a pattern of behavior wherein a person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control his or her dating partner. [...]

Section 4.5 Administration of the Health Education Program

- I. Planned and ongoing in-service programs are required to update health educators and other relevant personnel in their knowledge of health and teaching skills, and to obtain their input regarding health curriculum, assessment and improvement. These must be consistent with the provisions of R.I. Gen. Laws § 35-4-18 and R.I. Gen. Laws §§ 16-1-5(14), 16-22-12, 16-22-14, and 16-22-24 pertaining to substance abuse, alcohol, suicide, teen dating violence, and such other relevant laws. [...]

Section 4.7 Mandated Health Instructional Outcomes

- A. Pursuant to R.I. Gen. Laws § 16-22-4, the health education curriculum must be based on the Rhode Island Health Education Framework: Health Literacy for All Students standards and consistent with the mandated health instructional outcomes incorporated at §§ 4.2(A) and (B) of this Part. These outcomes must pertain to no less than the following required content area topics appropriate to grade or developmental level:

7. Family Life and Sexuality: responsibilities of family membership and adulthood, issues related to reproduction, abstinence, dating and dating violence, marriage, parenthood, information about sexually transmitted diseases, sexuality and sexual orientation, as part of comprehensive sexuality education pursuant to R.I. Gen. Laws § 16-22-18.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

16-21-21. Student discipline codes.

Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning. The department of elementary and secondary education shall provide necessary technical assistance in the development of the student discipline code. The school committee shall cause the school discipline code to be distributed to each student enrolled in the district. Each student and his or her parent, guardian, or custodian shall sign a statement verifying that they have been given a copy of the student discipline code of their respective school district.

16-21-23.1. Model school safety plans and checklists - Development and dissemination.

(a) It shall be the duty of the department of elementary and secondary education to collaborate with the Rhode Island emergency management agency, state police, state fire marshal, the department of behavioral health, developmental disabilities, and hospitals, and other safety officials to develop a model school safety plan to be consulted by school safety teams in accordance with § 16-21-23. This model plan shall be based on best practices in school safety planning and the department of elementary and secondary education shall communicate the plan electronically to all school committees and school safety teams in the state.

(b) It shall be the duty of the department of elementary and secondary education to develop and disseminate school safety check lists that school districts can use on a regular basis and at least annually to assess the strengths and weaknesses of school safety in accordance with § 16-21-24. The check lists shall incorporate best practices in school safety planning and the department of elementary and secondary education shall communicate the plan electronically to all school committees and school safety teams in the state.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

200-RICR-20-10-1 Section 1.3.1. Academic supports and interventions.

B. Supports and Interventions through Systematic Problem Solving

1. Each LEA shall provide student-centered, data-driven supports and interventions utilizing a problem-solving process, building on the foundation of a guaranteed and viable comprehensive program of study. This process shall be comprehensive and systematic and focused at the individual student level in order to provide access to supports and interventions as may be necessary at the classroom, school, and district levels to ensure that each student is provided with supports and interventions designed to

enable that student to achieve academic success. The LEA shall provide a full continuum of universal, targeted, and intensive supports that are culturally and linguistically appropriate, research-based, and designed to respond to student needs in compliance with the specific requirements for support services described herein.

2. Each LEA shall develop school and district level data-based, decision-making teams. These teams shall review comprehensive assessment data to develop, evaluate and modify academic instruction and support services. Descriptions of such teams shall include the purpose of each team, team composition, and the frequency with which each team meets.

3. The LEA's problem-solving approach to determine appropriate levels of support and intervention must include identification of student-based issues (specifying both target and actual performance), identification of supports and interventions developed to address those issues, measurements designed to evaluate responsiveness, and the identification of responsible LEA staff.

200-RICR-20-10-1 Section 1.3.2. Supportive and nurturing school community.

F. Positive Behavioral Supports and Discipline

1. Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success.

200-RICR-20-10-1 Section 1.5. Definitions.

Prevention

LAWS

No relevant laws found.

REGULATIONS

200-RICR-20-10-1 Section 1.1.4. Expectations for the local education agency in implementing the basic education program.

B. Functions of the Local Education Agency

1. Each LEA shall address seven core functions in order to ensure that all of its schools are providing an adequate education to every student:

e. Engage Families and the Community. The LEA shall implement effective family and community communication systems; engage families and the community to promote positive student achievement and behavior; and provide adult and alternative learning opportunities integrated with community needs.

f. Foster Safe and Supportive Environments for Students and Staff. The LEA shall address the physical, social, and emotional needs of all students; ensure safe school facilities and learning environments; and require that every student has at least one adult accountable for his or her learning.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

16-21-40. Trauma Informed Schools Act.

(A) Schools play a critical role in addressing and mitigating the effects of child trauma by recognizing the impact of adversity and trauma on students, parents, and staff, and embedding policies and practices that foster well-being and resilience. (B) Through alignment and integration with a multi-tiered system of support frameworks designed to support the academic, behavioral, social, and emotional needs of all students, the commissioner of elementary and secondary education shall develop a trauma-informed schools implementation plan, as well as necessary administrative guidance, professional development materials, and other resources to enable all elementary and secondary schools to:

(1) Establish and implement trauma-informed practices within all elementary and secondary education schools throughout the state, that:

(i) Promote a shared understanding among teachers, teacher's assistants, school leaders, paraprofessionals, specialized instructional support personnel, and other staff that:

(a) Traumatic experiences are common among students;

(b) Trauma can impact student learning, behavior, and relationships in school;

(c) Traumatic experiences do not inherently undermine the capabilities of students to reach high expectations in academics and life;

(d) School-wide learning environments, where all students and adults feel safe, welcomed, and supported, can enable students to succeed despite traumatic experiences; and

(e) Services, supports, and programs provided to meet individual student needs should be trauma-informed, where appropriate, and increase student connection to the schoolwide learning environment.

(ii) Adopt disciplinary procedures and practices that:

(a) Accompany disciplinary actions with holistic assessments and positive behavioral interventions and supports to address the underlying causes of student behavior, including trauma;

(b) Avoid harsh, punitive, or exclusionary disciplinary practices;

(c) Utilize evidence-based restorative practices with a focus on behavior modifications and building community, and less punitive or exclusionary practices that erode a culture of trust;

(d) Implement procedures to call skilled mental health personnel when there is a mental health breakdown, and resort to law enforcement only in extreme cases and/or when a student or students are at risk of bodily harm; and

(e) Do not discriminate on the basis of race, color, national origin, sex (including sexual orientation or gender identity), disability, English proficiency status, migrant status, or age.

(iii) Implement activities that engage teachers, teacher's assistants, school leaders, paraprofessionals, specialized instructional support personnel, and other staff, in a process of school-based planning to:

- (a) Promote a school-wide schoolwide culture of acceptance;
- (b) Help all students feel safe and connected to the school community;
- (c) Support all students to form positive relationships with adults and peers, understand and manage emotions, achieve success academically and in extracurricular areas, and experience physical and psychological health and well-being;
- (d) Promote teamwork and effective communication among all staff and shared responsibility for every student;
- (e) Integrate evidence-based practices that build social-emotional skills into rigorous academic instruction;
- (f) Support trauma-sensitive and informed approaches to multi-tiered system of supports ("MTSS") function of team-based leadership, tiered delivery system, selection and implementation of instruction and intervention, comprehensive screening and assessment system, and continuous data-based decision-making; and
- (g) Recognize and prevent adult implicit bias.

16-21-41. Trauma-Informed Schools Act Commission.

(A) There is hereby established a trauma-informed schools commission (hereinafter the "commission"). The commission shall meet at least quarterly or approximately four (4) times per year in fiscal years 2023 and 2024. It shall expire on June 30, 2024. Members of the commission shall serve without compensation.

(B) The commission shall be appointed by the council on elementary and secondary education no later than September 30, 2022, and shall be comprised of twelve (12) members: one of whom shall be the commissioner of elementary and secondary education, or designee; one of whom shall be a representative of the RI school superintendents association; one of whom shall be appointed from among the leadership of the state's teachers' unions; one of whom shall be the child advocate; one of whom shall be a representative of a Rhode Island-based institution of higher education with expertise in child development, child mental and behavioral health, trauma-informed educational practices, or a related field; two (2) of whom shall be representatives of youth-serving community-based organizations that provide direct services to youth who have, or are at high risk of experiencing trauma; one of whom shall be a licensed clinical social worker, who primarily works with youth and/or families; one of whom shall be a representative of the Rhode Island Chapter of the American Academy of Pediatrics; one of whom shall be the executive director of RI Kids Count, or designee; one of whom shall be the president of adoption RI, or designee; and one of whom shall be a representative of an organization that engages and/or supports parents of school-aged children, with priority given to representation from a parent-led organization.

(C) The department of elementary and secondary education shall provide necessary staff and material support to the commission in the furtherance of its purpose.

(D) The purpose of the commission shall be to assist the department of elementary and secondary education with the implementation of the trauma-informed schools act, as set forth in this section and section 16-21-40.

(E) In furtherance of its purpose, the commission shall undertake such actions as it determines appropriate, which shall include, but not be limited to, the following:

- (1) Conducting a review and assessment of existing trauma-informed school and community-based resources and initiatives across the state;

(2) Informing the development of a trauma-informed school implementation plan and supporting materials, that shall be submitted to the council on elementary and secondary education for approval no later than April 1, 2024;(3) Researching, identifying, and cataloging state, federal, and philanthropic funding sources that align with the provisions of this section and section 16-21-40;

(4) No later than March 1, 2023, submitting an interim report to the speaker of the house, the president of the senate, and the governor, that provides an update on the commission's initial findings, work plan, and any preliminary recommendations for regulatory or legislative action to promote the implementation oil trauma-informed practices in schools; and

(5) No later than June 30, 2024, submitting a final report to the speaker of the house, the president of the senate, and the governor, that details the commission's findings and recommendations for implementing trauma-informed practices in every elementary and secondary school in Rhode Island.

(F) The commission shall elect a chairperson from its membership. A quorum of the commission at any meeting shall consist of at least seven (7) members.

(G) All departments, boards, and agencies of the state shall cooperate with the commission and forthwith furnish any advice and information, documentary and otherwise, as may be necessary or desirable to facilitate the purposes of this chapter.

(H) The department of education is authorized and directed to provide suitable quarters for commission meetings.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

16-21-23. School safety teams, school crisis response teams, and school safety assessments.

(c) The school crisis response team shall be comprised of those selected school personnel willing to serve as members of a psychological response team to address the psychological and emotional needs of the school community, and may seek mental health resources from the department of elementary and secondary education. Members of the school crisis response team may coordinate mental health services for those students and school employees affected by acts of violence in the schools, using resources available through the department of elementary and secondary education.

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(b) School safety plans, as required by this chapter, shall further include school emergency response plans specific to each school building contained within each city, town, or regional school district, and shall be developed and approved in consultation with local police and fire. The state police shall provide consultation for those school districts that for whatever reason may not have access to local police.

School emergency response plans shall include, and address, but not be limited to, the following elements:

(8) Policies and procedures for ensuring timely access to mental health services for those students and school employees affected by a violent incident.

16-73.1-1. Compilation of data - School social worker duties and responsibilities.

(a) Accumulated data is needed to identify and assess the workload, duties, and responsibilities of school social workers. The 2009 basic education plan drafted by the department of education:

- (1) Delegates to the local education agency the ultimate responsibility for the operation of a system of education and support services that is reasonably designed and adequately resourced to achieve compliance with all aspects of the basic education plan;
- (2) Requires that the local education agency provide a supportive and nurturing school community; and
- (3) Provides adequate psychological, mental health, and social services.

REGULATIONS

200-RICR-20-10-1 Section 1.3.3. Health and social service supports.

A. Health, mental health, and social service needs of children and their families may be barriers to academic success. Each LEA shall therefore provide and/or facilitate partnerships with community agencies to provide, on site or through referral, a broad array of services and supports to meet these needs. [...]

C. Psychological and Mental Health Services

1. Mental and emotional health issues directly impede students' abilities to learn. Such issues include bullying, alcohol and drug abuse, depression, anxiety, and domestic violence, as well as psychiatric disorders.
2. Therefore, each LEA shall:
 - a. Ensure that students have access to a coordinated program of culturally and linguistically responsive psychological and mental health services, on site or through effective referral systems;
 - b. Ensure that school psychological and mental health services will be provided by appropriately credentialed, high quality staff. Services must provide for identification of risks and assessment of service needs; primary prevention; individual, family, and group counseling; consultative services; and resource and service coordination; and
 - c. To the extent practicable, ensure that schools coordinate with community youth development, prevention, and treatment efforts.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(a) School safety plans, as required by this chapter, shall address, but not to be limited to, prevention, mitigation, preparedness, response, and recovery. The school safety plans shall include, at a minimum, the following policies and procedures:

(12) Strategies for improving communication, including use of common, consistent plain language by school district officials, school officials and emergency responders, among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence, and establishing anonymous reporting mechanisms for school violence.

16-21-34. Statewide bullying policy implemented.

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(3) A provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report;

(4) Clear procedures for promptly responding to and investigating reports of bullying or retaliation.

REGULATIONS

200-RICR-20-30-2 Section 2.7. Reporting requirements.

A. Informing School Administration. The staff member who administered the physical restraint/crisis intervention shall inform the administration of any public education program of the use of a physical restraint/crisis intervention as soon as possible, and by a written report not later than the next working day. The administration shall maintain an ongoing written record of all reported instances of physical restraint/crisis intervention. [...]

C. Contents of Report. The written report required by § 2.7(A) of this Part shall include:

1. The names and job titles of the staff who administered the restraint, and observers, if any, the date of the restraint, the time the restraint began and ended, and the name of the administrator who was verbally informed following the restraint;

2. A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint/crisis intervention, the behavior that prompted the restraint, the efforts made to deescalate the situation, alternatives to restraint that were attempted, and the justification for initiating physical restraint/crisis intervention;

3. A description of the administration of the restraint including the holds used and reasons such holds were necessary, the student's behavior and reactions during the restraint, how the restraint ended, and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;

4. Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student, and a behavioral intervention plan was developed or modified as a result of the restraint;

5. Information regarding opportunities for the student' parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

200-RICR-30-10-2 Section 2.6. Reporting.

A. The school principal, director or head of school shall establish, and prominently publicize to students, staff, volunteers, and parents/guardians, how a report of bullying may be filed and how this report will be acted upon. (See § 2.13 of this Part for sample Report Form).

B. The victim of bullying, anyone who witnesses an incidence of bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

C. Any student or staff member who believes he/she is being bullied should immediately report such circumstances to an appropriate staff member, teacher or administrator.

D. Parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying shall be notified within twenty-four hours of the incident report. When there is a reasonable suspicion that a child is either a bully or a victim of bullying, the parents/ guardians of the child will be notified immediately by the principal, director or head of school.

E. Responsibility of Staff:

1. School staff, including volunteers, who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities.

2. Failure to do so may result in disciplinary action.

F. Responsibility of Students:

1. Students who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities.

2. Failure to do so may result in disciplinary action.

3. The victim of bullying, however, shall not be subject to discipline for failing to report the bullying. Student reports of bullying or retaliation may be made anonymously, provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report.

G. Prohibition against Retaliation:

1. Retaliation or threats of retaliation in any form designed to intimidate the victim of bullying, those who are witnesses to bullying, or those investigating an incident of bullying shall not be tolerated.

2. Retaliation or threat of retaliation will result in the imposition of discipline in accordance with the school behavior code.

H. False Reporting/Accusations:

1. A school employee, school volunteer or student who knowingly makes a false accusation of bullying or retaliation shall be disciplined in accordance with the school behavior code.

I. Reports in Good Faith:

1. A school employee, school volunteer, student, parent/ legal guardian, or caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy shall be immune from a cause of action for damages arising from reporting bullying.

200-RICR-30-10-2 Section 2.7. Investigation.

A. The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

B. The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

Parental Notification

LAWS

11-47-60.2. Possession of weapons on school grounds - Notification.

(a) If a student is found to be carrying a weapon, as defined in § 11-47-42, a firearm or replica of a firearm, or commits an aggravated assault on school grounds as defined in § 11-47-60, the principal or designee shall immediately notify the student's parents and the local police and turn the weapon over, if any, to the local enforcement agency.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

16-19-10. Notification of pupil absence.

(a) Whenever any pupil in grades kindergarten through nine (9) fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify, by telephone, the parent or guardian shall be made by school personnel or volunteers organized by the school committee of each city, town, or regional school district or the director or other person in charge of private schools of elementary and secondary grades.

(b) School committees, school personnel, or volunteers organized pursuant to this section shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give the notice required by this section.

16-21-23.2. Threat assessment teams and oversight committees.

(d) Upon preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the district superintendent or designee. The building administrator or designee may, if appropriate, attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school district personnel from acting immediately to address an imminent threat.

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(a) School safety plans, as required by this chapter, shall address, but not to be limited to, prevention, mitigation, preparedness, response, and recovery. The school safety plans shall include, at a minimum, the following policies and procedures:

(10) Policies and procedures for contacting parents, guardians, or persons in parental relation to the students of the city, town, or region in the event of a violent incident.

16-21-34. Statewide bullying policy implemented.

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator. [...]

(12) Provisions for informing parents and guardians about the bullying policy of the school district or school shall include, but not be limited to:

(ii) A provision for notification, within twenty-four (24) hours, of the incident report, to the parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying.

16-21.5-1. Legislative intent.

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

16-21.5-2. Procedure for interrogating elementary students.

(a) Before making an elementary school pupil available to a law enforcement officer for the purpose of being questioned, the principal of the elementary school, or his or her designee, shall take immediate steps to obtain the oral consent of the parent or guardian of the pupil to permit the questioning.

(b) If the parent or guardian requests that the pupil not be questioned until he or she can be present, the pupil may not be made available to the law enforcement officer for questioning until the parent or guardian is present.

(c) If school officials are unable, after reasonable efforts undertaken within a period not to exceed one hour, to contact a parent or guardian in order to obtain consent pursuant to this subdivision, a school administrator, school counselor, or school teacher who is reasonably available and selected by the pupil, shall be present during the questioning.

(d) If the school administrator, school counselor, or school teacher selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall be present during the questioning.

(e) In those cases in which school officials are unable to contact the pupil's parent or guardian, after the questioning has been completed, the principal or his or her designee shall immediately notify the parent or guardian that the questioning has occurred and make the staff member who was present during the questioning available to inform the parent or guardian about questioning.

16-21.5-3. Procedure for interrogating high school students.

(a) Before making a high school pupil under eighteen (18) years of age available to a law enforcement officer for the purpose of questioning, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to request that his or her parent or guardian or an adult family member, or person on the list of emergency contacts for the pupil be present during the questioning.

(b) If the person selected by the pupil cannot be made available within a reasonable period of time, not exceeding one hour, or declines to be present at the questioning, the principal or his or her designee shall inform the pupil that the pupil may select as an alternate, a school administrator, school counselor, or school teacher who is reasonably available to be present during the questioning.

(c) If the person selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall so inform the pupil and advise the pupil that the principal, or his or designee, will be present during the questioning if the pupil so requests.

(d) If the pupil exercises his or her right, pursuant to this subsection, to have one of the persons designated in paragraph (a), (b) or (c) present during the questioning, the pupil may not be made available to the law enforcement officer for questioning until that person is present.

REGULATIONS

200-RICR-20-30-2 Section 2.7. Reporting requirements.

B. Informing Parents. The school administration shall have procedures to inform the student's parent(s) or guardian(s) of the use of a restraint as soon as possible, and not later than two (2) school days after each incident. Written documentation of this notification shall be maintained by the public education program.

200-RICR-30-10-2 Section 2.6. Reporting.

D. Parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying shall be notified within twenty-four hours of the incident report. When there is a reasonable suspicion that a child is either a bully or a victim of bullying, the parents/ guardians of the child will be notified immediately by the principal, director or head of school.

200-RICR-30-10-2 Section 2.7. Investigation.

D. Protection:

1. If a student is the victim of serious or persistent bullying:

c. The parents/ guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation.

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

2. Parental/ Guardian notification and meetings.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

16-7.1-5.1. Intervention and support for the Providence public school district.

(A) No later than September 1, 2022, and in order to assess the providence school district across multiple measures of district performance and student success, the commissioner shall update the turnaround action plan released June 23, 2020, (the "turnaround plan") , to include measurable annual goals including, but not limited to, the following:

- (1) Student attendance and suspension rates;
- (2) Student safety and discipline;
- (3) Student promotion, graduation, and dropout rates;

16-2-17. Right to a safe school.

(d) All school superintendents, or their designees, shall review annually, the discipline data for their school district, collected in accordance with the specifications set forth in § 16-60-4(21), to determine whether the discipline imposed has a disproportionate impact on students based on race, ethnicity, or disability status and to appropriately respond to any such disparity. In addition to the data submitted, if a disparity exists, the school district shall submit a report to the council on elementary and secondary education describing the conduct of the student, the frequency of the conduct, prior disciplinary actions for the conduct, any other relevant information and corrective actions to address the disparity, after consultation with representatives of the faculty has been taken to address the disparity. The reports shall be deemed to be public records for purposes of title 38.

(e) On or before September 1, 2023, and annually by September 1 thereafter, the Rhode Island Department of Education, in coordination with the Rhode Island Office of the Attorney General, shall, for each school district, annually collect, report, and publish on its website, data on: the number of school resource officers; the use of force against students, including, but not limited to, the number of instances force was used and the type of the force used; arrests of students and reasons for arrest; student referrals to law enforcement and reasons for referral; student referrals to court or court service units; and the number and type of any other disciplinary actions taken or recommended by school resource officers involving students. All data shall be published in a manner that protects the identities of students and shall be collected and designated by student age, grade, race, ethnicity, gender, language status, and disability, to the extent that the demographic data is available.

16-19-1. Attendance required.

(a) Every child who has completed, or will have completed, six (6) years of life on or before September 1 of any school year, or is enrolled in kindergarten, and has not completed eighteen (18) years of life, shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town in which the child resides. The public school shall be responsible for regular attendance data monitoring of all students and early identification of emergent truant behavior. Prior to referring truant students to family court, schools must do their due diligence to assure all interventions have taken place. This includes, and is not limited to:

- (1) Consultation with the parent or guardian; and
- (2) Coordination with the student's school-identified support team such as the individualized education plan, behavioral support, or attendance teams.

16-60-4. Council for elementary and secondary education - Powers and duties.

(a) The council on elementary and secondary education shall have in addition to those enumerated in § 16-60-1, the following powers and duties:

(21)(i) To prepare, with the assistance of the commissioner of elementary and secondary education, and to present annually to the general assembly by January 1 a report on school discipline in Rhode Island schools. This report shall include:

- (A) Expulsions by district, including duration and the reason for each action;
- (B) Suspensions by district, including duration and the reason for each action;
- (C) Placements to alternative programs for disciplinary reasons;
- (D) Assaults of teachers, students, and school staff by students;
- (E) Incidents involving possession of weapons on school property. For the purpose of this section, a weapon shall be considered any of those weapons described in §§ 11-47-2 and 11-47-42;
- (F) Incidents of the sale of controlled substances by students;
- (G) Incidents of the possession with the intent to sell controlled substances by students;
- (H) Additional demographic information including, but not limited to, the ethnic and racial classifications, age, and gender, as prescribed by the commissioner, of each of the students involved in the incidents, events or actions described in subparagraphs (A) through (G) of this subdivision; and
- (I) A description of the education program provided to each student suspended for over ten (10) consecutive school days in a school year.

(ii) All school superintendents shall supply the necessary information on forms established by the commissioner of elementary and secondary education to the council on elementary and secondary education to assist in the preparation of the council's report on school discipline.

(22) To prepare and promulgate a uniform statewide school reporting system which would provide information including, but not limited to, the following:

- (i) Student and teacher attendance rates;
- (ii) Standardized test scores;

- (iii) Demographic profiles;
- (iv) Results of polls of students, parents, and teachers;
- (v) Descriptions of goals, initiatives, and achievements;
- (vi) Best teaching practices;
- (vii) Alternative student assessments;
- (viii) Special programs; and
- (ix) Number of student suspensions and teacher grievances and the amount of parental involvement.

REGULATIONS

200-RICR-20-30-2 Section 2.7. Reporting requirements.

D. Report to the R.I. Department of Education. Each public educational program shall provide the R.I. Department of Education a record of every incident of the use of a physical restraint/crisis intervention on an annual basis.

200-RICR-30-10-2 Section 2.4. Policy oversight and responsibility.

B. The school principal, director, or head of school shall provide the superintendent, school committee and/or school governing board with a summary report of incidents, responses, and any other bullying-related issues at least twice annually.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

11-47-60.2. Possession of weapons on school grounds - Notification.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(a) School safety plans, as required by this chapter, shall address, but not to be limited to, prevention, mitigation, preparedness, response, and recovery. The school safety plans shall include, at a minimum, the following policies and procedures:

(8) Policies and procedures for contacting appropriate law enforcement officials and EMS/Fire, in the event of a violent incident and that include consistent, plain language and terminology that is recommended by the model plan pursuant to general laws § 16-21-23.1.

16-21-34. Statewide bullying policy implemented.

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator.

16-21.5-2. Procedure for interrogating elementary students.

(a) Before making an elementary school pupil available to a law enforcement officer for the purpose of being questioned, the principal of the elementary school, or his or her designee, shall take immediate steps to obtain the oral consent of the parent or guardian of the pupil to permit the questioning.

(b) If the parent or guardian requests that the pupil not be questioned until he or she can be present, the pupil may not be made available to the law enforcement officer for questioning until the parent or guardian is present.

(c) If school officials are unable, after reasonable efforts undertaken within a period not to exceed one hour, to contact a parent or guardian in order to obtain consent pursuant to this subdivision, a school administrator, school counselor, or school teacher who is reasonably available and selected by the pupil, shall be present during the questioning.

(d) If the school administrator, school counselor, or school teacher selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall be present during the questioning.

(e) In those cases in which school officials are unable to contact the pupil's parent or guardian, after the questioning has been completed, the principal or his or her designee shall immediately notify the parent

or guardian that the questioning has occurred and make the staff member who was present during the questioning available to inform the parent or guardian about questioning.

16-21.5-3. Procedure for interrogating high school students.

(a) Before making a high school pupil under eighteen (18) years of age available to a law enforcement officer for the purpose of questioning, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to request that his or her parent or guardian or an adult family member, or person on the list of emergency contacts for the pupil be present during the questioning.

(b) If the person selected by the pupil cannot be made available within a reasonable period of time, not exceeding one hour, or declines to be present at the questioning, the principal or his or her designee shall inform the pupil that the pupil may select as an alternate, a school administrator, school counselor, or school teacher who is reasonably available to be present during the questioning.

(c) If the person selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall so inform the pupil and advise the pupil that the principal, or his or designee, will be present during the questioning if the pupil so requests.

(d) If the pupil exercises his or her right, pursuant to this subsection, to have one of the persons designated in paragraph (a), (b) or (c) present during the questioning, the pupil may not be made available to the law enforcement officer for questioning until that person is present.

16-21.5-4. Student interrogations under exigent circumstances.

The provisions of §§ 16-21.5-2 and 16-21.5-3 shall not apply if any of the following conditions exist:

(a) The law enforcement officer reasonably believes that, due to exigent circumstances, the inability of the officer to immediately question the pupil will materially interfere with the ability of the officer to conduct his or her investigation and any delay would significantly impede the timely apprehension of a suspect. In that case, if an elementary school pupil is being questioned, the principal or his or her designee shall be present during the questioning and shall take immediate and continuous steps to notify the parent or guardian by telephone about the questioning, and if unsuccessful in doing so before the questioning, shall take immediate steps to notify the parent or guardian about the questioning after the questioning has been completed. If a high school pupil is being questioned, the pupil shall be given the option of having the principal, or his or her designee, present during the questioning.

(b) The law enforcement officer reasonably believes that there is a substantial risk of immediate personal injury or substantial property damage. In that case, if an elementary school pupil is being questioned, the principal or his or her designee shall be present during the questioning and shall take immediate and continuous steps to notify the parent or guardian by telephone regarding the questioning, and if unsuccessful in doing so before the questioning is completed, shall take immediate steps to notify the parent or guardian regarding the questioning after it has been completed. If a high school pupil is being questioned, the pupil shall be given the option of having the principal or his or her designee present during the questioning.

(c) The minor pupil being questioned is suspected of being a victim of child abuse or neglect, and either the principal or his or her designee or the law enforcement officer has reasonable belief that the pupil would be endangered by the notification requirements of § 16-21.5-2 or § 16-21.5-3. In that case, if the pupil is an elementary school pupil, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select a school administrator, school counselor or school teacher who is reasonably available to be present during the questioning, as provided in paragraphs (c) and (d) of § 16-21.5-2. If the pupil is a high school pupil, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select another person to be present during the questioning as provided in subsection 16-21.5-3(b).

(d)(1) In the case of an elementary school pupil, the law enforcement officer's questioning of the pupil concerns the commission of criminal activity by the person who would otherwise be present during the

questioning pursuant to § 16-21.5-2. In that case, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select a school administrator, school counselor, or school teacher who is reasonably available to be present during the questioning as provided in subsection 16-21.5-2(c).

(2) In the case of a high school pupil, the law enforcement officer's questioning of the pupil concerns the commission of criminal activity by the person selected by the pupil pursuant to § 16-21.5-3. In that case, the principal of the school, or his or her designee, shall so inform the pupil and advise that the pupil has the right to select another person to be present during the questioning as provided in subsection 16-21.5-3(c).

(e) The pupil is on probation or parole and is being interviewed or otherwise contacted by a probation or parole officer in the normal course of duties of the probation or parole officer.

(f) Except in exigent circumstances as determined by the law enforcement officer, any questioning of a pupil by a law enforcement officer for any reason other than the ordinary, day-to-day conversation that is to be expected among members of a school community, shall take place in a private location, including, but not limited to, the principal's office, and may not take place in a classroom or hallway or other areas where pupils or others may be present.

(g) A school official present during the questioning of a pupil under this section may not disclose matters discussed with the pupil other than to the parent or guardian of the pupil, the attorney for the pupil, other school officials, or a court.

(h) Any school officer or staff member present at the questioning of the pupil by a law enforcement officer pursuant to this section is immune from civil or criminal liability arising from his or her participation during the questioning of the pupil.

(i) For the purposes of this section, "questioning" means only formal questioning in which the principal, or his or her designee, makes a pupil available to a law enforcement officer, at the request of the law enforcement officer, the principal or his or her designee, for questioning as a victim, suspect, or person with information concerning a suspected violation of a school rule that constitutes grounds for expulsion or a suspected commission of a crime. For the purposes of this section, "formal questioning" means only questioning of a pupil by a law enforcement officer that occurs on school grounds. "Formal questioning" does not include ordinary, day-to-day conversations between a pupil and a law enforcement officer.

REGULATIONS

200-RICR-30-10-2 Section 2.7. Investigation.

C. Police Notification:

1. Immediate notification of the local law enforcement agency will be made when circumstances warrant the pursuit of criminal charges against the perpetrator.

200-RICR-30-10-2 Section 2.8. Disciplinary action.

A. The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

B. The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

9. Police contact.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(a) School safety plans, as required by this chapter, shall address, but not to be limited to, prevention, mitigation, preparedness, response, and recovery. The school safety plans shall include, at a minimum, the following policies and procedures:

(2) Formalized collaborative arrangements with state and local law enforcement and fire fighter officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

16-7.2-6. Categorical programs, state funded expenses.

In addition to the foundation education aid provided pursuant to § 16-7.2-3, the permanent foundation education-aid program shall provide direct state funding for:

(i) State support for school resource officers. For purposes of this subsection, a school resource officer (SRO) shall be defined as a career law enforcement officer with sworn authority who is deployed by an employing police department or agency in a community-oriented policing assignment to work in collaboration with one or more schools. School resource officers should have completed at least forty (40) hours of specialized training in school policing, administered by an accredited agency, before being assigned. Beginning in FY 2019, for a period of three (3) years, school districts or municipalities that choose to employ school resource officers shall receive direct state support for costs associated with employing such officers at public middle and high schools. Districts or municipalities shall be reimbursed an amount equal to one-half (½) of the cost of salaries and benefits for the qualifying positions. Funding will be provided for school resource officer positions established on or after July 1, 2018, provided that:

(1) Each school resource officer shall be assigned to one school:

(i) Schools with enrollments below one thousand twelve hundred (1,200) students shall require one school resource officer;

(ii) Schools with enrollments of one thousand twelve hundred (1,200) or more students shall require two school resource officers;

(2) School resource officers hired in excess of the requirement noted above shall not be eligible for reimbursement; and

(3) Schools that eliminate existing school resource officer positions and create new positions under this provision shall not be eligible for reimbursement.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans.

(a) School safety plans, as required by this chapter, shall address, but not to be limited to, prevention, mitigation, preparedness, response, and recovery. The school safety plans shall include, at a minimum, the following policies and procedures:

(2) Formalized collaborative arrangements with state and local law enforcement and fire fighter officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

16-21.5-1. Legislative intent.

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

16-7.2-6. Categorical programs, state funded expenses.

In addition to the foundation education aid provided pursuant to § 16-7.2-3, the permanent foundation education-aid program shall provide direct state funding for:

(i) State support for school resource officers. For purposes of this subsection, a school resource officer (SRO) shall be defined as a career law enforcement officer with sworn authority who is deployed by an employing police department or agency in a community-oriented policing assignment to work in collaboration with one or more schools. School resource officers should have completed at least forty (40) hours of specialized training in school policing, administered by an accredited agency, before being assigned. Beginning in FY 2019, for a period of three (3) years, school districts or municipalities that choose to employ school resource officers shall receive direct state support for costs associated with employing such officers at public middle and high schools. Districts or municipalities shall be reimbursed an amount equal to one-half (½) of the cost of salaries and benefits for the qualifying positions. Funding will be provided for school resource officer positions established on or after July 1, 2018, provided that:

(1) Each school resource officer shall be assigned to one school:

(i) Schools with enrollments below one thousand twelve hundred (1,200) students shall require one school resource officer;

(ii) Schools with enrollments of one thousand twelve hundred (1,200) or more students shall require two school resource officers;

(2) School resource officers hired in excess of the requirement noted above shall not be eligible for reimbursement; and

(3) Schools that eliminate existing school resource officer positions and create new positions under this provision shall not be eligible for reimbursement.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

16-21-23.2. Threat assessment teams and oversight committees.

- (a) Each local school board or committee shall adopt written policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the school safety committee. The policies shall include procedures for referrals to community services or healthcare providers for evaluation or treatment when appropriate.
- (b) The superintendent of each school district shall establish a district committee charged with oversight of the threat assessment teams operating within the district, which may be an existing committee established by the district. The committee shall include individuals with expertise in guidance, counseling, school administration, mental health, and law enforcement.
- (c) Each district superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in guidance, counseling, school administration, mental health, and law enforcement. Threat assessment teams may be established to serve schools as determined by the district superintendent. Each team shall:
- (1) Provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self;
 - (2) Identify members of the school community to whom threatening behavior should be reported; and
 - (3) Implement policies adopted by the local school board or committee pursuant to subsection (a).
- (d) Upon preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the district superintendent or designee. The building administrator or designee may, if appropriate, attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school district personnel from acting immediately to address an imminent threat.
- (e) No member of a threat assessment team shall disclose any information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which the disclosure was made to the threat assessment team.

REGULATIONS

216-RICR-20-10-4 Section 4.40. School safety.

4.40.3 School Safety Plans

A. In accordance with R.I. Gen. Laws § 16-21-23(b), the school committee of each city, town, and regional school department is required to adopt a comprehensive school safety plan that addresses preparedness, response and recovery and meets the policy and procedure requirements in R.I. Gen. Laws § 16-21-24.

1. The school safety plan must include best practices and relevant provisions of the current state model plan as published by RIDE including:
 - a. Guidance for communicating threats of violence or harm to the specifically identifiable student(s) and/or school personnel who are the subject of said threats by individuals or groups.
 - b. Standards for determining those threats of violence or harm that meet the threshold of seriousness and reasonableness so that communication of said threats to specifically identifiable students and/or school personnel is justified;
2. The school committee is required to review and update the school safety plans by November 1 of each year in accordance with R.I. Gen. Laws § 16-21-25.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Rhode Island provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bridging Research, Implementation, & Data, to Guide Educators in Rhode Island: The Home of MTSS in Rhode Island (BRIDGE-RI)	Provides information on MTSS foundations in Rhode Island, behavior/SEL, online learning, and annual data on MTSS initiatives.	https://mtssri.org/
Bullying and School Violence, Rhode Island Department of Education (RIDE)	Provides an overview of Bullying and School Violence in Rhode Island schools and includes links to RI Statewide Bullying policy, data about bullying in schools via SurveyWorks! and data about violence in schools through CDC Youth Risk Behavior Surveillance System (YRBSS).	http://www.ride.ri.gov/StudentsFamilies/HealthSafety/BullyingSchoolViolence.aspx
Discipline in Schools, RIDE	Addresses effective teaching and learning and reducing the need for disciplinary action. Suspension data and research on out of school placements as well as prevention of suspension and alternatives to out-of-school suspensions.	http://www.ride.ri.gov/StudentsFamilies/HealthSafety/DisciplineInSchools.aspx
Health & Safety, RIDE	Addresses health and safety in Rhode Island schools and provides links to subtopics such as bullying & school violence, social & emotional learning, discipline in schools, and limiting physical restraint.	https://www.ride.ri.gov/StudentsFamilies/HealthSafety.aspx
Limiting the Use of Physical Restraint, RIDE	Provides tools and resources on physical restraint and includes links to the sample incident report form, district policy template, and responsibilities of districts and schools.	http://www.ride.ri.gov/StudentsFamilies/HealthSafety/LimitingPhysicalRestraint.aspx
Response to Intervention (RTI)/Multi-Tiered System of Support (MTSS), RIDE	Provides information and resources regarding RTI and MTSS including instruction and assessment tools, implementation supports, and links to an instructional support system.	https://ride.ri.gov/instruction-assessment/instructional-initiatives-resources/multi-tiered-system-supports-mtss

Title	Description	Website address (if applicable)
Rhode Island Coordinated School Health - ThriveRI, RIDE	Present infrastructure supports to state, school, and community partners and provides information related to school health including school safety, bullying, and discipline.	http://www.thriveri.org/index.html
Social & Emotional Learning (SEL), RIDE	Provides an overview of standards, indicators, and resources for social emotional learning.	https://www.ride.ri.gov/StudentsFamilies/HealthSafety/SocialEmotionalLearning.aspx
Documents		
A Guide to Preventing Bullying, Teen Dating Violence, and Sexual Violence in Rhode Island Schools (Amended 2012), RIDE	Guidance document for districts to develop in every school a response and prevention strategy that engages and empowers administration, faculty, students and parents to take action against abuse.	http://www.thriveri.org/documents/GUIDE_Bullying_TDVSV_Amended2012.pdf
Rhode Island Physical Restraint Regulations (September 2002), RIDE	Guidance document of Rhode Island Physical Restraint Regulations outlines responsibilities of districts and schools to meet certain requirements listed in the document.	http://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Health-Safety/Limiting-Physical-Restraint/District-Restraint-Responsibilities.docx
Rhode Island Threat Assessment Teams Guidelines (July 2019), Rhode Island Student Safety Committee	An assessment guideline developed for school administrators to assist in incorporating the threat assessment process into school strategies for creating and sustaining safe school environments.	http://media.ride.ri.gov/Commissioner/RI-Threat-Assessment_Guidelines.pdf
Safe School Act Statewide Bullying Policy (June 2012), RIDE	Model bullying policy addressing bullying in Rhode Island schools.	https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Health-Safety/RI-Statewide-Bullying-Policy.pdf

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
InfoWorks! Rhode Island Education Data Reporting Guide, RIDE	Reports on suspension incidents in Rhode Island schools.	http://www.ride.ri.gov/Portals/0/Uploads/Documents/ODAR/201718collections/How%20to%20check%20Student%20Suspensions%20in%20eRIDE.pdf
School Removals Flow Chart, RIDE	Flow chart for understanding the policies, procedures, and requirements to remove a student from school as part of a disciplinary action.	https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Health-Safety/Discipline/School-Removals-Procedures-Requirements.pdf
Discipline Dashboard RIDE	Dashboard that provided information about student discipline, including the numbers and types of student infractions, percentage of in-school and out-of school suspensions, and duration of suspensions. Data can be filtered by various categories (e.g., district, school, year, gender, grade)	https://datacenter.ride.ri.gov/Home/FileDetail?fileid=1012
Student Suspension Rates	Data on student suspension rates, by year and subgroups (e.g., race, urbanicity, ELL, IEP, FRL, grade level)	https://datacenter.ride.ri.gov/Home/FileDetail?fileid=1005



South Carolina Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 7. General Structure, Organization, Powers, Duties, Functions and Responsibilities of All Municipalities

5-7-12. School resource officers; procedures for certain arrests; jurisdiction; employment rights

Title 16. Crimes and Offenses

Chapter 8. Offenses Promoting Civil Disorder

6-18-340. Community anti-gang matching grants program

Title 44. Health

Chapter 49. Department of Alcohol and Other Drug Abuse Services

44-49-80. Establishment of drug abuse treatment program

Chapter 128. South Carolina Youth Smoking Prevention Act

44-128-20. Youth smoking prevention plan

Title 59. Education

Chapter 1. General Provisions

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59-18-1600. Parent orientation classes

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43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

59-1-380. Mandatory tobacco and alternative nicotine product-free local school board policy.

(A) By August 1, 2019, every local school district in the State shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product or alternative nicotine product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy also must prohibit the use of any tobacco product or alternative nicotine product by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking or other tobacco use is otherwise prohibited by law.

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(1) Establish on or before August 15, 1985, regulations prescribing minimum standards of conduct and behavior that must be met by all pupils as a condition to the right of pupils to attend the public schools of the State. The rules shall take into account the necessity of proper conduct on the part of all pupils in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that the rules may result in suspension or expulsion of pupils, provided, however, that disciplinary procedures shall be in compliance with Public Law 94-142.

(2) Promulgate on or before August 15, 1985, regulations prescribing a uniform system of minimum enforcement by the various school districts of the rules of conduct and behavior.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

59-63-220. Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty-four hours of the suspension.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

I. Expectations for Student Conduct in South Carolina Public Schools

The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate. Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts that previously have adopted discipline policies that are consistent with and contain the elements included in this regulation may retain their local policies as adopted.

Scope

LAWS

5-7-12. School resource officers; procedures for certain arrests; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school-sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty-four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

59-63-120. Definitions.

As used in this article:

(2) "School" means in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions.

59-63-350. Local law enforcement.

Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

59-1-380. Mandatory tobacco and alternative nicotine product-free local school board policy.

(A) By August 1, 2019, every local school district in the State shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product or alternative nicotine product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy also must prohibit the use of any tobacco product or alternative nicotine product by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking or other tobacco use is otherwise prohibited by law.

(B) The policy must include at least all of the following elements:

(1) adequate notice to students, parents or guardians, the public, and school personnel of the policy.

59-5-65. Powers and responsibilities of State Board of Education.

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

- (a) the existence of a comprehensive safety plan;
- (b) communication of discipline policies and procedures.

59-18-1600. Parent orientation classes.

(A) A school that has received a school/district at-risk absolute academic performance rating on its most recent report card shall offer an orientation class for parents. The orientation class must focus on the following topics:

- (3) student discipline.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

- (10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions. [...]

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article.

The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

REGULATIONS

43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

- b. communication of discipline policies and procedures. [...]

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

I. Expectations for Student Conduct in South Carolina Public Schools

The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate. Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts that previously have adopted discipline policies that are consistent with and contain the elements included in this regulation may retain their local policies as adopted.

III. Levels of Student Misconduct

- A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.
- B. Three levels of student misconduct are identified: behavioral misconduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.
- C. This regulation includes a listing of possible consequences and/or sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary consequences and/or sanctions increases.
- D. Suggested consequences within the Level I misconduct category range from verbal reprimand to detention. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion. Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.
- E. A local school board, in its discretion, may authorize more stringent standards and consequences than those contained in this regulation.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

- 1. Behavioral misconduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of behavioral misconduct shall include, but are not limited to:
 - a. Classroom tardiness;
 - b. Cheating on examinations or classroom assignments;
 - c. Lying;
 - d. Abusive language between or among students;
 - e. Failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones);
 - f. Use of forged notes or excuses;
 - g. Cutting class;
 - h. School tardiness;
 - i. Truancy (three consecutive unlawful absences from school or a total of five unlawful absences);
 - j. Possession of an electronic communication device (including, but not limited to, cell phones, tablets, computers, and iPods) inconsistent with school board policy. An electronic communication device is a device that emits an audible signal, vibrates, displays a message, image or otherwise summons or delivers a communication to the possessor;
 - k. Other acts of behavioral misconduct as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:
 - a. Upon observation or notification and verification of acts of behavioral misconduct, the staff member shall take immediate action to rectify the misconduct. The staff member shall impose an appropriate consequence, and maintain a record of the misconduct and the consequence.
 - b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem shall be referred to the appropriate administrator for action specified by local school board policy.
 - c. The administrator shall meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract.
 - d. A complete record of the procedures shall be maintained.

4. Possible consequences to be applied in cases of behavioral misconduct may include, but are not limited to:

- a. Verbal reprimand;
- b. Withdrawal of privileges;
- c. Demerits;
- d. Detention (silent lunch, after school, weekends, or another time that does not interfere with the instructional day);
- e. Other consequences as approved and communicated by local school authorities.

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The

provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

- a. Violation of a Level I intervention plan and/or behavioral contract;
- b. Use of an intoxicant;
- c. Fighting;
- d. Vandalism (minor);
- e. Stealing;
- f. Threats against others;
- g. Trespass;
- h. Abusive language to staff;
- i. Repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones);
- j. Possession or use of unauthorized substances, as defined by law and/or local school board policy;
- k. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;
- l. Unlawful assembly;
- m. Disrupting lawful assembly;
- n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites);
- o. Other acts as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

- a. Upon observation or notification and verification of an offense, the administrator shall investigate the circumstances of the misconduct and shall confer with staff on the extent of the consequences.
- b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:
 - (1) self-admittance by the student
 - (2) witnessed involvement of the student by school administrators staff
 - (3) parental admission of student involvement
 - (4) evidence obtained through investigation by school administrators and staff
- c. The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.
- d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.
- e. A complete record of the procedures shall be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

- a. Temporary removal from class;
- b. Alternative education program;
- c. In-school suspension;
- d. Out-of-school suspension;
- e. Transfer;
- f. Referral to outside agency;
- g. Expulsion;
- h. Restitution of property and damages, where appropriate, shall be sought by local school authorities;
- i. Other sanctions as approved and communicated by local school authorities.

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. When school officials have a reasonable belief that students have engaged in such actions, then these activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the School Resource Officer or other law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.
2. Acts of criminal conduct may include, but are not limited to:
 - a. Assault and battery that poses a serious threat of injury or results in physical harm;
 - b. Extortion;
 - c. Threat of the use of a destructive device (bomb, grenade, pipe bomb or other similar device);
 - d. Possession, use, or transfer of dangerous weapons;
 - e. Sexual offenses;
 - f. Vandalism (major);
 - g. Theft, possession, or sale of stolen property;
 - h. Arson;
 - i. Furnishing or selling unauthorized substances, as defined by law and/or local school board policy;
 - j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons);
 - k. Illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities and maliciously transmitting sexual images of minors other than images of the student or images transmitted with the uncoerced consent of the individual in the images).
3. "Acts of criminal conduct," for purposes of defining Level III conduct, do not include acts that only amount to disturbing schools, breach of peace, disorderly conduct, or affray under South Carolina law.
4. The basic enforcement procedures to be followed in instances of criminal conduct are:
 - a. Upon observation or notification and verification of a criminal offense, the administrator shall contact the School Resource Officer or local law enforcement authorities immediately.
 - b. An administrator shall notify the student's parent or guardian as soon as possible.
 - c. An administrator shall impose the appropriate disciplinary action. If warranted, the student shall be removed immediately from the school environment.

- d. Established due process procedures shall be followed when applicable.
 - e. A complete record of the incident shall be maintained in accordance with district policy.
5. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:
- a. Out-of-school suspension;
 - b. Assignment to alternative schools;
 - c. Expulsion;
 - d. Restitution of property and damages, where appropriate, shall be sought by local school authorities;
 - e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

1. A local school board may confer upon the appropriate administrator the authority to consider extenuating or mitigating circumstances which may exist in a particular case of misconduct, excluding criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.
2. A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see Reg.43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Speech and assembly within the public schools;
5. Publications produced and/or distributed in the public schools;
6. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
7. Other activities not in conflict with existing state statutes or regulations as approved and communicated by the local school authorities.

B. Rules of student conduct are required by state and federal law to be reasonable exercises of the local school board's authority in pursuance of legitimate educational and related functions and shall not infringe upon students' constitutional rights.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

59-1-380. Mandatory tobacco and alternative nicotine product-free local school board policy.

(C) Disciplinary actions for violating the policy may include, but not be limited to:

(1) for students: administrator and parent or legal guardian conference, mandatory enrollment in tobacco prevention education or cessation programs, community service, in-school suspension, suspension for extracurricular activities, or out-of-school suspension.

59-65-60. Procedure upon receipt by court of report of nonattendance.

(a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.

(b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in § 59-65-20.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

59-63-260. Corporal punishment.

The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

59-63-1110. Consent to search person or his effects.

Any person entering the premises of any school in this State shall be deemed to have consented to a reasonable search of his person and effects.

59-63-1120. Searches by school administrators or officials with or without probable cause.

Notwithstanding any other provision of law, school administrators and officials may conduct reasonable searches on school property of lockers, desks, vehicles, and personal belongings such as purses, bookbags, wallets, and satchels with or without probable cause.

59-63-1130. Searches by principals or their designees.

Notwithstanding any other provision of law, school principals or their designees may conduct reasonable searches of the person and property of visitors on school premises.

59-63-1140. Strip searches prohibited.

No school administrator or official may conduct a strip search.

59-63-1150. Compliance with case law; training of school administrators.

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the "reasonableness standard" set forth in *New Jersey v. T.L.O.*, 469 U.S. 328 (1985). All school administrators must receive training in the "reasonableness standard" under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article.

The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements

contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

59-1-380. Mandatory tobacco and alternative nicotine product-free local school board policy.

(C) Disciplinary actions for violating the policy may include, but not be limited to:

(1) for students: administrator and parent or legal guardian conference, mandatory enrollment in tobacco prevention education or cessation programs, community service, in-school suspension, suspension for extracurricular activities, or out-of-school suspension.

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; expulsion, suspension, or transfer.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in § 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The

action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

59-67-240. Other duties of driver; discipline of pupils for misconduct.

The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.

District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

I. Expectations for Student Conduct in South Carolina Public Schools

The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate. Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts that previously have adopted discipline policies that are consistent with and contain the elements included in this regulation may retain their local policies as adopted.

III. Levels of Student Misconduct

- A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.
- B. Three levels of student misconduct are identified: behavioral misconduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.
- C. This regulation includes a listing of possible consequences and/or sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary consequences and/or sanctions increases.
- D. Suggested consequences within the Level I misconduct category range from verbal reprimand to detention. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion. Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.
- E. A local school board, in its discretion, may authorize more stringent standards and consequences than those contained in this regulation.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

1. Behavioral misconduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of behavioral misconduct shall include, but are not limited to:

- a. Classroom tardiness;
- b. Cheating on examinations or classroom assignments;
- c. Lying;
- d. Abusive language between or among students;
- e. Failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones);
- f. Use of forged notes or excuses;
- g. Cutting class;
- h. School tardiness;
- i. Truancy (three consecutive unlawful absences from school or a total of five unlawful absences);
- j. Possession of an electronic communication device (including, but not limited to, cell phones, tablets, computers, and iPods) inconsistent with school board policy. An electronic communication device is a device that emits an audible signal, vibrates, displays a message, image or otherwise summons or delivers a communication to the possessor;
- k. Other acts of behavioral misconduct as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:

- a. Upon observation or notification and verification of acts of behavioral misconduct, the staff member shall take immediate action to rectify the misconduct. The staff member shall impose an appropriate consequence, and maintain a record of the misconduct and the consequence.
- b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem shall be referred to the appropriate administrator for action specified by local school board policy.
- c. The administrator shall meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract.
- d. A complete record of the procedures shall be maintained.

4. Possible consequences to be applied in cases of behavioral misconduct may include, but are not limited to:

- a. Verbal reprimand;
- b. Withdrawal of privileges;
- c. Demerits;
- d. Detention (silent lunch, after school, weekends, or another time that does not interfere with the instructional day);
- e. Other consequences as approved and communicated by local school authorities.

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

- a. Violation of a Level I intervention plan and/or behavioral contract;
- b. Use of an intoxicant;
- c. Fighting;
- d. Vandalism (minor);
- e. Stealing;
- f. Threats against others;
- g. Trespass;
- h. Abusive language to staff;
- i. Repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones);
- j. Possession or use of unauthorized substances, as defined by law and/or local school board policy;
- k. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;
- l. Unlawful assembly;
- m. Disrupting lawful assembly;
- n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites);
- o. Other acts as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

- a. Upon observation or notification and verification of an offense, the administrator shall investigate the circumstances of the misconduct and shall confer with staff on the extent of the consequences.
- b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:
 - (1) self-admittance by the student
 - (2) witnessed involvement of the student by school administrators staff
 - (3) parental admission of student involvement
 - (4) evidence obtained through investigation by school administrators and staff
- c. The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.
- d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of

criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.

e. A complete record of the procedures shall be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, shall be sought by local school authorities;

i. Other sanctions as approved and communicated by local school authorities.

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. When school officials have a reasonable belief that students have engaged in such actions, then these activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the School Resource Officer or other law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery that poses a serious threat of injury or results in physical harm;

b. Extortion;

c. Threat of the use of a destructive device (bomb, grenade, pipe bomb or other similar device);

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by law and/or local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons);

k. Illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities and maliciously transmitting sexual images of minors other than images of the student or images transmitted with the uncoerced consent of the individual in the images).

3. "Acts of criminal conduct," for purposes of defining Level III conduct, do not include acts that only amount to disturbing schools, breach of peace, disorderly conduct, or affray under South Carolina law.

4. The basic enforcement procedures to be followed in instances of criminal conduct are:

- a. Upon observation or notification and verification of a criminal offense, the administrator shall contact the School Resource Officer or local law enforcement authorities immediately.
 - b. An administrator shall notify the student's parent or guardian as soon as possible.
 - c. An administrator shall impose the appropriate disciplinary action. If warranted, the student shall be removed immediately from the school environment.
 - d. Established due process procedures shall be followed when applicable.
 - e. A complete record of the incident shall be maintained in accordance with district policy.
5. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:
- a. Out-of-school suspension;
 - b. Assignment to alternative schools;
 - c. Expulsion;
 - d. Restitution of property and damages, where appropriate, shall be sought by local school authorities;
 - e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

- 1. A local school board may confer upon the appropriate administrator the authority to consider extenuating or mitigating circumstances which may exist in a particular case of misconduct, excluding criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.
- 2. A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see Reg.43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

- 1. School attendance;
- 2. Use of and access to public school property;
- 3. Student dress and personal appearance;
- 4. Speech and assembly within the public schools;
- 5. Publications produced and/or distributed in the public schools;
- 6. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- 7. Other activities not in conflict with existing state statutes or regulations as approved and communicated by the local school authorities.

B. Rules of student conduct are required by state and federal law to be reasonable exercises of the local school board's authority in pursuance of legitimate educational and related functions and shall not infringe upon students' constitutional rights.

Limitations or Conditions on Exclusionary Discipline

LAWS

59-17-135. Character education.

(C) Beginning with the 2000-2001 school year, each school district board of trustees is encouraged to require students in the public schools under the jurisdiction of the board to exhibit appropriate conduct, as required in subsection (D) of this section.

(D) When a public school student is speaking with a public school employee while on school property or at a school sponsored event, the student may be encouraged to address and respond to the public school employee by using terms indicative of or reflecting courtesy and respect for a public school's employees position of authority including, but not limited to, sir, ma'am, thank you, and please.

(E) Each school district board of trustees is encouraged to provide for incorporation of the requirements of subsections (C) and (D) into any existing discipline policy or policies or any code of conduct of the school district or of each school within its jurisdiction.

(F) No school board may provide suspension or expulsion from school as an appropriate punishment for violation of subsection (D).

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; expulsion, suspension, or transfer.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-220. Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty-four hours of the suspension.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

I. Expectations for Student Conduct in South Carolina Public Schools

The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate. Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts that previously have adopted discipline policies that are consistent with and contain the elements included in this regulation may retain their local policies as adopted.

III. Levels of Student Misconduct

- A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.
- B. Three levels of student misconduct are identified: behavioral misconduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.
- C. This regulation includes a listing of possible consequences and/or sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary consequences and/or sanctions increases.
- D. Suggested consequences within the Level I misconduct category range from verbal reprimand to detention. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion. Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.
- E. A local school board, in its discretion, may authorize more stringent standards and consequences than those contained in this regulation.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

- 1. Behavioral misconduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.
- 2. Acts of behavioral misconduct shall include, but are not limited to:
 - a. Classroom tardiness;
 - b. Cheating on examinations or classroom assignments;
 - c. Lying;
 - d. Abusive language between or among students;
 - e. Failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones);

- f. Use of forged notes or excuses;
 - g. Cutting class;
 - h. School tardiness;
 - i. Truancy (three consecutive unlawful absences from school or a total of five unlawful absences);
 - j. Possession of an electronic communication device (including, but not limited to, cell phones, tablets, computers, and iPods) inconsistent with school board policy. An electronic communication device is a device that emits an audible signal, vibrates, displays a message, image or otherwise summons or delivers a communication to the possessor;
 - k. Other acts of behavioral misconduct as determined and communicated by local school authorities.
3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:
- a. Upon observation or notification and verification of acts of behavioral misconduct, the staff member shall take immediate action to rectify the misconduct. The staff member shall impose an appropriate consequence, and maintain a record of the misconduct and the consequence.
 - b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem shall be referred to the appropriate administrator for action specified by local school board policy.
 - c. The administrator shall meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract.
 - d. A complete record of the procedures shall be maintained.
4. Possible consequences to be applied in cases of behavioral misconduct may include, but are not limited to:
- a. Verbal reprimand;
 - b. Withdrawal of privileges;
 - c. Demerits;
 - d. Detention (silent lunch, after school, weekends, or another time that does not interfere with the instructional day);
 - e. Other consequences as approved and communicated by local school authorities.

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.
2. Acts of disruptive conduct may include, but are not limited to:
- a. Violation of a Level I intervention plan and/or behavioral contract;
 - b. Use of an intoxicant;
 - c. Fighting;
 - d. Vandalism (minor);
 - e. Stealing;

- f. Threats against others;
 - g. Trespass;
 - h. Abusive language to staff;
 - i. Repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones);
 - j. Possession or use of unauthorized substances, as defined by law and/or local school board policy;
 - k. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;
 - l. Unlawful assembly;
 - m. Disrupting lawful assembly;
 - n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites);
 - o. Other acts as determined and communicated by local school authorities.
3. The basic enforcement procedures to be followed in instances of disruptive conduct are:
- a. Upon observation or notification and verification of an offense, the administrator shall investigate the circumstances of the misconduct and shall confer with staff on the extent of the consequences.
 - b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:
 - (1) self-admittance by the student
 - (2) witnessed involvement of the student by school administrators staff
 - (3) parental admission of student involvement
 - (4) evidence obtained through investigation by school administrators and staff
 - c. The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.
 - d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.
 - e. A complete record of the procedures shall be maintained.
4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:
- a. Temporary removal from class;
 - b. Alternative education program;
 - c. In-school suspension;
 - d. Out-of-school suspension;
 - e. Transfer;
 - f. Referral to outside agency;
 - g. Expulsion;

h. Restitution of property and damages, where appropriate, shall be sought by local school authorities;

i. Other sanctions as approved and communicated by local school authorities.

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. When school officials have a reasonable belief that students have engaged in such actions, then these activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the School Resource Officer or other law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery that poses a serious threat of injury or results in physical harm;

b. Extortion;

c. Threat of the use of a destructive device (bomb, grenade, pipe bomb or other similar device);

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by law and/or local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons);

k. Illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities and maliciously transmitting sexual images of minors other than images of the student or images transmitted with the uncoerced consent of the individual in the images).

3. "Acts of criminal conduct," for purposes of defining Level III conduct, do not include acts that only amount to disturbing schools, breach of peace, disorderly conduct, or affray under South Carolina law.

4. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of a criminal offense, the administrator shall contact the School Resource Officer or local law enforcement authorities immediately.

b. An administrator shall notify the student's parent or guardian as soon as possible.

c. An administrator shall impose the appropriate disciplinary action. If warranted, the student shall be removed immediately from the school environment.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the incident shall be maintained in accordance with district policy.

5. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, shall be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

1. A local school board may confer upon the appropriate administrator the authority to consider extenuating or mitigating circumstances which may exist in a particular case of misconduct, excluding criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

2. A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see Reg.43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Speech and assembly within the public schools;
5. Publications produced and/or distributed in the public schools;
6. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
7. Other activities not in conflict with existing state statutes or regulations as approved and communicated by the local school authorities.

B. Rules of student conduct are required by state and federal law to be reasonable exercises of the local school board's authority in pursuance of legitimate educational and related functions and shall not infringe upon students' constitutional rights.

Due Process

LAWS

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; expulsion, suspension, or transfer.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-220. Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty-four hours of the suspension.

59-63-230. Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in § 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

59-63-250. Transfer of pupils.

The board or a designated administrator may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by an administrator to the board.

59-65-60. Procedure upon receipt by court of report of nonattendance.

(a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.

(b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in § 59-65-20.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

B. Disruptive Conduct-Level II

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:

- (1) self-admittance by the student
- (2) witnessed involvement of the student by school administrators staff
- (3) parental admission of student involvement
- (4) evidence obtained through investigation by school administrators and staff. [...]

C. Criminal Conduct-Level III

4. The basic enforcement procedures to be followed in instances of criminal conduct are:

d. Established due process procedures shall be followed when applicable.

Return to School Following Removal

LAWS

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; expulsion, suspension, or transfer.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar.

(A) In determining whether or not a student meets the standards of conduct and behavior promulgated by the board of trustees necessary for first time enrollment and attendance in a school in the district, the board shall consider nonschool records, the student's disciplinary records in any school in which the student was previously enrolled as these records relate to the adjudication of delinquency in any jurisdiction, within or without this State, of violations or activities which constitute violent crimes under Section 16-1-60, adjudications for assault and battery of a high and aggravated nature, the unlawful use or possession of weapons, or the unlawful sale of drugs whether or not considered to be drug trafficking.

Based on this consideration of the student's record, the board may bar his enrollment in the schools of the district.

(B) If the board bars a student from enrolling pursuant to this section, notice must be provided to the student's parent or legal guardian and the student is entitled to a hearing and all other procedural rights afforded under state law to a student subject to expulsion.

(C) The bar to enrollment allowed by this section applies for a maximum of one year. After the bar is lifted, a student may reapply for enrollment and the board shall order the student enrolled if he otherwise meets enrollment criteria.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

59-63-1300. Alternative school programs established.

The General Assembly finds that a child who does not complete his education is greatly limited in obtaining employment, achieving his full potential, and becoming a productive member of society. It is, therefore, the intent of this article to encourage district school boards throughout the State to establish alternative school programs. These programs shall be designed to provide appropriate services to students who for behavioral or academic reasons are not benefiting from the regular school program or may be interfering with the learning of others. It is further the intent of this article that cooperative agreements may be developed among school districts in order to implement innovative exemplary programs.

59-63-1310. Individual or cooperative programs; funding; sites.

School districts which choose to establish, maintain, and operate, either individually or as a cooperative agreement among districts, alternative school programs shall be eligible for funding provided by the General Assembly for this purpose. The program must be operated at a site separate from other schools unless operated at a time when those schools are not in session or in another building on campus which would provide complete separation from other students. However, an existing alternative school program located in a defined area within a building which provides complete separation from other students and which otherwise meets the criteria established herein may continue at this site if the location is approved by the Department of Education. Provided, that a school district or consortium may apply for a waiver to the site requirement for a new program if it demonstrates to the satisfaction of the State Department of Education that no separate site is available and the cost of temporary classroom space cannot be justified, then the alternative school program may be established in a defined area within a building which provides complete separation from other students if the location is approved by the Department of

Education. This waiver may be granted for a period of two years. In order for the district or consortium to reapply for a waiver, they must outline efforts made to acquire a separate facility.

59-63-1320. Referral or placement of students in alternative school programs.

Eligible alternative school programs shall be provided for, but not limited to, students in grades 6-12 as follows:

- (1) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the attention and assistance beyond that of a traditional program as established by the academic history of the student, including the student's academic plan as required in Section 59-18-500, and following other policies and procedures for documenting need established by the district board of trustees.
- (2) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the program due to habitual exhibitions of disruptive behavior in violation of the student conduct policies and behavior codes approved by the school board of trustees.

Districts must establish clear guidelines and procedures for the referral of any student into an alternative school program and before a decision is made to assign a student to an alternative school program, a determination must be made that the written and distributed academic and disciplinary policies of the district have been followed.

- (3) Students placed in an alternative school program by the district board of trustees as an option to suspension or expulsion or by the dispositive order of a family court judge, with the consent of the local board of trustees. However, before a student may be placed in an alternative school program, a determination must be made by the local board that the written and distributed disciplinary policy of the district has been followed. Districts must establish clear guidelines and procedures for the placement of any student into an alternative school program and at a minimum they shall prescribe due process procedures for placement actions.

When students are being considered for placement in an alternative school program, districts must consider the requirements of the Federal Individuals with Disabilities Education Act (IDEA).

If a student placed by the board of trustees in an alternative school program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, information concerning the student's placement in an alternative school program. Upon review of the information, the district in which the student enrolls may continue an alternative education program placement or may allow the student to attend regular classes without completing the period of the placement.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

59-63-1340. Permissible divergence from traditional programs and schools.

Within the requirements of Section 59-1-440, alternative school programs may differ from traditional education programs and schools in scheduling, administrative structure, curriculum, or setting and state

requirements may be waived in these areas if such waiver assists the alternative school in meeting its purpose.

59-63-1350. Eligibility for funding.

To be eligible for funding, a district or consortium must submit a plan for the program which includes:

- (a) mission statement;
- (b) the policy for the basis of enrollment in the school;
- (c) location of the alternative school program; and
- (d) description of how the school will focus on the educational and behavioral needs of the students. This description must include strategies for individual student instruction plans, evaluations at regular intervals of the student's educational and behavioral progress, instructional methods in meeting academic achievement standards in the core academic areas, provisions for a low pupil-teacher ratio, utilization of available technology, strict codes of student conduct, counseling, strategies to gain strong parental input and support, strategies to ensure students will adapt to a regular school setting upon departure from the alternative school program, and student time lines for meeting the academic and conduct standards set. The alternative program may be provided in conjunction with the adult education program, where appropriate. Goals, interim goals, and data collection for program evaluation must be a part of the program plan.

The instructional program should enable students to make the transition to a regular school program, earn a high school diploma or GED, or seek postsecondary education. Steps should be taken to ensure that credit earned by students participating in the alternative school program can be transferred to other public schools in the State; provided, nothing herein shall prohibit school districts and/or the South Carolina Department of Education from establishing and providing new and innovative programs as may be authorized otherwise under law to meet the unique needs of alternative school students who otherwise might drop out of school or never be able successfully to complete the requirements for a diploma.

59-63-1380. Funding for alternative school programs.

A school district shall allocate to an alternative school program the same per student expenditure to include federal, state, and local funds that would be allocated to the student's school if the student were attending the student's regularly assigned school. This shall include any appropriate special education funding.

Districts or consortia meeting the eligibility requirements for alternative school funding shall receive an annual base funding minimum of \$ 30,000 or up to \$ 200,000 depending on the student population of the district; however, districts forming consortia will have as their base funding an amount equal to the total of the individual district's base funding, not to exceed \$ 350,000. The State Department of Education, for the purposes of establishing base funding, shall group districts according to their average daily membership and assign the amount of base funding that districts in a grouping would receive for eligible programs. Unobligated funds from state appropriations for base funding which become available during a fiscal year may be redistributed on a per pupil basis to eligible programs in countywide districts receiving base funding of less than \$ 100,000; however, this redistributed funding shall not become part of the base funding for the following year. Increases in fiscal year 2000-2001 funding over the fiscal year 1999-2000 recurring and nonrecurring funding shall be used to increase countywide districts' base funding by fifty percent and this new amount shall constitute their base funding.

It is the intent of the General Assembly that, after meeting the funding requirements for base funding, eligible programs, beginning with school year 2000-2001, shall also receive per pupil funding based on the average daily membership of the students served by the program at an Education Finance Act weighting of 1.49 and beginning with school year 2001-2002 a weighting of 1.74. Per pupil funds for the

alternative school program shall be distributed through the Education Finance Act formula provided for in Section 59-20-40. Beginning with school year 2002-2003, every district or district consortium shall provide alternative school opportunities for their students in grades 6-12, provided that state funding for alternative school programs is not reduced below the appropriation received in fiscal year 2001-2002.

These funds shall be used for the establishment, maintenance, and operation of alternative schools programs. Funds also may be used to provide for staff development needs pursuant to Section 59-63-1370.

Districts or consortia developing plans for the establishment of an alternative school shall be eligible for a planning grant of no more than \$ 5,000 if criteria established by the State Board of Education are met.

59-63-1390. Regulations; annual review.

The State Board of Education shall promulgate regulations for establishment, maintenance, and operation of alternative school programs to include clear procedures for annual review of the implementation and progress of the alternative school program and a three-year cycle evaluation shall examine the success of this initiative. If an annual review or the evaluation finds a program is not making progress to carry out the alternative school plan or meeting the locally established measures of success, the Department of Education shall provide technical assistance and future funding may be terminated.

59-63-1400. Review; technical assistance.

The State Department of Education shall review alternative school plans for eligibility for funding and provide technical assistance for planning, establishing, and implementing an alternative school based on best practice. The department shall assist any district or consortia whose plan does not meet the eligibility criteria; however, no funding will be approved until the plan ensures implementation of appropriate services for students served by the alternative school.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

B. Disruptive Conduct-Level II

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:
 - b. Alternative education program [...]

C. Criminal Conduct-Level III

5. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:
 - b. Assignment to alternative schools

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

C. Criminal Conduct-Level III

2. Acts of criminal conduct may include, but are not limited to:

d. Possession, use, or transfer of dangerous weapons.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: behavioral misconduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible consequences and/or sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary consequences and/or sanctions increases.

D. Suggested consequences within the Level I misconduct category range from verbal reprimand to detention. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion. Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards and consequences than those contained in this regulation. [...]

IV. Minimum Standards

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

- a. Violation of a Level I intervention plan and/or behavioral contract;
- b. Use of an intoxicant;
- c. Fighting;
- d. Vandalism (minor);
- e. Stealing;
- f. Threats against others;
- g. Trespass;
- h. Abusive language to staff;
- i. Repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones);
- j. Possession or use of unauthorized substances, as defined by law and/or local school board policy;
- k. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;
- l. Unlawful assembly;
- m. Disrupting lawful assembly;
- n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites);
- o. Other acts as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

- a. Upon observation or notification and verification of an offense, the administrator shall investigate the circumstances of the misconduct and shall confer with staff on the extent of the consequences.
- b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:
 - (1) self-admittance by the student
 - (2) witnessed involvement of the student by school administrators staff
 - (3) parental admission of student involvement
 - (4) evidence obtained through investigation by school administrators and staff

- c. The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.
 - d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.
 - e. A complete record of the procedures shall be maintained.
4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:
- a. Temporary removal from class;
 - b. Alternative education program;
 - c. In-school suspension;
 - d. Out-of-school suspension;
 - e. Transfer;
 - f. Referral to outside agency;
 - g. Expulsion;
 - h. Restitution of property and damages, where appropriate, shall be sought by local school authorities;
 - i. Other sanctions as approved and communicated by local school authorities.

Chronic Absenteeism and Truancy

LAWS

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

- (4) Establish on or before July 1, 1985, regulations prescribing a uniform system of enforcement by the various school districts of the state compulsory attendance laws and regulations promulgated pursuant to § 59-65-90.

59-65-50. Nonattendance reported to court having jurisdiction of juveniles.

If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in § 59-65-10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of § 22-3-540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

59-65-60. Procedure upon receipt by court of report of nonattendance.

- (a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.
- (b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in § 59-65-20.

59-65-70. Court empowered to declare child delinquent.

If the court determines that the reported absence occurred without the knowledge, consent or connivance of the responsible parent or guardian or that a bona fide attempt has been made to control and keep the child in school, the court may declare such child to be a delinquent and subject to the provisions of law in such cases.

59-65-80. Enrollment or attendance of expelled or suspended child not authorized.

Nothing herein shall be construed as granting authority to require enrollment or attendance of a child who has been or may be expelled or suspended by the board of trustees of the district or any other person acting with authority from the board of trustees.

59-65-90. Rules and regulations.

The State Board of Education shall establish regulations defining lawful and unlawful absences beyond those specifically named in this article and additional regulations as are necessary for the orderly enrollment of pupils so as to provide for uniform dates of entrance. These regulations shall require: (1) that school officials shall immediately intervene to encourage the student's future attendance when the student has three consecutive unlawful absences or a total of five unlawful absences and (2) that the district board of trustees or its designee shall promptly approve or disapprove any student absence in excess of ten days. As used in this section, "intervene" means to identify the reasons for the child's continued absence and to develop a plan in conjunction with the student and his parent or guardian to improve his future attendance.

Provided, However, That nothing within this section shall interfere with the Board's authority to at any time refer a child to a truancy prevention program or to the court pursuant to § 59-65-50.

59-65-260. Duties of attendance supervisor relating to nonattending children.

The attendance supervisor shall, upon receiving the list of nonattending children from the county superintendent of education, contact as rapidly as possible the parents or guardians of such nonattending children with the object in mind of interesting nonattending children in school work, and influencing them by means of persuasion to attend school regularly. All principals shall report to such attendance supervisor on continuous absences which appear to be unwarranted, and the attendance supervisor shall make an earnest effort to have enrolled and keep enrolled all children of school age in the county.

REGULATIONS

43-274. Student attendance.

I. Lawful and Unlawful Absences

School districts must adopt policies to define and list lawful and unlawful absences.

(A) Lawful absences include but are not limited to

- (1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,
- (2) absences due to an illness or death in the student's immediate family,
- (3) absences due to a recognized religious holiday of the student's faith, and
- (4) absences due to activities that are approved in advance by the principal.

(B) Unlawful absences include but are not limited to

- (1) absences of a student without the knowledge of his or her parents, or

(2) absences of a student without acceptable cause with the knowledge of his or her parents.

(C) Suspension is not to be counted as an unlawful absence for truancy purposes.

II. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

(A) Truant

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

(B) Habitual Truant

A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed.

The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

(C) Chronic Truant

A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student's continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written "intervention plan" to address the student's continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse, and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (2004), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490(2)(c)(Supp. 2002).

(A) Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an "habitual" truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

(B) Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a "chronic" truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

VII. Approval of Absences in Excess of Ten Days and Approval of Credit

(A) Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student's absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12. For

the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

(B) High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed, or must demonstrate proficiency as determined by the local school district. This exception to the 120-hour requirement is to be administered by local school districts on a case-by-case basis and only for students who have excessive absences that have been approved by the local school board. General request for proficiency-based credit must be made through the process described in Regulation 43-234. Students whose absences are approved should be allowed to make up any work missed in order to satisfy this requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements.

Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make-up work missed to satisfy this requirement.

Examples of make-up work may include

- (1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or
- (2) extended-year programs that address both time and academic requirements of the course(s). All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances that include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year.

VIII. Reporting Requirements

The South Carolina Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

2. Acts of behavioral misconduct shall include, but are not limited to:

- a. Classroom tardiness;
- h. School tardiness;
- i. Truancy (three consecutive unlawful absences from school or a total of five unlawful absences); [...]

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance.

Substance Use

LAWS

44-49-80. Establishment of drug abuse treatment program.

The department shall establish a program to provide alcohol and drug abuse intervention, prevention, and treatment services for the public schools of the State. The department shall provide staff and support necessary to administer the program. Funds for this program must be annually appropriated by the General Assembly from the Education Improvement Act of 1984 Fund as it determines appropriate. The appropriated funds must be forwarded to the South Carolina Department of Alcohol and Other Drug Abuse Services from the Education Improvement Act of 1984 Fund in the manner the State Treasurer shall direct.

44-128-20. Youth Smoking Prevention Plan.

- (A) The Department of Health and Environmental Control shall develop and implement a Youth Smoking Prevention Plan for the purpose of preventing and reducing cigarette smoking by minors.
- (B) The Youth Smoking Prevention Plan must address prevention, cessation, and control of smoking by minors and may include but is not limited to:
- (2) school based youth programs.

59-1-380. Mandatory tobacco and alternative nicotine product-free local school board policy.

- (A) By August 1, 2019, every local school district in the State shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product or alternative nicotine product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy also must prohibit the use of any tobacco product or alternative nicotine product by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking or other tobacco use is otherwise prohibited by law.
- (B) The policy must include at least all of the following elements:
- (1) adequate notice to students, parents or guardians, the public, and school personnel of the policy;
 - (2) posting of signs prohibiting at all times the use of tobacco products or alternative nicotine products by any person in and on school property; and
 - (3) requirements that school personnel enforce the policy, including appropriate disciplinary action.
- (C) Disciplinary actions for violating the policy may include, but not be limited to:
- (1) for students: administrator and parent or legal guardian conference, mandatory enrollment in tobacco prevention education or cessation programs, community service, in-school suspension, suspension for extracurricular activities, or out-of-school suspension;
 - (2) for staff: verbal reprimand, written notification in personnel file, mandatory enrollment in tobacco prevention education, voluntary enrollment in cessation programs, or suspension;
 - (3) for contract or other workers: verbal reprimand, notification to contract employer, or removal from district property; and
 - (4) for visitors: verbal request to leave district property or prosecution for disorderly conduct for repeated offenses.

(D) The local school district shall collaborate with the Department of Health and Environmental Control, the Department of Alcohol and Other Drug Abuse Services, and the South Carolina Department of Education, as appropriate, to implement the policy, including as part of tobacco education and cessation programs and substance use prevention efforts.

(E) The policy may permit tobacco products or alternative nicotine products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, inhaling, or otherwise ingesting the tobacco product or alternative nicotine product.

(F) For purposes of this section:

(1) 'Tobacco product' has the same meaning as defined in Section 16-17-501.

(2) 'Alternative nicotine product' has the same meaning as defined in Section 16-17-501.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

j. Possession or use of unauthorized substances, as defined by law and/or local school board policy. [...]

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. When school officials have a reasonable belief that students have engaged in such actions, then these activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the School Resource Officer or other law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

i. Furnishing or selling unauthorized substances, as defined by law and/or local school board policy;
j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

Gang-related Activity

LAWS

16-8-340. Community anti-gang matching grants program.

There is established in the appropriate office of the Department of Administration a Community Safety Anti-Gang Matching Grants program to provide funding for local programs to prevent youth idleness and intervene with at-risk youth. These grants may be awarded to counties and municipalities upon application for after school programs, summer youth employment programs, and police and sheriff anti-gang task forces. Grants must be awarded on a two-for-one matching basis with the local match component consisting of cash. Grant applications must be reviewed and rated by the Governor's Committee on Criminal Justice, Crime, and Delinquency, but responsibility for the award of grants is solely with the board. Funding for these grants must be in the amount as the General Assembly shall provide by law.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

59-63-110. Citation of article.

This article may be cited as the "Safe School Climate Act".

59-63-120. Definitions.

As used in this article:

- (1) "Harassment, intimidation, or bullying" means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:
 - (a) harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage; or
 - (b) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.
- (2) "School" means in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.

59-63-130. Prohibited conduct; reports by witnesses.

(A) A person may not engage in:

- (1) harassment, intimidation, or bullying; or
- (2) reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(B) A school employee, student, or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

- (1) a statement prohibiting harassment, intimidation, or bullying of a student;
- (2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59- 63-120;
- (3) a description of appropriate student behavior;
- (4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;
- (5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;
- (6) procedures for prompt investigation of reports of serious violations and complaints;
- (7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;
- (8) consequences and appropriate remedial action for persons found to have falsely accused another;
- (9) a process for discussing the district's harassment, intimidation, or bullying policy with students; and
- (10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

59-63-150. Availability of civil or criminal redress; immunity of reporting school employee or volunteer.

(A) This article must not be interpreted to prevent a victim from seeking redress pursuant to another available civil or criminal law. This section does not create or alter tort liability.

(B) A school employee or volunteer who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the local school district's policy, and who makes

this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from failure to remedy the reported incident.

59-63-275. Student hazing prohibited; definitions.

(A) For purposes of this section:

- (1) "Student" means a person enrolled in a public education institution.
- (2) "Superior student" means a student who has attended a state university, college, or other public education institution longer than another student or who has an official position giving authority over another student.
- (3) "Subordinate student" means a person who attends a public education institution who is not defined as a "superior student" in item (2).
- (4) "Hazing" means the wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of a subordinate student of a tyrannical, abusive, shameful, insulting, or humiliating nature.

(B) Hazing at all public education institutions is prohibited. When an investigation has disclosed substantial evidence that a student has committed an act or acts of hazing, the student may be dismissed, expelled, suspended, or punished as the principal considers appropriate.

(C) The provisions of this section are in addition to the provisions of Article 6, Chapter 3 of Title 16.

59-63-425. Transfer upon violation of restraining order; interscholastic activity eligibility.

A high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate by a court of competent jurisdiction may transfer with the consent of the student's school district to another high school within or out of the district within thirty school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

B. Disruptive Conduct-Level II

2. Acts of disruptive conduct may include, but are not limited to:

- n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites).

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

- (a) the existence of a comprehensive safety plan;
- (b) communication of discipline policies and procedures;
- (c) intraagency and interagency emergency planning;
- (d) recording of disruptive incidents;
- (e) training of staff and students;
- (f) assessment of buildings and grounds;
- (g) procedures for handling visitors;
- (h) assignment of personnel in emergencies;
- (i) emergency communication and management procedures; and
- (j) transportation rules and accident procedures.

59-17-135. Character education.

(G) Upon request, the State Department of Education must provide to the school districts of the State information on currently available programs, curriculums, and resources. In addition, the State Department of Education must provide to the school districts of the State information on best practices and successful programs currently being implemented.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

59-63-320. Reporting form.

By December 31, 1990, the State Department of Education, after consultation with the State Law Enforcement Division, shall develop a standard school crime reporting form which must be used by all school districts in the State. The form must define what constitutes criminal activity required to be reported and must include, but is not limited to, the following:

- (1) types and frequency of criminal incident;
- (2) crimes against the person, including:
 - (a) description of crime;

(b) age and sex of offender and whether the offender is a student. If the offender is a student, whether he attended the school where the crime occurred or a different school, and whether he was under school suspension or expulsion at the time of the offense;

(c) age and sex of the victim and whether the victim is a student. If the victim is a student, whether he attended the school where the crime occurred or a different school. If the victim is not a student, whether he was employed at the school and, if so, in what capacity;

(d) where, at what time, and under what circumstances the incident occurred;

(e) the cost of the crime to the school and to the victim;

(f) what action was taken by the school administration;

(3) crimes against property, including:

(a) description of the crime;

(b) where, at what time, and under what circumstances the crime occurred;

(c) the cost of the crime to the school and to the victim;

(d) what action was taken by the school administration.

59-63-1400. Review; technical assistance.

The State Department of Education shall review alternative school plans for eligibility for funding and provide technical assistance for planning, establishing, and implementing an alternative school based on best practice. The department shall assist any district or consortia whose plan does not meet the eligibility criteria; however, no funding will be approved until the plan ensures implementation of appropriate services for students served by the alternative school.

59-66-40. School safety task force.

(A)(1) There is created a school safety task force to:

(a) examine the various funding streams for school-based mental health services and determine how these streams may best be utilized in order to provide more accessible and efficient delivery of mental health programs;

(b) examine school mental health staffing ratios and provide suggestions that allow for the full delivery of services and effective school-community partnerships, including collaboration between school districts;

(c) develop standards for district level policies to promote effective school discipline and mental health intervention services;

(d) examine current intra- and interagency collaboration and suggest ways to improve cooperation; and

(e) examine how to best support multitiered systems of support.

REGULATIONS

43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

a. the existence of a comprehensive safety plan;

b. communication of discipline policies and procedures;

- c. intra-agency and interagency emergency planning;
- d. recording of disruptive incidents;
- e. training of staff and students;
- f. assessment of buildings and grounds;
- g. procedures for handling visitors;
- h. assignment of personnel in emergencies;
- i. emergency communication and management procedures; and
- j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

B. First Aid Supplies

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

43-274. Student attendance.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.

Multi-tiered Frameworks and Systems of Support

LAWS

59-66-40. School safety task force.

(A)(1) There is created a school safety task force to:

(e) examine how to best support multitiered systems of support.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

59-17-135. Character education.

(A) The General Assembly finds:

- (1) the schools of South Carolina must provide the safest environment possible for students to learn;
- (2) teaching positive character traits is essential to improving the learning environment, promoting student achievement, reducing disciplinary problems, and developing civic-minded students;
- (3) schools must be encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents; and
- (4) elected officials, community and civic leaders, business leaders, religious institutions, youth organizations, government, media, and citizens-at-large must be encouraged to become actively involved in creating an atmosphere which encourages positive character development through every sector of the community.

(B) Each local school board of trustees of the State must develop a policy addressing character education. Any character education program implemented by a district as a result of an adopted policy must, to the extent possible, incorporate character traits including, but not limited to, the following: respect for authority and respect for others, honesty, self-control, cleanliness, courtesy, good manners, cooperation, citizenship, patriotism, courage, fairness, kindness, self-respect, compassion, diligence, good work ethics, sound educational habits, generosity, punctuality, cheerfulness, patience, sportsmanship, loyalty, and virtue. Local school boards must include all sectors of the community, as referenced in subsection (A)(4), in the development of a policy and in the development of any program implemented as a result of the policy. As part of any policy and program developed by the local school board, an evaluation component must be included.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

59-20-60. Spending priority; audits; evaluations and reports; statewide testing programs; innovation initiatives; school improvement councils; Education finance review committee.

(4) Each plan shall provide for an Innovation Initiative, designed to encourage innovative and comprehensive approaches based on strategies identified in the research literature to be effective. The Innovation Initiative must be utilized by school districts to implement innovative approaches designed to improve student learning and accelerate the performance of all students. Funds may be expended on strategies in one or more of the following four categories:

(d) creating appropriate relationships between schools and other social service agencies by improving relationships between the school and community agencies (health, social, mental health), parents and the business community, and by establishing procedures that cooperatively focus the resources of the greater community upon barriers to success in school, particularly in the areas of early childhood and parenting programs, after-school programs, and adolescent services.

59-66-40. School safety task force.

(A)(1) There is created a school safety task force to:

- (a) examine the various funding streams for school-based mental health services and determine how these streams may best be utilized in order to provide more accessible and efficient delivery of mental health programs;
- (b) examine school mental health staffing ratios and provide suggestions that allow for the full delivery of services and effective school-community partnerships, including collaboration between school districts;
- (c) develop standards for district level policies to promote effective school discipline and mental health intervention services;
- (d) examine current intra- and interagency collaboration and suggest ways to improve cooperation; and
- (e) examine how to best support multitiered systems of support.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

59-63-130. Prohibited conduct; reports by witnesses.

(A) A person may not engage in:

- (1) harassment, intimidation, or bullying; or
- (2) reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(B) A school employee, student, or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

- (5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint.

59-63-320. Reporting form.

By December 31, 1990, the State Department of Education, after consultation with the State Law Enforcement Division, shall develop a standard school crime reporting form which must be used by all school districts in the State. The form must define what constitutes criminal activity required to be reported and must include, but is not limited to, the following:

- (1) types and frequency of criminal incident;
- (2) crimes against the person, including:
 - (a) description of crime;
 - (b) age and sex of offender and whether the offender is a student. If the offender is a student, whether he attended the school where the crime occurred or a different school, and whether he was under school suspension or expulsion at the time of the offense;
 - (c) age and sex of the victim and whether the victim is a student. If the victim is a student, whether he attended the school where the crime occurred or a different school. If the victim is not a student, whether he was employed at the school and, if so, in what capacity;
 - (d) where, at what time, and under what circumstances the incident occurred;
 - (e) the cost of the crime to the school and to the victim;
 - (f) what action was taken by the school administration;
- (3) crimes against property, including:

- (a) description of the crime;
- (b) where, at what time, and under what circumstances the crime occurred;
- (c) the cost of the crime to the school and to the victim;
- (d) what action was taken by the school administration.

59-63-335. Failure of school administrator to report criminal conduct; liability.

Failure of a school administrator to report criminal conduct as set forth in Section 59-24-60 or failure to report information concerning school-related crime pursuant to Section 59-63-330 shall subject the administrator and the school district to liability for payment of a party's attorney's fees and the costs associated with an action to seek a writ of mandamus to compel the administrator and school district to comply with Section 59-24-60 or 59-63-330.

59-63-380. School official reporting school related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school-related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school-related crime.

59-65-260. Duties of attendance supervisor relating to nonattending children.

The attendance supervisor shall, upon receiving the list of nonattending children from the county superintendent of education, contact as rapidly as possible the parents or guardians of such nonattending children with the object in mind of interesting nonattending children in school work, and influencing them by means of persuasion to attend school regularly. All principals shall report to such attendance supervisor on continuous absences which appear to be unwarranted, and the attendance supervisor shall make an earnest effort to have enrolled and keep enrolled all children of school age in the county.

59-67-240. Other duties of driver; discipline of pupils for misconduct.

The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.

District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

REGULATIONS

43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

- d. recording of disruptive incidents.

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:

a. Upon observation or notification and verification of acts of behavioral misconduct, the staff member shall take immediate action to rectify the misconduct. The staff member shall impose an appropriate consequence, and maintain a record of the misconduct and the consequence.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem shall be referred to the appropriate administrator for action specified by local school board policy.

Parental Notification

LAWS

59-1-454. Parental involvement program; parent/teacher conferences.

(A) The State Department of Education shall develop a parental involvement program for use in elementary and secondary schools with grades four through eight. The purpose of the program is to improve parental participation in their child's school progress, ensure a smooth transition between the various levels of schooling and phases of education, increase communication between the school, parent, and child, provide greater accountability between the parent, school, and child, and lessen the possibility on all levels that parents are only provided opportunity to react to problems involving their child after such problems occur.

(B) The parental involvement program should include such activities as regular visitation by parents to their child's school, involving parents, teachers, and administrators in school training sessions on such issues as communication between the school, parent, and child, student discipline, importance of homework, the taking and understanding of standardized testing and test scores, and general literacy.

59-63-230. Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in § 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The

action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

59-63-32. Requirements to enroll child in public school; affidavit; penalties for providing false information.

(A) The school district may require an adult seeking to enroll a child who resides with the adult pursuant to Section 59-63-31(1)(c) to accept responsibility for making educational decisions concerning the child. These educational decisions may include, but not be limited to, receiving notices of discipline pursuant to Sections 59-63-230 and 59-63-240, attending conferences with school staff, and granting permission for athletic activities, field trips, and other activities as required.

(B) The school district also must require an adult to complete and sign an affidavit:

- (1) confirming the qualifications set out in Section 59-63-31(1)(c) establishing residency of the child in the school district;
- (2) attesting that the child's claim of residency in the district is not primarily related to attendance at a particular school within the district; and
- (3) accepting responsibility for educational decisions for the child.

59-65-260. Duties of attendance supervisor relating to nonattending children.

The attendance supervisor shall, upon receiving the list of nonattending children from the county superintendent of education, contact as rapidly as possible the parents or guardians of such nonattending children with the object in mind of interesting nonattending children in school work, and influencing them by means of persuasion to attend school regularly. All principals shall report to such attendance supervisor on continuous absences which appear to be unwarranted, and the attendance supervisor shall make an earnest effort to have enrolled and keep enrolled all children of school age in the county.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

A. Behavioral Misconduct-Level I

3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:

- c. The administrator shall meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract. [...]

B. Disruptive Conduct-Level II

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

- b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:
 - (1) self-admittance by the student
 - (2) witnessed involvement of the student by school administrators staff
 - (3) parental admission of student involvement
 - (4) evidence obtained through investigation by school administrators and staff. [...]

C. Criminal Conduct-Level III

4. The basic enforcement procedures to be followed in instances of criminal conduct are:
 - b. An administrator shall notify the student's parent or guardian as soon as possible.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

59-5-65. Powers and responsibilities of State Board of Education.

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

- (d) recording of disruptive incidents.

59-18-900. Annual report cards; performance ratings; criteria; annual school progress narrative; trustee training; data regulations; military-connected student performance reports.

(D) The comprehensive report card must include a comprehensive set of performance indicators with information on comparisons, trends, needs, and performance over time which is helpful to parents and the public in evaluating the school. In addition, the comprehensive report card must include indicators that meet federal law requirements. Special efforts are to be made to ensure that the information contained in the report card is provided in an easily understood manner and a reader-friendly format. This information should also provide a context for the performance of the school. Where appropriate, the data should yield disaggregated results to schools and districts in planning for improvement. The report card should include information in such areas as programs and curriculum, school leadership, community and parent support, faculty qualifications, evaluations of the school by parents, teachers, and students. In addition, the report card must contain other criteria including, but not limited to, information on promotion and retention ratios, disciplinary climate, dropout ratios, dropout reduction data, dropout retention data, access to technology, student and teacher ratios, and attendance data.

59-63-330. Quarterly and annual reports.

On forms prepared and supplied by the State Department of Education, each school district in the State shall report school-related crime quarterly to the State Department of Education. The department shall compile the information received from the districts and annually, not later than January thirty-first of the year following the districts' final quarterly reports of the school year, make a report to the General Assembly on the findings. In addition, the State Department of Education shall, upon receipt, forward all information concerning school-related crime to the Attorney General's Office. This information shall be used by the Attorney General in the supervision of the prosecution of school crime.

59-63-333. School crime requirements to conform to federal "No Child Left Behind Act".

The State Department of Education shall conform the requirements of Sections 59-63-310 through 59-63-340 on school crime so as to fulfill the provisions of the 'No Child Left Behind Act of 2001' (20 U.S.C. Section 7912) which includes reports on persistently dangerous schools and on the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary and secondary schools. A summary of the provisions of Article 4, Chapter 63 of Title 59 required to be included in the school's student handbook each year must be revised to conform with the requirements of this section.

59-63-360. Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

REGULATIONS

43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

d. recording of disruptive incidents.

43-274. Student attendance.

VIII. Reporting Requirements

The South Carolina Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

43-274.1. At-risk students.

VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SCDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SCDE.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

5-7-12. School resource officers; procedures for certain arrests; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school-sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty-four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

59-24-60. Requirement of school officials to contact law enforcement authorities when criminal conduct occurs.

In addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which may result or results in injury or serious threat of injury to the person or to another person or his property as defined in local board policy.

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

59-63-350. Local law enforcement.

Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.

59-63-360. Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

59-65-50. Nonattendance reported to court having jurisdiction of juveniles.

If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in § 59-65-10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of § 22-3-540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

REGULATIONS

43-279. Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

IV. Minimum Standards

B. Disruptive Conduct-Level II

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year. [...]

C. Criminal Conduct-Level III

4. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of a criminal offense, the administrator shall contact the School Resource Officer or local law enforcement authorities immediately.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

5-7-12. School resource officers; procedures for certain arrests; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school-sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty-four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National

Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

5-7-12. School resource officers; procedures for certain arrests; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school-sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty-four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

REGULATIONS

43-210. School resource officers.

I. Expectations for School Resource Officers in South Carolina Public Schools

School resource officers are necessary to provide law enforcement services to a safe learning environment. School resource officers shall act in accordance with policies and procedures of the local law enforcement agency or employing local governmental entity to enforce state laws and county and municipal ordinances.

II. Resource Officers Defined

A school resource officer is defined in S.C. Code Ann § 5-7-12.

III. Role of the School Resource Officer

A. Law Enforcement Officer

School resource officers shall not only be called to respond to criminal incidents, but also to assist in emergency crisis planning, building security, and training school personnel on handling crisis situations.

B. Law-Related Educator

Teachers and staff shall utilize school resource officers within the classroom to help design and present law-related topics regarding the role of law enforcement in our society.

C. Community Liaison

School administrators shall encourage school resource officers' visibility within the school community, as well as attendance and participation at school functions, to build working relationships with school personnel, students, and parents.

D. Positive Role Model

School resource officers shall be positive role models and may be used to promote the profession of law enforcement as a career choice for students. School administrators shall support positive interactions between school resource officers and students on school campuses.

IV. Procedures

A. Student Behavior

School resource officers are not school disciplinarians and shall not ordinarily be requested or permitted to intervene in school discipline matters. The school resource officers shall be called when a student's behavior amounts to a Level III violation for which law enforcement involvement is required (see Regulation 43-279). School resource officers shall be called to respond to any misconduct when

1. the conduct is criminal, or
2. the conduct presents an immediate safety risk to one or more people.

In addition, school administrators must also contact law enforcement consistent with S.C. Code Ann. 59-24-60.

When law enforcement referrals are required, a school resource officer shall be the first line of contact for local law enforcement to ensure that the matter is resolved expeditiously to decrease significant interruption to the learning process.

B. General provision for visitors, employees, and unauthorized persons.

The school resource officer shall be called immediately to handle a disturbance or emergency as defined in S.C. Code Ann. 16-17-420.

V. Memorandum of Understanding

Prior to placing a school resource officer at a school or in a district office, a memorandum of understanding must be executed between the school district, and the employing local law enforcement agency. The role of the school district, individual schools, local law enforcement agency, school administration, and the school resource officer shall be clearly defined in the memorandum of understanding. The role of the school resource officer must clearly be defined pursuant to S.C. Code Ann 5-7-12 and in the memorandum of understanding. The provisions of this regulation and Regulation 43- 279 must be included in the memorandum of understanding.

The school district shall provide the school administration with a copy of the memorandum of understanding, and review it with the school administration and with the school resource officer prior to the start of every school year.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by South Carolina provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying, South Carolina Department of Education (SCDE)	Provides an overview on bullying and includes links to cyberbullying resources and model policy prohibiting harassment.	https://ed.sc.gov/districts-schools/school-safety/bullying/
Multi-Tiered System of Supports (MTSS), SCDE	Provides information and resources regarding MTSS including a brief overview, guidelines for schools and districts, training documents, and legislative documents.	https://ed.sc.gov/instruction/early-learning-and-literacy/multi-tiered-system-of-supports-mtss/
School Safety, SCDE	Provides links to resource about health and safety surveys, discipline related reports, safe schools, and anti-bullying resources.	https://ed.sc.gov/districts-schools/school-safety/
SC Safe Schools, SCDE	Provides resources and tools regarding active shooter, substance abuse and prevention, and school violence.	https://ed.sc.gov/districts-schools/school-safety/resources-and-training/safety-resources/
Social Emotional Learning (SEL), SCDE	Overviews social emotional learning in SC and provides additional resources for school districts regarding SEL and Positive Behavioral Interventions and Supports (PBIS).	https://ed.sc.gov/districts-schools/special-education-services/social-emotional-learning/#SEL
<i>Documents</i>		
Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts (May 2017), SCDE	Document presents State Board regulation regarding minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.	https://www.scstatehouse.gov/CommitteeInfo/SchoolSafetyTaskForce/Regulation%2043-279.pdf

Title	Description	Website address (if applicable)
Model Policy Prohibiting Harassment, Intimidation, or Bullying (April 2006), SCDE	Model policy addressing the prohibition of harassment, intimidation, or bullying in South Carolina schools.	https://ed.sc.gov/districts-schools/school-safety/bullying/model-policy-prohibiting-harassment/
School Based Behavioral Threat Assessment and Management: Best Practices for South Carolina Schools K-12 (May 2020), SCDE	Guidance document for school districts and school administrators to help assist in BTAM implementation and management.	https://ed.sc.gov/districts-schools/school-safety/resources-and-training/safety-resources/sc-school-based-threat-assessment-guide/
Other Resources		
Best Practices for Supporting Educators with Discipline (February 2019), SCDE	Best practices document provides an overview of laws and policies related to effective discipline, best practices: what works in schools, focus groups recommendations, and department training opportunities.	https://ed.sc.gov/districts-schools/school-safety/discipline-related-reports/best-practices-for-supporting-educators-with-discipline/
Reducing the Risk of School Violence, SCDE	Guidance video provided to assist South Carolina educators effectively respond to potential threat behaviors and to increase safety awareness.	https://www.kaltura.com/index.php/extwidget/preview/partner_id/1675021/uiconf_id/26557781/entry_id/1_ggcpq959/embed/dynamic?
Six Components of MTSS Modules, SCDE	Webinar series developed for school administrators to further educate school leaders and educators on MTSS to ensure greater success of implementation.	https://ed.sc.gov/instruction/early-learning-and-literacy/multi-tiered-system-of-supports-mtss/six-components-of-mtss-modules/
Truancy, Suspension and Expulsion Data, SCDE	Truancy, and suspension/expulsion reports on the number of students meeting the definition of habitual truant, chronic truant, and truant.	http://ed.sc.gov/districts-schools/school-safety/discipline-related-reports/truancy-suspension-and-expulsion-data/



South Dakota Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Title 13. Education

Chapter 13-27. Compulsory School Attendance

- [13-27-11.](#) Failure to send child to school as misdemeanor
- [13-27-15.](#) Attendance records maintained by superintendent or president of board-Reports required
- [13-27-16.](#) Warnings by school boards to send children to school-Report to truancy officer
- [13-27-20.](#) Complaints against persons responsible for truancy-Contents of complaint-

Chapter 13-32. Supervision of Students and Conduct of School

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24:55:01:01. Definitions

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 13-32-1. Disciplinary authority over students on school premises.

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

REGULATIONS

No relevant regulations found.

Scope

LAWS

§ 13-32-1. Disciplinary authority over students on school premises.

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

§ 13-32-2. Physical force authorized when reasonable and necessary-Attendance at school functions away from premises-Authority of bus drivers.

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 13-32-2. Physical force authorized when reasonable and necessary-Attendance at school functions away from premises-Authority of bus drivers.

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§ 13-32-20. Policy for school district employees on use of restraint and seclusion.

The school board of each school district shall adopt or revise a school district policy for school district employees on the use of restraint and seclusion. The policy shall contain the following provisions:

- (1) A procedure for notifying the parent or guardian of the student, unless the student is emancipated, of an incident requiring the use of restraint or seclusion;
- (2) A prohibition on the use of prone restraint, defined as physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when the use is necessary and reasonable in manner and moderate in degree; and
- (3) A prohibition on the use of involuntary confinement of a student locked alone in a room, unless there is a clear and present danger.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-5. Injury to school property as ground for suspension or expulsion.

Any student, who cuts, defaces, or otherwise injures any schoolhouse, equipment, or outbuilding thereof, is liable to suspension or expulsion.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2.

The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the

assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program. Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

§ 13-32-9.1. Consequences imposed by local school districts.

No local school board may impose a lesser consequence than those established in § 13-32-9, but a local school district may adopt a policy, by local school board action, with more strict consequences to meet the needs of the district.

§ 13-32-9.2. Reduced suspensions-Minimum requirements -Commencement of suspension.

If a suspension is reduced pursuant to § 13-32-9, a suspension for a first offense shall make the student ineligible for a minimum of two South Dakota High School Activities Association sanctioned events. If two sanctioned events for which the student is ineligible do not take place within the reduced suspension period, the student's suspension remains in effect until two sanctioned events for which the student is ineligible have taken place. If a suspension is reduced pursuant to § 13-32-9, a suspension for a second offense shall make the student ineligible for a minimum of six South Dakota High School Activities Association sanctioned events. If six sanctioned events for which the student is ineligible do not take place within the reduced suspension period, the student's suspension remains in effect until six sanctioned events for which the student is ineligible have taken place. To count toward the minimum number of events, the student must participate in the entire activity season and may not drop out or quit the activity to avoid suspension and the failure of a student to complete the entire activity season shall result in the student being ineligible for one year from the date of adjudication, conviction, the subject of

an internal adjustment or court approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency. A suspension that is not completed by the student during one activity season shall carry over to the next activity season in which the student participates. In addition, a suspension that is reduced pursuant to § 13-32-9 is only in effect during the South Dakota High School Activities Association's activity year, which begins on the first day of its first sanctioned event and concludes on the last day of its last sanctioned event. A reduced suspension that is not completed by the end of one activity year shall carry over to the next activity year.

A suspension begins on:

(1) The day following the notification to a school administrator by the Unified Judicial System that a student has been adjudicated, convicted, the subject of an informal adjustment or court approved diversion program, or the subject of a suspended imposition of a sentence or a suspended adjudication of delinquency for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance prohibited by § 22-42-15 and the school administrator gives notice to the South Dakota High School Activities Association and the students; or

(2) The day following the student's admission to a school administrator that the student committed an offense enumerated in subdivision (1), which shall be made with the student's parent or guardian present if the student is an unemancipated minor, and the school administrator gives notice to the South Dakota High School Activities Association.

REGULATIONS

24:05:26.01:07. Attendance policies.

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

24:05:26:08. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

24:07:03:07. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

24:07:04:06. Attendance policies.

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

24:07:04:07. Referral to placement committee of students in need of special education or special education and related services.

If a student identified as in need of special education or special education and related services pursuant to SDCI 13-37-1 is a subject of proposed expulsion, the procedure in § 24:06:26.01:08 applies.

Due Process

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2.

The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-4.2. Procedure for suspension-Appeal-Hearing.

The school board in any district may authorize the summary suspension of pupils by principals of schools for not more than ten school days and by the superintendent of schools for not more than ninety school days. In case of a suspension by the superintendent for more than ten school days, the pupil or his parents or others having his custodial care may appeal the decision of the superintendent to the board of education. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to the board a full report in writing of the facts relating to the suspension, the action taken by him and the reasons for such action; and the board, upon request, shall grant a hearing to the appealing party. No pupil may be suspended unless:

- (1) The pupil is given oral or written notice of the charges against him;
- (2) The pupil is given an oral or written explanation of the facts that form the basis of the proposed suspension; and
- (3) The pupil is given an opportunity to present his version of the incident.

In the event of a suspension for more than ten school days, if the pupil gives notice that he wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

§ 13-32-4.7. Due process procedures-Promulgation of early reinstatement rules.

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

§ 13-32-9.1. Consequences imposed by local school districts.

No local school board may impose a lesser consequence than those established in § 13-32-9, but a local school district may adopt a policy, by local school board action, with more strict consequences to meet the needs of the district.

REGULATIONS

24:05:26.01:03. Request and notice of hearing.

If the superintendent finds grounds for expulsion from school, the procedure in § 24:07:04:02 applies.

24:05:26.01:04. Right of waiver.

A competent student, if of the age of majority or emancipated, or the student's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date and at the time and place set in the hearing notice unless a different date, time, and place are agreed to by the parties. If the hearing is waived in writing, the school board may consider the matter at a regular or special meeting without further notice to the student or student's parents.

24:05:26.01:05. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;

- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer, or other person authorized by law to take oaths or affirmations;
- (8) Each party may raise any legal objections to evidence;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during hearing . Consultation with any other person during deliberation may occur only if a representative of the student is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the student and shall state the reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

24:05:26.01:06. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit court.

24:05:26.01. Suspension from school.

The suspension of pupils in need of special education or special education and related services includes the general due process procedures used for all pupils and the additional steps in the process specified in this chapter that a district must take when the action, behavior, or activity which resulted in the long-term suspension is the result of a pupil's disability.

24:05:26.01.02. Written report required.

If an expulsion is anticipated because of a student's violation of rules or policies or for insubordination or misconduct, the procedure in § 24:07:04:01 applies.

24:05:26.03. Written report required.

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

24:05:26.04. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the procedure in § 24:07:03:02 applies.

24:05:26.05. Right of waiver.

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

24:05:26.06. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device;
- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;
- (8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the pupil and shall state the reason for the board's action. The school board shall notify the pupil's parents or a pupil who is 18 years of age or older or an emancipated minor in writing of the decision. The notice shall state the length of the suspension.

24:05:26:07. Right of appeal.

The pupil may appeal an adverse decision by the school board to the circuit court.

24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

- (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or
- (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

24:07:02:01. Short-term suspension procedure.

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

24:07:03:01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:03:02. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

- (1) The policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing or waive the right to a hearing.
- (4) A description of the hearing procedure;
- (5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and
- (6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor.

If no hearing is requested or the hearing is waived, the action of the superintendent is final.

24:07:03:03. Right of waiver.

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

24:07:03:04. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. A verbatim record of the hearing will be made and will be sealed pending court order;
- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;
- (8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;
- (9) All relevant evidence must be admitted; however, unproductive or repetitious evidence may be limited by the hearing officer;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion must omit the name of the pupil and must state the reason for the board's action. The school board shall notify the pupil or the pupil's parents in writing of the decision. The notice must state the length of the suspension or expulsion.

24:07:03:06. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit court.

24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

24:07:04:02. Notice of hearing.

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

- (1) The rule, regulation, or policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing;
- (4) A description of the hearing procedure;
- (5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;
- (6) A statement that the student may present witnesses; and
- (7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

24:07:04:03. Right of waiver.

The student, if of the age of majority or emancipated, or the student's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date and at the time and place set in the hearing notice unless a different date, time, and place are agreed to by the parties. If the hearing is waived in writing, the school board may consider the matter at a regular or special meeting without further notice to the student or the student's parents.

24:07:04:04. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
- (7) Witnesses may present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer or other person authorized by law to take oaths and affirmations;
- (8) Each party may rise any legal objection to evidence;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

(10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11) Each party may take a statement;

(12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of the student is present; and

(13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open session for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

24:07:04:05. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit Court.

Return to School Following Removal

LAWS

§ 13-32-4.3. Effect of student's suspension or expulsion on enrollment.

If any student is under suspension or expulsion in a school district, the student may not enroll in any school district until the suspension or expulsion has expired. The superintendent or school administrator of any school district may prohibit a student from enrolling in that school district if the student is under suspension or expulsion in a school in another state or in a nonpublic school in this state. Upon receiving a request for a student's permanent school records from the receiving district, the sending school shall provide the receiving district with written notice of any suspension or expulsion.

§ 13-32-4.4. Early reinstatement of expelled student.

If a student is expelled from school as provided in § 13-32-4, the school board may grant the student an early reinstatement allowing the student to return to school before the end of the period of expulsion.

§ 13-32-4.5. Conditions for early reinstatement.

Any early reinstatement granted by a school board pursuant to § 13-32-4.4 may include one or more specific conditions established by the school board that the expelled student must meet, either prior to the granting of the early reinstatement or after the early reinstatement is granted and before the end of the period of expulsion. Any early reinstatement conditions established by the school board for an expelled student shall pertain to the reasons why the student was expelled, and the board shall provide notice of any early reinstatement conditions to the student's parent or guardian or to the student, if the student is at least eighteen years of age or is an emancipated minor, at the time the student is expelled.

§ 13-32-4.6. Return to school upon fulfillment of conditions-Revocation of early reinstatement.

If the superintendent of a school district determines that an expelled student has met the early reinstatement conditions established pursuant to § 13-32-4.5 that the student is required to meet before the student may be granted early reinstatement, the superintendent may grant the student early reinstatement and allow the student to return to school.

If a student violates an early reinstatement condition that the student was required to meet after the student's early reinstatement, but before the end of the expulsion period, the superintendent of the school

district may revoke the student's early reinstatement. Within five days after revoking an early reinstatement, the superintendent shall provide written notice of the revocation including any early reinstatement condition that was violated by the student to the student's parent or guardian or to the student, if the student is at least eighteen years of age or an emancipated minor.

If a student's early reinstatement is revoked, the student's expulsion shall continue until the end of the original period of expulsion unless the student's expulsion is firearm-related and the original period of expulsion is modified by the superintendent pursuant to § 13-32-4.

§ 13-32-4.7. Due process procedures-Promulgation of early reinstatement rules.

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

REGULATIONS

24:05:26.01:08. Referral to IEP team for expulsion of students.

If a student identified in need of special education or special education and related services pursuant to SDCL 13-37-1 is the subject of proposed expulsion, the superintendent shall refer the matter to the placement committee. The placement committee shall determine whether the action, behavior, or activity which resulted in the expulsion is the result of the student's disability. If the placement committee determines that the expulsion is in an action, behavior, or activity by the student arising from the student's disability, the placement committee shall immediately prepare a revised individual educational plan to provide educational services to the student. The student's expulsion terminates upon implementation of the pupil's revised individual educational plan, the student shall continue to receive services under the original individual behavior, or activity was not the result of the student's disability, expulsion procedures may be instituted following notice to one or both parents. The student shall continue to receive special education and related services during the expulsion as directed by the placement committee as part of a revised individual education plan. If the parent does not agree with an alternative placement and pursues a due process hearing, the student's placement may not change until the completion of the proceedings and the child shall continue to receive services under the original individual educational plan.

24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

- (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or
- (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

Alternative Placements

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2.

The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

REGULATIONS

24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

- (1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;

(2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or

(3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

(1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or

(2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

24:55:01:01. Definitions.

Terms used in this article mean:

(3) "Alternative school," programs outside of the traditional setting whereby students receive instruction as an extension of the regular or traditional school environment.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-7. Possession of firearms or dangerous weapon on public elementary or secondary school premises or in vehicle or building as misdemeanor-Exceptions.

Any person, other than a law enforcement officer or school sentinel under § 13-64-1, who intentionally carries, possesses, stores, keeps, leaves, places, or puts into the possession of another person, any dangerous weapon, firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended to be used primarily for imitative or noisemaking purposes, on or in any public elementary or secondary school premises, vehicle, or building, or on or in any premises, vehicle, or building used or

leased for public elementary or secondary school functions, whether or not any person is endangered by any action under this section, is guilty of a Class 1 misdemeanor. The provisions of this section do not apply to;

- (1) Use of a starting gun at an athletic event;
- (2) Any firearm or air gun at a:
 - (a) Firing range;
 - (b) Gun show;
 - (c) Supervised school or session for training in the use of firearms; or
 - (d) Ceremonial presence of unloaded weapons at color guard ceremonies;
- (3) Any nonpublic school;
- (4) Any church or other house of worship; or
- (5) Any nonpublic school located on the premises of a church or other house of worship.

REGULATIONS

24:05:26.01:07.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

- (1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;
- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or
- (3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 13-27-11. Failure to send child to school as misdemeanor.

Any person having control of a child of compulsory school age who fails to have the child attend school, as required by the provisions of this title, or provide alternative instruction pursuant to § 13-27-3, is guilty of a Class 2 misdemeanor for the first offense. For each subsequent offense, a violator of this section is guilty of a Class 1 misdemeanor.

§ 13-27-15. Attendance records maintained by superintendent or president of board-Reports required.

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

§ 13-27-20. Complaints against persons responsible for truancy-Contents of complaint-Verification.

Each truancy officer shall make and file truancy complaints, and any teacher, school officer, or any citizen may make and file a truancy complaint, before a circuit court judge, against any person having control of a child of compulsory school age who is not attending school or whose attendance is irregular. The complaint shall state the name of the parent, guardian or person responsible for the control of the child.

The complaint shall be verified by oath upon belief of the complainant.

§ 13-32-4.1. Attendance policy-Adoption by school board-Suspension and expulsion power unaffected.

The school board of every school district may adopt an attendance policy in accordance with procedural due process rules established by the South Dakota board of education pursuant to § 13-32-4. Any attendance policy adopted pursuant to this section is not to be construed as limiting the powers of the school board of a school district to suspend or expel students pursuant to § 13-32-4.

§ 26-7A-126. Law enforcement treatment as juvenile cited violation-Procedure-Report to state's attorney.

The following allegations of delinquency and children in need of supervision shall be treated as juvenile cited violations by law enforcement:

- (1) Petty theft in the second degree pursuant to § 22-30A-17.3;
- (2) Intentional damage to property, four hundred dollars or less, pursuant to § 22-34-1;
- (3) Purchase, possession, or consumption of alcoholic beverage by person under twenty-one years pursuant to § 35-9-2 in accordance with subdivision 26-8B-2(5); and
- (4) Truancy pursuant to subdivision 26-8B-2(1).

The issuing officer shall notify the child and the child's parent, guardian, or custodian that a hearing on the citation for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the citation or on the next available court date and be treated as a confidential juvenile matter. The hearing shall be held pursuant to § 26-7A-36 and the case records shall be treated as confidential consistent with the provisions of §§ 26-7A-114, 26-7A-115, 26-7A-116, 26-7A-120, and 26-7A-27. A cited

violation is not an adjudication or a child in need of supervision or delinquency proceeding. In lieu of a citation, pursuant to subdivision 26-7A-126(4), a school official may file a report with the state's attorney. A report may also be filed with the state's attorney in lieu of a citation if the conduct occurs in conjunction with another offense that is not subject to the juvenile cited violation process.

§ 26-7A-127. Action by state's attorney for juvenile cited violation.

If a state's attorney is informed that a citation or report has been issued for a juvenile cited violation, the state's attorney may take any action permitted pursuant to § 26-7A-10, except that a state's attorney may only file a petition pursuant to subdivision 26-7A-10(5) if:

- (1) The child is cited or a report is filed pursuant to subdivision 26-7A-126(1), (2), or (4); or
- (2) The child is cited pursuant to subdivision 26-7A-126(3), and has two or more prior judgments for the same violation.

If the state's attorney intends to proceed on a petition for a violation of the provisions in § 26-7A-126 pursuant to subdivision (1) or (2) in this section, the provisions of § 26-7A-11.1 apply.

REGULATIONS

24:05:26.01:07. Attendance policies.

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

24:05:26.08. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

24:07:03:07. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

24:07:04:06. Attendance policies.

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

Substance Use

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program.

Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity

at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

§ 13-32-12. Disciplinary action regarding self-administration of medication.

If any student uses the medication in a manner other than prescribed, the student may be subject to disciplinary action by the school. However, the disciplinary action may not limit or restrict the student's immediate access to the medication.

REGULATIONS

24:05:26.01:07.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

- (1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;
- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or
- (3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 13-32-14. Adoption of bullying policy.

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

§ 13-32-15. Bullying defined.

Bullying is a pattern of repeated conduct that causes physical hurt or psychological distress on one or more students that may include threats, intimidation, stalking as defined in chapter 22-19A, physical violence, theft, destruction of property, any threatening use of data or computer software, written or verbal communication, or conduct directed against a student that:

- (1) Places a student in reasonable fear of harm to his or her person or damage to his or her property; and either
- (2) Substantially interferes with a student's educational performance; or
- (3) Substantially disrupts the orderly operation of a school.

For the purposes of §§ 13-32-14 to 13-32-19, inclusive, bullying also includes retaliation against a student for asserting or alleging an act of bullying.

§ 13-32-16. Bullying policy requirements.

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

- (1) A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;
- (2) A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;
- (3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and
- (4) A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

§ 13-32-17. Action for damages from bullying-Immunity for reporting.

Any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy is immune from any cause of action for damages arising from failure to remedy the reported incident. Moreover, the provisions of §§ 13-32-14 to 13-32-19, inclusive, do not create a cause of action against any school district, school

district employee, school volunteer, student, or parent unless there has been substantial noncompliance with the school district's policy resulting in injury to a protected person.

§ 13-32-18. Incidents involving electronic devices.

Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by a school district for conduct determined to meet the definition of bullying in § 13-32-15.

§ 13-32-19. Model bullying policy.

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

Prohibition of Harassment, Intimidation, AND Bullying

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity. Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

- (1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or
- (2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 13-32-14. Adoption of bullying policy.

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

§ 13-32-16. Bullying policy requirements.

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

- (1) A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;
- (2) A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;
- (3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and
- (4) A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

§ 13-32-19. Model bullying policy.

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

Prohibition of harassment, intimidation, and bullying

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity. Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

- (1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or
- (2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 13-33-6.1. Character development instruction.

Unless the governing body elects, by resolution, effective for not less than one or more than four school terms, to do otherwise, character development instruction shall be given in all public and nonpublic elementary and secondary schools in the state to impress upon the minds of the students the importance of citizenship, patriotism, honesty, self discipline, self respect, sexual abstinence, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, regard for the elderly, and respect for authority.

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 13-27-15. Attendance records maintained by superintendent or president of board-Reports required.

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

REGULATIONS

24:05:26:03. Written report required.

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

24:07:03:01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

Parental Notification

LAWS

§ 13-27-16. Warnings by school boards to send children to school-Report to truancy officer.

Each school board shall warn parents or persons in control of children of compulsory school age that the children must enter school and attend regularly, and shall report the parents or persons in control of the children to the truancy officer for the district if the warning is not heeded. All school board members, superintendents, and teachers shall cooperate in the enforcement of the school attendance laws.

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

REGULATIONS

24:05:26.01:07.03. Parental notification.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

24:05:26.08.03. Parental notification.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district shall notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

24:07:02.01. Short-term suspension procedure.

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

24:07:03.01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:03.02. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

- (1) The policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing or waive the right to a hearing.
- (4) A description of the hearing procedure;
- (5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and

(6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor. If no hearing is requested or the hearing is waived, the action of the superintendent is final.

24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

24:07:04:02. Notice of hearing.

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

- (1) The rule, regulation, or policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing;
- (4) A description of the hearing procedure;
- (5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;
- (6) A statement that the student may present witnesses; and
- (7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the

Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program. Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

§ 26-7A-126. Law enforcement treatment as juvenile cited violation-Procedure-Report to state's attorney.

The following allegations of delinquency and children in need of supervision shall be treated as juvenile cited violations by law enforcement:

- (1) Petty theft in the second degree pursuant to § 22-30A-17.3;
- (2) Intentional damage to property, four hundred dollars or less, pursuant to § 22-34-1;
- (3) Purchase, possession, or consumption of alcoholic beverage by person under twenty-one years pursuant to § 35-9-2 in accordance with subdivision 26-8B-2(5); and
- (4) Truancy pursuant to subdivision 26-8B-2(1).

The issuing officer shall notify the child and the child's parent, guardian, or custodian that a hearing on the citation for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the citation or on the next available court date and be treated as a confidential juvenile matter. The hearing shall be held pursuant to § 26-7A-36 and the case records shall be treated as confidential consistent with the provisions of §§ 26-7A-114, 26-7A-115, 26-7A-116, 26-7A-120, and 26-7A-27. A cited

violation is not an adjudication or a child in need of supervision or delinquency proceeding. In lieu of a citation, pursuant to subdivision 26-7A-126(4), a school official may file a report with the state's attorney. A report may also be filed with the state's attorney in lieu of a citation if the conduct occurs in conjunction with another offense that is not subject to the juvenile cited violation process.

§ 26-7A-127. Action by state's attorney for juvenile cited violation.

If a state's attorney is informed that a citation or report has been issued for a juvenile cited violation, the state's attorney may take any action permitted pursuant to § 26-7A-10, except that a state's attorney may only file a petition pursuant to subdivision 26-7A-10(5) if:

- (1) The child is cited or a report is filed pursuant to subdivision 26-7A-126(1), (2), or (4); or
- (2) The child is cited pursuant to subdivision 26-7A-126(3), and has two or more prior judgments for the same violation.

If the state's attorney intends to proceed on a petition for a violation of the provisions in § 26-7A-126 pursuant to subdivision (1) or (2) in this section, the provisions of § 26-7A-11.1 apply.

REGULATIONS

No relevant regulations found.

**School Resource Officer (SRO) or School Security Officer (SSO)
Training or Certification**

LAWS

§ 13-64-3. School sentinel training course.

Any person who acts as a school sentinel, pursuant to § 13-64-1, shall first successfully complete a school sentinel training course as defined by the Law Enforcement Officers Standards Commission pursuant to subdivision 23-3-35(16).

§ 23-3-35. Powers of commission.

In addition to powers conferred upon the Law Enforcement Officers Standards Commission elsewhere in this chapter, the commission may:

- (16) Establish minimum educational and training standards for school sentinels authorized in Section 13-64-1.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 13-64-1. School board may implement school sentinel program.

Any school board may create, establish, and supervise the arming of school employees, hired security personnel, or volunteers in such manner and according to such protocols as the board may believe to be most likely to secure or enhance the deterrence of physical threat and defense of the school, its students, its staff, and members of the public on the school premises against violent attack. Those so authorized shall be referred to as school sentinels.

§ 13-64-2. Approval of law enforcement official required.

Before any school board may implement any school sentinel program pursuant to § 13-64-1, or effect any material changes in the personnel or protocols of the school sentinel program, the school board shall obtain the approval of the law enforcement official who has jurisdiction over the school premises. Any material changes in the school sentinel program's personnel or protocols shall be reported to all law enforcement agencies with jurisdiction over the school premises forthwith.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by South Dakota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Multi-tiered System of Supports (MTSS), South Dakota Department of Education	Explains the history of MTSS in South Dakota, provide links to MTSS applications, MTSS and Behavior resources, external sources regarding PBIS and RTI, and presentations on MTSS, behavior support plans, and de-escalation.	https://doe.sd.gov/sped/mtss.aspx
Positive Behavior Interventions and Supports, South Dakota Department of Education	Provides information and resources on implementing PBIS for achieving important social and learning outcomes while preventing problem behavior with all students.	https://doe.sd.gov/sped/pbis.aspx
Safe and Drug, and Gun Free Schools, South Dakota Department of Education	Provides an overview of Safe Schools in South Dakota and contains links to Safe and Drug/Gun Free School data collection criteria, required actions, and definitions.	http://doe.sd.gov/ofm/sdof.aspx
School Safety, South Dakota Department of Education	Offers school safety resources for South Dakota schools including no-cost active threat training for schools and lists contact information of SD Department of Education and SD Department of Public Safety.	https://doe.sd.gov/schoolsafety/
Student Due Process; Suspension and Expulsion, South Dakota Department of Education	Addresses due process for suspension, expulsion, and possession of tobacco, alcohol, drugs and firearms.	http://doe.sd.gov/oatq/dueprocess.aspx
Documents		
Discipline in Detail, South Dakota Department of Education (February 2021)	Provides guidance for school administrators, parents, and advocates in South Dakota to use as a resource for discipline procedures for students with disabilities who violate a school district's code of student conduct.	https://doe.sd.gov/sped/documents/DISCIPLINE-1221.pdf

Title	Description	Website address (if applicable)
Model Bullying Policy, South Dakota Legislature	Model policy addressing bullying in South Dakota schools.	http://sdlegislature.gov/statutes/DisplayStatute.aspx?Type=Statute&Statute=13-32-19
MTSS Manual, South Dakota Department of Education	Manual providing guidance to school districts and administrators to assist in the adaptation and implementation of MTSS.	https://doe.sd.gov/sped/documents/19-SDMTSS.docx
<i>Other Resources</i>		
South Dakota Youth Risk Behavior Survey (YRBS), South Dakota Department of Health	Youth Risk Behavior Survey (YRBS) used to monitor six priority health risk behaviors in youth.	https://doh.sd.gov/statistics/YRBS.aspx



Tennessee Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Tennessee State Codes Cited

Tennessee Revised Laws

The State of Tennessee contracts with LexisNexis to provide free public access to the Tennessee Code (<http://www.lexisnexis.com/hottopics/tncode/>). Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 39. Criminal Offenses

Chapter 8. Employment and Training of Police Officers

Part 1. General Provisions

38-8-120. School policing

Chapter 17. Offenses Against Public Health, Safety and Welfare

Part 3. Disorderly Conduct and Riots

39-17-308. Harassment

Title 49. Education

Chapter 1. State Administration

Part 2. Department of Education

49-1-211. Annual report by commissioner

49-1-213. Technical assistance

49-1-214. Safe schools - Advisory guidelines

49-1-230. Development of training programs for adverse childhood experiences

Chapter 2. Local Administration

Part 1. General Provisions

49-2-115. Family resource centers

49-2-118. Conflict resolution intervention programs

49-2-120. Prohibition against hazing

49-2-124. Universal mental health or socioemotional screening

Part 2. Boards of Education

49-2-203. Duties and powers

Part 3. County Administration

49-2-305. Development and adoption of program to promote involvement of parents and guardians

Chapter 6. Elementary and Secondary Education

Part 3. Elementary, Middle and Secondary Schools Generally

49-6-303. School counselors

Part 8. Schools Against Violence in Education (SAVE) Act

- 49-6-805. Template minimum requirements
- 49-6-809. Policy authorizing off-duty law enforcement officers to serve as armed school security officers -Memorandum of understanding - List of qualified officers - Funding - Report
- 49-6-812. Consistency with harassment and bullying policies
- 49-6-815. People permitted to possess and carry a firearm on school grounds

Part 10. Curriculum Generally

- 49-6-1007. Character education
- 49-6-1017. Sexual violence awareness curriculum
- 49-6-1028. Legislative findings - Public school courses and content to educate children in the United States and Tennessee governments
- 49-6-1035. Domestic violence awareness education programs

Part 12. Junior and Senior High Schools - Curriculum

- 49-6-1201. General provisions

Part 24. Tennessee Community Schools Act

- 49-6-2403. Part definitions
- 49-6-2404. Authority to form community consortiums to establish community schools - Centers of communities - Designation of individual to lead implementation of programming - Eligibility for community school grant

Part 27. Threat Assessment

- 49-6-2701. Threat assessment team
- 49-6-2702. Request for law enforcement or court records upon determination that individual poses threat or exhibits significantly disruptive behavior or need for assistance - Use of information - Disclosure of student's education record
- 49-6-2703. Immunity of threat assessment team

Part 28. Teacher's Discipline Act

- 49-6-2801 Evidence-based behavior supports and interventions
- 49-6-2802 Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation
- 49-6-2803 Written referral for student's behavior – Use of appropriate discipline management techniques
- 49-6-2804 Written request for removal of student for disruptive behavior — Notice — Decision regarding student's placement — Action taken in response to request for removal

Part 30. Attendance

- 49-6-3002. State attendance guidelines - No penalty for period of hospital or homebound instruction
- 49-6-3006. Attendance supervisor
- 49-6-3004. School term
- 49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students
- 49-6-3009. Educational neglect – Progressive truancy plans that implement tiers of intervention – Referral to juvenile court
- 49-6-3012. Truancy schools

49-6-3024. Review of laws and policies related to exclusionary discipline of students in pre-kindergarten through kindergarten

Part 34. Suspension of Students

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense
49-6-3402. Alternative schools for suspended or expelled students - Mandated attendance
49-6-3404. Advisory council for alternative education
49-6-3405. Alternative school success

Part 40. Student and Employee Safe Environment Act of 1996

49-6-4001. Short title
49-6-4002. Discipline policy - Code of conduct
49-6-4004. Uniform and fair application of code of conduct
49-6-4005. Adoption of different but consistent discipline policies or codes of conduct applicable to different classes of schools
49-6-4006. Civil liability
49-6-4007. Posting and distribution of discipline policy or code of conduct
49-6-4009. Student discipline code to include provision prohibiting indecent clothing

Part 41. School Discipline Act

49-6-4101. Short title
49-6-4102. Students accountable for conduct on school bus
49-6-4103. Corporal punishment
49-6-4104. Rules and regulations
49-6-4107. Use of reasonable force
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49-6-4109. Trauma-informed discipline policy

Part 42. School Security Act of 1981

49-6-4202. Part definitions
49-6-4203. Legislative intent
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49-6-4209. Report of reasonable suspicion by principal to law enforcement officer
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49-6-4215. Activities of criminal gangs on school property - Promulgation of rules and regulations
49-6-4217. Employment standards for school resource officers
49-6-4219. Policy regulating use of electronic control devices

Part 43. Reporting Student Offenses

49-6-4301. School officials to report student offenses
49-6-4302. Tennessee school safety center

Part 44. School Discipline in Special School Districts

- 49-6-4402. Corporal punishment
- 49-6-4403. Rules and regulations
- 49-6-4404. Physical examination of student - Student's remedies

Part 45. Harassment, Intimidation, Bullying and Cyber-Bullying

- 49-6-4501. Legislative findings - Safety and civility
- 49-6-4502. Part definitions
- 49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district
- 49-6-4504. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by LEA
- 49-6-4505. Reprisal or retaliation prohibited - Reporting harassment, intimidation, bullying or cyber-bullying - Immunity from damages
- 49-6-4506. Task forces, programs or other initiatives

Part 70. Parent Educational Participation Act

- 49-6-7005. Improving parental involvement in children's education

Chapter 10. Special Education

Part 13. Special Education Behavioral Supports Act

- 49-10-1301. Short title
- 49-10-1302. Purpose of part
- 49-10-1303. Part definitions
- 49-10-1304. Isolation or restraint of student - Reports and record
- 49-10-1305. Restrictions on administration of, or use of, isolation or restraint
- 49-10-1306. Records of isolation and restraint - Reports - Promulgation of rules and regulations
- 49-10-1307. Training and reporting on the use of restraint and isolation

Tennessee Regulations

Chapter 0520. Education

Chapter 01. State Board of Education Rules, Regulations and Minimum Standards for the Operation of the Public School System

Chapter 0520-01-02. Administrative rules and regulations

- 0520-01-02-.09. Alternative Schools
- 0520-01-02-.17. State attendance guidelines

Chapter 0520-01-09. Special Education Programs and Services

- 0520-01-09-.23. Isolation and restraint for students receiving special education services

Chapter 12. Department of Education Office of the Commissioner

Chapter 0520-12-01. Standards for School Administered Child Care Programs

- 0520-12-01-.14. Care of children with special needs

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

49-6-2801. Evidence-based behavior supports and interventions

(b) Each student discipline policy or code of conduct adopted by a local board of education or public charter school governing body pursuant to § 49-6-4002 must include:

(1) Evidence-based behavior supports and interventions; and

(2) A provision authorizing teachers and administrators to enforce the student discipline policy or code of conduct and to hold students accountable for any disorderly conduct in school, on school buses, or at school-sponsored events.

49-6-2802. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

(a)

(1) Each local board of education and each public charter school governing body shall adopt a policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or for the safety of others.

(2) The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, then the student must be allowed to remain in place until local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until a parent or guardian can retrieve the student.

(3) The policy required under this subsection (a) must authorize teachers to intervene in a physical altercation between two (2) or more students, or between a student and an LEA employee or public charter school employee, as applicable, using reasonable or justifiable force upon a student, if necessary, to end the altercation by relocating the student to another location.

(b) The policy required under subsection (a) must:

(1) Be in effect on school property, as well as at official school-sponsored events, including, but not limited to, sporting events and approved field trips that take place away from school property; and

(2) Cover teachers who are directly responsible for the student's education, and other LEA employees or public charter school employees, as applicable, who interact with students on a professional basis. The LEA employees or public charter school employees described in this subdivision (b)(2) include, but are not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers while the employee is acting within the scope of the employee's assigned duties.

(c) The policy required under subsection (a) must require a teacher to file a brief report with the principal detailing the situation that required the relocation of the student. The report must be kept either in a student discipline file, in which case the report does not become a part of the student's permanent record, or it must be filed in the student's permanent record, if the student's behavior violated the applicable zero tolerance policy. After the teacher files the report required under this subsection (c), the student is subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or the principal's designee must notify the teacher involved of the actions taken to address the behavior of the relocated student.

(d) Each principal shall fully support the authority of each teacher in the principal's school to relocate under this section.

(e) Each principal shall implement the policies and procedures of the local board of education or public charter school governing body, as applicable, relating to the authority of each teacher to relocate a student and shall disseminate such policies and procedures to the students, faculty, staff, and parents or guardians of students.

(f) The policy required under subsection (a) must comply with all state and federal laws, including the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), and Section 504 of the Rehabilitation Act (29 U.S.C. § 794).

49-6-4001. Short title.

This part shall be known and may be cited as the "Student and Employee Safe Environment Act of 1996."

49-6-4002. Discipline policy - Code of conduct.

(a) Each local board of education and charter school governing body shall adopt a discipline policy to apply to the students in each school operated by the LEA or charter school governing body.

(b) The director of schools or head of the charter school is responsible for overall implementation and supervision, and each school principal is responsible for administration and implementation of a code of conduct within the principal's school.

(c) In developing a discipline policy, the local board of education or charter school governing body shall seek recommendations from parents, employees of the LEA or charter school, law enforcement personnel, and youth-related agencies in the community.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

Each policy must address:

- (1) Language used by students;
- (2) Respect for all school employees;
- (3) Fighting, threats, bullying, cyberbullying, and hazing by students;
- (4) Possession of weapons on school property or at school functions;
- (5) Transmission by electronic device of any communication containing a credible threat to cause bodily injury or death to another student or school employee;
- (6) Damage to the property or person of others;
- (7) Misuse or destruction of school property;
- (8) Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia;
- (9) Disobedient, violent, abusive, uncontrollable, or disruptive student conduct on school property, on school buses, and at school-sponsored events;
- (10) Other subjects that a local board of education or a charter school governing body chooses to include.

(e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:

- (1) Unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;
- (2) Aggravated assault as defined in § 39-13-102 upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer;
- (3) Assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; and
- (4) Unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 - 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101 on school grounds or at a school-sponsored event.

(f) Each local board of education and charter school governing body may adopt a discipline policy that promotes positive behavior and includes evidence-based practices to respond effectively to misbehavior and minimize a student's time away from school.

(g) Each discipline policy or code of conduct must state that a teacher, principal, school employee, or school bus driver may use reasonable force in compliance with § 49-6-4107.

49-6-4004. Uniform and fair application of code of conduct.

The principal of each school shall apply the code of conduct uniformly and fairly to each student at the school without partiality or discrimination.

49-6-4005. Adoption of different but consistent discipline policies or codes of conduct applicable to different classes of schools.

Each local board of education or charter school governing body may choose to adopt different but consistent discipline policies or codes of conduct to apply to different classes of schools, such as elementary, middle, junior high, and senior high schools, under its jurisdiction. The policies and codes of conduct must be uniform to the extent of maximum consideration for the safety and well-being of students and employees.

49-6-4009. Student discipline code to include provision prohibiting indecent clothing.

(a) An LEA shall include in its student discipline code a provision prohibiting students from wearing, while on the grounds of a public school during the regular school day, clothing that exposes underwear or body parts in an indecent manner that disrupts the learning environment.

(b) An LEA shall specify in its student discipline code the disciplinary actions that shall be taken against a student for a violation of subsection (a).

(c) Subsection (a) shall not be enforced in a manner that discriminates against a student on the basis of race, color, religion, sex, disability, or national origin.

49-6-4101. Short title.

This part shall be known and may be cited as the "School Discipline Act."

49-6-4102. Students accountable for conduct.

(a) Every school bus driver is authorized to hold every pupil strictly accountable for any disorderly conduct on any school bus going to or returning from school or a school activity.

49-6-4109. Trauma-informed discipline policy.

(a) As a strategy to address adverse childhood experiences, as defined in § 49-1-230, each LEA and public charter school shall adopt a trauma-informed discipline policy. Each trauma-informed discipline policy must:

- (1) Balance accountability with an understanding of traumatic behavior;
- (2) Teach school and classroom rules while reinforcing that violent or abusive behavior is not allowed at school;
- (3) Minimize disruptions to education with an emphasis on positive behavioral supports and behavioral intervention plans;
- (4) Create consistent rules and consequences; and
- (5) Model respectful, nonviolent relationships.

(b) The department of education shall develop guidance on trauma-informed discipline practices that LEAs must use to develop the policy required under subsection (a).

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

49-6-4504. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by LEA.

(a) Each LEA shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying and transmit a copy of the policy to the commissioner of education by January 1, 2006.

(b) Each LEA is encouraged to review the policy prohibiting harassment, intimidation, bullying, or cyber-bullying at least once every three (3) years. Each LEA shall transmit a copy of any changes in the policy to the commissioner in a timely manner.

REGULATIONS

No relevant regulations found.

Scope

LAWS

49-6-2801. Evidence-based behavior supports and interventions

(a) A teacher trained in evidence-based behavior supports is authorized to manage the teacher's classroom, discipline students, and refer a student to the principal or the principal's designee to maintain discipline in the classroom, and to hold students in the teacher's charge strictly accountable for any disorderly conduct in school.

49-6-2802. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

(a)

(1) Each local board of education and each public charter school governing body shall adopt a policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or for the safety of others.

(b) The policy required under subsection (a) must:

(1) Be in effect on school property, as well as at official school-sponsored events, including, but not limited to, sporting events and approved field trips that take place away from school property; and

(2) Cover teachers who are directly responsible for the student's education, and other LEA employees or public charter school employees, as applicable, who interact with students on a professional basis. The LEA employees or public charter school employees described in this subdivision (b)(2) include, but are not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers while the employee is acting within the scope of the employee's assigned duties.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. [...]

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education.

49-6-4002. Discipline policy - Code of conduct.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

(9) Disobedient, violent, abusive, uncontrollable, or disruptive student conduct on school property, on school buses, and at school-sponsored events

49-6-4102. Students accountable for conduct.

(a) Every school bus driver is authorized to hold every pupil strictly accountable for any disorderly conduct on any school bus going to or returning from school or a school activity.

49-6-4215. Activities of criminal gangs on school property - Promulgation of rules and regulations.

(a) The LEAs of this state are authorized to promulgate and adopt rules and regulations to prohibit the activities of criminal gangs on school property. The rules and regulations may prohibit students in grades six through twelve (6-12) from:

(1) Wearing, while on school property, any type of clothing, apparel or accessory that denotes the students' membership in or affiliation with any criminal gang.

49-6-4502. Part definitions.

As used in this part:

(1) "Cyber-bullying" means bullying undertaken through the use of electronic devices;

(2) "Electronic devices" include, but are not limited to, telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and websites;

(3) "Harassment, intimidation or bullying" means any act that substantially interferes with a student's educational benefits, opportunities or performance; and:

(A) If the act takes place on school grounds, at any school-sponsored activity, on school-provided equipment or transportation or at any official school bus stop, the act has the effect of:

(i) Physically harming a student or damaging a student's property;

(ii) Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student's property;

(iii) Causing emotional distress to a student or students; or

(iv) Creating a hostile educational environment; or

(B) If the act takes place off school property or outside of a school-sponsored activity, it is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

49-6-2802. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

(e) Each principal shall implement the policies and procedures of the local board of education or public charter school governing body, as applicable, relating to the authority of each teacher to relocate a student and shall disseminate such policies and procedures to the students, faculty, staff, and parents or guardians of students.

49-6-4007. Posting and distribution of discipline policy or code of conduct.

When a discipline policy or code of conduct has been adopted by a local board of education or charter school governing body, a copy must be posted on the LEA or school website. A copy must also be supplied to all school counselors, teachers, administrative staff, students, and parents.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

(11) A statement of how the policy is to be publicized within the district, including a notice that the policy applies to behavior at school-sponsored activities. [...]

(c)(2) Each LEA shall also:

(A) At the beginning of the school year, make available to students and parents information relative to bullying prevention programs to promote awareness of the harmful effects of bullying and to permit discussion with respect to prevention policies and strategies.

49-6-7005. Improving parental involvement in children's education.

(d) Parenting classes in these parent involvement programs should provide parents with information and skills related to improving student performance. For example, these classes may address:

(7) The importance of school attendance and the consequences of truancy.

REGULATIONS

0520-01-02-.17. State attendance guidelines.

(5) Each local board of education shall adopt an attendance policy in accordance with the State Board's School Attendance Policy 4.100 that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements.

(e) The attendance policy adopted by the local board of education shall be posted at each school, and school counselors shall be supplied copies for discussion with students. The policy shall be referenced in all school handbooks. All teachers, administrative staff, and parents/guardians shall be provided copies of the policy.

In-School Discipline

Discipline Frameworks

LAWS

49-6-4002. Discipline policy - Code of conduct.

- (a) Each local board of education and charter school governing body shall adopt a discipline policy to apply to the students in each school operated by the LEA or charter school governing body.
- (b) The director of schools or head of the charter school is responsible for overall implementation and supervision, and each school principal is responsible for administration and implementation of a code of conduct within the principal's school.
- (c) In developing a discipline policy, the local board of education or charter school governing body shall seek recommendations from parents, employees of the LEA or charter school, law enforcement personnel, and youth-related agencies in the community.
- (d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:
- (1) Language used by students;
 - (2) Respect for all school employees;
 - (3) Fighting, threats, bullying, cyberbullying, and hazing by students;
 - (4) Possession of weapons on school property or at school functions;
 - (5) Transmission by electronic device of any communication containing a credible threat to cause bodily injury or death to another student or school employee;
 - (6) Damage to the property or person of others;
 - (7) Misuse or destruction of school property;
 - (8) Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia;
 - (9) Disobedient, violent, abusive, uncontrollable, or disruptive student conduct on school property, on school buses, and at school-sponsored events;
 - (10) Other subjects that a local board of education or a charter school governing body chooses to include.
- (e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:
- (1) Unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;
 - (2) Aggravated assault as defined in § 39-13-102 upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer;
 - (3) Assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; and
 - (4) Unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 - 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101 on school grounds or at a school-sponsored event.
- (f) Each local board of education and charter school governing body may adopt a discipline policy that promotes positive behavior and includes evidence-based practices to respond effectively to misbehavior and minimize a student's time away from school.
- (g) Each discipline policy or code of conduct must state that a teacher, principal, school employee, or school bus driver may use reasonable force in compliance with § 49-6-4107.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

49-6-2802. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation(a)

(1) Each local board of education and each public charter school governing body shall adopt a policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or for the safety of others.

(2) The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, then the student must be allowed to remain in place until local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until a parent or guardian can retrieve the student.

(3) The policy required under this subsection (a) must authorize teachers to intervene in a physical altercation between two (2) or more students, or between a student and an LEA employee or public charter school employee, as applicable, using reasonable or justifiable force upon a student, if necessary, to end the altercation by relocating the student to another location.

(b) The policy required under subsection (a) must:

(1) Be in effect on school property, as well as at official school-sponsored events, including, but not limited to, sporting events and approved field trips that take place away from school property; and

(2) Cover teachers who are directly responsible for the student's education, and other LEA employees or public charter school employees, as applicable, who interact with students on a professional basis. The LEA employees or public charter school employees described in this subdivision (b)(2) include, but are not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers while the employee is acting within the scope of the employee's assigned duties.

(c) The policy required under subsection (a) must require a teacher to file a brief report with the principal detailing the situation that required the relocation of the student. The report must be kept either in a student discipline file, in which case the report does not become a part of the student's permanent record, or it must be filed in the student's permanent record, if the student's behavior violated the applicable zero tolerance policy. After the teacher files the report required under this subsection (c), the student is subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or the principal's designee must notify the teacher involved of the actions taken to address the behavior of the relocated student.

(d) Each principal shall fully support the authority of each teacher in the principal's school to relocate under this section.

49-6-2804. Written request for removal of student for disruptive behavior – Notice – Decision regarding student's placement – Action take in response to request for removal.

(a) A teacher may submit a written request to the principal, or the principal's designee, to remove a student who repeatedly or substantially interferes with the teacher's ability to communicate effectively with the class or with the ability of the student's classmates to learn, if the student's behavior is in violation of the LEA's or school's student discipline policy or code of conduct. The written request must include documentation that the teacher has previously:

- (1) Taken action to address the student's disruptive behavior;
 - (2) Provided consequences for the student's disruptive behavior;
 - (3) Conducted an oral conference either by a documented telephone conversation or an in-person discussion with the student's parent or guardian regarding the student's disruptive behavior;
 - (4) Provided an opportunity for school counseling or other support services deemed appropriate to address the student's disruptive behavior;
 - (5) Developed and implemented a plan to improve the student's behavior in a conference with the student; and
 - (6) Issued a disciplinary referral under § 49-6-3703 to address the student's disruptive behavior.
- (b) The principal or the principal's designee must give the student oral or written notice of the grounds for the teacher's request to remove the student from the teacher's classroom and, if the student denies engaging in the conduct, then the principal or the principal's designee must explain what caused the teacher to submit a request to the principal or the principal's designee to remove the student from the teacher's classroom, and give the student an opportunity to explain the situation. If the student's account is deemed to be valid, albeit different from the teacher's account, and changes the principal's, or the principal's designee's, perspective of the incident, then the principal or the principal's designee must render a decision regarding the student's placement.
- (c) Principals and their designees shall respect the professional judgment of a teacher requesting to remove a student from the teacher's classroom under subsection (a) and shall take an action consistent with the student discipline policy or code of conduct adopted pursuant to § 49-6-4002 in response to the request, which may include:
- (1) Assigning the student to another appropriate classroom for a specified period of time, or for the remainder of the student's assignment to the class from which the student was removed under subsection (a);
 - (2) Assigning the student to in-school suspension for a specified period of time, in compliance with § 49-6-3401;
 - (3) Remanding the student to an alternative school or to an alternative education program for a specified period of time, in compliance with §§ 49-6-3401 and 49-6-3402;
 - (4) Suspending the student pursuant to § 49-6-3401;
 - (5) Requiring the parents or guardians of a student who is removed from a teacher's classroom and assigned to another appropriate classroom under subdivision (c)(1) to participate in conferences before the student is permitted to return to the classroom from which the student was removed; or
 - (6) Denying the teacher's request to remove a student from the teacher's classroom and offering appropriate supports for the teacher to address the student's disruptive behavior.
- (d) Any action taken in response to a teacher's request to remove a student from the teacher's classroom must comply with all applicable policies of the local board of education or the public charter school governing body, as applicable, the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), Section 504 of the Rehabilitation Act (29 U.S.C. § 794), the constitutions of the United States and Tennessee, and all applicable federal and state civil rights laws.
- (e) Principals or their designees must notify law enforcement, as appropriate, when implementing this section, and in compliance with §§ 49-6-4209 and 49-6-4301.
- (f)
- (1) A local board of education or public charter school governing body shall establish an appeal process for a teacher to file an appeal when the teacher's request to remove a student from the teacher's classroom is denied pursuant to subdivision (c)(6). An appeal process established under this subdivision (f)(1) must authorize a teacher to file an appeal with the director of schools, or the director's designee, when the teacher's request to remove a student from the teacher's classroom is denied pursuant to subdivision (c)(6).

(2) A teacher shall not be terminated, demoted, harassed, or otherwise retaliated against for filing a request for a student to be removed from the teacher's classroom, or for appealing a decision to deny the teacher's request to remove a student pursuant to this subsection (f).

(g) If a teacher abuses or overuses the student removal process provided in this section, then the principal or the principal's designee must address the abuse or overuse with the teacher in compliance with the local board's or public charter school governing body's policy, as applicable, and may require the teacher to complete additional professional development to improve the teacher's classroom management skills.

(h) To assist local boards of education and public charter school governing bodies in determining the effectiveness of student discipline policies and classroom supports provided to teachers to help address student behavior, each school shall annually report to the director of schools or to the head of the public charter school, as applicable, by July 1, 2022, and by each July 1 thereafter, the number of requests submitted by the school's teachers during the immediately preceding school year to remove a student from the teacher's classroom pursuant to subsection (a). The report must document the actions taken by the teacher's principal, or the principal's designee, in response to each request for a student's removal. Each director of schools must compile the data provided in each school's report and issue a district-wide report to the local board of education by August 1 immediately following the July 1 deadline for school reports.

(i) The commissioner of education may review the school and district-wide reports required under subsection (h) and provide training and other resources to schools and LEAs to address any needs identified through the commissioner's review.

(j) On or before February 1, 2023, and on or before February 1 of each year thereafter, the commissioner shall report to the governor and the general assembly on the implementation of, and compliance with, this part.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

49-6-3009. Educational neglect – Progressive truancy plans that implement tiers of intervention – Referral to juvenile court.

(d) Progressive truancy plans adopted by local boards of education pursuant to subsection (c) must be applied prior to referral to juvenile court as described in § 49-6-3007(e)(1). Beginning with the 2021-2022 school year, progressive truancy plans must include a first tier of truancy prevention that is applicable to all enrolled students, and a second and third tier of truancy intervention required for students who have accumulated a minimum of five (5) days of unexcused absences. Beginning with the 2021-2022 school year, progressive truancy plans must meet the following requirements:

(3) Tier three must be implemented if the truancy interventions under tier two are unsuccessful. Tier three may consist of one (1) or more of the following:

- (A) School-based community services;
- (B) Participation in a school-based restorative justice program;
- (C) Referral to a school-based teen court; or
- (D) Saturday or after-school courses designed to improve attendance and behavior.

(e) In-school suspension or out-of-school suspension must not be used as part of the progressive truancy plans adopted by schools for unexcused absence from class or school.

(m) For purposes of this section, all references to "intervention," "truancy intervention," or "progressive truancy intervention" are deemed references to the truancy interventions of the second and third tiers of a progressive truancy plan.

49-6-3024. Review of laws and policies related to exclusionary discipline of students in pre-kindergarten through kindergarten.

(a) The department of education, in consultation with juvenile court officials, shall review all current laws and policies related to exclusionary discipline practices in public schools for students in pre-kindergarten through kindergarten (pre-K-K). For purposes of this section, "exclusionary discipline" means any type of school disciplinary action that removes or excludes a student from the student's traditional educational setting.

(b) The review shall:

- (1) Examine the number of exclusionary discipline actions issued by an LEA and the length of each respective disciplinary action;
- (2) Detail the type of offenses committed by the students that led to the exclusionary discipline action;
- (3) Review the impact exclusionary discipline has on students;
- (4) Examine recommendations from lawmakers, juvenile court officials, judges, district attorneys, the Tennessee commission on children and youth, and representatives from LEAs on alternatives to exclusionary discipline;
- (5) Identify free resources to support teachers and parents in addressing children's social, emotional, and behavioral health, strengthening family relationships, and increasing developmental and behavioral screening; and
- (6) Research the possibility of:
 - (A) Eliminating exclusionary discipline for non-violent offenses; and
 - (B) Encouraging schools to adopt restorative justice discipline practices.

(c) The department shall develop guidelines and standards for alternatives to exclusionary discipline practices based on the findings of the review required under subsection (b).

(d) The department shall present its findings and a written report to the education committee of the senate, the education administration and planning committee of the house of representatives, and the education instruction and programs committee of the house of representatives no later than May 1, 2018.

(e) After submission of the report required in subsection (d), the department shall develop a model policy for alternatives to exclusionary discipline practices that districts may adopt for students in pre-kindergarten through kindergarten (pre-K-K). If a district does not adopt the model policy developed by the department, the district shall develop and implement a policy that meets the guidelines and standards

developed under subsection (c). Each LEA shall adopt the model policy or develop their own policy prior to the 2018-2019 school year.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

- (A) That adversely affects the safety and well-being of other pupils;
- (B) That disrupts a class or school sponsored activity; or
- (C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

- (A) The suspension, which shall be for a period of no more than ten (10) days;
- (B) The cause for the suspension; and
- (C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

49-6-4302. Tennessee school safety center.

(c)(1) The Tennessee school safety center, within the limit of appropriations for the center, shall establish school safety grants to assist LEAs in funding programs that address school safety, including, but not limited to, innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, school resource officers, school safety officers, peer mediation, and training for employees on the identification of possible perpetrators of school-related violence.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

49-6-4002. Discipline policy - Code of conduct.

(g) Each discipline policy or code of conduct must state that a teacher, principal, school employee, or school bus driver may use reasonable force in compliance with § 49-6-4107.

49-6-4103. Corporal punishment.

(a) Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools.

(b)(1) Notwithstanding subsection (a), teachers, school principals, or other school personnel are prohibited from using corporal punishment against any student who has a disability, unless an LEA's discipline policy permits the use of corporal punishment and a parent of a child who has a disability permits, in writing, the use of corporal punishment against the parent's child. The written permission must state the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school's principal must keep the written permission on file at the school. The school's principal must notify the parent any time corporal punishment is used. The school's principal must inform the parent, when the written permission for the use of corporal punishment is submitted, that the parent may revoke the permission to use corporal punishment at any time by giving written notice to the school's principal that corporal punishment may no longer be used against the parent's child who has a disability.

(2) As used in this subsection (b):

(A) "School personnel" includes all individuals employed on a full-time or part-time basis by a public school; and

(B) "Student who has a disability" means a student who has an individualized education program (IEP) under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), or a Section 504 plan under the Rehabilitation Act (29 U.S.C. § 701 et seq.).

(3) This subsection (b) does not authorize the use of corporal punishment by a person who is not permitted to administer corporal punishment under subsection (a).

49-6-4104. Rules and regulations.

Each local board of education shall adopt rules and regulations it deems necessary to implement and control any form of corporal punishment in the schools in its district.

49-6-4107. Use of reasonable force.

(a) A teacher, principal, school employee or school bus driver, in exercising the person's lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person.

(b) Subsection (a) does not authorize use of corporal punishment by a person not permitted to administer corporal punishment under § 49-6-4103 or chapter 6, part 44 of this title.

49-6-4108. Report detailing use of corporal punishment required.

(a) Beginning with the 2018-2019 school year, each LEA shall submit, at least annually, a report to the department of education detailing the LEA's use of corporal punishment. The report shall include, at a minimum:

- (1) The school at which each instance of corporal punishment occurred;
- (2) Information regarding the reason for each instance of corporal punishment;
- (3) Whether an instance of corporal punishment involved a student with an active individualized education program, and if so, the primary disability category for which the student has an individualized education program; and
- (4) Whether an instance of corporal punishment involved a student with an active 504 plan under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and if so, the reason for which the student has a 504 plan.

(b) The report submitted pursuant to this section shall exclude any personally identifiable information and shall be created in accordance with the Family Education Rights and Privacy Act (FERPA)(20 U.S.C. § 1232g), § 10-7-504, and any other relevant state or federal privacy law.

(c) The department shall report on its website the number of instances of corporal punishment in each LEA and the number of instances involving a student with an active individualized education program or an active 504 plan under Section 504 of the Rehabilitation Act of 1973.

49-6-4402. Corporal punishment.

(a) The chief administrative officer, or the chief administrative officer's designee, of any institution in which the schools are located, may use corporal punishment in a reasonable manner and in accordance with this part against any pupil for good cause in order to maintain discipline and order within such schools.

(b) Corporal punishment may be administered only in a classroom situation and only in the presence of the director of schools or chief administrative officer of the school and one (1) other faculty witness.

(c)(1) Notwithstanding subsection (a), the chief administrative officer, or the chief administrative officer's designee, is prohibited from using corporal punishment against any student who has a disability, unless an LEA's discipline policy permits the use of corporal punishment and a parent of a child who has a disability permits, in writing, the use of corporal punishment against the parent's child. The written permission must state the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school's chief administrative officer must keep the written permission on file at the school. The school's chief administrative officer must notify the parent any time corporal punishment is used. The school's chief administrative officer must inform the parent, when the written permission for the use of corporal punishment is submitted, that the parent may revoke the permission to use corporal punishment at any time by giving written notice to the school's chief administrative officer that corporal punishment may no longer be used against the parent's child who has a disability.

- (2) As used in this subsection (c), "student who has a disability" means a student who has an individualized education program (IEP) under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), or a Section 504 plan under the Rehabilitation Act (29 U.S.C. § 701 et seq.).

49-6-4403. Rules and regulations.

(a) The department of children's services shall adopt rules and regulations that specifically designate the method of imposing corporal punishment and the circumstances that warrant corporal punishment in the schools within its special school district. The rules and regulations shall provide for only corporal punishment that is reasonably necessary for the proper education of the pupil.

(b) No corporal punishment shall be imposed until the rules and regulations have been promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The rules and regulations shall provide for a written record to be kept of all use of corporal punishment, including the name of the person requesting the punishment and a brief description of the circumstances warranting its use.

49-6-4404. Physical examination of student - Student's remedies.

(a) Within forty-eight (48) hours of the imposition of corporal punishment within the special school district, the pupil shall have the right to be examined by a physician to determine if the punishment was excessive.

(b) In any case in which the punishment is excessive, the pupil shall have the same civil and criminal remedies as any other pupil in the public schools.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

49-6-4204. Search of lockers, vehicles, and other property.

(a) When individual circumstances in a school dictate, a principal may order that vehicles parked on school property by students or visitors, containers, packages, lockers or other enclosures used for storage by students or visitors, and other areas accessible to students or visitors be searched in the principal's presence or in the presence of other members of the principal's staff.

(b) Individual circumstances requiring a search may include incidents on school property, including school buses, involving, but not limited to, the use of dangerous weapons, drugs or drug paraphernalia by students that are known to the principal or other staff members, information received from law enforcement, juvenile or other authorities indicating a pattern of drug dealing or drug use by students of that school, any assault or attempted assault on school property with dangerous weapons or any other actions or incidents known by the principal that give rise to reasonable suspicion that dangerous weapons, drugs or drug paraphernalia are held on school property by one (1) or more students.

(c) A notice shall be posted in the school that lockers and other storage areas, containers, and packages brought into the school by students or visitors are subject to search for drugs, drug paraphernalia, dangerous weapons or any property that is not properly in the possession of the student.

(d) A notice shall be posted where it is visible from the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons.

49-6-4205. Search of students.

(a) A student may be subject to physical search because of the results of a locker search, or because of information received from a teacher, staff member, student or other person if such action is reasonable to the principal.

(b) All of the following standards of reasonableness shall be met:

(1) A particular student has violated school policy;

(2) The search will yield evidence of the violation of school policy or will lead to disclosure of a dangerous weapon, drug paraphernalia or drug;

- (3) The search is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;
- (4) The search is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and
- (5) The search shall be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student, as well as the nature of the infraction alleged to have been committed.

49-6-4207. Use of metal detectors.

To facilitate a search that is found to be necessary of students, school visitors, containers or packages, metal detectors and other devices designed to indicate the presence of dangerous weapons, drug paraphernalia or drugs may be used in searches, including hand-held models that are passed over or around a student's or visitor's body, and students, visitors, containers and packages may be required to pass through a stationary detector.

49-6-4208. Use of animals.

To facilitate a search that is found to be necessary, dogs or other animals trained to detect drugs or dangerous weapons by odor or otherwise may be used in conducting searches, but the animals shall be used only to pinpoint areas needed to be searched and shall not be used to search the persons of students or visitors.

49-6-4209. Report of reasonable suspicion by principal to law enforcement officer.

(a) It is the duty of a school principal who has reasonable suspicion to believe, either as a result of a search or otherwise, that any student is committing or has committed any violation of title 39, chapter 17, part 4, § 39-17-1307, or § 39-17-1309 upon the school grounds or within any school building or structure under the principal's supervision, to report the reasonable suspicion to the appropriate law enforcement officer.

(b) School personnel have the duty to report any reasonable suspicion that a student is committing or has committed any violation of title 39, chapter 17, part 4 or § 39-17-1307 to the principal, or, if the principal is not available, to the principal's designee. If neither the principal nor the designee is available, school personnel may report violations of title 39, chapter 17, part 4 or § 39-17-1307 committed on school property to the appropriate authorities.

49-6-4210. Disposal of contraband.

Any dangerous weapon or drug located by the principal or other staff member in the course of a search shall be turned over to the appropriate law enforcement officer for proper disposal.

49-6-4213. Testing of students for drugs - Referral information and assistance for students testing positive.

(a)(1) A student may be subject to testing for the presence of drugs in the student's body in accordance with this section and the policy of the LEA if there are reasonable indications to the principal that such student may have used or be under the influence of drugs. The need for testing may be brought to the attention of the principal through a search authorized by § 49-6-4204 or § 49-6-4205, observed or reported use of drugs by the student on school property, or other reasonable information received from a teacher, staff member or other student.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

49-6-4006. Civil liability.

(b) It is a defense against a civil action for damages under this section that a teacher, principal, school employee or school bus driver in the exercise of the person's lawful authority used reasonable force under § 49-6-4107 that was necessary to restrain the student or to prevent bodily harm or death to another person.

49-6-4107. Use of reasonable force.

(a) A teacher, principal, school employee or school bus driver, in exercising the person's lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person.

(b) Subsection (a) does not authorize use of corporal punishment by a person not permitted to administer corporal punishment under § 49-6-4103 or chapter 6, part 44 of this title.

(c) Subsection (a) does not authorize restraint or isolation of students for whom restraint or isolation is prohibited under chapter 10, part 13 of this title.

(d) A teacher, principal, school employee, or school bus driver using reasonable force in exercising the person's lawful authority in accordance with this section is immune from civil liability arising from the person's action pursuant to § 39-11-622, unless the teacher's, principal's, school employee's, or school bus driver's conduct is grossly negligent, reckless, or intentional misconduct. A person who is immune under this section is not the proximate cause of any resulting injuries.

49-10-1301. Short title.

This part shall be known and may be cited as the "Special Education Behavioral Supports Act."

49-10-1302. Purpose of part.

The purposes of this part are:

- (1) To ensure that every student receiving special education services is free from the unreasonable, unsafe and unwarranted uses of isolation and restraint practices;
- (2) To encourage the use of positive behavioral interventions and support methods in schools;
- (3) To develop properly trained staff in order to promote positive behavioral supports that reduce dependence on isolation and restraint practices; and
- (4) To ensure that teachers of students receiving special education services are properly trained to protect the student, teacher and others from physical harm, if isolation or restraint is necessary.

49-10-1303. Part definitions.

For the purposes of this part, unless the context otherwise requires:

- (1) "Behavior intervention training program" means a training program in positive behavioral supports, crisis intervention and the safe use of restraint and isolation;
- (2) "Chemical restraint" means a medication that is prescribed to restrict a student's freedom of movement for the control of extreme violent physical behavior. Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior. The medications that comprise the student's regular medical regimen, including PRN medications, are not considered chemical restraints, even if their purpose is to treat ongoing behavioral symptoms;
- (3) "Emergency situation" means that a child's behavior poses a threat to the physical safety of the student or others nearby;

(4) "Isolation" or "seclusion":

(A) Means the confinement of a student alone in a room with or without a door, or other enclosed area or structure pursuant to § 49-10-1305(g) where the student is physically prevented from leaving; and

(B) Does not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of an individual student from others;

(5) "Isolation room" means any space, structure, or area pursuant to § 49-10-1305(g) used to isolate a student;

(6) "Mechanical restraint" means the application of a mechanical device, material or equipment attached or adjacent to the student's body, including ambulatory restraints, which the student cannot easily remove and that restrict freedom of movement or normal access to the student's body. Mechanical restraint does not include the use of restraints for medical immobilization, adaptive support, or medical protection;

(7) "Noxious substance" means the use of any defense spray or substance as defined by departmental rule;

(8) "Physical holding restraint" means the use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body;

(9) "Positive behavioral supports" means a systematic approach using evidence-based practices to improve school environments, and to prevent and respond to problem behavior that:

(A) Is proactive and instructional, rather than reactive and punitive;

(B) Operates on the following three (3) levels:

(i) Individual;

(ii) Group or classroom; and

(iii) The whole school;

(C) Includes a system of continual data collection;

(D) Utilizes data-based decision-making;

(E) Applies research-validated positive behavioral interventions; and

(F) Improves academic and social outcomes for all students, including those with the most complex and intensive behavioral needs; and

(10) "School personnel" means an individual employed on a full-time or part-time basis by a public school.

49-10-1304. Isolation or restraint of student - Reports and record.

(a) A student receiving special education services, as defined by § 49-10-102, may be restrained or isolated only in emergency situations.

(b) Individualized education programs that provide for the use of restraint or isolation in emergency situations shall also contain a data driven functional behavior assessment and a plan for modification of the behavior developed and implemented by a qualified team of professionals.

(c) In the event that restraint or isolation is imposed on a student, it shall be imposed by:

(1) School personnel who have been certified for completing a behavior intervention training program; or

(2) Other school personnel when trained personnel are not immediately available.

(d)(1) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact appropriate school personnel who are designated under department rules to authorize the isolation or restraint. Such school personnel authorized by department rules shall see and

evaluate the student's condition within a reasonable time after the intervention and the student's parent or guardian shall be notified, orally or by written or printed communication, the same day the isolation or restraint was used. School personnel shall be held harmless for failure to notify if reasonable effort has been made to notify the student's parent or guardian in compliance with this subdivision (d)(1).

(2) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint over an extended period of time as determined by department rules, then an individual education program meeting shall be convened within ten (10) days following the use of the isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.

(3)(A) School personnel may report a suspected crime by calling a law enforcement official;

(B) School personnel may file a juvenile petition against a student receiving special education, only after conducting a manifestation determination that results in a determination that the behavior that resulted in the act requiring disciplinary action was not caused by the student's disability; or

(C) A school resource officer (SRO), as defined by § 49-6-4202, may, upon witnessing an offense, take the student into custody.

(e)(1) School personnel who must isolate or restrain a student receiving special education services, as defined by § 49-10-102, shall report the incident to the school principal or the principal's designee who shall record the use of the isolation or restraint and the facts surrounding such use. The state board of education shall promulgate rules that mandate a standard reporting format to be used by LEAs.

(2) Whenever possible, an additional school staff member should serve as an observer to any act of physical restraint performed on a student to monitor the health and safety of all involved. School personnel shall maintain a continuous direct line of sight to a student who is in isolation to monitor the health and well-being of the student.

(f) To the extent possible within the local education agency's funds, the local board of education should address § 49-6-3004(c)(1) by incorporating the following components into its behavior intervention training program:

(1) Training in evidence-based techniques shown to be effective in the prevention of isolation and physical restraint;

(2) Training in evidence-based techniques shown to be effective in keeping both school personnel and students safe when imposing physical restraint or isolation;

(3) Evidence-based skills training on positive behavioral interventions and supports, conflict prevention, functional behavior assessments, de-escalation, and conflict management;

(4) Information describing state statutes, policies, rules, and procedures on restraint and isolation;

(5) Training in the identification and reporting of abuse and neglect in the school setting; and

(6) Certification for school personnel who have completed a behavior intervention training program which should be renewed on a periodic basis.

49-10-1305. Restrictions on administration of, or use of, isolation or restraint.

(a) Administering a chemical restraint to a student receiving special education services, as defined by § 49-10-102, is prohibited; provided, that nothing in this subsection (a) shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.

(b) Administering a noxious substance to a student receiving special education services, as defined by § 49-10-102, is prohibited.

(c) The use of any mechanical restraint on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(d) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by § 49-10-102, is prohibited.

(e)(1) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(2) Removing or disabling any equipment or device that a student requires, including, but not limited to, a power wheelchair, brace, augmentative communication device, or walker, as a means of coercion, punishment, convenience, or retaliation on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(3)(A) The use of physical holding restraint in the following circumstances is not prohibited:

- (i) The brief holding by an adult in order to calm or comfort;
- (ii) The minimum contact necessary to physically escort a student from one area to another;
- (iii) Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or
- (iv) Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.

(B) The school is not required to notify the student's parent or guardian pursuant to § 49-10-1304 in any of the circumstances listed in subdivision (e)(3)(A).

(f) The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.

(g) Any space used as an isolation room shall be:

- (1) Unlocked and incapable of being locked;
- (2) Free of any condition that could be a danger to the student;
- (3) Well ventilated and temperature controlled;
- (4) Sufficiently lighted for the comfort and well-being of the student;
- (5) Where school personnel are in continuous direct visual contact with the student at all times;
- (6) At least forty square feet (40 sq. ft.); and
- (7) In compliance with all applicable state and local fire, health, and safety codes.

(h) Notwithstanding this section, actions undertaken by school personnel to break up a fight or to take a weapon from a student are not prohibited; however, these acts shall be reported.

49-10-1306. Records of isolation and restraint - Reports - Promulgation of rules and regulations.

(a) Each school shall maintain all records of isolation and restraint.

(b) On a semiannual basis, using existing student-level data collection systems to the extent feasible, each school shall submit a report to the local education agency that includes:

- (1) The number of incidents involving the use of isolation and restraint since the previous semiannual report;
- (2) The number of instances in which the school personnel imposing physical restraint or isolation were not trained and certified;
- (3) Any injuries, deaths, or property damage that occurred;

- (4) The timeliness of parental notification; and
 - (5) Demographic information to determine whether disproportionate use of these interventions exists.
- (c) The local education agency shall use the information obtained from records of isolation and restraint in developing its behavior intervention training program.
- (d) The local education agency shall submit information to the department of education each year on the use of isolation and restraint in the school district.
- (e) Annually, this information shall be reported to the state advisory council for the education of students with disabilities established pursuant to § 49-10-105. This information must also be made readily available to the public. The council shall use this information to report annually to the state board of education with recommendations to reduce the use of isolation and restraint in public education programs. The state board of education shall use these recommendations as well as data, documentation and reports to establish policy or strategies or both to reduce or eliminate the use of isolation and restraint in schools.
- (f) The state board of education, in consultation with the departments of education, mental health and substance abuse services, intellectual and developmental disabilities, and children's services, shall promulgate rules and regulations concerning the use of isolation or restraint with students who receive special education services so that isolation or restraint is not used when such procedures are unsafe, unreasonable or unwarranted. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-10-1307. Training and reporting on the use of restraint and isolation.

If a private school or agency contracts with an LEA to provide services for students with disabilities, then such private school or agency shall, in the contract for services, certify that the staff of the facility or program has received training in the appropriate use of restraint and isolation. Further, the contracting agency shall report to a designated LEA representative each instance of the use of restraint and isolation to accomplish the parental notification provided in this part.

REGULATIONS

0520-01-09-.23. Isolation and restraint for students receiving special education services.

- (1) Definitions:
 - (a) "Extended Isolation" means isolation which lasts longer than one (1) minute per year of the student's age or isolation which lasts longer than the time provided in the child's individualized education program (IEP).
 - (b) "Extended Restraint" means a physical holding restraint lasting longer than five (5) minutes or a physical holding a restraint which lasts longer than the time provided in the child's IEP.
 - (c) "Noxious Substance" means a substance released in proximity to the student's face or sensitive area of the body for the purpose of limiting a student's freedom of movement or action, including but not limited to Mace and other defense sprays. Pursuant to T.C.A. § 49-10-1305, administering a Noxious Substance to a student receiving special education services is prohibited.
- (2) LEAs are authorized to develop and implement training programs that include:
 - (a) Use of positive behavioral interventions and supports;
 - (b) Nonviolent crisis prevention and de-escalation;
 - (c) Safe administration of isolation and restraint; and
 - (d) Documentation and reporting requirements.
- (3) LEAs are authorized to determine an appropriate level of training commensurate with the job descriptions and responsibilities of school personnel.

- (4) LEAs shall develop policies and procedures governing:
- (a) Personnel authorized to use isolation and restraint;
 - (b) Training requirements; and
 - (c) Incident reporting procedures.
- (5) If school personnel impose isolation or restraint, then the school personnel shall immediately contact the school principal, or the principal's designee. The principal or the principal's designee shall observe and evaluate the student's condition within a reasonable time after the isolation or restraint was used. As needed, the school nurse shall also observe and evaluate the student's condition within a reasonable time after the isolation and restraint was used. The school principal, or principal's designee, shall notify the student's parent or guardian orally or by written or printed communication the same day the isolation or restraint was used..
- (6) When the use of isolation or restraint is proposed at an IEP meeting, the parent shall be advised of the provisions of T.C.A. §§ 49-10-1301, et seq., this rule and the IDEA procedural safeguards.
- (7) An IEP team meeting shall be convened within ten (10) days of use of restraint if:
- (a) The student's IEP does not provide for the use of a physical holding restraint generally;
 - (b) The student's IEP does not provide for the use of restraint for the behavior precipitating the use of the restraint; or
 - (c) An Extended Restraint is used.
- (8) An IEP team meeting shall be convened within ten (10) days of use of isolation if:
- (a) The student's IEP does not provide for the use of an isolation generally;
 - (b) The student's IEP does not provide for the use of isolation for the behavior precipitating the use of the isolation; or
 - (c) An Extended Isolation is used
- (9) State agencies providing educational services within a residential therapeutic setting to children in their legal and physical custody shall develop and adhere to isolation and restraint rules and policies in such educational settings which conform to the Tennessee Department of Mental Health and Developmental Disabilities (TDMHDD) state standards as applicable and at least one (1) of the following national standards: American Correctional Association SPECIAL EDUCATION PROGRAMS AND SERVICES CHAPTER 0520-01-09 (Rule 0520-01-09-.23, continued) September, 2022 (Revised) 26 (ACA), Council on Accreditation (COA), Centers for Medicare & Medicaid Services (CMS), Joint Commission for Accreditation of Healthcare Organizations (JCAHO), Commission on Accreditation of Rehabilitation Facilities (CARF), as they apply in the educational environment. Development of, and adherence to, such rules and policies shall be overseen by a licensed qualified physician or licensed doctoral level psychologist
- (10) School personnel who must isolate or restrain a student receiving special education services shall report each individual incident of isolation or restraint to the school principal or the principal's designee. The Department of Education shall develop a report form, which shall be used by school personnel when reporting isolation or restraint to the school principal or the principal's designee.
- (a) The report form must include the following information:
1. Student's name, age and disability;
 2. Student's school and grade level;
 3. Date, time and location of the isolation or restraint;
 4. Length of time student was isolated or restrained;
 5. Names, job titles and signatures of the personnel who administered the isolation or restraint;
 6. Whether the personnel who administered the isolation or restraint were certified for completing a behavior intervention training program;
 7. Names and job titles of other personnel who observed or witnessed the isolation or restraint;

8. Name of the principal or designee who was notified following the isolation or restraint and time of notification;
 9. Description of the antecedents that immediately preceded the use of isolation or restraint and the specific behavior being addressed;
 10. A certification that any space used for isolation is at least forty (40) square feet;
 11. A certification that school personnel are in continuous direct visual contact at all times with a student who is isolated;
 12. How the isolation or restraint ended, including the student's demeanor at the cessation of the isolation or restraint;
 13. Physical injury or death to the student, school personnel or both during the isolation or restraint;
 14. Medical care provided to the student, school personnel or both during the isolation or restraint;
 15. Description of property damage, if relevant;
 16. Date, time and method of parent notification;
 17. Whether an IEP team meeting is required pursuant to T.C.A. § 49-10-1304; and
 18. A determination whether the student has a Functional Behavior Assessment and Behavior Intervention Plan for the behavior precipitating the use of isolation or restraint
- (b) A copy of the report must be submitted to the Department within five (5) calendar days of incident.

0520-12-01-.14. Care of children with special needs.

- (10) Isolation and physical restraint shall be in accordance with T.C.A. §§ 49-10-1301-1305:
- (a) A student receiving special education services, as defined by T.C.A. § 49-10-102(4), may be isolated or restrained only in emergency situations and only if such isolation or restraint is provided in the student's IEP in emergency situations.
 - (b) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the appropriate school personnel designated to authorize isolation or restraint. The student's parent or guardian shall be notified, orally or by written communication, the same day the isolation or restraint was used.
 - (c) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint longer than five (5) minutes, then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.
 - (d) School personnel who must isolate or restrain a student receiving special education services, as defined by T.C.A. § 49-10-102(4), whether or not such isolation or restraint was in an emergency situation or provided for in the student's individual education program, shall report the incident to the appropriate school personnel designated to authorize isolation or restraint who shall record the use of such isolation or restraint and the facts surrounding such use. A copy of such record shall be made available at individual education program meetings and upon the request of the student's parent or legal guardian.
 - (e) If the appropriate school personnel designated to authorize isolation or any person having knowledge of the isolation or restraint, have reason to believe that such isolation or restraint was unreasonable, unsafe, or unwarranted, and such isolation or restraint caused injury to the student, the incident shall be reported pursuant to T.C.A. § 37-1-403.
 - (f) School personnel shall remain in the physical presence of any restrained student and shall continuously observe a student who is in isolation or being restrained to monitor the health and well-being of such student.

(g) Administering a chemical restraint to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited, provided that nothing in this subsection shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.

(h) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(i) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(j) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by § 49-10-102(4), is prohibited.

(k) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(l) The use of physical holding restraint in the following circumstances is not prohibited:

1. The brief holding by an adult in order to calm or comfort;
2. The minimum contact necessary to physically escort a student from one area to another;
3. Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or
4. Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.
5. The program is not required to notify the student's parent or guardian pursuant to this Chapter in any of the circumstances listed in this subdivision (l).

(m) The use of a locked door, or use of any physical structure that substantially accomplishes the intent of locking a student in a room or structure, to isolate or seclude a student, is prohibited.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

49-2-203. Duties and powers.

(a) It is the duty of the local board of education to:

(7) Suspend, dismiss or alternatively place pupils, when the progress, safety or efficiency of the school makes it necessary or when disruptive, threatening or violent students endanger the safety of other students or school system employees.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

- (1) Willful and persistent violation of the rules of the school;
- (2) Immoral or disreputable conduct or vulgar or profane language;
- (3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;
- (4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;
- (5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);
- (6) Marking, defacing or destroying school property;
- (7) Possession of a pistol, gun or firearm on school property;
- (8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;
- (9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;
- (10) Unlawful use or possession of barbitol or legend drugs, as defined in § 53-10-101;
- (11) One (1) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school or a school activity;
- (12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;
- (13) Any other conduct prejudicial to good order or discipline in any public school; and
- (14) Off campus criminal behavior that results in the student being legally charged with an offense that would be classified as a felony if the student was charged as an adult or if adjudicated delinquent for an offense that would be classified as a felony if the student was an adult, or if the student was convicted of a felony, and the student's continued presence in school poses a danger to persons or property or disrupts the educational process. Notwithstanding § 37-1-131 or any other law to the contrary, the principal of the school in which the student is enrolled and the director of schools shall determine the appropriate educational assignment for the student released for readmission.

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

- (A) That adversely affects the safety and well-being of other pupils;
- (B) That disrupts a class or school sponsored activity; or
- (C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

- (A) The suspension, which shall be for a period of no more than ten (10) days;
- (B) The cause for the suspension; and
- (C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

- (A) That adversely affects the safety and well-being of other pupils;
- (B) That disrupts a class or school sponsored activity; or
- (C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request. [...]

(i) Notwithstanding subsection (a) or (b) or any other law to the contrary, if a pupil is determined, via a fair and thorough investigation made by the principal or the principal's appointed representative, to have acted in self-defense under a reasonable belief that the student, or another to whom the student was coming to the defense of, may have been facing the threat of imminent danger of death or serious bodily injury, which the student honestly believed to be real at that time, then, at the principal's recommendation, the student may not face any disciplinary action.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

49-6-3002. State attendance guidelines - No penalty for period of hospital or homebound instruction.

(a) The state board of education shall promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that prescribe guidelines for use by local boards of education in establishing standards and policies governing student attendance, subject to availability of funds. The guidelines shall include, but not be limited to, the following stipulations:

(4) Appeal procedures shall be included to assure the student's right of due process.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(c)(4)(A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal- teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

REGULATIONS

0520-01-02-.17. State attendance guidelines.

(5) Each local board of education shall adopt an attendance policy in accordance with the State Board's School Attendance Policy 4.100 that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements. [...]

(7) Whenever possible, attendance issues should be resolved at the school level. To ensure due process, Local boards of education must adopt a policy that affords students with excessive (more than 5) unexcused absences the opportunity to appeal. Such policy must, at minimum, include written or actual notice to the student or their parent/guardian and the opportunity to be heard. The burden of proof rests on the student or their parent/guardian. The appeal process for determining unexcused absences is ancillary to a truancy decision rendered by a juvenile court judge as described in T.C.A. § 49-6-3010.

Return to School Following Removal

LAWS

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

49-6-3402. Alternative schools for suspended or expelled students - Mandated attendance.

(h)(1) LEAs establishing alternative schools or contracting for the operation of alternative schools shall develop and implement formal transition plans for the integration of students from regular schools to alternative schools and from alternative schools to regular schools. The plans shall be targeted to improve communication between regular and alternative school staff, provide professional development opportunities shared by regular school staff and alternative school staff, align curricula between regular schools and alternative schools, develop quality in-take procedures for students returning to regular school and provide student follow-up upon return to regular school.

(2) The state board of education shall adopt policies or guidelines to assist LEAs in developing transition plans.

REGULATIONS

0520-01-02-.09. Alternative schools.

(9) Requirements for alternative education:

(m) Each LEA shall develop and implement formal transition plans for the integration of students from a traditional school to an alternative school or from an alternative school back to a traditional school. Transition plans shall be targeted to improve communication between a traditional school and an alternative school staff and should address any barriers that would prohibit students from successfully transitioning. Transition plans shall include aligning of curricula, in-take procedures for students returning to traditional school, professional development opportunities for traditional and alternative school staff, educational and behavioral supports, follow-up for students returning to traditional school, and the development of graduation and postsecondary goals.

Alternative Placements

LAWS

49-6-3002. State attendance guidelines - No penalty for period of hospital or homebound instruction.

(a) The state board of education shall promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that prescribe guidelines for use by local boards of education in establishing standards and policies governing student attendance, subject to availability of funds. The guidelines shall include, but not be limited to, the following stipulations:

(5) Alternative programs shall be established to provide educational options for any student who severely fails to meet minimum attendance requirements. [...]

(c)(1) Notwithstanding any law to the contrary, if a student is unable to attend regular classes pursuant to a summons, subpoena, court order, statute or rule, then the student's absence shall be an excused absence and the student shall be afforded the opportunity to complete all assignments missed for this purpose.

49-6-3012. Truancy schools.

(a) The board of education having charge of the public schools of any local school system having a population of ten thousand (10,000) or more, according to the federal census of 1950 or any subsequent federal census, may establish a truancy school, either within or without the city limits, for children who are between seven (7) and sixteen (16) years of age, both inclusive, and who are habitual truants, or while in attendance at school are incorrigible, vicious, immoral or who habitually wander or loiter about without lawful employment.

(b) Such children shall be deemed disorderly juvenile persons, and may be compelled by the board to attend the truancy school or any department of the public school as the board may direct.

(c) Any board of education having charge of schools affected by this part shall have authority to exclude any delinquent pupil whose influence is deemed by the board to be demoralizing or injurious to other pupils attending the schools.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(c)(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time. [...]

(g)(3) Nothing in this section prohibits the assignment of students who are subject to expulsion from school to an alternative school.

49-6-3402. Alternative schools for suspended or expelled students - Mandated attendance.

(a) Local boards of education may establish alternative schools for students in grades one through six (1-6) who have been suspended or expelled from the regular school program. At least one (1) alternative school or alternative program shall be established and available for students in grades seven through twelve (7-12) who have been suspended or expelled as provided in this part. In providing alternative schools, any two (2) or more boards may join together and establish a school attended by students of any such school system; furthermore, any board may, by mutually acceptable agreement with another board, send its suspended or expelled students to any alternative school already in operation.

(b) Alternative schools and alternative programs shall be operated pursuant to rules of the state board of education pertaining to them, and instruction shall proceed as nearly as practicable in accordance with the instructional programs at the student's home school. All course work completed and credits earned in alternative schools or alternative programs shall be transferred to and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.

(c)(1)(A) Attendance in an alternative school or alternative program is mandatory for students in grades seven through twelve (7-12) who have been suspended for more than ten (10) days or expelled from the regular school program if there is space and staff available.

(B)(i) Notwithstanding subdivision (c)(1)(A), attendance in an alternative school or alternative program is not mandatory for students in grades seven through twelve (7-12) who have been expelled from the regular school program for committing a zero tolerance offense.

(ii) This subdivision (c)(1)(B) does not prohibit a director of schools, or a director's designee, from assigning a student who has been expelled from the regular school program for committing a zero tolerance offense to an alternative school or alternative program.

(iii) The director of schools, or the director's designee, shall determine whether to assign a student who has been expelled from the regular school program for committing a zero tolerance offense to an alternative school or alternative program on a case-by-case basis.

(C)(i) Notwithstanding subdivision (c)(1)(A), a director of schools, or a director's designee, is not required to assign a student in grades seven through twelve (7-12) who has been suspended for more than ten (10) days or expelled from the regular school program for an offense of violence or threatened violence, or an offense that threatened the safety of persons attending or assigned to the student's school, to an alternative school or alternative program if the alternative school or alternative program is located on the same grounds as the regular school program from which the student was suspended or expelled.

(ii) This subdivision (c)(1)(C) does not prohibit a director of schools, or a director's designee, from assigning a student who has been suspended for more than ten (10) days or expelled from the regular school program for an offense of violence or threatened violence, or an offense that threatened the safety of persons attending or assigned to the student's school, to an alternative school or alternative program. The director of schools, or the director's designee, shall determine

whether to assign a student to an alternative school or alternative program under this subdivision (c)(1)(C) on a case-by-case basis.

(D) Attendance in an alternative school or alternative program is voluntary for students in grades one through six (1-6) who have been suspended or expelled from the regular school program unless the local board of education adopts a policy mandating attendance in either instance.

(2)(A) A student who is assigned to an alternative school or alternative program is subject to all rules pertaining to the alternative school or alternative program.

(B) The director of schools, or the director's designee, may remove a student from the alternative school or alternative program if the director, or the director's designee, determines that:

- (i) The student has violated the rules of the alternative school or alternative program; or
- (ii) The student is not benefiting from the student's assignment to the alternative school or alternative program, and all interventions available to help the student to succeed in the alternative school or alternative program have been exhausted unsuccessfully.

(C) The director of schools, or the director's designee, may remove a student from the alternative school or alternative program under subdivision (c)(2)(B) for the duration of the student's original suspension or expulsion. The student's removal under subdivision (c)(2)(B) does not constitute grounds for any extension of the student's original suspension or expulsion.

(D) The director of schools, or the director's designee, shall make the final decision on removal.

(3) If a student is under suspension or expulsion and transfers to another LEA during the student's suspension or expulsion period, then the director of schools, or the director's designee, of the LEA to which the student transfers may review the grounds of the student's suspension or expulsion, but is not required to enforce the suspension or expulsion. If the director of schools, or the director's designee, elects to enforce the student's suspension or expulsion, then, notwithstanding subdivision (c)(1), the LEA to which the student transferred is not required to assign the student to an alternative school or alternative program for the remainder of the suspension or expulsion period. This subdivision (c)(3) does not limit or impair an LEA's ability to deny enrollment to a student who is under suspension or expulsion in another LEA or state pursuant to § 49-6-3401(f).

(d) Any student attending an alternative school shall continue to earn state education funds in the student's home school system and shall be counted for all school purposes by that system as if still in attendance there.

(e) A pupil who has been properly found to be eligible for special education and related services shall be placed and served in accordance with the laws and rules relating to special education.

(f)(1) The state board of education, in its rules and regulations for the operation of alternative schools, shall require documentation of the reasons for a student attending an alternative school and provide safeguards to assure that no child with disabilities or other special student is arbitrarily placed in an alternative school. The state board of education, in its rules and regulations, shall require that all alternative school classrooms have working two-way communication systems making it possible for teachers or other employees to notify a principal, supervisor or other administrator that there is an emergency. Teachers and other employees shall be notified of emergency procedures prior to the beginning of classes for any school year.

(2) The state board of education shall provide a curriculum for alternative schools to ensure students receive specialized attention needed to maximize student success. Alternative schools shall offer alternative learning environments in which students are offered a variety of educational opportunities, such as learning at different rates of time or utilizing different, but successful, learning strategies, techniques and tools.

(g) Notwithstanding this section or other law to the contrary, local boards of education may establish evening alternative schools for students in grades six through twelve (6-12).

(h)(1) LEAs establishing alternative schools or contracting for the operation of alternative schools shall develop and implement formal transition plans for the integration of students from regular schools to alternative schools and from alternative schools to regular schools. The plans shall be targeted to improve communication between regular and alternative school staff, provide professional development opportunities shared by regular school staff and alternative school staff, align curricula between regular schools and alternative schools, develop quality in-take procedures for students returning to regular school and provide student follow-up upon return to regular school.

(2) The state board of education shall adopt policies or guidelines to assist LEAs in developing transition plans.

49-6-3404. Advisory council for alternative education.

(a) There is established an advisory council for alternative education that shall advise, assist and consult with the governor, the commissioner of education and the state board of education.

(b)(1) The advisory council shall be composed of a maximum of ten (10) members, including parents of children attending alternative schools or who have attended alternative schools, teachers or principals serving in alternative schools, members of local boards of education, at least one (1) community representative concerned with alternative education and at least one (1) representative of an educators' association concerned with alternative education.

(2) The governor shall appoint the members of the advisory council for three-year terms, except for the appointment of the initial members. In appointing the initial members to the advisory council, each member shall be designated as filling an odd-numbered seat or an even-numbered seat. The members appointed to the odd-numbered seats shall serve three-year terms and the members appointed to the even-numbered seats shall serve two-year terms.

(3) Vacancies shall be filled for an unexpired term in the same manner as original appointments. (c)(1) The advisory council shall elect its own chair and vice chair annually.

(2) A representative of the commissioner of education shall meet with and act as secretary to the advisory council. The commissioner, within available personnel and appropriations, shall furnish meeting facilities and staff services for the advisory council.

(d) All members of the advisory council shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) The advisory council shall:

(1) Consider any issue, problem or matter related to alternative education presented to it by the governor, the commissioner or the state board of education, and give advice on any issue, problem or matter;

(2) Study proposed plans for alternative education programs or curricula to determine if the plans or curricula should be adopted;

(3) Study alternative education programs or curricula implemented in Tennessee school systems to determine the effectiveness of the programs or curricula, and alternative education programs or curricula implemented in other states to determine if the programs or curricula should be adopted in Tennessee schools;

(4) Consider rules of governance of alternative schools and make recommendations concerning rules of governance; and

(5) Make an annual report to the governor, the education committee of the senate, the education committee of the house of representatives, the commissioner of education and the state board of education on the state of alternative education in this state. The report shall be submitted prior to February 1 each year.

49-6-3405. Alternative school success.

(a)(1) Each LEA shall track the operation and performance of alternative school programs operated by the LEA or contractually operated for the LEA. LEAs shall measure and report to the department of education alternative school success through academic indicators and behavior indicators.

(2) Academic indicators shall include, but not be limited to, grade point averages or other student academic performance measures, performance on the Tennessee comprehensive assessment program (TCAP), performance on the end-of-course assessments, attendance, dropout rates and graduation rates, for students in alternative schools or who have been in alternative schools.

(3) Behavioral indicators shall include, but not be limited to, disciplinary reports and subsequent remands to alternative schools.

(4) The department of education shall provide guidance in the reporting of the required data.

(b) The state board of education shall seek to improve performance of alternative school programs by promulgating or revising rules and regulations requiring greater accountability by the department of education and LEAs for outcomes of students served by alternative schools.

REGULATIONS

0520-01-02-.09. Alternative schools.

(1) Alternative education is a non-traditional, short-term academic program or school designed to meet the student's educational, behavioral, and social needs. Alternative education includes alternative schools and alternative programs.

(2) Alternative school means a short-term intervention program designed to provide educational services outside of the regular school program for students who have been suspended or expelled. Alternative schools are located in a separate facility from the regular school program.

(3) Alternative program means a short-term intervention program designed to provide educational services outside of the regular school program for students who have been suspended or expelled. Alternative programs may be located within the regular school or be a self-contained program within a school. Alternative programs include, but are not limited to, night schools or in-school suspension.

(4) Pursuant to T.C.A. § 49-6-3402., local boards of education may establish alternative schools for students in grades one (1) through six (6) who have been suspended or expelled from the regular school program.

(5) Attendance in an alternative school or alternative program shall be voluntary for students in grades one through six (1-6) who have been suspended or expelled from the regular school program, unless the local board of education adopts a policy mandating attendance in either instance.

(6) A local board of education shall establish at least one (1) alternative school for students in grades seven (7) through twelve (12) who have been suspended or expelled. Attendance in an alternative school or program is mandatory for students in grades seven through twelve (7-12) who have been suspended for more than ten (10) days or expelled from the regular school program if space and staff are available. Space and staff availability shall be determined by the LEA at the time the disciplinary decision is rendered.

(a) Attendance in an alternative school or alternative program is not mandatory for students in grades seven through twelve (7-12) who have been expelled from the regular school program for committing a zero-tolerance offense. However, this does not prohibit a director of schools, or a director's designee, from assigning a student who has been expelled from the regular school program for committing a zero-tolerance offense to an alternative school or alternative program.

(7) Students in pre-Kindergarten or Kindergarten shall not be assigned to an alternative school or program.

(8) Each local board of education shall adopt a policy regarding alternative education that is aligned to this rule and the State Board's Alternative Education Policy 2.302.

(9) Requirements for alternative education:

(a) The instruction shall proceed as nearly as practicable in accordance with the instructional program in the student's regular school. Instruction shall be based on the academic standards adopted by the State Board.

(b) All course work and credits earned shall be transferred and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.

(c) Students shall participate in all required state assessments at sites determined by school officials and in accordance with established guidelines regarding student grade levels and eligibility. State assessment results shall be reported in the LEA where the student was enrolled prior to his or her placement in the alternative school.

(d) Each alternative school or program shall comply with class size requirements established in T.C.A. § 49-1-104. and instructional and planning time requirements established by the State Board. Nothing shall prohibit an LEA from establishing a lower class size ratio in an alternative school or program.

(e) The minimum length of the school day for alternative schools and programs shall be six and one-half (6 1/2) hours.

(f) LEAs shall monitor and regularly evaluate the academic progress of each student enrolled in an alternative school.

(g) Students are subject to all rules pertaining to the alternative school or alternative program.

1. The director of schools, or the director's designee, may remove a student from the alternative school or alternative program if the director, or the director's designee, determines that:

- (i) The student has violated the rules of the alternative school or alternative program; or
- (ii) The student is not benefiting from the student's assignment to the alternative school or alternative program, and all interventions available to help the student to succeed in the alternative school or alternative program have been exhausted unsuccessfully.

2. A student's removal from the alternative school or alternative program shall not constitute grounds for extending the length of original suspension or expulsion.

3. The director of schools, or the director's designee, shall make the final decision on removal.

(h) If a student has an active Individualized Education Program (IEP), a 504 plan, or is suspected of having a disability, all state and federal laws and rules relating to students with disabilities and special education shall be followed.

(i) Prior to the assignment of a student to an alternative school or program, the LEA shall provide written notice, which includes the reason for the student's placement, to the student's parent or guardian. Reasons for placement in an alternative school must be documented. End of year reports must be made to the regular school for each student.

(j) Each teacher providing instruction to students in an alternative education school or program shall be licensed to teach in Tennessee and shall meet the qualifications to teach in compliance with the rules and regulations of the State Board.

(k) Alternative schools shall have an appropriately licensed administrator assigned to supervise the school.

(l) Support services such as counseling and psychological services must be accessible.

(m) Each LEA shall develop and implement formal transition plans for the integration of students from a traditional school to an alternative school or from an alternative school back to a traditional school. Transition plans shall be targeted to improve communication between a traditional school and an

alternative school staff and should address any barriers that would prohibit students from successfully transitioning. Transition plans shall include aligning of curricula, in-take procedures for students returning to traditional school, professional development opportunities for traditional and alternative school staff, educational and behavioral supports, follow-up for students returning to traditional school, and the development of graduation and postsecondary goals.

(n) All alternative school classrooms shall have working two-way communication systems that make it possible for teachers or other employees to notify a principal, supervisor, or other administrator that there is an emergency.

(o) It is the responsibility of the superintendent to ensure that all alternative school teachers and other employees have been trained to use the two-way communication system and are notified of emergency procedures prior to the beginning of classes for any school year and when changes are made in the emergency procedures and/or personnel. Such emergency procedures shall be linked to the school and school system emergency preparedness plan.

(p) LEAs shall submit an annual alternative education survey to the Department that provides the following information:

1. Alternative schools or programs currently in operation in the LEA;
2. Number and grade level of students served;
3. Primary reason for student assignment;
4. Number of faculty and staff; and
5. Information required by T.C.A. § 49-6-3405.

(10) Funding:

(a) Students attending an alternative school shall continue to earn Basic Education Program (BEP) funding for the LEA in which the student is enrolled.

(11) Facilities:

(a) A local board of education may not contract or otherwise affiliate with an alternative school program which requires an order of a court as a precondition of placement in such alternative school.

(b) A local board of education may contract with independent contractors to provide alternative school facilities and other appropriate services consistent with T.C.A. § 49-2-203.

(c) A local board of education may establish its own facility.

(d) Two or more boards may join together and establish an alternative school attended by students from any such LEA.

(e) Through a mutually accepted agreement with another local board of education, a board may send its suspended or expelled students to an alternative school already existing in another LEA.

0520-01-02-.17. State attendance guidelines.

(5) Each local board of education shall adopt an attendance policy in accordance with the State Board's School Attendance Policy 4.100 that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements. [...]

(8) LEAs are encouraged to develop truancy boards, youth courts, or other alternative programs to serve as an intervention for students with excessive absences. These may be in addition to, or a part of, the progressive truancy intervention plan required by T.C.A. § 49-6-3009.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

(7) Possession of a pistol, gun or firearm on school property;

(8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property [...]

(g)(1) It is the legislative intent that if a rule or policy is designated as a zero tolerance policy, then violations of that rule or policy must not be tolerated and violators shall receive certain, swift, and proportionate punishment.

(2) Notwithstanding other provisions of this section or any other law, a student shall be considered in violation of a zero tolerance offense and shall be expelled for a period of not less than one (1) calendar year, except that the director of schools may modify this expulsion on a case-by-case basis for the following:

(A) A student brings to school or is in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;

(B) A student commits aggravated assault as defined in § 39-13-102 or commits an assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; or

(C) A student is in unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 - 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, on school grounds or at a school-sponsored event.

(3) Nothing in this section prohibits the assignment of students who are subject to expulsion from school to an alternative school.

(4) Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, must be determined by local board of education policy.

(5) For purposes of this subsection (g):

(A) "Expelled" means removal from the student's regular school program at the location where the violation occurred or removal from school attendance altogether, as determined by the school official; and

(B) "Zero tolerance offense" means an offense committed by a student requiring the student to be expelled from school for at least one (1) calendar year that can only be modified on a case-by-case basis by the director of schools or the head of a charter school.

49-6-4002. Discipline policy - Code of conduct.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

- (4) Possession of weapons on school property or at school functions [...]
- (e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:
 - (1) Unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921.

49-6-4202. Part definitions.

As used in this part, unless the context otherwise requires:

- (1) "Dangerous weapon" or "weapon" means any dangerous instrument or substance that is capable of inflicting any injury on any person.

49-6-4203. Legislative intent.

(e) The general assembly further finds that:

- (1) The removal of dangerous weapons, drug paraphernalia and drugs from school property is necessary to lessen hazards to students and that removal can only be accomplished by searches of areas of the school buildings or grounds where those materials may be stored;
- (2) On occasions when the use of dangerous weapons or drugs has reached a life or health threatening level, searches of students themselves may be necessary to protect the larger student body, and that often the searches must be conducted in emergency situations;
- (3) Individual circumstances and local particularities require that individual principals must be relied on to exercise their professionally trained judgments in determining what action is appropriate within this part; and
- (4) The presence on school property of students with drugs in their bodies may pose a threat to the safety and well-being of that student and other students, may be disruptive of school classes and other programs and may interfere with the educational opportunities and progress of all students.

49-6-4204. Search of lockers, vehicles, and other property.

- (a) When individual circumstances in a school dictate, a principal may order that vehicles parked on school property by students or visitors, containers, packages, lockers or other enclosures used for storage by students or visitors, and other areas accessible to students or visitors be searched in the principal's presence or in the presence of other members of the principal's staff.
- (b) Individual circumstances requiring a search may include incidents on school property, including school buses, involving, but not limited to, the use of dangerous weapons, drugs or drug paraphernalia by students that are known to the principal or other staff members, information received from law enforcement, juvenile or other authorities indicating a pattern of drug dealing or drug use by students of that school, any assault or attempted assault on school property with dangerous weapons or any other actions or incidents known by the principal that give rise to reasonable suspicion that dangerous weapons, drugs or drug paraphernalia are held on school property by one (1) or more students.
- (c) A notice shall be posted in the school that lockers and other storage areas, containers, and packages brought into the school by students or visitors are subject to search for drugs, drug paraphernalia, dangerous weapons or any property that is not properly in the possession of the student.
- (d) A notice shall be posted where it is visible from the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons.

49-6-4205. Search of students.

(a) A student may be subject to physical search because of the results of a locker search, or because of information received from a teacher, staff member, student or other person if such action is reasonable to the principal.

(b) All of the following standards of reasonableness shall be met:

(2) The search will yield evidence of the violation of school policy or will lead to disclosure of a dangerous weapon, drug paraphernalia or drug.

49-6-4207. Use of metal detectors.

To facilitate a search that is found to be necessary of students, school visitors, containers or packages, metal detectors and other devices designed to indicate the presence of dangerous weapons, drug paraphernalia or drugs may be used in searches, including hand-held models that are passed over or around a student's or visitor's body, and students, visitors, containers and packages may be required to pass through a stationary detector.

49-6-4208. Use of animals.

To facilitate a search that is found to be necessary, dogs or other animals trained to detect drugs or dangerous weapons by odor or otherwise may be used in conducting searches, but the animals shall be used only to pinpoint areas needed to be searched and shall not be used to search the persons of students or visitors.

49-6-4210. Disposal of contraband.

Any dangerous weapon or drug located by the principal or other staff member in the course of a search shall be turned over to the appropriate law enforcement officer for proper disposal.

49-6-4301. School officials to report student offenses.

(c) The commissioner of education, in conjunction with the commissioner of safety, shall establish a statewide uniform violent incident reporting system that all LEAs shall follow. The uniform violent incident reporting system shall require all LEAs to report annually to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents, as defined by the commissioner, that occurred in the prior school year:

(6) Where the incident involved a weapon, whether the weapon was a firearm, knife or other weapon.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

49-2-118. Conflict resolution intervention programs.

Each LEA shall implement for grades one through six (1-6) an intervention program that utilizes conflict resolution and decision-making strategies aimed at preventing occurrences of disruptive acts by students within the school and on school property.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

49-6-303. School counselors.

(b) School counselors shall provide preventive and developmental counseling to school students in order to prepare them for their school responsibilities and their social and physical development. In providing these services, school counselors shall:

(6) Aid in improving school attendance and retention by implementing an early identification and prevention program for potential attendance and retention problems.

49-6-3002. State attendance guidelines - No penalty for period of hospital or homebound instruction.

(a) The state board of education shall promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that prescribe guidelines for use by local boards of education in establishing standards and policies governing student attendance, subject to availability of funds. The guidelines shall include, but not be limited to, the following stipulations:

(1) Attendance policies shall be firm but fair so that each student has a reasonable opportunity to meet the minimum requirements;

(2) Effective accounting and reporting procedures shall be developed to keep parents or guardians informed of a student's absence from class;

(3) Policies shall accommodate extenuating circumstances created by emergencies over which the student has no control;

(4) Appeal procedures shall be included to assure the student's right of due process; and

(5) Alternative programs shall be established to provide educational options for any student who severely fails to meet minimum attendance requirements.

49-6-3006. Attendance supervisor.

(a) The sole responsibility and authority for the enforcement of the compulsory attendance laws, compiled in this part, are placed in the local board of education and its designated employees and officers.

(b) To facilitate the enforcement of the compulsory attendance laws, the director of schools shall designate at least one (1) qualified employee who shall be identified as the LEA attendance supervisor. The duties of an attendance supervisor include, but are not limited to, assisting the local board, under the direction of the director of schools, with the enforcement of the compulsory attendance laws of the state and to discharge other duties that are necessary to effectuate enforcement of laws and local policies related to absenteeism and truancy. The attendance supervisor may also be directed to devise and recommend to the director of schools, for board approval, a progressive truancy plan consistent with § 49-6-3009.

(c) The state board of education is authorized to promulgate rules regarding training, licensure, and employment qualifications of attendance supervisors.

49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students.

(e)(1) By the beginning of each school year, the principal or head of school of a public, nonpublic, or church-related school shall give written notice to the parent, guardian, or person having control of a student subject to compulsory attendance that the parent, guardian, or other person having control of the student must monitor the student's school attendance and require the student to attend school. The written notice must inform the parent, guardian, or other person having control of a student that a student who accumulates five (5) days of unexcused absences during the school year is subject to the LEA's progressive truancy interventions and that continued unexcused absences may result in a referral

to juvenile court. The five (5) days of unexcused absences need not be five (5) consecutive days of unexcused absences.

(2) The principal of a public school must report promptly to the director of schools, or to the attendance supervisor, the names of all students who have withdrawn from school or who have accumulated three

(3) days of unexcused absences. Upon a student's accumulation of three (3) days of unexcused absences, the director of schools or the attendance supervisor may serve, or cause to be served, upon the parent, guardian, or other person having control of a child subject to compulsory attendance who is unlawfully absent from school, written notice that the child's attendance at school is required by law.

(3) Additionally, the principal of a public school must report promptly to the director of schools, or to the attendance supervisor, the names of all students who have withdrawn from school or who have accumulated five (5) days of unexcused absences. Each successive accumulation of five (5) days of unexcused absences by a student must also be reported.

(4)(A) When a student accumulates five (5) days of unexcused absences, the director of schools or attendance supervisor shall serve, or cause to be served, upon the parent, guardian, or other person having control of a child subject to compulsory attendance who is unlawfully absent from school written notice that the child's attendance at school is required by law. The director of schools or attendance supervisor shall send a new notice after each successive accumulation of five (5) unexcused absences.

(B) After the child has accumulated five (5) unexcused absences, and after given adequate time, as determined by director of schools or attendance supervisor, the child's parent, guardian, or other person having control of the child has failed to turn in documentation to excuse those absences, the director of schools or attendance supervisor shall implement the truancy intervention requirements of the second tier of the progressive truancy plan as described in § 49-6-3009.

(C) This section does not prohibit a local board of education from adopting a progressive truancy plan that allows the LEA to take intervention actions before those required in this subsection (e). Such actions may include any of the truancy intervention actions required for the second or third tier of the LEA's progressive truancy plan..

(f) Except as otherwise provided by § 49-6-3001 or § 49-6-3005, this section is applicable to a child less than six (6) years of age and the child's parent, guardian, or other person having control of a child, when such person has enrolled the child in a public school; provided, that a child may be withdrawn within six (6) weeks of initial enrollment without penalty.

(g) For the purposes of this part, for recording and coding student absences from school because of disciplinary actions, the following definitions apply:

(1) "Expulsion" means removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance. Multiple suspensions that occur consecutively constitute expulsion. The LEA is not eligible to receive funding for an expelled student;

(2) "Remand" means assignment to an alternative school. The student so assigned shall be included in average daily attendance and average daily membership and shall continue to be counted as present for funding purposes. The department of education shall establish a set of codes to be used for reporting reasons that students are remanded to an alternative school; and

(3) "Suspension" means dismissal for any reason from attendance at school not exceeding ten (10) consecutive days. Multiple suspensions shall not run consecutively, nor shall multiple suspensions be applied to avoid expulsion from school. The LEA remains eligible to receive funding for a suspended student.

(h)(1)(A) An LEA may enter into an agreement with the local law enforcement agency serving the LEA's area and the appropriate local government in that area to assist in the enforcement of compulsory attendance upon complying with the following conditions:

- (i) Creation by the local board of education of an advisory council to assist the board in formulating the agreement. The board must include representatives of teachers, parents, administrators, and other community representatives;
- (ii) Receipt of input from neighborhood groups and other interested parties; and
- (iii) At least one (1) public hearing on the proposed agreement prior to its adoption by the board.

(B) The agreement must provide for:

- (i) Training teachers, principals, social workers, and other school personnel concerning truancy issues;
- (ii) Training of involved law enforcement personnel in the truancy law, including categories of students to which the law does not apply, such as nonpublic school students or home school students; and
- (iii) Safeguards to protect students from discriminatory or selective enforcement and to protect the civil rights of students and parents.

(C) If an LEA enters into an agreement, then every public school principal or teacher employed by the LEA must report promptly to the director of schools, or the director's designated representative, the names of all students who accumulated five (5) days of unexcused absences and continue to report each subsequent unexcused absence. The five (5) days of unexcused absences need not be five (5) consecutive days of unexcused absences.

(2) If a student accumulates five (5) days of unexcused absences, the director of schools shall serve, or cause to be served, upon the parent, guardian, or other person having control of the student written notice that the student's attendance at school is required. The notice must inform the parent, guardian, or other person having control of the student of this subsection (h).

(3) Under the agreement, and for purposes of this section and § 37-1-102(b)(32)(A), a student who accumulates three (3) days of unexcused absences may be deemed habitually truant.

(4) The director of schools or the director's representative may issue a list of truant students to the local law enforcement agency for the purpose of allowing the law enforcement agency to take the student into temporary custody when the student is found away from the school premises, without adequate excuse, during school hours, in a public place, in any public or private conveyance, or in any place of business open to the public, unless accompanied by a parent, guardian, or other person having control of the student. The agreement shall specify that the law enforcement officer's sole function is to deliver the student to:

- (A) The parent, guardian, or other person having control of the student;
- (B) The principal of the school in which the student is enrolled;
- (C) A truancy center established by the LEA; or
- (D) The juvenile court, if the juvenile court and the local law enforcement agency have entered into a local interagency agreement.

49-6-3009. Educational neglect – Progressive truancy plans that implement tiers of intervention – Referral to juvenile court.

- (a) Any parent, guardian, or other person who has control of a child, and who violates this part commits educational neglect, which is a Class C misdemeanor.
- (b) Each day's unlawful absence constitutes a separate offense.
- (c) A director of schools or attendance supervisor shall devise and recommend, and the local board of education shall adopt, a progressive truancy plan that implements tiers of intervention for students

who violate compulsory attendance requirements prior to the filing of a truancy petition or a criminal prosecution for educational neglect. These interventions must be designed to address student conduct related to truancy in the school setting and minimize the need for referrals to juvenile court.

(d) Progressive truancy plans adopted by local boards of education pursuant to subsection (c) must be applied prior to referral to juvenile court as described in § 49-6-3007(e)(1). Beginning with the 2021-2022 school year, progressive truancy plans must include a first tier of truancy prevention that is applicable to all enrolled students, and a second and third tier of truancy intervention required for students who have accumulated a minimum of five (5) days of unexcused absences. Beginning with the 2021-2022 school year, progressive truancy plans must meet the following requirements:

(1) Tier one of the progressive truancy plan must include schoolwide, prevention-oriented supports;

(2) Tier two must be implemented upon a student's accumulation of five (5) unexcused absences, as specified in the LEA's progressive truancy plan, and must include, at a minimum:

(A) A conference with the student and the parent, guardian, or other person having control of the student;

(B) A resulting attendance contract to be signed by the student, the parent, guardian, or other person having control of the student, and an attendance supervisor or designee. The contract must include:

(i) A specific description of the school's attendance expectations for the student;

(ii) The period for which the contract is in effect; and

(iii) Penalties for additional absences and alleged school offenses, including additional disciplinary action and potential referral to juvenile court;

(C) Regularly scheduled follow-up meetings, which may be with the student and the parent, guardian, or other person having control of the student to discuss the student's progress;

(D) An individualized assessment by a school employee of the reasons a student has been absent from school; and

(E) If necessary, referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's attendance problems; and

(3) Tier three must be implemented if the truancy interventions under tier two are unsuccessful. Tier three may consist of one (1) or more of the following:

(A) School-based community services;

(B) Participation in a school-based restorative justice program;

(C) Referral to a school-based teen court; or

(D) Saturday or after-school courses designed to improve attendance and behavior.

(e) In-school suspension or out-of-school suspension must not be used as part of the progressive truancy plans adopted by schools for unexcused absence from class or school.

(f)(1) Notwithstanding subsections (d) and (g), if any tier of progressive truancy intervention is unsuccessful with a student and the school can document that the student's parent or guardian is unwilling to cooperate with the truancy intervention requirements outlined in the progressive truancy plan, then the director of schools, or the director's designee, may report the student's absences to the appropriate judge pursuant to subsection (g) without first having to implement subsequent intervention tiers, if any.

(2) For purposes of this subsection (f), evidence of a parent's or guardian's unwillingness to cooperate with the truancy intervention requirements outlined in the progressive truancy plan includes, but is not limited to, a parent's or guardian's failure or refusal, on multiple occasions, to attend conferences, return telephone calls, attend follow-up meetings, enter into an attendance contract, or actively participate in any of the tiers of truancy intervention outlined in subsection (d) or in the local board of education's progressive truancy plan.

(g) If an LEA has applied a progressive truancy plan that complies with subsection (d) and interventions under the plan have failed to meaningfully address the student's school attendance, the director of schools, after written notice to the parent, guardian, or other person having control of the student, shall report the student who is unlawfully absent from school to the appropriate judge having juvenile

jurisdiction in that county. Each case must be dealt with in such manner as the judge may determine to be in the best interest of the student, consistent with §§ 37-1-132, 37-1-168, and 37-1-169. In the event a student in kindergarten through grade twelve (K-12) is adjudicated to be unruly because the student has accumulated five (5) days or more of unexcused absences during any school year, the judge may assess a fine of up to fifty dollars (\$50.00) or five (5) hours of community service, in the discretion of the judge, against the parent or legal guardian of the student.

(h) Each referral to juvenile court for conduct described in subsection (g) and § 49-6-3007(h)(4)(D) must be accompanied by a statement from the student's school certifying that:

(1) The school applied the progressive truancy interventions of the progressive truancy plan adopted under subsection (d) for the student; and

(2) The progressive truancy interventions failed to meaningfully address the student's school attendance.

(i) A court shall dismiss a complaint or referral made by an LEA under this section that is not made in compliance with subsection (h).

(j) Notwithstanding any other law, each LEA having previously adopted an effective progressive truancy intervention program that substantially conforms to this section may present the intervention program to the commissioner of education for approval in lieu of strict compliance with this section. If the commissioner does not approve the intervention plan, the LEA shall modify the plan according to the commissioner's recommendations and resubmit the revised plan for approval by the commissioner.

(k) Each head of school of a nonpublic or church-related school shall recommend, and the governing board of the school shall adopt, a policy addressing compulsory attendance and truancy that describes the interventions that the school will employ for violations of the compulsory attendance laws. The policy shall provide that the director of schools or the attendance supervisor in the LEA where the student's home of record is located will be notified in the event that a student at a nonpublic or church-related school is expelled or withdraws from school.

(l) Parents, guardians, or other persons having control of a student who is required to attend remedial instruction under § 49-6-3021 commit educational neglect, as defined in subsection (a), if the student is truant from the instruction.

(m) For purposes of this section, all references to "intervention," "truancy intervention," or "progressive truancy intervention" are deemed references to the truancy interventions of the second and third tiers of a progressive truancy plan.

49-6-3012. Truancy schools.

(a) The board of education having charge of the public schools of any local school system having a population of ten thousand (10,000) or more, according to the federal census of 1950 or any subsequent federal census, may establish a truancy school, either within or without the city limits, for children who are between seven (7) and sixteen (16) years of age, both inclusive, and who are habitual truants, or while in attendance at school are incorrigible, vicious, immoral or who habitually wander or loiter about without lawful employment.

(b) Such children shall be deemed disorderly juvenile persons, and may be compelled by the board to attend the truancy school or any department of the public school as the board may direct.

(c) Any board of education having charge of schools affected by this part shall have authority to exclude any delinquent pupil whose influence is deemed by the board to be demoralizing or injurious to other pupils attending the schools.

49-6-7005. Improving parental involvement in children's education.

(d) Parenting classes in these parent involvement programs should provide parents with information and skills related to improving student performance. For example, these classes may address:

(7) The importance of school attendance and the consequences of truancy.

REGULATIONS

0520-01-02-.17. State attendance guidelines.

(5) Each local board of education shall adopt an attendance policy in accordance with the State Board's School Attendance Policy 4.100 that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements.

(a) The policy shall address the excusing of absences in accordance with the State Board's School Attendance Policy 4.100.

(b) The policy shall address unexcused absences in accordance with the State Board's School Attendance Policy 4.100.

(c) The policy shall align with the McKinney-Vento Homeless Assistance Act [found at 42 U.S.C. §§ 11431., et seq.].

(d) Local attendance policies shall not be used to penalize students academically.

(e) The attendance policy adopted by the local board of education shall be posted at each school, and school counselors shall be supplied copies for discussion with students. The policy shall be referenced in all school handbooks. All teachers, administrative staff, and parents/guardians shall be provided copies of the policy.

(6) Pursuant to T.C.A. § 49-6-3009., each local board of education shall adopt a progressive truancy intervention plan for students who violate compulsory attendance requirements prior to the filing of a truancy petition or a criminal prosecution for educational neglect. These interventions must be designed to address student conduct related to truancy in the school setting and minimize the need for referrals to juvenile court.

(7) Whenever possible, attendance issues should be resolved at the school level. To ensure due process, Local boards of education must adopt a policy that affords students with excessive (more than 5) unexcused absences the opportunity to appeal. Such policy must, at minimum, include written or actual notice to the student or their parent/guardian and the opportunity to be heard. The burden of proof rests on the student or their parent/guardian. The appeal process for determining unexcused absences is ancillary to a truancy decision rendered by a juvenile court judge as described in T.C.A. § 49-6-3010.

(8) LEAs are encouraged to develop truancy boards, youth courts, or other alternative programs to serve as an intervention for students with excessive absences. These may be in addition to, or a part of, the progressive truancy intervention plan required by T.C.A. § 49-6-3009.

Substance Use

LAWS

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

(10) Unlawful use or possession of barbitol or legend drugs, as defined in § 53-10-101 [...]

(g)(1) It is the legislative intent that if a rule or policy is designated as a zero tolerance policy, then violations of that rule or policy must not be tolerated and violators shall receive certain, swift, and proportionate punishment.

(2) Notwithstanding other provisions of this section or any other law, a student shall be considered in violation of a zero tolerance offense and shall be expelled for a period of not less than one (1)

calendar year, except that the director of schools may modify this expulsion on a case-by-case basis for the following:

(C) A student is in unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 - 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, on school grounds or at a school-sponsored event.

(3) Nothing in this section prohibits the assignment of students who are subject to expulsion from school to an alternative school.

(4) Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, must be determined by local board of education policy.

(5) For purposes of this subsection (g):

(A) "Expelled" means removal from the student's regular school program at the location where the violation occurred or removal from school attendance altogether, as determined by the school official; and

(B) "Zero tolerance offense" means an offense committed by a student requiring the student to be expelled from school for at least one (1) calendar year that can only be modified on a case-by-case basis by the director of schools or the head of a charter school.

49-6-4002. Discipline policy - Code of conduct.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

(8) Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia [...]

(e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:

(4) Unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 - 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101 on school grounds or at a school-sponsored event.

49-6-4202. Part definitions.

As used in this part, unless the context otherwise requires:

(2) "Drug" means any controlled substance, controlled substance analogue, marijuana, alcohol, legend drug or any other substance the possession or use of which is regulated in any manner by any governmental authority, including the school system;

(3) "Drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a drug, as defined in subdivision (2). An electronic pager in the possession of a student shall be included in this definition if used or intended for use as defined by this subdivision (3).

49-6-4203. Legislative intent.

(e) The general assembly further finds that:

(1) The removal of dangerous weapons, drug paraphernalia and drugs from school property is necessary to lessen hazards to students and that removal can only be accomplished by searches of areas of the school buildings or grounds where those materials may be stored;

(2) On occasions when the use of dangerous weapons or drugs has reached a life or health threatening level, searches of students themselves may be necessary to protect the larger student body, and that often the searches must be conducted in emergency situations;

(3) Individual circumstances and local particularities require that individual principals must be relied on to exercise their professionally trained judgments in determining what action is appropriate within this part; and

(4) The presence on school property of students with drugs in their bodies may pose a threat to the safety and well-being of that student and other students, may be disruptive of school classes and other programs and may interfere with the educational opportunities and progress of all students.

49-6-4204. Search of lockers, vehicles, and other property.

(a) When individual circumstances in a school dictate, a principal may order that vehicles parked on school property by students or visitors, containers, packages, lockers or other enclosures used for storage by students or visitors, and other areas accessible to students or visitors be searched in the principal's presence or in the presence of other members of the principal's staff.

(b) Individual circumstances requiring a search may include incidents on school property, including school buses, involving, but not limited to, the use of dangerous weapons, drugs or drug paraphernalia by students that are known to the principal or other staff members, information received from law enforcement, juvenile or other authorities indicating a pattern of drug dealing or drug use by students of that school, any assault or attempted assault on school property with dangerous weapons or any other actions or incidents known by the principal that give rise to reasonable suspicion that dangerous weapons, drugs or drug paraphernalia are held on school property by one (1) or more students.

(c) A notice shall be posted in the school that lockers and other storage areas, containers, and packages brought into the school by students or visitors are subject to search for drugs, drug paraphernalia, dangerous weapons or any property that is not properly in the possession of the student.

(d) A notice shall be posted where it is visible from the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons.

49-6-4205. Search of students.

(a) A student may be subject to physical search because of the results of a locker search, or because of information received from a teacher, staff member, student or other person if such action is reasonable to the principal.

(b) All of the following standards of reasonableness shall be met:

(2) The search will yield evidence of the violation of school policy or will lead to disclosure of a dangerous weapon, drug paraphernalia or drug.

49-6-4207. Use of metal detectors.

To facilitate a search that is found to be necessary of students, school visitors, containers or packages, metal detectors and other devices designed to indicate the presence of dangerous weapons, drug paraphernalia or drugs may be used in searches, including hand-held models that are passed over or round a student's or visitor's body, and students, visitors, containers and packages may be required to pass through a stationary detector.

49-6-4210. Disposal of contraband.

Any dangerous weapon or drug located by the principal or other staff member in the course of a search shall be turned over to the appropriate law enforcement officer for proper disposal.

49-6-4213. Testing of students for drugs - Referral information and assistance for students testing positive.

(a)(1) A student may be subject to testing for the presence of drugs in the student's body in accordance with this section and the policy of the LEA if there are reasonable indications to the principal that such student may have used or be under the influence of drugs. The need for testing may be brought to the attention of the principal through a search authorized by § 49-6-4204 or § 49-6-4205, observed or reported use of drugs by the student on school property, or other reasonable information received from a teacher, staff member or other student. All of the following standards of reasonableness shall be met:

- (A) A particular student has violated school policy;
- (B) The test will yield evidence of the violation of school policy or will establish that a student either was impaired due to drug use or did not use drugs;
- (C) The test is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;
- (D) The test is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and
- (E) Tests shall be conducted in the presence of a witness. Persons who shall act as witnesses shall be designated in the policy of the local board of education.

(2) A student participating in voluntary extracurricular activities may be subject to random drug testing in the absence of individualized reasonable suspicion provided the standards set forth in subdivisions (a)(1)(B)-(E) are met.

(b) As used in this section and § 49-6-4203, "drugs" means:

- (1) Any scheduled drug as specified in §§ 39-17-405 - 39-17-416; and
- (2) Alcohol.

(c) Before a drug testing program is implemented in any LEA, the local board of education in that LEA shall establish policies, procedures and guidelines to implement this section within that LEA. The state board of education shall prepare a model policy, procedure and guidelines that may be adopted by local boards of education.

(d) Tests shall be conducted by properly trained persons in circumstances that ensure the integrity, validity and accuracy of the test results but are minimally intrusive and provide maximum privacy to the tested student. All tests shall be performed by an accredited laboratory. Specimens confirmed as positive shall be retained for at least ten (10) days for possible retesting or reanalysis.

(e) Students shall be advised in writing at the time of their enrollment that they are subject to testing. Notice to each student shall include grounds for testing, the procedures that will be followed and possible penalties. Students shall be advised of their right to refuse to undergo drug testing and the consequences of refusal.

(f)(1) A parent of the student or a person legally responsible for the student shall be notified before any drug test is administered to the student.

(2) If an LEA adopts a policy permitting random drug testing of students in voluntary extracurricular activities, then, prior to a student participating in an extracurricular activity, the LEA shall notify the parents and guardians of any such student that the student may be subjected to random drug testing. A parent or guardian of a student participating in a volunteer extracurricular activity shall provide written consent for random drug testing prior to the student participating in the voluntary extracurricular activity.

(g) The LEA shall pay the cost of any testing required under this section.

(h) In any school where LEA or school policy allows tests provided for by this section, in-service training of principals and teachers will be conducted in signs and symptoms of student drug use and abuse and in the school policy for handling of these students. The department of mental health and substance abuse services shall cause qualified trainers to be available to the schools to conduct this training.

(i) Test reports from laboratories shall include the specimen number assigned by the submitting LEA, the drug testing laboratory accession number and results of the drug tests. Certified copies of all analytical results shall be available from the laboratory when requested by the LEA or the parents of the student. The laboratory shall not be permitted to provide testing results verbally by telephone.

(j)(1) All specimens testing negative on the initial screening test or negative on the confirmatory test shall be reported as negative.

(2) If a student is tested and the results of the test are negative, all records of the test, request for a test or indication a student has been tested shall be expunged from all records, including school records.

(k)(1) If a student is tested in a drug testing program and the results of the test are positive, all records of the test, request for a test or indication a student has been tested shall be confidential student records in accordance with § 10-7-504(a)(4)(A).

(2) No student who is tested under a random drug testing program and who tests positive shall be suspended or expelled from school solely as the result of the positive test.

(3) The principal or school counselor of the school in which a student who tests positive in a drug testing program is enrolled shall provide referral information to the student and to the student's parents or guardian. The information shall include information on inpatient, outpatient and community-based drug and alcohol treatment programs.

(l) Each LEA participating in the drug testing of students authorized in subsection (a) shall promulgate policies and procedures to ensure that those students testing positive receive the assistance needed. The assistance shall include an assessment to determine the severity of the student's alcohol and drug problem and a recommendation for referral to intervention or treatment resources as appropriate. Nothing in this section shall be construed to require LEAs to administer drug tests to students. Any system that elects to participate shall supply the testing materials and any subsequent counseling within existing local funds.

(m) Malicious use of authority granted by this section may be grounds for dismissal of the person so acting.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

49-1-214. Safe schools - Advisory guidelines.

- (a) The commissioner of education, in consultation with the commissioner of safety, shall develop advisory guidelines for LEAs to use in developing safe and secure learning environments in schools. Such guidelines shall emphasize consultation at the local level with appropriate law enforcement authorities.
- (b) The department of education may prepare and distribute to LEAs guidelines for incorporating into local staff development and in-service training the materials and speakers necessary to help educators reduce gang and individual violence, to assist in drug and alcohol abuse prevention and to provide educators with the tools for nonintrusive identification of potentially violent individuals in and around schools. The department may, upon request, assist LEAs in developing comprehensive violence, drug and alcohol abuse prevention in-service training programs. Department guidelines shall encourage the sharing of resources, the development of joint or collaborative programs and the coordination of efforts with local health departments, county and city law enforcement agencies and other public agencies providing health, drug, alcohol, gang violence prevention and other related services.
- (c) The department may assist LEAs in qualifying for the receipt of federal and state funds that may support local efforts to provide the in-service training programs in this section. The department shall encourage LEAs to provide written materials to assist teachers and parents working to develop a safe and secure learning environment in system schools. Within available resources, the department may provide technical assistance directly to LEAs seeking to expand teacher and student safety programs.

49-6-4215. Activities of criminal gangs on school property - Promulgation of rules and regulations.

- (a) The LEAs of this state are authorized to promulgate and adopt rules and regulations to prohibit the activities of criminal gangs on school property. The rules and regulations may prohibit students in grades six through twelve (6-12) from:
- (1) Wearing, while on school property, any type of clothing, apparel or accessory that denotes the students' membership in or affiliation with any criminal gang;
 - (2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang; and
 - (3) Any conduct that is seriously disruptive to the educational process or endangers persons or property.
- (b) The local law enforcement agency shall advise the local board, upon request, of criminal gangs and associated criminal gang activity.
- (c) As used in this section, "criminal gang" means a formal or informal ongoing organization, association or group consisting of three (3) or more persons that has:
- (1) As one (1) of its activities the commission of criminal acts; and
 - (2) Two (2) or more members who, individually or collectively, engage in or have engaged in a pattern of criminal gang activity.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

39-17-308. Harassment.

(a) A person commits an offense who intentionally:

(1) Communicates a threat to another person, and the person communicating the threat:

(A) Intends the communication to be a threat of harm to the victim; and

(B) A reasonable person would perceive the communication to be a threat of harm;

(2) Communicates with another person without lawful purpose, anonymously or otherwise, with the intent that the frequency or means of the communication annoys, offends, alarms, or frightens the recipient and, by this action, annoys, offends, alarms, or frightens the recipient;

(3) Communicates to another person, with intent to harass that person, that a relative or other person has been injured or killed when the communication is known to be false; or

(4) Communicates with another person or transmits or displays an image without legitimate purpose with the intent that the image is viewed by the victim by any method described in subdivision (a)(1) and the person:

(A) Maliciously intends the communication to be a threat of harm to the victim; and

(B) A reasonable person would perceive the communication to be a threat of harm.

(b)(1) A person convicted of a criminal offense commits an offense if, while incarcerated, on pretrial diversion, probation, community correction or parole, the person intentionally communicates in person with the victim of the person's crime if the communication is:

(A) Anonymous or threatening or made in an offensively repetitious manner or at hours known to be inconvenient to the victim;

(B) Made for no legitimate purpose; and

(C) Made knowing that it will alarm or annoy the victim.

(2) If the victim of the person's offense died as the result of the offense, this subsection (b) shall apply to the deceased victim's next-of-kin.

(c)(1) Except as provided in subsection (d), a violation of subsection (a) is a Class A misdemeanor.

(2) A violation of subsection (b) is a Class E felony.

(d) A violation by a minor of subdivision (a)(4) is a delinquent act and shall be punishable only by up to thirty (30) hours of community service, without compensation, for charitable or governmental agencies as determined by the court.

(e) As used in this section:

(1) "Communicate" means contacting a person in writing or print or by telephone, wire, radio, electromagnetic, photoelectronic, photooptical, or electronic means, and includes text messages, facsimile transmissions, electronic mail, instant messages, and messages, images, video, sound recordings, or intelligence of any nature sent through or posted on social networks, social media, or websites;

(2) "Electronic communications service" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system;

(3) "Image" includes, but is not limited to, a visual depiction, video clip or photograph of another person;

(4) "Log files" mean computer-generated lists that contain various types of information regarding the activities of a computer, including, but not limited to, time of access to certain records, processes running on a computer or the usage of certain computer resources; and

(5) "Social network" means any online community of people who share interests and activities, or who are interested in exploring the interests and activities of others, and which provides ways for users to interact.

(f)(1) The offense described in this section shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

(2) The service providers described in this subsection (f) shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider operates a website that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted, or displayed on the social network service's website and maintained by the electronic communications service provider shall be disclosed to any governmental entity responsible for enforcing this section only if the governmental entity:

(A) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(B) Obtains a court order for the disclosure under subdivision (f)(4); or

(C) Has the consent of the person who sent, posted, or displayed any log files and images or communications on the social network service's website maintained by the electronic communications service provider.

(3) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(4) A court order for disclosure under subdivision (f)(2)(B) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

49-2-120. Prohibition against hazing.

(a) As used in this section, unless the context otherwise requires, "hazing" means any intentional or reckless act in this state, on or off LEA property, by one (1) student acting alone or with others, that is directed against any other student, that endangers the mental or physical health or safety of that student or that induces or coerces a student to endanger that student's mental or physical health or safety. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

(b) The governing body of each LEA shall adopt a written policy prohibiting hazing by any student or organization operating under the sanction of the LEA. The policy shall be distributed or made available to each student at the beginning of each school year. During the first month of each new school year, time shall be set aside to specifically discuss the policy and its ramifications as a criminal offense and the penalties that may be imposed by the LEA.

49-6-812. Consistency with harassment and bullying policies.

Each LEA shall ensure that the district-wide safety plans and building-level emergency response plans required by this part are developed in such a manner as to be consistent with the district's harassment and bullying policies developed pursuant to § 49-6-4503.

49-6-4002. Discipline policy - Code of conduct.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

- (3) Fighting, threats, bullying, cyberbullying, and hazing by students.

49-6-4501. Legislative findings - Safety and civility.

The general assembly finds and declares that:

- (1) A safe and civil environment is necessary for students to learn and achieve high academic standards;
- (2) Harassment, intimidation, bullying or cyber-bullying, like other disruptive or violent behavior, is conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment;
- (3) Students learn by example. School administrators, faculty, staff and volunteers who demonstrate appropriate behavior, treating others with civility and respect and refusing to tolerate harassment, intimidation, bullying or cyber-bullying, encourage others to do so as well; and
- (4) The use of telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and websites by students in a manner that is safe and secure is essential to a safe and civil learning environment and is necessary for students to successfully use technology.

49-6-4502. Part definitions.

As used in this part:

- (1) "Cyber-bullying" means bullying undertaken through the use of electronic devices;
- (2) "Electronic devices" include, but are not limited to, telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and websites;
- (3) "Harassment, intimidation or bullying" means any act that substantially interferes with a student's educational benefits, opportunities or performance; and:
 - (A) If the act takes place on school grounds, at any school-sponsored activity, on school-provided equipment or transportation or at any official school bus stop, the act has the effect of:
 - (i) Physically harming a student or damaging a student's property;
 - (ii) Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student's property;
 - (iii) Causing emotional distress to a student or students; or
 - (iv) Creating a hostile educational environment; or
 - (B) If the act takes place off school property or outside of a school-sponsored activity, it is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

- (1) A statement prohibiting harassment, intimidation, bullying or cyber-bullying;
- (2) A definition of harassment, intimidation, bullying or cyber-bullying;
- (3) A description of the type of behavior expected from each student;
- (4) A statement of the consequences and appropriate remedial action for a person who commits an act of harassment, intimidation, bullying or cyber-bullying;
- (5) A procedure for reporting an act of harassment, intimidation, bullying or cyber-bullying, including a provision that permits a person to report an act of harassment, intimidation, bullying or cyber-bullying anonymously. Nothing in this section may be construed to permit formal disciplinary action solely on the basis of an anonymous report;
- (6) A procedure for the prompt and immediate investigation when an act of harassment, intimidation, bullying, or cyber-bullying is reported to the principal, the principal's designee, teacher, or school counselor. The principal or the principal's designee shall initiate the investigation within forty-eight (48) hours of receipt of the report, unless the need for more time is appropriately documented, and the principal or the principal's designee shall initiate an appropriate intervention within twenty (20) calendar days of receipt of the report, unless the need for more time is appropriately documented;
- (7) A statement of the manner in which a school district shall respond after an act of harassment, intimidation, bullying or cyber-bullying is reported, investigated and confirmed;
- (8) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation, bullying or cyber-bullying;
- (9) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation, bullying or cyber-bullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation;
- (10) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation, bullying or cyber-bullying as a means of reprisal or retaliation or as a means of harassment, intimidation, bullying or cyber-bullying;
- (11) A statement of how the policy is to be publicized within the district, including a notice that the policy applies to behavior at school-sponsored activities;
- (12) The identification by job title of school officials responsible for ensuring that the policy is implemented;
- (13) A procedure for discouraging and reporting conduct aimed at defining a student in a sexual manner or conduct impugning the character of a student based on allegations of sexual promiscuity; and
- (14) A procedure for a referral for appropriate counseling and support services for students involved in an act of harassment, intimidation, bullying, or cyber-bullying, when deemed necessary by the principal. The counseling and support services may be conducted by school counseling personnel who are appropriately trained, such as psychologists, social workers, school counselors, or any other personnel or resources available.

(c)(1) Each LEA shall, at the beginning of each school year, provide teachers and school counselors a copy of the policy along with information on the policy's implementation, bullying prevention and

strategies to address bullying and harassment when it happens. In addition, each LEA shall provide training to teachers and counselors regarding the policy and appropriate procedures relative to implementation of the policy. The department of education shall provide guidelines for such training and provide recommendations of appropriate, available and free bullying and harassment prevention resources.

(2) Each LEA shall also:

(A) At the beginning of the school year, make available to students and parents information relative to bullying prevention programs to promote awareness of the harmful effects of bullying and to permit discussion with respect to prevention policies and strategies;

(B) Beginning August 1, 2016, and annually thereafter, complete and submit a report to the department of education. The report shall be in a format provided by the department and shall include:

(i) The number of harassment, intimidation, bullying, or cyber-bullying cases brought to the attention of school officials during the preceding year;

(ii) The number of harassment, intimidation, bullying, or cyber-bullying cases where the investigation supported a finding that bullying had taken place;

(iii) The number of harassment, intimidation, bullying, or cyber-bullying case investigations not initiated within forty-eight (48) hours of the receipt of the report and the reason the investigation was not initiated within forty-eight (48) hours;

(iv) The number of harassment, intimidation, bullying, or cyber-bullying cases where an appropriate intervention was not initiated within twenty (20) calendar days of receipt of the report and the reason the intervention took longer than twenty (20) calendar days to initiate; and

(v) The type of harassment, intimidation, bullying, or cyber-bullying identified and manner in which the harassment, intimidation, bullying, or cyber-bullying cases were resolved, including any disciplinary action against the student who was harassing, intimidating, bullying, or cyber-bullying.

(3) The department shall annually submit a report to the education committee of the house of representatives and the education committee of the senate updating membership on the number of harassment, intimidation, bullying, or cyber-bullying cases reported statewide, the number of LEAs implementing this part, the status of any investigations, including disciplinary actions against students, and any other information relating to the subjects of harassment, intimidation, bullying, or cyber-bullying as will be helpful to the committees in establishing policy in this area.

(d)(1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

(2) The principal, or the principal's designee, shall immediately inform the parent or legal guardian of a student involved in an act of harassment, intimidation, bullying, or cyber-bullying. The principal or the principal's designee shall inform the parents or legal guardians of the students of the availability of counseling and support services that may be necessary.

(3) Following any investigation required by this part, the principal or such principal's designee shall report the findings, along with any disciplinary action taken, to the director of schools and the chair of the local board of education.

49-6-4504. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by LEA.

(a) Each LEA shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying and transmit a copy of the policy to the commissioner of education by January 1, 2006.

(b) Each LEA is encouraged to review the policy prohibiting harassment, intimidation, bullying, or cyber-bullying at least once every three (3) years. Each LEA shall transmit a copy of any changes in the policy to the commissioner in a timely manner.

49-6-4505. Reprisal or retaliation prohibited - Reporting harassment, intimidation, bullying or cyber-bullying - Immunity from damages.

(a) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to, or person with reliable information about an act of harassment, intimidation, bullying or cyber-bullying.

(b) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation, bullying or cyber-bullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(c) A school employee who promptly reports an act of harassment, intimidation, bullying or cyber-bullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

(d) Notwithstanding subsections (b) and (c), a school employee, student or volunteer who witnesses or possesses reliable information that a student has transmitted by an electronic device any communication containing a credible threat to cause bodily injury or death to another student or school employee shall report such information to the appropriate school official designated by the policy of the school district. Such school official shall make a determination regarding the administration of the report.

49-6-4506. Task forces, programs or other initiatives.

School districts are encouraged to form harassment, intimidation, bullying or cyber-bullying prevention task forces, programs and other initiatives involving school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

49-6-1017. Sexual violence awareness curriculum.

(a) Subject to the guidance and approval of the state board of education, local boards of education are urged to develop a sexual violence awareness curriculum for presentation at least once in grades seven

(7) and eight (8) and at least once, preferably twice, in grades nine through twelve (9-12), as part of the wellness, family life, safety, or other existing curricula. The curriculum should include instruction to increase students' awareness and understanding of teen dating violence and sexual violence, including, but not limited to, date rape, acquaintance rape, stranger rape, statutory rape, rape prevention strategies, resources and support available to victims of teen dating violence and sexual violence, and prosecution of crimes associated with teen dating and sexual violence.

(b) The curriculum should address, in age-appropriate language, topics including, but not limited to:

- (1) What teen dating violence is;
- (2) What sexual violence is, and specifically, what date rape, acquaintance rape, stranger rape, and statutory rape are and the dangers of sexual violence;
- (3) What are the methods and means of avoiding and preventing victimization from teen dating violence or sexual violence;
- (4) How alcohol and other drugs are used to facilitate date rape or acquaintance rape, and the dangers of these substances;
- (5) Why there is a need for prompt medical attention and medical evaluation of victims of sexual violence;
- (6) What is the nature and prevention of AIDS and other sexually transmitted diseases;
- (7) How to preserve forensic evidence of sexual violence and specifically what victims should and should not do after being sexually assaulted;
- (8) Who are the authorities to whom teen dating violence and sexual violence should be reported in a timely manner, including, but not limited to, identification of and telephone numbers for local law enforcement personnel to whom sexual crimes should be reported;
- (9) What persons, including school personnel, and organizations provide support and resources for victims of teen dating violence and sexual violence; and
- (10) What are the penalties and long-term consequences resulting from conviction of sexual crimes, including, but not limited to, rape and statutory rape.

49-6-1035. Domestic violence awareness education programs.

Each LEA, in consultation with local law enforcement, is strongly encouraged to institute domestic violence awareness education programs for middle and high school students. The domestic violence awareness programs shall provide information on and understanding of domestic violence prevention to increase awareness of resources available to victims of domestic violence. An LEA shall ensure that each program instituted is developmentally appropriate for the age and maturity levels of the students who will take part in the program. LEAs instituting domestic violence programs are strongly encouraged to provide opportunities for participation by all middle and high school students in at least one (1) domestic violence awareness program per year.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

49-1-213. Technical assistance.

Within available resources, the department may provide technical assistance to LEAs through the implementation of a trainer of trainers model. Each LEA may identify its own technical assistance persons from general and special education to serve local schools. Technical assistance persons would serve as trainers to the district's local technical assistance persons. Local technical assistance persons may then provide hands-on consultation in the classrooms and in school in-services related to the needs of children having behavioral or emotional disorders.

49-1-214. Safe schools - Advisory guidelines.

(a) The commissioner of education, in consultation with the commissioner of safety, shall develop advisory guidelines for LEAs to use in developing safe and secure learning environments in schools. Such guidelines shall emphasize consultation at the local level with appropriate law enforcement authorities.

(b) The department of education may prepare and distribute to LEAs guidelines for incorporating into local staff development and in-service training the materials and speakers necessary to help educators reduce gang and individual violence, to assist in drug and alcohol abuse prevention and to provide educators with the tools for nonintrusive identification of potentially violent individuals in and around schools. The department may, upon request, assist LEAs in developing comprehensive violence, drug and alcohol abuse prevention in-service training programs. Department guidelines shall encourage the sharing of resources, the development of joint or collaborative programs and the coordination of efforts with local health departments, county and city law enforcement agencies and other public agencies providing health, drug, alcohol, gang violence prevention and other related services.

(c) The department may assist LEAs in qualifying for the receipt of federal and state funds that may support local efforts to provide the in-service training programs in this section. The department shall encourage LEAs to provide written materials to assist teachers and parents working to develop a safe and secure learning environment in system schools. Within available resources, the department may provide technical assistance directly to LEAs seeking to expand teacher and student safety programs.

49-6-3024. Review of laws and policies related to exclusionary discipline of students in pre-kindergarten through kindergarten.

(a) The department of education, in consultation with juvenile court officials, shall review all current laws and policies related to exclusionary discipline practices in public schools for students in pre-kindergarten through kindergarten (pre-K-K). For purposes of this section, "exclusionary discipline" means any type of school disciplinary action that removes or excludes a student from the student's traditional educational setting.

(b) The review shall:

- (1) Examine the number of exclusionary discipline actions issued by an LEA and the length of each respective disciplinary action;
- (2) Detail the type of offenses committed by the students that led to the exclusionary discipline action;
- (3) Review the impact exclusionary discipline has on students;

- (4) Examine recommendations from lawmakers, juvenile court officials, judges, district attorneys, the Tennessee commission on children and youth, and representatives from LEAs on alternatives to exclusionary discipline;
- (5) Identify free resources to support teachers and parents in addressing children's social, emotional, and behavioral health, strengthening family relationships, and increasing developmental and behavioral screening; and
- (6) Research the possibility of:
 - (A) Eliminating exclusionary discipline for non-violent offenses; and
 - (B) Encouraging schools to adopt restorative justice discipline practices.
- (c) The department shall develop guidelines and standards for alternatives to exclusionary discipline practices based on the findings of the review required under subsection (b).
- (d) The department shall present its findings and a written report to the education committee of the senate, the education administration and planning committee of the house of representatives, and the education instruction and programs committee of the house of representatives no later than May 1, 2018.
- (e) After submission of the report required in subsection (d), the department shall develop a model policy for alternatives to exclusionary discipline practices that districts may adopt for students in pre-kindergarten through kindergarten (pre-K-K). If a district does not adopt the model policy developed by the department, the district shall develop and implement a policy that meets the guidelines and standards developed under subsection (c). Each LEA shall adopt the model policy or develop their own policy prior to the 2018-2019 school year.

49-6-4109. Trauma-informed discipline policy.

- (a) As a strategy to address adverse childhood experiences, as defined in § 49-1-230, each LEA and public charter school shall adopt a trauma-informed discipline policy. Each trauma-informed discipline policy must:
 - (1) Balance accountability with an understanding of traumatic behavior;
 - (2) Teach school and classroom rules while reinforcing that violent or abusive behavior is not allowed at school;
 - (3) Minimize disruptions to education with an emphasis on positive behavioral supports and behavioral intervention plans;
 - (4) Create consistent rules and consequences; and
 - (5) Model respectful, nonviolent relationships.
- (b) The department of education shall develop guidance on trauma-informed discipline practices that LEAs must use to develop the policy required under subsection (a).

49-6-4302. Tennessee school safety center.

- (a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

- (c)(1) Each LEA shall, at the beginning of each school year, provide teachers and school counselors a copy of the policy along with information on the policy's implementation, bullying prevention and strategies to address bullying and harassment when it happens. In addition, each LEA shall provide training to teachers and counselors regarding the policy and appropriate procedures relative to

implementation of the policy. The department of education shall provide guidelines for such training and provide recommendations of appropriate, available and free bullying and harassment prevention resources.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

49-6-4002. Discipline policy - Code of conduct.

(f) Each local board of education and charter school governing body may adopt a discipline policy that promotes positive behavior and includes evidence-based practices to respond effectively to misbehavior and minimize a student's time away from school.

REGULATIONS

0520-01-09-.23. Isolation and restraint for students receiving special education services.

(2) Local education agencies are authorized to develop and implement training programs that include:
(a) Use of positive behavioral interventions and supports.

Prevention

LAWS

49-6-805. Template minimum requirements.

At a minimum, the template prepared by the state-level safety team shall include:

- (6) Appropriate violence prevention and intervention strategies such as:
- (A) Collaborative arrangements with state and local law enforcement officials, designed to ensure that school resource officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited;
 - (B) Dissemination of informative materials regarding the early detection and identification of potentially threatening behaviors and violent acts to teachers, administrators, school personnel, parents or guardians and students;
 - (C) Nonviolent conflict resolution training programs;
 - (D) Peer mediation programs and youth courts;
 - (E) Extended day and other school safety programs; and
 - (F) Comprehensive school counseling and mental health programs;

49-6-4302. Tennessee school safety center.

- (a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention.
- (b) The Tennessee school safety center is responsible for the collection and analysis of data related to school safety, including alleged violent or assaultive acts against school employees and students.
The

center shall make periodic reports to the education committee of the senate and the education committee of the house of representatives on the status of school safety efforts.

(c)(1) The Tennessee school safety center, within the limit of appropriations for the center, shall establish school safety grants to assist LEAs in funding programs that address school safety, including, but not limited to, innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, school resource officers, school safety officers, peer mediation, and training for employees on the identification of possible perpetrators of school-related violence.

(2) The Tennessee school safety center shall develop a school safety grant application that requires LEAs to describe, at a minimum, how grant funds:

(A) Will be used to improve and support school safety;

(B) Align with the needs identified in a school security assessment conducted pursuant to subsection (f); and

(C) Will be used to support LEA-authorized charter schools, if applicable.

(3) In order to be eligible to receive grant funds, the LEA must be in compliance with all state laws, rules, and regulations regarding school safety.

(4) The Tennessee school safety center shall review the school safety grant application in collaboration with the state-level school safety team established under § 49-6-802.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

49-6-1007. Character education.

(a) The course of instruction in all public schools shall include character education to help each student develop positive values and improve student conduct as students learn to act in harmony with their positive values and learn to become good citizens in their school, community and society. Public schools are urged to include the use of nonviolence as a means of conflict resolution within character education.

(b)(1) The department of education shall provide the appropriate method of instruction in kindergarten through grade twelve (K-12), in conformity with the elementary school curriculum provided for in subsection (c).

(2) Local boards of education may implement additional courses and materials in character education at their discretion.

(c) Each LEA shall provide the character education curriculum set forth in the curriculum provided by the department or a comparable program approved by the department.

(d) Human resource agencies created pursuant to title 13, chapter 26 may serve as the service delivery system for the character education program.

(e) Local education agencies are authorized and encouraged to adopt as their course of instruction in character education the Congressional Medal of Honor Character Development Program. This program may be adopted for the appropriate grade levels and integrated into a number of academic subjects, including, but not limited to, government, contemporary issues, history, sociology, psychology, language arts, leadership, and mathematics.

49-6-1028. Legislative findings - Public school courses and content to educate children in the United States and Tennessee governments.

(a) The general assembly finds that:

- (1) Effective and responsible participation in political life as competent citizens requires the acquisition of a body of knowledge and of intellectual and participatory skills;
- (2) It is essential to the future health of our republic that all citizens be knowledgeable about democratic principles and practices, including fundamental documents such as the state and federal constitutions, the Declaration of Independence, and the Gettysburg Address;
- (3) Individuals who have a clear and full understanding of the rights and responsibilities of citizens in a republic are more likely to exercise and defend those rights and responsibilities; and
- (4) Providing civic education and promoting good citizenship and understanding fundamental democratic principles should be core missions of Tennessee secondary schools.

(b)(1) The state board of education shall include in the social studies standards, at the appropriate grade level or levels in high school, as determined by the state board of education through standards and the local board of education through curriculum, courses and content designed to educate children about the United States and Tennessee governments. The standards shall include the three (3) branches of government, the fundamental documents identified in § 49-6-1011(a) that underpin our form of government, an understanding of how laws are enacted, and ways citizens shape and influence government and governmental actions.

(2) Students shall be taught about the formation of the governments of the United States and Tennessee using federal and state foundational documents. They shall also be taught the significance and relevance of those federal and state foundational documents today. This instruction shall include:

- (A) The historical and present-day significance of the Declaration of Independence;
- (B) How the United States Constitution establishes the federal government and the characteristics of the republic created by it;
- (C) How the United States Constitution with the Bill of Rights and the Tennessee Constitution with the Declaration of Rights are applicable in today's society;
- (D) How the United States Constitution is changed and the changes that have been made to it since 1787;
- (E) Why Tennessee has had three (3) constitutions, the Constitutions of 1796, 1834, and 1870, and how changes have been made to the Tennessee Constitution of 1870; and
- (F) How other foundational documents of the United States and Tennessee aided in the formation of the federal and state governments.

(c) The commissioner of education shall advise all local boards of education of the requirements of this section.

(d)(1) Beginning with the 2012-2013 school year, in conjunction with the social studies curriculum, all LEAs shall implement a project-based assessment in civics at least once in grades four through eight (4-8) and at least once in grades nine through twelve (9-12). The assessments shall be developed by the LEA and designed to measure the civics learning objectives contained in the social studies curriculum and to demonstrate understanding and relevance of public policy, the structure of federal, state and local governments and both the Tennessee and the United States constitutions.

(2) The department of education may seek the assistance of appropriate outside entities, including the Tennessee Center for Civic Learning and Engagement, to assist it with the implementation of any necessary professional development on the use of project-based assessments of civics learning.

(3) For the purposes of this section, "project-based" means an approach that engages students in learning essential knowledge and skills through a student-influenced inquiry process structured around complex, authentic questions and carefully designed products and tasks.

(4) LEAs shall submit verification of implementation of this section to the department of education.

49-6-1201. General provisions.

The course of study to be taught in every high school authorized by part 4 of this chapter shall be adopted by the board of education on the recommendation of the director of schools; provided, that the course or courses shall be in accord with those adopted by the state board of education and should include character education as specified in § 49-6-1007.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

49-1-230. Development of training programs for adverse childhood experiences.

(a) As used in this section, "adverse childhood experiences" or "ACEs" mean stressful or traumatic events experienced by a minor child. ACEs include, but are not limited to, a child witnessing, or being the victim of, physical abuse, sexual abuse, emotional abuse, physical neglect, emotional neglect, domestic violence, substance abuse, mental illness, parental separation or divorce, and incarceration.

(b) The department of education shall develop an evidence-based training program on ACEs for school leaders and teachers. The training may be delivered through the trainer of trainers model under § 49-1-213, and shall include:

- (1) The effects of ACEs on a child's mental, physical, social, behavioral, emotional, and cognitive development;
- (2) ACEs as a risk factor for the development of substance abuse disorders and other at-risk health behaviors;
- (3) Trauma-informed principles and practices for classrooms; and
- (4) How early identification of children exposed to one (1) or more ACEs may improve educational outcomes.

(c) An LEA may develop its own ACEs training program to make available to the LEA's school personnel.

49-6-4109. Trauma-informed discipline policy.

(a) As a strategy to address adverse childhood experiences, as defined in § 49-1-230, each LEA and public charter school shall adopt a trauma-informed discipline policy. Each trauma-informed discipline policy must:

- (1) Balance accountability with an understanding of traumatic behavior;
- (2) Teach school and classroom rules while reinforcing that violent or abusive behavior is not allowed at school;
- (3) Minimize disruptions to education with an emphasis on positive behavioral supports and behavioral intervention plans;
- (4) Create consistent rules and consequences; and
- (5) Model respectful, nonviolent relationships.

(b) The department of education shall develop guidance on trauma-informed discipline practices that LEAs must use to develop the policy required under subsection (a).

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

49-2-124. Universal mental health or socioemotional screening.

(a) As used in this section:

(1) "Mental health screening" or "socioemotional screening" means, for the purposes of this chapter, the use of one (1) or more brief, structured questionnaires designed to identify the possibility that an individual has a mental health problem;

(2) "Psychotropic medication" means a drug that exercises a direct effect upon the central nervous system and that is capable of influencing and modifying behavior. Psychotropic medication includes, but is not limited to:

(A) Antipsychotics;

(B) Antidepressants;

(C) Agents for control of mania and depression;

(D) Antianxiety agents;

(E) Psychomotor stimulants; and

(F) Hypnotics; and

(3) "Universal mental health or socioemotional screening" means, for the purposes of this chapter, any mental health screening program in which a group of individuals is automatically screened without regard to whether there was a prior indication of a mental health problem.

(b) Universal mental health or socioemotional screening is only permitted under the following circumstances:

(1) A parent, guardian, legal custodian or caregiver under the Power of Attorney for Care of a Minor Child Act, compiled in title 34, chapter 6, part 3, of a child under sixteen (16) years of age has provided written, active, informed and voluntarily signed consent that may be withdrawn at any time by the parent, guardian, legal custodian or caregiver under the Power of Attorney for Care of a Minor Child Act;

(2) A court requires the mental health evaluation, examination or testing;

(3) Emergency screening, evaluation, examination or testing of an individual under the Power of Attorney for Care of a Minor Child Act or screening done in connection with a disaster or epidemic; or

(4) Screening required pursuant to the early periodic screening, diagnosis, and treatment (EPSDT) program with active, written, informed, voluntarily signed consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act who gave the consent.

(c) Notwithstanding any law to the contrary, a local education agency (LEA) may not use the parent's refusal to consent to administration of a psychotropic medication to a student or to a mental health screening, evaluation, testing or examination of a child or student as grounds for prohibiting the child from attending class or participating in a school-related activity or as the basis of reporting or charging child

abuse, child neglect, educational neglect or medical neglect. An LEA shall not use nor threaten use of school sanctions to a student to coerce parental consent to a mental health screening, evaluation, testing or examination. A person employed by an LEA may not require that a student be evaluated or treated with any psychotropic medication or for a particular mental health diagnosis. Only the following LEA personnel may perform an evaluation for psychiatric diagnosis or treatment, or both, with written, informed, voluntarily signed consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act who gave the consent:

- (1) A psychiatrist;
- (2) A physician with expertise in psychiatry as determined by training, education or experience;
- (3) An advanced practice registered nurse with special certification in mental health or psychiatric nursing;
- (4) An advanced practice registered nurse with expertise in mental health or psychiatric nursing as determined by training, education or experience;
- (5) A psychologist with health service provider designation;
- (6) A senior psychological examiner;
- (7) A licensed professional counselor;
- (8) A licensed clinical social worker; or
- (9) A school psychologist.

(d) Written, informed, active, voluntary consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act must also be obtained before proceeding with any psychiatric treatment recommendations resulting from any mental health screening, evaluation, testing or examination.

(e) Subsections (b), (c), and (h) shall not be construed to:

- (1) Prevent an appropriate referral under the child find system required under 20 U.S.C. § 1412, with appropriate parental consent procedures as required under 20 U.S.C. § 1414(a)(1)(D)(i);
- (2) Prohibit an LEA employee from discussing any aspect of a child's behavior or academic progress with the child's parent or guardian or another appropriate school district employee, consistent with federal and state law, including the requirement of prior parental consent for the disclosure of any education records. Nothing in this subdivision (e)(2) shall be construed to modify or affect parental notification requirements for programs authorized under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Public Law 107-110;
- (3) Prohibit an LEA employee from referring a child to LEA personnel specified in subsection (c);
- (4) Prohibit referrals, counseling or support in the event of an emergency or urgent situation to include, but not be limited to, the death, suicide, attempted suicide, murder, attempted murder, serious injury or serious illness of a student, teacher, staff, member of the administration, director of schools or any other school personnel or significant individual; or
- (5) Prohibit testing that is a part of a course of treatment, rehabilitation or service plan for children in the legal custody of a state agency or required by federal law applicable to such children, or as otherwise authorized under title 37, including, but not limited to, child protective services assessments or evaluations.

(f) Each LEA shall inform each parent, legal guardian, custodian or caregiver of their rights pursuant to this section and shall provide a copy of the LEA policy on the rights of parents and students as required in § 49-2-211 and a copy of the Protection of Pupil Rights (20 U.S.C. § 1232h), commonly referred to as the Tiahrt Amendment, as amended by the Parents Rights Restoration Amendment to Goals 2000, March

31, 1994, Public Law 103-227, § 1017, and included in the No Child Left Behind Law (20 U.S.C. § 6301 et seq.).

(g) The local board of education of each LEA shall adopt policies that may be reasonable and necessary to ensure implementation and enforcement of this section.

(h) An LEA or school shall notify parents or legal guardians prior to any student participating in any mental health screening. The written notice shall include:

- (1) The purpose for the mental health screening;
- (2) The provider or contractor providing the mental health screening;
- (3) The date and time at which the mental health screening is scheduled; and
- (4) The length of time the mental health screening may last.

(i) Pursuant to § 49-1-704, a parent or legal guardian has a right to inspect and review the parent or guardian's child's education records.

49-6-3004. School term.

(c)(1)(A) In-service days shall be used according to a plan recommended by the local director of schools in accordance with this section and other applicable statutes and adopted by the local board of education, a copy of which plan shall be filed with the commissioner of education on or before June 1 of the preceding school year and approved by the commissioner. The commissioner shall require that in-service training include the teaching of the components of the Juvenile Offender Act, compiled in title 55, chapter 10, part 7, to all teachers and principals in grades seven through twelve (7-12). The commissioner shall require that in-service training include at least two (2) hours of suicide prevention education for all teachers and principals each school year. This education may be accomplished through self-review of suitable suicide prevention materials. The commissioner shall also encourage the use of two (2) of the in-service training days to provide training to teachers, principals and other school personnel, and, to the extent possible, school board members, on issues of prevention and intervention strategies for students in the area of behavioral/emotional disorders. The training shall place an emphasis on understanding the warning signs of early-onset mental illness in children and adolescents and may be conducted by school counseling personnel, such as psychologists, social workers, guidance counselors or health faculty, by mental health clinicians or by approved personnel from mental health advocacy organizations using curricula approved by the departments of education and mental health and substance abuse services. In addition to other training and resources authorized by this chapter, the department of education shall, within available resources, collaborate with institutions of higher education to formally address dyslexia and similar reading disorders by providing kindergarten through twelfth grade (K-12) educators and teachers web-based or in-person training providing effective instruction for teaching students with dyslexia using appropriate scientific research and brain-based multisensory intervention methods and strategies.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

49-1-213. Technical assistance.

Within available resources, the department may provide technical assistance to LEAs through the implementation of a trainer of trainers model. Each LEA may identify its own technical assistance persons

from general and special education to serve local schools. Technical assistance persons would serve as trainers to the district's local technical assistance persons. Local technical assistance persons may then provide hands-on consultation in the classrooms and in school in-services related to the needs of children having behavioral or emotional disorders.

49-2-115. Family resource centers.

(a) Family resource centers may be established by any LEA in order to coordinate state and community services to help meet the needs of families with children. An LEA may directly operate its own family resource centers or may contract with a locally based nonprofit agency, including a community action agency, to operate one (1) or more such centers on behalf of the LEA. Each center shall be located in or near a school. The local school board shall appoint community service providers and parents to serve on an advisory council for each family resource center. Parents shall comprise a majority of each advisory council.

(b) Upon approval by the department of education, basic education program (BEP) funds may be expended by an LEA to plan and implement a family resource center. The application for such approval shall identify a full-time director and other professional staff from the school or community, or both, which may include psychologists, school counselors, social workers, nurses, instructional assistants and teachers. In establishing family resource centers, the department shall consult with the departments of health, mental health and substance abuse services, intellectual and developmental disabilities and children's services.

(c) The commissioner of education is authorized to award grants of up to fifty thousand dollars (\$50,000) to LEAs for the purpose of planning, implementing and operating family resource centers. All LEAs, upon receiving such grants for a period of three (3) school years, shall be evaluated by the commissioner to determine progress in attaining objectives set forth within this section. Those LEAs awarded satisfactory evaluations shall be eligible to continue receiving such grants for a period of three (3) additional school years. Beginning with the 1995-1996 school year, the number of family resource centers receiving such planning, implementation and operation grants shall be increased at least fifty percent (50%) above the number of centers receiving grants during the 1994-1995 school year.

(d) LEAs with state approved family resource centers may be given priority in receiving additional state funding for:

- (1) Formal parent involvement programs in elementary schools;
- (2) Early childhood programs for children at-risk;
- (3) Programs for parents with preschool at-risk children;
- (4) Learning centers in urban housing projects;
- (5) Programs in high schools for pregnant teenagers; and
- (6) "Jobs for Tennessee Graduates" in high schools.

(e)(1) Family resource centers shall provide interagency services/resources information on issues such as parent training, crisis intervention, respite care and counseling needs for families of children with behavioral/emotional disorders.

(2) Family resource centers shall serve the function of being the center of information sharing and resource facilitation for such families.

(3) Family resource centers shall also serve the function of helping families answer questions regarding funding for the options of service their child or family requires.

(f) The purpose of each family resource center shall be to maximize the potential learning capacity of the child by ensuring that school environments and neighborhoods are safe and socially enriching, that families are strong and able to protect children and meet their basic needs and that children are

physically healthy, emotionally stable, socially well-adjusted and able to connect with enriching opportunities and experiences in their schools and communities. In order to enable children to attain the most benefit possible from the time they spend in educational settings, the family resource centers shall focus on providing information to families about resources, support and benefits available in the community and on developing a coordinated system of care for children in the community in order to effectuate this purpose.

(g) The department of education and the department of children's services shall jointly develop guidelines for the operation of family resource centers, focusing on the requirements of this section, including the stated purpose of family resource centers in subsection (f). The guidelines shall be used by all family resource centers established pursuant to this section.

49-6-805. Template minimum requirements.

At a minimum, the template prepared by the state-level safety team shall include:

(5) Procedures for coordination of the school safety plan with the resources available through the department of mental health and substance abuse services, the department of intellectual and developmental disabilities or a similar local agency to assure that the school has access to federal, state or local mental health resources in the event of a violent incident.

(6) Appropriate violence prevention and intervention strategies such as:

(F) Comprehensive school counseling and mental health programs.

49-6-2403. Part definitions.

As used in this part:

(1) "Community consortium" means a partnership established between an LEA and one (1) or more community partners for purposes of establishing, operating, and sustaining a community school;

(2) "Community partner" means a provider of one (1) or more community services or a community organization or for-profit or nonprofit entity with a desire to improve conditions in the community;

(3) "Community school" means a public and private partnership to coordinate educational, developmental, family, health, and before-school and after-school-care programs during school and nonschool hours for students, families, and local communities at a public school with the objectives of improving academic achievement, reducing absenteeism, building stronger relationships between schools, students, parents, and communities, and improving the skills, capacity, and well-being of the surrounding community residents; and

(4) "Community services" include:

(A) Primary medical and dental care that is available to students and community residents;

(B) Mental health prevention and treatment services that are available to students and community residents.

49-6-2404. Authority to form community consortiums to establish community schools - Centers of communities - Designation of individual to lead implementation of programming - Eligibility for community school grant.

(a) LEAs and schools are authorized and encouraged to form community consortiums with a variety of community partners to establish a community school or schools with an integrated focus on academics, health and social services, youth and community development and community engagement that will lead to improved student learning, stronger families and healthier communities.

(b) The community schools, formed pursuant to subsection (a), shall strive to become centers of their communities providing programs and services for persons of all ages. They shall be open to everyone throughout each day, including in the evenings, on weekends and in the summer.

(c) A community school must designate an individual to lead and coordinate the planning and implementation of programming for the school.

(d) A community school is not eligible for any community school grant available under this part unless the school has developed a plan that provides for:

- (1) Integrated student supports;
- (2) Expanded and enriched learning time and opportunities;
- (3) Active family and community engagement; and
- (4) Collaborative leadership and practices.

49-6-3024. Review of laws and policies related to exclusionary discipline of students in pre-kindergarten through kindergarten.

(a) The department of education, in consultation with juvenile court officials, shall review all current laws and policies related to exclusionary discipline practices in public schools for students in pre-kindergarten through kindergarten (pre-K-K). For purposes of this section, "exclusionary discipline" means any type of school disciplinary action that removes or excludes a student from the student's traditional educational setting.

(b) The review shall:

- (5) Identify free resources to support teachers and parents in addressing children's social, emotional, and behavioral health, strengthening family relationships, and increasing developmental and behavioral screening.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

49-6-2701. Threat assessment team.

(c) A threat assessment team shall:

- (4) Establish procedures that outline the circumstances in which LEA personnel are required to report threatening or dangerous behavior;
- (5) Establish procedures for students, faculty, and community members to anonymously report threatening or dangerous behavior and specify to whom the behavior should be reported.

49-6-2802. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

(c) The policy required under subsection (a) must require a teacher to file a brief report with the principal detailing the situation that required the relocation of the student. The report must be kept either in a student discipline file, in which case the report does not become a part of the student's permanent record, or it must be filed in the student's permanent record, if the student's behavior violated the applicable zero tolerance policy. After the teacher files the report required under this subsection (c), the student is subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or the principal's designee must notify the teacher involved of the actions taken to address the behavior of the relocated student.

49-6-2803. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

In order to manage student behavior, to ensure the safety of all students in the teacher's classroom and school, and to ensure students the opportunity to learn in an orderly and disciplined classroom, a teacher may refer a student to the principal or the principal's designee. When a teacher disciplines a student by issuing a written referral for the student's behavior, the referral must be returned to the teacher with a notation of the action taken. The referral must be kept in a student discipline file, and shall not become a part of the student's permanent record. If an LEA or school has adopted an electronic system of making disciplinary referrals instead of using written referrals, then the teacher making the referral must be notified of the action taken, but the notification may be made either electronically or in writing. The principal or the principal's designee must respond to a teacher's disciplinary referral of a student by employing appropriate discipline management techniques that are consistent with the LEA's or school's policy. The director of schools, or the director's designee, must review the LEA's or school's discipline policies, practices, and data annually and recommend any necessary revisions to discipline policies to the local board of education or the public charter school governing body, as applicable, for adoption.

49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students.

(e)(2) The principal of a public school must report promptly to the director of schools, or to the attendance supervisor, the names of all students who have withdrawn from school or who have accumulated three

(3) days of unexcused absences. Upon a student's accumulation of three (3) days of unexcused absences, the director of schools or the attendance supervisor may serve, or cause to be served, upon the parent, guardian, or other person having control of a child subject to compulsory attendance who is unlawfully absent from school, written notice that the child's attendance at school is required by law.

(3) Additionally, the principal of a public school must report promptly to the director of schools, or to the attendance supervisor, the names of all students who have withdrawn from school or who have accumulated five (5) days of unexcused absences. Each successive accumulation of five (5) days of unexcused absences by a student must also be reported. [...]

(h)(1)(C) If an LEA enters into an agreement, then every public school principal or teacher employed by the LEA must report promptly to the director of schools, or the director's designated representative, the names of all students who accumulated five (5) days of unexcused absences and continue to report each subsequent unexcused absence. The five (5) days of unexcused absences need not be five (5) consecutive days of unexcused absences.

49-6-4209. Report of reasonable suspicion by principal to law enforcement officer.

(a) It is the duty of a school principal who has reasonable suspicion to believe, either as a result of a search or otherwise, that any student is committing or has committed any violation of title 39, chapter 17, part 4, § 39-17-1307, or § 39-17-1309 upon the school grounds or within any school building or structure under the principal's supervision, to report the reasonable suspicion to the appropriate law enforcement officer.

(b) School personnel have the duty to report any reasonable suspicion that a student is committing or has committed any violation of title 39, chapter 17, part 4 or § 39-17-1307 to the principal, or, if the principal is not available, to the principal's designee. If neither the principal nor the designee is available, school personnel may report violations of title 39, chapter 17, part 4 or § 39-17-1307 committed on school property to the appropriate authorities.

49-6-4301. School officials to report student offenses.

(a) Every teacher observing or otherwise having knowledge of an assault and battery or vandalism endangering life, health or safety committed by a student on school property shall report such action immediately to the principal of the school. Every principal having direct knowledge of an assault and battery or vandalism endangering life, health or safety committed by a student on school property or receiving a report of such action shall report the action immediately to the municipal or metropolitan police department or sheriff's department having jurisdiction. Any fight not involving the use of a weapon as defined in § 39-17-1309, or any fight not resulting in serious personal injury to the parties involved, shall be reported only to the school administrator.

(b) The report made to the law enforcement agency shall include, if known, the name and address of the offender, and the name and address of the victim, if any. The report shall also contain a description of the action and whatever additional information is requested by the law enforcement agency.

(c) The commissioner of education, in conjunction with the commissioner of safety, shall establish a statewide uniform violent incident reporting system that all LEAs shall follow. The uniform violent incident reporting system shall require all LEAs to report annually to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents, as defined by the commissioner, that occurred in the prior school year:

- (1) The type of offenders;
- (2) If an offender is a student, the age and grade of the student;
- (3) The location at which the incident occurred;
- (4) The type of incident;
- (5) Whether the incident occurred during or outside of regular school hours;
- (6) Where the incident involved a weapon, whether the weapon was a firearm, knife or other weapon;
- (7) The actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders by law enforcement;

- (8) Any student discipline or referral action taken against a student offender and the duration of the action; and
 - (9) The nature of the victim and the victim's age and grade where appropriate.
- (d) The commissioner shall require a summary of the information from subsection (c) to be included, in a form prescribed by the commissioner, in the annual report published by the commissioner each year pursuant to § 49-1-211.
- (e) Annually on or before February 1 of each year, the commissioner shall report to the governor and the general assembly concerning the prevalence of violent and disruptive incidents in the public schools and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system and identify specifically the schools and school districts with the least and greatest incidence of violent incidents and the least and most improvement since the previous year or years.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

(5) A procedure for reporting an act of harassment, intimidation, bullying or cyber-bullying, including a provision that permits a person to report an act of harassment, intimidation, bullying or cyber-bullying anonymously. Nothing in this section may be construed to permit formal disciplinary action solely on the basis of an anonymous report. [...]

(d)(1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

49-6-4505. Reprisal or retaliation prohibited - Reporting harassment, intimidation, bullying or cyber-bullying - Immunity from damages.

(a) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to, or person with reliable information about an act of harassment, intimidation, bullying or cyber-bullying.

(b) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation, bullying or cyber-bullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(c) A school employee who promptly reports an act of harassment, intimidation, bullying or cyber-bullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

(d) Notwithstanding subsections (b) and (c), a school employee, student or volunteer who witnesses or possesses reliable information that a student has transmitted by an electronic device any communication containing a credible threat to cause bodily injury or death to another student or school employee shall report such information to the appropriate school official designated by the policy of the school district. Such school official shall make a determination regarding the administration of the report.

REGULATIONS

0520-01-09-.23. Isolation and restraint for students receiving special education services.

- (10) School personnel who must isolate or restrain a student shall report each individual incident of isolation or restraint to the school principal or the principal's designee. The Department of Education shall develop a

report form, which shall be used by school personnel when reporting isolation or restraint to the school principal or the principal's designee.

(a) The report form must include the following information:

1. Student's name, age and disability;
2. Student's school and grade level;
3. Date, time and location of the isolation or restraint;
4. Length of time student was isolated or restrained;
5. Names, job titles and signatures of the personnel who administered the isolation or restraint;
6. Whether the personnel who administered the isolation or restraint were certified for completing a behavior intervention training program;
7. Names and job titles of other personnel who observed or witnessed the isolation or restraint;
8. Name of the principal or designee who was notified following the isolation or restraint and time of notification;
9. Description of the antecedents that immediately preceded the use of isolation or restraint and the specific behavior being addressed;
10. A certification that any space used for isolation is at least forty (40) square feet;
11. A certification that school personnel are in continuous direct visual contact at all times with a student who is isolated;
12. How the isolation or restraint ended, including the student's demeanor at the cessation of the isolation or restraint;
13. Physical injury or death to the student, school personnel or both during the isolation or restraint;
14. Medical care provided to the student, school personnel or both during the isolation or restraint;
15. Description of property damage, if relevant;
16. Date, time and method of parent notification; and
17. Whether an IEP team meeting is required pursuant to T.C.A. § 49-10-1304; and
18. A determination whether the student has a Functional Behavior Assessment and Behavior Intervention Plan for the behavior precipitating the use of isolation or restraint

(b) A copy of the report must be submitted to the Department within five (5) calendar days of incident.

Parental Notification

LAWS

49-2-305. Development and adoption of program to promote involvement of parents and guardians.

(a) The LEA, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district. The plan shall be submitted to the commissioner of education as part of the district's school improvement plans and shall be consistent with the Tennessee parent/family involvement policy of the state board of education. The plan shall include:

- (1) A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in such areas as homework, attendance, discipline, and planning for higher education opportunities for students.

49-6-3002. State attendance guidelines - No penalty for period of hospital or homebound instruction.

(a) The state board of education shall promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that prescribe guidelines for use by local boards of

education in establishing standards and policies governing student attendance, subject to availability of funds. The guidelines shall include, but not be limited to, the following stipulations:

- (2) Effective accounting and reporting procedures shall be developed to keep parents or guardians informed of a student's absence from class.

49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students.

(e)(1) By the beginning of each school year, the principal or head of school of a public, nonpublic, or church-related school shall give written notice to the parent, guardian, or person having control of a student subject to compulsory attendance that the parent, guardian, or other person having control of the student must monitor the student's school attendance and require the student to attend school. The written notice must inform the parent, guardian, or other person having control of a student that a student who accumulates five (5) days of unexcused absences during the school year is subject to the LEA's progressive truancy interventions and that continued unexcused absences may result in a referral to juvenile court. The five (5) days of unexcused absences need not be five (5) consecutive days of unexcused absences.

- (2) The principal of a public school must report promptly to the director of schools, or to the attendance supervisor, the names of all students who have withdrawn from school or who have accumulated three

(3) days of unexcused absences. Upon a student's accumulation of three (3) days of unexcused absences, the director of schools or the attendance supervisor may serve, or cause to be served, upon the parent, guardian, or other person having control of a child subject to compulsory attendance who is unlawfully absent from school, written notice that the child's attendance at school is required by law.

[...]

(4)(A) When a student accumulates five (5) days of unexcused absences, the director of schools or attendance supervisor shall serve, or cause to be served, upon the parent, guardian, or other person having control of a child subject to compulsory attendance who is unlawfully absent from school written notice that the child's attendance at school is required by law. The director of schools or attendance supervisor shall send a new notice after each successive accumulation of five (5) unexcused absences.

[...]

(h)(2) If a student accumulates five (5) days of unexcused absences, the director of schools shall serve, or cause to be served, upon the parent, guardian, or other person having control of the student written notice that the student's attendance at school is required. The notice must inform the parent, guardian, or other person having control of the student of this subsection (h).

49-6-3009. Educational neglect - Progressive truancy plans that implement tiers of intervention – Referral to juvenile court.

(d) Progressive truancy plans adopted by local boards of education pursuant to subsection (c) must be applied prior to referral to juvenile court as described in § 49-6- 3007(e)(1). Beginning with the 2021-2022 school year, progressive truancy plans must include a first tier of truancy prevention that is applicable to all enrolled students, and a second and third tier of truancy intervention required for students who have accumulated a minimum of five (5) days of unexcused absences. Beginning with the 2021-2022 school year, progressive truancy plans must meet the following requirements:

- (2) Tier two must be implemented upon a student's accumulation of five (5) unexcused absences, as specified in the LEA's progressive truancy plan, and must include, at a minimum:

- (A) A conference with the student and the parent, guardian, or other person having control of the student;

- (B) A resulting attendance contract to be signed by the student, the parent, guardian, or other person having control of the student, and an attendance supervisor or designee. The contract must include:

- (i) A specific description of the school's attendance expectations for the student;

- (ii) The period for which the contract is in effect; and

iii) Penalties for additional absences and alleged school offenses, including additional disciplinary action and potential referral to juvenile court;

(C) Regularly scheduled follow-up meetings, which may be with the student and the parent, guardian, or other person having control of the student to discuss the student's progress;

(m) For purposes of this section, all references to "intervention," "truancy intervention," or "progressive truancy intervention" are deemed references to the truancy interventions of the second and third tiers of a progressive truancy plan.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(1) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

49-6-4402. Corporal punishment.

(c)(1) Notwithstanding subsection (a), the chief administrative officer, or the chief administrative officer's designee, is prohibited from using corporal punishment against any student who has a disability, unless an LEA's discipline policy permits the use of corporal punishment and a parent of a child who has a disability permits, in writing, the use of corporal punishment against the parent's child. The written permission must state the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school's chief administrative officer must keep the written permission on file at the school. The school's chief administrative officer must notify the parent any time corporal punishment is used. The school's chief administrative officer must inform the parent, when the written permission for the use of corporal punishment is submitted, that the parent may revoke the permission to use corporal punishment at any time by giving written notice to the school's chief administrative officer that corporal punishment may no longer be used against the parent's child who has a disability.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(d)(2) The principal, or the principal's designee, shall immediately inform the parent or legal guardian of a student involved in an act of harassment, intimidation, bullying, or cyber-bullying. The principal or the principal's designee shall inform the parents or legal guardians of the students of the availability of counseling and support services that may be necessary.

REGULATIONS

0520-01-02-.17. State attendance guidelines.

(7) Whenever possible, attendance issues should be resolved at the school level. To ensure due process, Local boards of education must adopt a policy that affords students with excessive (more than 5) unexcused absences the opportunity to appeal. Such policy must, at minimum, include written or actual notice to the student or their parent/guardian and the opportunity to be heard. The burden of proof rests on the student or their parent/guardian. The appeal process for determining unexcused absences is ancillary to a truancy decision rendered by a juvenile court judge as described in T.C.A. § 49-6-3010.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

49-1-211. Annual report by commissioner.

(a) The commissioner of education shall publish an annual report as of each November 1, which shall include, but not be limited to:

(7)(A) Overall student suspension and expulsion rates organized by schools and local school systems; and

(B) Student suspension and expulsion rates also organized by schools and local school systems, but subdivided by gender and race.

49-6-2701. Threat assessment team.

(d) The threat assessment team shall document all behaviors and incidents deemed to pose a risk to school safety or that result in intervention and shall provide the information to the LEA. All information shall be documented in accordance with the Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws. The LEA must consider the information when reviewing and developing a building-level school safety plan.

(e) The threat assessment team shall report threat assessment team activities to the local board of education and the director of schools on a regular basis. The report must include quantitative data on threat assessment team activities, including post-incident assessments, and must provide information on the effectiveness of the team's response to incidents deemed to pose a risk to school safety. The report must comply with the FERPA, § 10-7-504, and all other relevant state and federal privacy laws.

49-6-2803. Policy regarding relocation of student – Use of reasonable or justifiable force – Intervention in physical altercation

[...] The director of schools, or the director's designee, must review the LEA's or school's discipline policies, practices, and data annually and recommend any necessary revisions to discipline policies to the local board of education or the public charter school governing body, as applicable, for adoption.

49-6-2804. Written request for removal of student for disruptive behavior – Notice – Decision regarding student's placement – Action take in response to request for removal.

(h) To assist local boards of education and public charter school governing bodies in determining the effectiveness of student discipline policies and classroom supports provided to teachers to help address student behavior, each school shall annually report to the director of schools or to the head of the public charter school, as applicable, by July 1, 2022, and by each July 1 thereafter, the number of requests submitted by the school's teachers during the immediately preceding school year to remove a student from the teacher's classroom pursuant to subsection (a). The report must document the actions taken by the teacher's principal, or the principal's designee, in response to each request for a student's removal. Each director of schools must compile the data provided in each school's report and issue a district-wide report to the local board of education by August 1 immediately following the July 1 deadline for school reports.

(i) The commissioner of education may review the school and district-wide reports required under subsection (h) and provide training and other resources to schools and LEAs to address any needs identified through the commissioner's review.

(j) On or before February 1, 2023, and on or before February 1 of each year thereafter, the commissioner shall report to the governor and the general assembly on the implementation of, and compliance with, this part.

49-6-3024. Review of laws and policies related to exclusionary discipline of students in pre-kindergarten through kindergarten.

(a) The department of education, in consultation with juvenile court officials, shall review all current laws and policies related to exclusionary discipline practices in public schools for students in pre-kindergarten

through kindergarten (pre-K-K). For purposes of this section, "exclusionary discipline" means any type of school disciplinary action that removes or excludes a student from the student's traditional educational setting.

(b) The review shall:

- (1) Examine the number of exclusionary discipline actions issued by an LEA and the length of each respective disciplinary action;
- (2) Detail the type of offenses committed by the students that led to the exclusionary discipline action;
- (3) Review the impact exclusionary discipline has on students.

49-6-3401. Suspension of students - Expulsion of students - Exception for self-defense.

(h) The commissioner of education shall report on an annual basis to the education committee of the senate and the education committee of the house of representatives regarding disciplinary actions in Tennessee schools. The reports must include the reason for the disciplinary action, the number of students suspended or expelled, the number of students who committed zero tolerance offenses pursuant

to subsection (g), the number of students who have been placed in an alternative educational setting, and the number of students suspended, expelled, or otherwise dismissed from an alternative school. Data must be sorted by school as well as by various demographic factors, including grade, race, and sex.

49-6-3405. Alternative school success.

(a)(1) Each LEA shall track the operation and performance of alternative school programs operated by the LEA or contractually operated for the LEA. LEAs shall measure and report to the department of education alternative school success through academic indicators and behavior indicators.

(2) Academic indicators shall include, but not be limited to, grade point averages or other student academic performance measures, performance on the Tennessee comprehensive assessment program (TCAP), performance on the end-of-course assessments, attendance, dropout rates and graduation rates, for students in alternative schools or who have been in alternative schools.

(3) Behavioral indicators shall include, but not be limited to, disciplinary reports and subsequent remands to alternative schools.

(4) The department of education shall provide guidance in the reporting of the required data.

(b) The state board of education shall seek to improve performance of alternative school programs by promulgating or revising rules and regulations requiring greater accountability by the department of education and LEAs for outcomes of students served by alternative schools.

49-6-4108. Report detailing use of corporal punishment required.

(a) Beginning with the 2018-2019 school year, each LEA shall submit, at least annually, a report to the department of education detailing the LEA's use of corporal punishment. The report shall include, at a minimum:

- (1) The school at which each instance of corporal punishment occurred;
- (2) Information regarding the reason for each instance of corporal punishment;
- (3) Whether an instance of corporal punishment involved a student with an active individualized education program, and if so, the primary disability category for which the student has an individualized education program; and
- (4) Whether an instance of corporal punishment involved a student with an active 504 plan under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and if so, the reason for which the student has a 504 plan.

(b) The report submitted pursuant to this section shall exclude any personally identifiable information and shall be created in accordance with the Family Education Rights and Privacy Act (FERPA)(20 U.S.C. § 1232g), § 10-7-504, and any other relevant state or federal privacy law.

(c) The department shall report on its website the number of instances of corporal punishment in each LEA and the number of instances involving a student with an active individualized education program or an active 504 plan under Section 504 of the Rehabilitation Act of 1973.

49-6-4301. School officials to report student offenses.

(e) Annually on or before February 1 of each year, the commissioner shall report to the governor and the general assembly concerning the prevalence of violent and disruptive incidents in the public schools and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system and identify specifically the schools and school districts with the least and greatest incidence of violent incidents and the least and most improvement since the previous year or years.

49-6-4302. Tennessee school safety center.

(b) The Tennessee school safety center is responsible for the collection and analysis of data related to school safety, including alleged violent or assaultive acts against school employees and students. The center shall make periodic reports to the education committee of the senate and the education committee of the house of representatives on the status of school safety efforts.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(c)(2) Each LEA shall also:

(B) Beginning August 1, 2016, and annually thereafter, complete and submit a report to the department of education. The report shall be in a format provided by the department and shall include:

- (i) The number of harassment, intimidation, bullying, or cyber-bullying cases brought to the attention of school officials during the preceding year;
- (ii) The number of harassment, intimidation, bullying, or cyber-bullying cases where the investigation supported a finding that bullying had taken place;
- (iii) The number of harassment, intimidation, bullying, or cyber-bullying case investigations not initiated within forty-eight (48) hours of the receipt of the report and the reason the investigation was not initiated within forty-eight (48) hours;
- (iv) The number of harassment, intimidation, bullying, or cyber-bullying cases where an appropriate intervention was not initiated within twenty (20) calendar days of receipt of the report and the reason the intervention took longer than twenty (20) calendar days to initiate; and
- (v) The type of harassment, intimidation, bullying, or cyber-bullying identified and manner in which the harassment, intimidation, bullying, or cyber-bullying cases were resolved, including any disciplinary action against the student who was harassing, intimidating, bullying, or cyber-bullying.

(3) The department shall annually submit a report to the education committee of the house of representatives and the education committee of the senate updating membership on the number of harassment, intimidation, bullying, or cyber-bullying cases reported statewide, the number of LEAs implementing this part, the status of any investigations, including disciplinary actions against students, and any other information relating to the subjects of harassment, intimidation, bullying, or cyber-bullying as will be helpful to the committees in establishing policy in this area.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students.

(h)(4) The director of schools or the director's representative may issue a list of truant students to the local law enforcement agency for the purpose of allowing the law enforcement agency to take the student into temporary custody when the student is found away from the school premises, without adequate excuse, during school hours, in a public place, in any public or private conveyance, or in any place of business open to the public, unless accompanied by a parent, guardian, or other person having control of the student. The agreement shall specify that the law enforcement officer's sole function is to deliver the student to:

- (A) The parent, guardian, or other person having control of the student;
- (B) The principal of the school in which the student is enrolled;
- (C) A truancy center established by the LEA; or
- (D) The juvenile court, if the juvenile court and the local law enforcement agency have entered into a local interagency agreement.

49-6-4206. Policy authorizing school security officer to patrol.

(d) In patrolling the one-mile radius of the school, the school security officer shall:

- (1) Only patrol for violations of the law that involve minors, including truancy; and
- (2) Immediately notify the appropriate local law enforcement agency of any violation of the law if the school security officer reasonably believes the individual committing the act to be a minor.

49-6-4209. Report of reasonable suspicion by principal to law enforcement officer.

(a) It is the duty of a school principal who has reasonable suspicion to believe, either as a result of a search or otherwise, that any student is committing or has committed any violation of title 39, chapter 17, part 4, § 39-17-1307, or § 39-17-1309 upon the school grounds or within any school building or structure under the principal's supervision, to report the reasonable suspicion to the appropriate law enforcement officer.

(b) School personnel have the duty to report any reasonable suspicion that a student is committing or has committed any violation of title 39, chapter 17, part 4 or § 39-17-1307 to the principal, or, if the principal is not available, to the principal's designee. If neither the principal nor the designee is available, school personnel may report violations of title 39, chapter 17, part 4 or § 39-17-1307 committed on school property to the appropriate authorities.

49-6-4210. Disposal of contraband.

Any dangerous weapon or drug located by the principal or other staff member in the course of a search shall be turned over to the appropriate law enforcement officer for proper disposal.

49-6-4301. School officials to report student offenses.

(a) Every teacher observing or otherwise having knowledge of an assault and battery or vandalism endangering life, health or safety committed by a student on school property shall report such action immediately to the principal of the school. Every principal having direct knowledge of an assault and

battery or vandalism endangering life, health or safety committed by a student on school property or receiving a report of such action shall report the action immediately to the municipal or metropolitan police department or sheriff's department having jurisdiction. Any fight not involving the use of a weapon as defined in § 39-17-1309, or any fight not resulting in serious personal injury to the parties involved, shall be reported only to the school administrator.

(b) The report made to the law enforcement agency shall include, if known, the name and address of the offender, and the name and address of the victim, if any. The report shall also contain a description of the action and whatever additional information is requested by the law enforcement agency.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

49-6-3007. List of students - Reports of attendance - Enforcement of compulsory attendance - List of truant students.

(h)(1)(A) An LEA may enter into an agreement with the local law enforcement agency serving the LEA's area and the appropriate local government in that area to assist in the enforcement of compulsory attendance upon complying with the following conditions:

- (i) Creation by the local board of education of an advisory council to assist the board in formulating the agreement. The board must include representatives of teachers, parents, administrators, and other community representatives;
- (ii) Receipt of input from neighborhood groups and other interested parties; and
- (iii) At least one (1) public hearing on the proposed agreement prior to its adoption by the board.

(B) The agreement must provide for:

- (i) Training teachers, principals, social workers, and other school personnel concerning truancy issues;
- (ii) Training of involved law enforcement personnel in the truancy law, including categories of students to which the law does not apply, such as nonpublic school students or home school students; and
- (iii) Safeguards to protect students from discriminatory or selective enforcement and to protect the civil rights of students and parents.

49-6-4202. Part definitions.

As used in this part, unless the context otherwise requires:

- (6) "School resource officer" means a law enforcement officer, as defined under § 39-11-106, who is in compliance with all laws, rules and regulations of the peace officers standards and training commission and who has been assigned to a school in accordance with a memorandum of understanding between the chief of the appropriate law enforcement agency and the LEA.

49-6-4217. Employment standards for school resource officers.

(a) Training courses for school resource officers shall be designed specifically for school policing and shall be administered by an entity or organization approved by the peace officers standards and training (POST) commission.

(b) School resource officers shall participate in forty (40) hours of basic training in school policing within twelve (12) months of assignment to a school. Every year thereafter they shall participate in a minimum of sixteen (16) hours of training specific to school policing that has been approved by the POST commission.

49-6-4219. Policy regulating use of electronic control devices.

Any law enforcement agency providing a school resource officer, school security officer or other law enforcement officer providing security at a school shall have a policy regulating the use of electronic control devices, which policy shall address training in the proper use of such devices, as well as investigation, documentation and review of such use, to include final approval of any report documenting such use by the agency's chief executive officer or sheriff.

49-6-4302. Tennessee school safety center.

(f) The department of safety and homeland security, in collaboration with the department of education, shall develop a school security assessment for use in Tennessee public schools. The departments shall provide training to local law enforcement agencies and school administrators on the use of the school security assessment to identify school security vulnerabilities. The department of safety and homeland security is authorized to conduct periodic audits of Tennessee public schools as necessary to verify the effective implementation and use of such assessments to enhance school security.

49-6-805. Template minimum requirements.

At a minimum, the template prepared by the state-level safety team shall include:

(6) Appropriate violence prevention and intervention strategies such as:

(A) Collaborative arrangements with state and local law enforcement officials, designed to ensure that school resource officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

38-8-120. School policing.

A memorandum of understanding may be entered into between a chief of a law enforcement agency and a local education agency to provide school policing.

49-6-805. Template minimum requirements.

At a minimum, the template prepared by the state-level safety team shall include:

(6) Appropriate violence prevention and intervention strategies such as:

(A) Collaborative arrangements with state and local law enforcement officials, designed to ensure that school resource officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited.

49-6-809. Policy authorizing off-duty law enforcement officers to serve as armed school security officers -Memorandum of understanding - List of qualified officers - Funding - Report.

(a) For purposes of this section, "law enforcement officer" means the sheriff, sheriff's deputies, or any police officer employed by the state, a municipality, county, or political subdivision of the state certified by the peace officer standards and training (POST) commission; any commissioned member of the Tennessee highway patrol; and any Tennessee county constable authorized to carry a firearm and who has been certified by the POST commission.

(b)(1) To increase the protection and safety of students and school personnel, local boards of education may adopt a policy authorizing off-duty law enforcement officers to serve as armed school security officers during regular school hours when children are present on the school's premises, as well as during school-sponsored events.

(2) Nothing in this section shall require a local board of education to adopt a policy permitting an off-duty law enforcement officer to serve as an armed school security officer.

(c)(1) If a local board of education adopts a policy authorizing off-duty law enforcement officers to serve as armed school security officers, the LEA shall execute a written memorandum of understanding (MOU) with each law enforcement agency that employs the law enforcement officers selected by the chief law enforcement officer of the law enforcement agency to serve as armed school security officers.

(2) Any MOU entered into pursuant to subdivision (c)(1) shall contain the following:

(A) A provision that prescribes the types of firearms that may be carried by an armed school security officer on school premises and the manner in which the armed school security officer's firearm may be carried; provided, that the MOU shall not prohibit an off-duty law enforcement officer who is serving as an armed school security officer from carrying a loaded handgun on school premises;

(B) A provision limiting the role of armed school security officers to that of maintaining safety in the school and prohibiting armed school security officers from addressing routine school discipline issues that do not constitute crimes or that do not impact the immediate health or safety of the students or staff of the school;

(C) Provisions stipulating that off-duty officers serving as armed school security officers are required to follow the policies of the officer's employing law enforcement agency;

(D) Procedures for communication among the LEA, armed school security officers, school resource officers, and local law enforcement agencies;

(E) A description of any policies, procedures, or other requirements that the armed school security officers must follow when responding to an emergency on school grounds;

(F) A statement requiring that armed school security officers comply with all state and federal laws regarding the confidentiality of personally identifiable student information;

(G) Procedures for addressing complaints against armed school security officers;

(H) A provision detailing how liability will be provided for any acts or omissions of the armed school security officer within the scope of the armed school security officer's duties, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain;

(I) A provision detailing how scheduling will be determined; and

(J) The hours and wages of each armed school security officer assigned to a school in the LEA.

(3) Any MOU entered into pursuant to subdivision (c)(1) may prescribe:

(A) Whether an armed school security officer is required to be uniformed while on school premises; or

(B) Other means for proper identification of the armed school security officer.

(4)(A) If a MOU entered into pursuant to this subsection (c) would permit law enforcement officers to serve as armed school security officers at a school that is located within the jurisdictional boundaries of another law enforcement agency that is not the law enforcement officers' employing agency, then the MOU shall not take effect until approved in writing by the chief law enforcement officer of the law enforcement agency with law enforcement jurisdiction for the school.

(B) Notwithstanding title 6, chapter 54, part 3, or any other law to the contrary, a law enforcement officer who is serving as an armed school security officer pursuant to this section for a school located outside of the jurisdictional boundaries of the officer's employing agency shall, while acting within the scope of the officer's employment as an armed school security officer, have the jurisdiction and authority to enforce all laws of this state and of the county or municipality in which the school at which the officer is serving as an armed school security officer is located.

(d)(1) The chief law enforcement officer of each law enforcement agency in this state shall prepare and distribute a list of its law enforcement officers who the chief law enforcement officer deems qualified and who are interested in serving as armed school security officers pursuant to this section to each LEA that is located within the law enforcement agency's jurisdictional boundaries and with which a MOU has been entered into in accordance with this section. The chief law enforcement officer shall consider the federal Fair Labor Standards Act when considering an officer's qualification to serve as an armed school security officer.

(2) The chief law enforcement officer of a law enforcement agency may prohibit a law enforcement officer employed by another law enforcement agency from serving as an armed school security officer at a school located within the chief law enforcement officer's jurisdiction for reasons the chief law enforcement officer deems sufficient, including, but not limited to, if the law enforcement officer has received a disciplinary action within the last five (5) years that resulted in, at a minimum, a written reprimand. The chief law enforcement officer shall notify any such officer the chief prohibits from serving as an armed school security officer by sending a written notice of the prohibition to the law enforcement officer and the law enforcement officer's employing agency. The law enforcement officer is entitled to compensation pursuant to this section for any service as an armed school security officer performed by the officer prior to receipt of the written notice by the earlier of the law enforcement officer or the law enforcement officer's employing agency.

(e) If an LEA adopts a policy authorizing the use of armed school security officers, then funding for the armed school security officers may come from a law enforcement agency or from the LEA, including, but not limited to, local, state, or federal funds received by the LEA, for which purpose such funds may be lawfully expended.

(f)(1) Nothing in this section shall be construed to require an LEA or a law enforcement agency of the county to assign or provide funding for an armed school security officer.

(2) Nothing in § 49-3-315 shall be construed to require an LEA or a law enforcement agency of the county to assign or provide funding for an armed school security officer as defined in this section to any school system within that county on the basis of the WFTEADA, as defined by § 49-3-302. The provision of armed school security officers by local law enforcement agencies shall be considered a law enforcement function and not a school operation or maintenance purpose that requires the apportionment of funds pursuant to § 49-3-315.

(g) The use of armed school security officers shall be supplemental to school resource officers and school safety measures adopted by an LEA and shall not supplant school resource officers or other school security measures. An LEA shall not replace a school resource officer or other school security measure with an armed school security officer. A law enforcement agency shall not terminate a MOU for the

provision of school resource officers based solely upon an LEA's adoption of a policy authorizing the use of armed school security officers.

(h) Following the conclusion of the 2020-2021 school year, the chief law enforcement officer of each law enforcement agency with law enforcement jurisdiction for a school that has utilized armed school security officers pursuant to this section shall submit a report to the governor, the chair of the education committee of the house of representatives, the chair of the education committee of the senate, and the commissioner of education on or before September 1, 2021, that details any school security deficiencies and that provides recommendations for security improvements for each such school. If the report requirement of this subsection (h) affects more than one (1) law enforcement agency within any one (1) county, then the affected chief law enforcement officers shall submit a single, consolidated report covering the schools that have utilized armed school security officers pursuant to this section.

49-6-815. People permitted to possess and carry a firearm on school grounds.

(e) Nothing in § 49-3-315 shall be construed to require an LEA or a law enforcement agency of the county to assign or provide funding for a school resource officer as defined in § 49-6-4202 to any city school system within that county on the basis of the WFTEADA as defined by § 49-3-302. The providing of security or school resource officers by a sheriff shall be considered a law enforcement function and not a school operation or maintenance purpose that requires the apportionment of funds pursuant to § 49-3-315.

49-6-4202. Part definitions.

As used in this part, unless the context otherwise requires:

(6) "School resource officer" means a law enforcement officer, as defined under § 39-11-106, who is in compliance with all laws, rules and regulations of the peace officers standards and training commission and who has been assigned to a school in accordance with a memorandum of understanding between the chief of the appropriate law enforcement agency and the LEA.

49-6-4206. Policy authorizing school security officer to patrol.

(a) As used in this section, "school security officer" means an individual who is employed exclusively by the local school board or LEA for the purpose of:

- (1) Maintaining order and discipline;
- (2) Preventing crime;
- (3) Investigating violations of school board policies;
- (4) Returning students who may be in violation of the law, school board, or LEA policies to school property or to a school-sponsored event until the officer can place the student into the custody of the school administrator or the administrator's designee, the school resources officer, or the appropriate law enforcement officer; and
- (5) Ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in an assigned school.

(b) Each LEA may develop and adopt, in consultation with the appropriate local law enforcement agency, a policy that authorizes a school security officer employed by the LEA to patrol within a one-mile radius of the security officer's assigned school, but not to exceed the boundaries of the assigned school's LEA.

(c) If an LEA adopts a policy pursuant to subsection (a) then the LEA shall file a copy of the policy with the appropriate local chief law enforcement officer.

(d) In patrolling the one-mile radius of the school, the school security officer shall:

- (1) Only patrol for violations of the law that involve minors, including truancy; and

(2) Immediately notify the appropriate local law enforcement agency of any violation of the law if the school security officer reasonably believes the individual committing the act to be a minor.

49-6-4219. Policy regulating use of electronic control devices.

Any law enforcement agency providing a school resource officer, school security officer or other law enforcement officer providing security at a school shall have a policy regulating the use of electronic control devices, which policy shall address training in the proper use of such devices, as well as investigation, documentation and review of such use, to include final approval of any report documenting such use by the agency's chief executive officer or sheriff.

49-6-4302. Tennessee school safety center.

(c)(1) The Tennessee school safety center, within the limit of appropriations for the center, shall establish school safety grants to assist LEAs in funding programs that address school safety, including, but not limited to, innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, school resource officers, school safety officers, peer mediation, and training for employees on the identification of possible perpetrators of school-related violence. [...]

(e) The Tennessee school safety center shall reserve moneys to fund school safety grants for LEAs with schools that did not have a full-time school resource officer during the 2018-2019 school year and that submit a school safety grant application describing the LEA's intent to utilize the grant for school resource officers, and to that end, the center shall prioritize school safety grants based on such applications. Any reserve funding awarded pursuant to this subsection (e) is subject to a twenty-five percent (25%) match by the LEA, adjusted for the LEA's fiscal capacity under the BEP formula, and must be available for school safety grants awarded for the 2019-2020 and 2020-2021 fiscal years. Any reserve funds that are not awarded pursuant to this subsection (e) must be reallocated in accordance with subsection (d). [...]

(h) LEAs are authorized to act in partnership with local law enforcement agencies for the purpose of hiring school resource officers under the state grant program set forth in § 38-8-115.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

49-6-2701. Threat assessment team.

(a) Each LEA may adopt a policy to establish a threat assessment team within the LEA. The purpose of the threat assessment team is to develop comprehensive intervention-based approaches to prevent violence, manage reports of potential threats, and create a system that fosters a safe, supportive, and effective school environment.

(b) The threat assessment team must include LEA personnel and law enforcement personnel. An LEA's threat assessment team may include juvenile services personnel, a representative of the local district attorney's office, a representative of the department of children's services, and mental health service providers.

(c) A threat assessment team shall:

(1) Obtain training from local law enforcement or mental health service providers on how to assess individuals exhibiting threatening or disruptive behavior and develop interventions for individuals exhibiting such behavior;

- (2) Conduct threat assessments based on dangerous or threatening behavior of individuals in the school, home, or community setting;
 - (3) Provide guidance to students, faculty, staff, and others in the LEA on how to recognize, address, and report threatening or dangerous behavior;
 - (4) Establish procedures that outline the circumstances in which LEA personnel are required to report threatening or dangerous behavior;
 - (5) Establish procedures for students, faculty, and community members to anonymously report threatening or dangerous behavior and specify to whom the behavior should be reported;
 - (6) Provide guidance and best practices for the intervention and prevention of violence;
 - (7) Establish procedures for the:
 - (A) Assessment of individuals exhibiting behavior that may present a threat to the health or safety of the individual or others;
 - (B) Development of appropriate means of intervention, diversion, and de-escalation of threats; and
 - (C) Development of appropriate courses of actions that should be taken in the event threatening or dangerous behavior is reported, including, but not limited to, referrals to community services or healthcare providers, notification of parents or guardians, if appropriate, or notification of law enforcement and emergency medical services;
 - (8) Refer individuals to support services; and
 - (9) Provide post-incident assessments and evaluate the effectiveness and response of the LEA to incidents.
- (d) The threat assessment team shall document all behaviors and incidents deemed to pose a risk to school safety or that result in intervention and shall provide the information to the LEA. All information shall be documented in accordance with the Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws. The LEA must consider the information when reviewing and developing a building-level school safety plan.
- (e) The threat assessment team shall report threat assessment team activities to the local board of education and the director of schools on a regular basis. The report must include quantitative data on threat assessment team activities, including post-incident assessments, and must provide information on the effectiveness of the team's response to incidents deemed to pose a risk to school safety. The report must comply with the FERPA, § 10-7-504, and all other relevant state and federal privacy laws.
- (f) Documents produced or obtained pursuant to this section are not open for public inspection. Threat assessment team meetings do not constitute an open meeting as defined by § 8-44-102.

49-6-2702. Request for law enforcement or court records upon determination that individual poses threat or exhibits significantly disruptive behavior or need for assistance - Use of information - Disclosure of student's education record.

- (a)(1) Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence or exhibits significantly disruptive behavior or need for assistance, the threat assessment team may:
 - (A) Request law enforcement information or records, which may be provided as deemed appropriate by the law enforcement agency in accordance with state and federal privacy laws; and
 - (B) Request court files and records, which may be provided as deemed appropriate by the juvenile court pursuant to § 37-1-153.
- (2) A member of a threat assessment team shall not disclose any court files or records obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which the

disclosure was made. This section does not require a law enforcement agency or juvenile court to produce a record or limit a law enforcement agency's or juvenile court's discretion.

(3) Law enforcement and juvenile justice information obtained pursuant to this part cannot be used:

(A) To discipline or exclude a child from educational services unless the information is provided to a school pursuant to § 37-1-131(a)(2)(B); or

(B) By a juvenile court system to assess legal consequences against a person for any action, unless the information is brought before the juvenile court pursuant to a properly filed petition and addressed through the proper court proceedings in accordance with title 37, chapter 1.

(b) An LEA may disclose information contained in a student's education record to appropriate parties, including members of the threat assessment team and the members' respective agencies, in the event of an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Any disclosure under this subsection (b) must comply with the Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. 1232g), § 10-7-504, the Data Accessibility, Transparency and Accountability Act, compiled in chapter 1, part 7 of this title, and all other relevant state and federal privacy laws. This section does not limit an LEA's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(c) Agencies, entities, and individuals subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(42 U.S.C. § 1320d et seq.) may disclose information contained in a medical record to the threat assessment team if the agency, entity, or individual believes that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. Any disclosure under this subsection (c) must comply with HIPAA. Nothing in this subsection (c) limits an agency's, entity's or individual's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(d) The threat assessment team shall certify to any agency or individual providing confidential information that the information will not be disclosed to any other party, except as provided by law. The agency providing the information to the threat assessment team shall retain ownership of the information provided, and such information remains subject to any confidentiality laws applicable to the agency. The provision of information to the threat assessment team does not waive any applicable confidentiality standards. Confidential information may be shared with the threat assessment team only as necessary to protect the safety of the individual or others. Nothing in this part compels an agency or individual to share records or information unless required by law.

49-6-2703. Immunity of threat assessment team.

A threat assessment team and individual members of a threat assessment team, and any person providing information to a threat assessment team, are not liable in any action for damages or for other relief for any lawful actions taken in accordance with this part. A threat assessment team and individual members of a threat assessment team are immune from liability arising from:

(1) The provision of information to a threat assessment team, if the information is provided to the threat assessment team in good faith, without malice, and on the basis of facts known or reasonably believed to exist; or

(2) Any decisions, opinions, actions, and proceedings rendered, entered, or acted upon by a threat assessment team within the scope or function of the duties of the threat assessment team if made in good faith, without malice, and on the basis of facts known or reasonably believed to exist.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Tennessee provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Website		
Bullying & Harassment, Tennessee Department of Education (TDOE)	Provides information for parents, students, and school regarding how to respond to bullying.	https://www.tn.gov/education/districts/health-and-safety/bullying-and-harassment.html
Chronic Absenteeism, TDOE	Addresses Chronic Absenteeism as an indicator called "Chronically Out-of-School Indicator" and provides information on the importance of indicator and data collection, including related resources and Back-to-School Attendance Toolkit.	https://www.tn.gov/education/students/student-supports-in-tn/chronic-absenteeism.html
Creating Safe and Healthy Learning Environments, TDOE	Provides links and key terms to subtopics such as school safety, school climate, bullying, and harassment.	https://www.tn.gov/education/districts/health-and-safety.html
Implementation Guide: Response to Instruction and Intervention Framework, TDOE	Implementation guide for school districts and administrators regarding the RTI ² framework to ensure positive outcomes for Tennessee students.	https://www.tn.gov/education/districts/instruction/tdoe-rti2/rti2-rediect/rti-educators/tdoe3-rti-educators-implementation-guide.html
RTI2, TDOE	Provides resources and information about the Response to Instruction and Intervention Framework.	https://www.tn.gov/education/districts/instruction/tdoe-rti2/rti2-rediect/rti2-resources.html
School Safety, TDOE	Provides an overview on school safety and links to related topics including bullying and harassment, school resource officers, school discipline institute presentations, and other resources.	https://www.tn.gov/education/districts/health-and-safety/school-safety.html
Student Supports in Tennessee, TDOE	Provides a framework for seeing how all the practices, programs, and interventions fit together to meet student needs.	https://www.tn.gov/education/students/student-supports-in-tn/student-supports-in-tn.html
Documents		
Bullying and Harassment: An Educator's Guide for Addressing Bullying and Harassment Complaints in Tennessee (October 2012), TDOE	Manual for LEAs on bullying and harassment.	https://www.tn.gov/content/dam/tn/education/safety/bully_harass_e_ducator_guide_complaints.pdf

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Documents		
Overview of Student Supports in Tennessee (March 2018), TDOE	Provides in-depth information regarding the Multi-Tiered System of Supports framework to assist school administrators in adopting and implementing MTSS in schools.	https://www.tn.gov/content/dam/tn/education/reports/student_supports_overview.pdf
FAQ, Restraint and Isolation for Students Receiving Special Education and Related Services (July 2021) TDOE	Provides responses to frequently asked questions regarding the restraint and seclusion of students receiving special education and related services	https://www.tn.gov/content/dam/tn/education/special-education/Restraint%20and%20Isolation%20FAQ%20.pdf
Sample Bullying and Harassment Policy, TDOE	Sample policy addressing bullying and harassment in schools.	https://www.tn.gov/content/dam/tn/education/safety/bully_harass_sample_policy.pdf
Sample Memorandum of Understanding, TDOE	Sample MOU for school resource officer program in Tennessee schools.	https://www.tn.gov/content/dam/tn/safety/documents/SRO_Grant_MOU.pdf
Trauma-informed Discipline Practices Guidance Document, TDOE	Guidance document provides information about trauma-informed discipline practices.	https://www.tn.gov/content/dam/tn/education/safety/Trauma_informed_Discipline_Practices_Guidance.docx
Other Resources		
2022 Legislative Report, TDOE	Report on Public Chapters and Resolutions Affecting K-12 Education in Tennessee.	https://www.tn.gov/content/dam/tn/education/legal/2022_Legislative_Report_final.pdf
Bullying and Harassment Compliance Report (Updated December 2022), TDOE	Document states the total number of bullying cases reported statewide (2020-21).	https://www.tn.gov/content/dam/tn/education/legal/2021-22_Bullying_and_Harassment_Compliance_Report.pdf
Social and Personal Competencies, TDOE	Online learning modules that introduce the concept of social and personal competencies and teaching practices that support the academic, social, and emotional skills development of all students.	https://www.tn.gov/education/districts/health-and-safety/school-climate/social-and-personal-competencies.html
State Report Card, TDOE	State report card provides data by school year on student characteristics, college/career readiness, accountability, education climate, and teachers/staff. Data on disciplinary actions is disaggregated by race and gender.	https://www.tn.gov/education/families/report-card.html



Texas

Compilation of School

Discipline Laws and

Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;
- (2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;
- (3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;
- (4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - (A) self-defense;
 - (B) intent or lack of intent at the time the student engaged in the conduct;
 - (C) a student's disciplinary history;
 - (D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
 - (E) a student's status in the conservatorship of the Department of Family and Protective Services; or
 - (F) a student's status as a student who is homeless;
- (5) provide guidelines for setting the length of a term of:
 - (A) a removal under Section 37.006; and
 - (B) an expulsion under Section 37.007;
- (6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;
- (7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions;
- (8) provide, as appropriate for students at each grade level, methods, including options, for:
 - (A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
 - (B) disciplining students; and
 - (C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists; and

(9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(4) "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

REGULATIONS

No relevant regulations found.

Scope

LAWS

§ 37.007. Expulsion for serious offenses.

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property. [...]

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

§ 37.0832. Bullying prevention policies and procedures.

(a-1) This section applies to:

(1) bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;

(2) bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and

(3) cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:

(A) interferes with a student's educational opportunities; or

(B) substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

§ 37.0832. Bullying prevention policies and procedures.

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks; and

(2) in the district improvement plan under Section 11.252.

§ 37.110. Information regarding gang-free zones.

The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

§ 37.144. Graduated sanctions for certain school offenses.

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;
- (3) the performance of school-based community service by the child; and
- (4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

§ 37.145. Complaint.

If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

§ 37.002. Removal by teacher.

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(b-1) A teacher may document any conduct by a student that does not conform to the student code of conduct adopted under Section 37.001 and may submit that documentation to the principal. A school district may not discipline a teacher on the basis of documentation submitted under this subsection.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

(e) A student who is sent to the campus behavior coordinator's or other administrator's office under Subsection (a) or removed from class under Subsection (b) is not considered to have been removed from the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law.

§ 37.0181. Professional development regarding disciplinary procedures.

(a) Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding this subchapter, including training relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b).

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made

available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (8) provide, as appropriate for students at each grade level, methods, including options, for:
 - (A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
 - (B) disciplining students; and
 - (C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

§ 37.0013. Positive behavior program.

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (1) be age-appropriate and research-based;
- (2) provide models for positive behavior;
- (3) promote a positive school environment;
- (4) provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and
- (5) provide behavior management strategies, including:
 - (A) positive behavioral intervention and support;
 - (B) trauma-informed practices;
 - (C) social and emotional learning;
 - (D) a referral for services, as necessary; and
 - (E) restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

§ 37.002. Removal by teacher.

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

- (1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or
- (2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(b-1) A teacher may document any conduct by a student that does not conform to the student code of conduct adopted under Section 37.001 and may submit that documentation to the principal. A school district may not discipline a teacher on the basis of documentation submitted under this subsection.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

(e) A student who is sent to the campus behavior coordinator's or other administrator's office under Subsection (a) or removed from class under Subsection (b) is not considered to have been removed from the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law.

§ 37.021. Opportunity to complete courses during in-school and certain other placements.

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports;

(B) in-school suspension;

(C) out-of-school suspension; or

(D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 22.0512. Immunity from disciplinary proceedings for professional employees.

- (a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.
- (b) In this section, "disciplinary proceeding" means:
- (1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or
 - (2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).
- (c) This section does not prohibit a school district from:
- (1) enforcing a policy relating to corporal punishment; or
 - (2) notwithstanding Subsection (a), bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment.

§ 37.0011. Use of corporal punishment.

- (a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:
- (1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or
 - (2) the use of restraint as authorized under Section 37.0021.
- (b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.
- (c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.
- (d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§ 29.022. Video surveillance of special education settings.

(i) A video recording of a student made according to this section is confidential and may not be released or viewed except as provided by this subsection or Subsection (i-1) or (j). A school district or open-enrollment charter school shall release a recording for viewing by:

- (4) a peace officer, a school nurse, a district or school administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the board of trustees of the school district or the governing body of the open-enrollment charter school in response to a report of an alleged incident or an investigation of district or school personnel or a report of alleged abuse committed by a student.

§ 30.106. Reading and behavior plan.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

(1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

- (A) are based on current behavioral research; and
- (B) are systematically and individually applied to students consistent with the demonstrated level of need;

(2) require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

- (A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;
- (B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;
- (C) validated measurement of systemic positive behavioral support interventions; and
- (D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

§ 37.0021. Use of confinement, restraint, seclusion, and time-out.

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined

in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001-720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards; and

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) the student possesses a weapon; and

(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

- (g) This section and any rules or procedures adopted under this section do not apply to:
- (1) a peace officer performing law enforcement duties, except as provided by Subsection (i);
 - (2) juvenile probation, detention, or corrections personnel; or
 - (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.
- (h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:
- (1) is employed or commissioned by a school district; or
 - (2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.
- (i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

§ 37.0023. Prohibited aversive techniques.

- (a) In this section, "aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:
- (1) is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;
 - (2) notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
 - (3) involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
 - (4) denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
 - (5) ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
 - (6) employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
 - (7) impairs the student's breathing, including any procedure that involves:
 - (A) applying pressure to the student's torso or neck; or
 - (B) obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
 - (8) restricts the student's circulation;
 - (9) secures the student to a stationary object while the student is in a sitting or standing position;
 - (10) inhibits, reduces, or hinders the student's ability to communicate;
 - (11) involves the use of a chemical restraint;
 - (12) constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or

(13) except as provided by Subsection (c), deprives the student of the use of one or more of the student's senses.

(b) A school district or school district employee or volunteer or an independent contractor of a school district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a student.

(c) Notwithstanding Subsection (a)(13), an aversive technique described by Subsection (a)(13) may be used if the technique is executed in a manner that:

(1) does not cause the student pain or discomfort; or

(2) complies with the student's individualized education program or behavior intervention plan.

(d) Nothing in this section may be construed to prohibit a teacher from removing a student from class under Section 37.002.

(e) In adopting procedures under this section, the commissioner shall provide guidance to school district employees, volunteers, and independent contractors of school districts in avoiding a violation of Subsection (b).

REGULATIONS

19 TAC 89.1053. Procedures for use of restraint and time-out.

(a) Requirement to implement. In addition to the requirements of 34 Code of Federal Regulations (CFR), § 300.324(a)(2)(i), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), § 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services under TEC, Chapter 29, Subchapter A.

(b) Definitions.

(1) Emergency means a situation in which a student's behavior poses a threat of:

(A) imminent, serious physical harm to the student or others; or

(B) imminent, serious property destruction.

(2) Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.

(3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(c) Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.

(1) Restraint must be limited to the use of such reasonable force as is necessary to address the emergency.

(2) Restraint must be discontinued at the point at which the emergency no longer exists.

(3) Restraint must be implemented in such a way as to protect the health and safety of the student and others.

(4) Restraint must not deprive the student of basic human necessities.

(d) Training on use of restraint. Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.

(1) A core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.

(2) Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.

(3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.

(4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:

(A) name of the student;

(B) name of the staff member(s) administering the restraint;

(C) date of the restraint and the time the restraint began and ended;

(D) location of the restraint;

(E) nature of the restraint;

(F) a description of the activity in which the student was engaged immediately preceding the use of restraint;

(G) the behavior that prompted the restraint;

(H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

(I) information documenting parent contact and notification.

(f) Clarification regarding restraint. The provisions adopted under this section do not apply to the use of physical force or a mechanical device that does not significantly restrict the free movement of all or a portion of the student's body. Restraint that involves significant restriction as referenced in subsection (b)(2) of this section does not include:

(1) physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;

(2) limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;

(3) limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be

reflected in the individualized education program (IEP) as required by 34 CFR, § 300.324(a)(2)(i) to promote student learning and reduce and/or prevent the need for ongoing intervention; or

(4) seat belts and other safety equipment used to secure students during transportation.

(g) Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.

(1) Physical force or threat of physical force must not be used to place a student in time-out.

(2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.

(3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(h) Training on use of time-out. Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.

(1) General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.

(2) Newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.

(3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

(i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(j) Student safety. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.

(l) Peace officers. The provisions adopted under this section apply to a peace officer only if the peace officer is employed or commissioned by the school district or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency, except that the data reporting requirements in subsection (k) of this section apply to the use of restraint by any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

(m) The provisions adopted under this section do not apply to:

(1) juvenile probation, detention, or corrections personnel; or

(2) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;
- (2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;
- (3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;
- (4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - (A) self-defense;
 - (B) intent or lack of intent at the time the student engaged in the conduct;
 - (C) a student's disciplinary history;
 - (D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
 - (E) a student's status in the conservatorship of the Department of Family and Protective Services; or
 - (F) a student's status as a student who is homeless;
- (5) provide guidelines for setting the length of a term of:
 - (A) a removal under Section 37.006; and
 - (B) an expulsion under Section 37.007;
- (6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;
- (7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions;
- (8) provide, as appropriate for students at each grade level, methods, including options, for:
 - (A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
 - (B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists; and

(9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(4) "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

§ 37.005. Suspension.

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1) conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2) conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

(d) A school district or open-enrollment charter school may not place a student who is homeless in out-of-school suspension unless the student engages in conduct described by Subsections (c)(1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the school district's homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(e) A school district shall provide to a student during the period of the student's suspension under this section, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all course work provided in the classes in the foundation curriculum under Section 28.002(a)(1) that the student misses as a result of the suspension. The district must provide at least one option for receiving the course work that does not require the use of the Internet.

§ 37.0052. Placement or expulsion of students who have engaged in certain bullying behavior.

(a) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Intimate visual material" has the meaning assigned by Section 98B.001, Civil Practice and Remedies Code.

(b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:

(1) engages in bullying that encourages a student to commit or attempt to commit suicide;

(2) incites violence against a student through group bullying; or

(3) releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

(c) Nothing in this section exempts a school from reporting a finding of intimate visual material of a minor.

§ 37.007. Expulsion for serious offenses.

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

- (G) manslaughter under Section 19.04, Penal Code;
- (H) criminally negligent homicide under Section 19.05, Penal Code; or
- (I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or
- (3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921;

(4) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; or

(5) engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B) the student knowingly:

(i) alters, damages, or deletes school district property or information; or

(ii) commits a breach of any other computer, computer network, or computer system.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) on school property of another district in this state; or

(2) while attending a school-sponsored or school-related activity of a school in another district in this state.

(j) [Blank.]

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

- (1) at an approved target range facility that is not located on a school campus; and
- (2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

§ 37.0081. Expulsion and placement of certain students in alternative settings.

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

- (i) a felony offense in Title 5, Penal Code; or
- (ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

- (i) a felony offense in Title 5, Penal Code; or
- (ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

- (i) a felony offense in Title 5, Penal Code; or
- (ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

- (i) a felony offense in Title 5, Penal Code; or
- (ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

- (A) threatens the safety of other students or teachers;
- (B) will be detrimental to the educational process; or
- (C) is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) a disciplinary alternative education program.

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed.

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section regardless of:

(1) the date on which the student's conduct occurred;

(2) the location at which the conduct occurred;

(3) whether the conduct occurred while the student was enrolled in the district; or

(4) whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

(d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:

(1) the student graduates from high school;

(2) the charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or

(3) the student completes the term of the placement or is assigned to another program.

(e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).

(f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.

(g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:

(1) the actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

(2) the juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

(h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

§ 37.019. Emergency placement or expulsion.

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after

the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;
- (2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;
- (3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;
- (4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - (A) self-defense;
 - (B) intent or lack of intent at the time the student engaged in the conduct;
 - (C) a student's disciplinary history;
 - (D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
 - (E) a student's status in the conservatorship of the Department of Family and Protective Services; or
 - (F) a student's status as a student who is homeless;
- (5) provide guidelines for setting the length of a term of:
 - (A) a removal under Section 37.006; and
 - (B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions;

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists; and

(9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(4) "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

§ 37.005. Suspension.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1) conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2) conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.007. Expulsion for serious offenses.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student.

§ 37.009. Conference; hearing; review.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

§ 37.010. Court involvement.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

§ 37.021. Opportunity to complete courses during in-school and certain other placements.

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall

offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

§ 37.006. Removal for certain conduct.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

§ 37.009. Conference; hearing; review.

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the factors under Section 37.001(a)(4), shall order the placement of the student for a period consistent with the student code of conduct. Before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, the behavior

coordinator must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

- (1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or
- (2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a

student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

§ 37.010. Court involvement.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

- (1) the out-of-state district provides to the district a copy of the expulsion order; and
- (2) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

§ 37.056. Court supervision.

(a) In this section, "court" means a juvenile court or alternate juvenile court designated under Chapter 51, Family Code. The court may delegate responsibility under this section to a referee appointed under Section 51.04, Family Code.

(b) If a representative of the school district, the student, and the parent or guardian for any reason fail to reach an agreement under Section 37.055, the court may, on the request of any party and after a hearing, enter an order establishing the responsibilities and duties of each of the parties as the court considers appropriate.

(c) The court may compel attendance at any hearing held under this section through any legal process, including subpoena and habeas corpus.

(d) If the parties reach an agreement under Section 37.055, and if the written agreement so provides, the court may enter an order that incorporates the terms of the agreement.

(e) Any party who violates an order issued under this section may be punished for contempt of court.

(f) A school district may enter into an agreement to share the costs incurred by a county under this section.

§ 37.0081. Expulsion and placement of certain students in alternative settings.

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

- (2) the board or the board's designee determines that the student's presence in the regular classroom:
- (A) threatens the safety of other students or teachers;
 - (B) will be detrimental to the educational process; or
 - (C) is not in the best interests of the district's students.

§ 37.146. Requisites of complaint.

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

- (1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and
- (2) be accompanied by a statement from a school employee stating:
 - (A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and
 - (B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

(c) A complaint under this subchapter may include a recommendation by a school employee that the child attend a teen court program under Article 45.052, Code of Criminal Procedure, if the school employee believes attending a teen court program is in the best interest of the child.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

§ 37.002. Removal by teacher.

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct. [...]

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education

program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

§ 37.003. Placement review committee.

(a) Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) the principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

§ 37.006. Removal for certain conduct.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

§ 37.009. Conference; hearing; review.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

§ 37.023. Transition from alternative education program to regular classroom.

(a) In this section:

(1) "Alternative education program" includes:

- (A) a disciplinary alternative education program operated by a school district or open-enrollment charter school;
- (B) a juvenile justice alternative education program; and
- (C) a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

(2) "Licensed clinical social worker" has the meaning assigned by Section 505.002, Occupations Code.

(b) As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

(1) provide written notice of that date to:

- (A) the student's parent or a person standing in parental relation to the student; and
- (B) the administrator of the campus to which the student intends to transition; and

(2) provide the campus administrator:

- (A) an assessment of the student's academic growth while attending the alternative education program; and
- (B) the results of any assessment instruments administered to the student.

(c) Not later than five instructional days after the date of a student's release from an alternative education program, the campus administrator shall coordinate the student's transition to a regular classroom. The coordination must include assistance and recommendations from:

- (1) school counselors;
- (2) school district peace officers;
- (3) school resource officers;
- (4) licensed clinical social workers;
- (5) campus behavior coordinators;
- (6) classroom teachers who are or may be responsible for implementing the student's personalized transition plan developed under Subsection (d); and

(7) any other appropriate school district personnel.

(d) The assistance required by Subsection (c) must include a personalized transition plan for the student developed by the campus administrator. A personalized transition plan:

(1) must include recommendations for the best educational placement of the student; and

(2) may include:

(A) recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals;

(B) recommendations for assistance for obtaining access to mental health services provided by the district or school, a local mental health authority, or another private or public entity;

(C) the provision of information to the student's parent or a person standing in parental relation to the student about the process to request a full individual and initial evaluation of the student for purposes of special education services under Section 29.004; and

(D) a regular review of the student's progress toward the student's academic or career goals.

(e) If practicable, the campus administrator, or the administrator's designee, shall meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition.

(f) This section applies only to a student subject to compulsory attendance requirements under Section 25.085.

REGULATIONS

19 TAC 103.1201. Standards for the operation of school district disciplinary alternative education programs.

(k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

(1) an established timeline for the student's transition from the DAEP to the student's locally assigned campus; and

(2) written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

Alternative Placements

LAWS

§ 25.0342. Transfer of students who are victims of or have engaged in bullying.

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred;
or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

§ 29.081. Compensatory, intensive, and accelerated instruction.

(d) [As amended by Acts 2019, 86th Leg., ch. 1060 (H.B. 1051)] For purposes of this section, "student at risk of dropping out of school" includes each student who:

(1) is under 26 years of age and who:

(F) has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;

(G) has been expelled in accordance with Section 37.007 during the preceding or current school year.
[...]

(d) [As amended by Acts 2019, 86th Leg., chs. 403 and 597 (S.B. 1746 and S.B. 668)] For purposes of this section, "student at risk of dropping out of school" includes each student who is under 26 years of age and who:

(6) has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;

(7) has been expelled in accordance with Section 37.007 during the preceding or current school year.
[...]

(e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The program may be offered:

(1) at a campus; or

(2) through the use of an Internet online program that leads to a high school diploma and prepares the student to enter the workforce.

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district.

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program. [...]

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history;

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(E) a student's status in the conservatorship of the Department of Family and Protective Services; or

(F) a student's status as a student who is homeless.

§ 37.0013. Positive behavior program.

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

(1) be age-appropriate and research-based;

(2) provide models for positive behavior;

(3) promote a positive school environment;

(4) provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and

(5) provide behavior management strategies, including:

(A) positive behavioral intervention and support;

(B) trauma-informed practices;

(C) social and emotional learning;

(D) a referral for services, as necessary; and

(E) restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

§ 37.002. Removal by teacher.

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ

alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(b-1) A teacher may document any conduct by a student that does not conform to the student code of conduct adopted under Section 37.001 and may submit that documentation to the principal. A school district may not discipline a teacher on the basis of documentation submitted under this subsection.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

(e) A student who is sent to the campus behavior coordinator's or other administrator's office under Subsection (a) or removed from class under Subsection (b) is not considered to have been removed from the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law.

§ 37.003. Placement review committee.

(a) Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) the principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

§ 37.005. Suspension.

(e) A school district shall provide to a student during the period of the student's suspension under this section, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all course work provided in the classes in the foundation curriculum under Section 28.002(a)(1) that the student misses as a result of the suspension. The district must provide at least one option for receiving the course work that does not require the use of the Internet.

§ 37.0051. Placement of students committing sexual assault against another student.

(a) As provided by Section 25.0341(b)(2), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011.

(b) A limitation imposed by this subchapter on the length of a placement in a disciplinary alternative education program or a juvenile justice alternative education program does not apply to a placement under this section.

§ 37.0052. Placement or expulsion of students who have engaged in certain bullying behavior.

(b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:

- (1) engages in bullying that encourages a student to commit or attempt to commit suicide;
- (2) incites violence against a student through group bullying; or
- (3) releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

§ 37.006. Removal for certain conduct.

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

- (1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or
- (2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:
 - (A) engages in conduct punishable as a felony;
 - (B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;
 - (C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:
 - (i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or
 - (ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;
 - (D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;
 - (E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;
 - (F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure, other than information requested under Article 15.27(k-1), Code of Criminal Procedure.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary alternative education program with any other student who is not an elementary school student.

(g) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or

superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

(k) Subsections (h), (i), and (j) do not apply to placements made in accordance with Subsection (a).

(l) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in a disciplinary alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

§ 37.0061. Funding for alternative education services in juvenile residential facilities.

A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. If the district has a local revenue level greater than the guaranteed local revenue level but less than the level established under Section 48.257, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

§ 37.007. Expulsion for serious offenses.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

- (1) deliberate violent behavior that poses a direct threat to the health or safety of others;
- (2) extortion, meaning the gaining of money or other property by force or threat;
- (3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- (4) conduct that constitutes the offense of:
 - (A) public lewdness under Section 21.07, Penal Code;
 - (B) indecent exposure under Section 21.08, Penal Code;
 - (C) criminal mischief under Section 28.03, Penal Code;
 - (D) personal hazing under Section 37.152; or
 - (E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;
- (2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and
- (3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

§ 37.008. Disciplinary alternative education programs.

(a) Each school district shall provide a disciplinary alternative education program that:

- (1) is provided in a setting other than a student's regular classroom;
- (2) is located on or off of a regular school campus;
- (3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;
- (4) focuses on English language arts, mathematics, science, history, and self-discipline;
- (5) provides for students' educational and behavioral needs;
- (6) provides supervision and counseling; and
- (7) employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21.

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

- (1) student/teacher ratios;
- (2) student health and safety;
- (3) reporting of abuse, neglect, or exploitation of students;

(4) training for teachers in behavior management and safety procedures; and

(5) planning for a student's transition from a disciplinary alternative education program to a regular campus.

(a-2) [Expired pursuant to Acts 2007, 80th Leg., ch. 1171 (H.B. 426), § 1, effective January 15, 2009.]

(a-3) [Expired pursuant to Acts 2007, 80th Leg., ch. 1171 (H.B. 426), § 1, effective January 15, 2009.]

(b) A disciplinary alternative education program may provide for a student's transfer to:

(1) a different campus;

(2) a school-community guidance center; or

(3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39 or 39A.

(d) A school district may provide a disciplinary alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program.

(f) A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

- (A) the out-of-state district provides to the district a copy of the placement order; and
- (B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(l) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

(l-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (l) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

- (1) include information regarding all methods available for completing the coursework; and
- (2) state that the methods are available at no cost to the student.

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

§ 37.0081. Expulsion and placement of certain students in alternative settings.

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) a disciplinary alternative education program.

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed.

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section regardless of:

(1) the date on which the student's conduct occurred;

(2) the location at which the conduct occurred;

(3) whether the conduct occurred while the student was enrolled in the district; or

(4) whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

(d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:

(1) the student graduates from high school;

(2) the charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or

(3) the student completes the term of the placement or is assigned to another program.

(e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).

(f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.

(g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:

(1) the actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

(2) the juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

(h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

§ 37.0082. Assessment of academic growth of students in disciplinary alternative education programs.

(a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and

(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

(c) The commissioner shall adopt rules necessary to implement this section.

§ 37.009. Conference; hearing; review.

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus behavior coordinator or other appropriate administrator shall

schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the factors under Section 37.001(a)(4), shall order the placement of the student for a period consistent with the student code of conduct. Before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, the behavior coordinator must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

- (1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or
- (2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus.

The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

§ 37.010. Court involvement.

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a

county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

- (1) the out-of-state district provides to the district a copy of the expulsion order; and
- (2) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

- (1) the student is a threat to the safety of other students or to district employees; or
- (2) extended placement is in the best interest of the student.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

§ 37.011. Juvenile justice alternative education program.

(a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Justice Department. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

- (1) is not required to be approved by the department; and
- (2) is not subject to Subsection (c), (d), (f), or (g).

(a-1) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

- (1) the county had a population of 125,000 or less according to the 2000 federal census; and
- (2) the juvenile board of the county enters into, with the approval of the Texas Juvenile Justice Department, a memorandum of understanding with each school district within the county that:
 - (A) outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
 - (B) includes the coordination procedures required by Section 37.013.

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

- (1) has a population of 180,000 or less;
- (2) is adjacent to two counties, each of which has a population of more than 1.7 million; and
- (3) has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

- (1) has a population of more than 200,000 and less than 220,000;
- (2) has five or more school districts located wholly within the county's boundaries; and
- (3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

(a-4) A school district located in a county considered to be a county with a population of 125,000 or less under Subsection (a-3) shall provide educational services to a student who is expelled from school under this chapter. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

- (1) the district's disciplinary alternative education program; or
- (2) a contracted placement with:
 - (A) another school district;
 - (B) an open-enrollment charter school;
 - (C) an institution of higher education;
 - (D) an adult literacy council; or
 - (E) a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

(a-5) For purposes of Subsection (a-4), an educational placement other than a school district's disciplinary alternative education program is subject to the educational and certification requirements applicable to an open-enrollment charter school under Subchapter D, Chapter 12.

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), or for conduct that contains the elements of the offense of terroristic threat as described by Section 22.07(c-1), (d), or (e), Penal Code, the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

(c) A juvenile justice alternative education program shall adopt a student code of conduct in accordance with Section 37.001.

(d) A juvenile justice alternative education program must focus on English language arts, mathematics, science, social studies, and self-discipline. Each school district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. Each program shall administer assessment instruments under Subchapter B, Chapter 39, and shall offer a high school equivalency program. The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified by this subsection.

(e) A juvenile justice alternative education program may be provided in a facility owned by a school district. A school district may provide personnel and services for a juvenile justice alternative education program under a contract with the juvenile board.

(f) A juvenile justice alternative education program must operate at least seven hours per day and 180 days per year, except that a program may apply to the Texas Juvenile Justice Department for a waiver of the 180-day requirement. The department may not grant a waiver to a program under this subsection for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a school district served by the program.

(g) A juvenile justice alternative education program shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Justice Department for review and comment. A juvenile justice alternative education program is not subject to a requirement imposed by this title, other than a reporting requirement or a requirement imposed by this chapter or by Chapter 39 or 39A.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapters 39 and 39A, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Justice Department, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapters 39 and 39A, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The department shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 31 or 48 if the juvenile justice alternative education program receives funding from the department under this subchapter.

(i) A student transferred to a juvenile justice alternative education program must participate in the program for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court. The juvenile court may not order a period of transfer under this section that exceeds the term of any probation ordered by the juvenile court.

(j) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioner's court are immune from liability to the same extent as a school district, and the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b) and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which

such students who continue to engage in serious misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

(m) Each school district in a county with a population greater than 125,000 and the county juvenile board shall adopt a joint memorandum of understanding as required by this section not later than September 1 of each school year.

(n) If a student who is ordered to attend a juvenile justice alternative education program moves from one county to another, the juvenile court may request the juvenile justice alternative education program in the county to which the student moves to provide educational services to the student in accordance with the local memorandum of understanding between the school district and juvenile board in the receiving county.

(o) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's employees and volunteers are immune from liability to the same extent as a school district's employees and volunteers.

(p) If a district elects to contract with the juvenile board for placement in the juvenile justice alternative education program of students expelled under Section 37.007(b), (c), and (f) and the juvenile board and district are unable to reach an agreement in the memorandum of understanding, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator in which each party will pay its pro rata share of the arbitration costs. Each party must submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the school districts shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. An arbitration decision issued under this subsection is enforceable in a court in the county in which the juvenile justice alternative education program is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a juvenile justice alternative education program must provide an amount sufficient based on operation of the juvenile justice alternative education program in accordance with this chapter. In determining the amount to be paid by a school district for an expelled student enrolled in a juvenile justice alternative education program, the arbitrator shall consider the relevant factors, including evidence of:

- (1) the actual average total per student expenditure in the district's alternative education setting;
- (2) the expected per student cost in the juvenile justice alternative education program as described and agreed on in the memorandum of understanding and in compliance with this chapter; and
- (3) the costs necessary to achieve the accountability goals under this chapter.

(q) In accordance with rules adopted by the board of trustees for the Teacher Retirement System of Texas, a certified educator employed by a juvenile board in a juvenile justice alternative education program shall be eligible for membership and participation in the system to the same extent that an employee of a public school district is eligible. The juvenile board shall make any contribution that otherwise would be the responsibility of the school district if the person were employed by the school district, and the state shall make any contribution to the same extent as if the person were employed by a school district.

§ 37.012. Funding of juvenile justice alternative education programs.

(a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(b) Funds received under this section must be expended on juvenile justice alternative education programs.

(c) The Office of State-Federal Relations shall assist a local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

(e) Except as otherwise authorized by law, a juvenile justice alternative education program may not require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participating in the program.

§ 37.019. Emergency placement or expulsion.

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

§ 37.021. Opportunity to complete courses during in-school and certain other placements.

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

§ 37.022. Notice of disciplinary action.

(a) In this section:

(1) "Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student by a district or school.

(2) "District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

(b) If a district or school takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the governing body of the district or school taking the disciplinary action shall provide to the district or school in which the

student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

(c) Subject to Section 37.007(e), the district or school in which the student enrolls may continue the disciplinary action under the terms of the order or may allow the student to attend regular classes without completing the period of disciplinary action.

§ 37.023. Transition from alternative education program to regular classroom.

(a) In this section:

(1) "Alternative education program" includes:

(A) a disciplinary alternative education program operated by a school district or open-enrollment charter school;

(B) a juvenile justice alternative education program; and

(C) a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

(2) "Licensed clinical social worker" has the meaning assigned by Section 505.002, Occupations Code.

(b) As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

(1) provide written notice of that date to:

(A) the student's parent or a person standing in parental relation to the student; and

(B) the administrator of the campus to which the student intends to transition; and

(2) provide the campus administrator:

(A) an assessment of the student's academic growth while attending the alternative education program; and

(B) the results of any assessment instruments administered to the student.

(c) Not later than five instructional days after the date of a student's release from an alternative education program, the campus administrator shall coordinate the student's transition to a regular classroom. The coordination must include assistance and recommendations from:

(1) school counselors;

(2) school district peace officers;

(3) school resource officers;

(4) licensed clinical social workers;

(5) campus behavior coordinators;

(6) classroom teachers who are or may be responsible for implementing the student's personalized transition plan developed under Subsection (d); and

(7) any other appropriate school district personnel.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports;

(B) in-school suspension;

(C) out-of-school suspension; or

(D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program. [...]

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

(4) the total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:

(D) changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program.

§ 37.121. Fraternities, sororities, secret societies, and gangs.

(a) A person commits an offense if the person:

(1) is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

REGULATIONS

19 TAC 103.1201. Standards for the operation of school district disciplinary alternative education programs.

(a) A disciplinary alternative education program (DAEP) established in conformance with the Texas Education Code (TEC), § 37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.

19 TAC 103.1203. Assessment of academic growth of students in disciplinary alternative education programs.

(a) Each school district shall be responsible for administering a pre- and post-assessment for each student assigned to the district's disciplinary alternative education program (DAEP) for a period of 90 school days or longer as required by the Texas Education Code (TEC), § 37.0082. Released state assessments for reading and mathematics for the appropriate grade may be used. A school district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner of education will publish on the Texas Education Agency website a list of assessments approved for use in each school year.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions.

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists. [...]

(b) In this section:

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

§ 37.005. Suspension.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1) conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2) conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.007. Expulsion for serious offenses.

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code. [...]

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921. [...]

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008. [...]

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

§ 37.0021. Use of confinement, restraint, seclusion, and time-out.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) the student possesses a weapon; and

(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

§ 37.015. Reports to local law enforcement; liability.

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed under Section 508.149, Government Code;

(2) deadly conduct under Section 22.05, Penal Code;

(3) a terroristic threat under Section 22.07, Penal Code;

(4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;

(5) the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;

(6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports;

(B) in-school suspension;

(C) out-of-school suspension; or

(D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

§ 37.125. Exhibition, use, or threat of exhibition or use of firearms.

(a) A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

(1) exhibits or uses a firearm:

(A) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

(B) on a school bus being used to transport children to or from school-sponsored activities of a private or public school;

(2) threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B) and was in possession of or had immediate access to the firearm; or

(3) threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B).

(b) An offense under Subsection (a)(1) or (2) is a third degree felony.

(c) An offense under Subsection (a)(3) is a Class A misdemeanor.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

§ 37.006. Removal for certain conduct.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- (1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and
- (2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 25.085. Compulsory school attendance.

(g) After the third unexcused absence of a person described by Subsection (e), a school district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

(h) As an alternative to revoking a person's enrollment under Subsection (e), a school district may impose a behavior improvement plan described by Section 25.0915(a-1)(1).

§ 25.091. Powers and duties of peace officers and other attendance officers.

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

- (1) to investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;
- (2) to enforce compulsory school attendance requirements by:
 - (A) applying truancy prevention measures adopted under Section 25.0915 to the student; and
 - (B) if the truancy prevention measures fail to meaningfully address the student's conduct:
 - (i) referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 65.003(a), Family Code; or
 - (ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;
- (3) to serve court-ordered legal process;
- (4) to review school attendance records for compliance by each student investigated by the officer;
- (5) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record; and

(6) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 65.003(a), Family Code; and

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to monitor school attendance compliance by each student investigated by the officer;

(4) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(5) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and

(6) at the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

(c) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

§ 25.0915. Truancy prevention measures.

(a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting before the student engages in conduct described by Section 65.003(a), Family Code; and

(2) minimize the need for referrals to truancy court for conduct described by Section 65.003(a), Family Code.

(a-1) As a truancy prevention measure under Subsection (a), a school district shall take one or more of the following actions:

(1) impose:

(A) a behavior improvement plan on the student that must be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

- (i) a specific description of the behavior that is required or prohibited for the student;
- (ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or
- (iii) the penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

(B) school-based community service; or

(2) refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(a-2) A referral made under Subsection (a-1)(2) may include participation by the child's parent or guardian if necessary.

(a-3) A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

- (1) pregnancy;
- (2) being in the state foster program;
- (3) homelessness; or
- (4) being the principal income earner for the student's family.

(a-4) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Section 25.0951(a), the school district shall initiate truancy prevention measures under this section on the student.

(b) Each referral to truancy court for conduct described by Section 65.003(a), Family Code, must:

- (1) be accompanied by a statement from the student's school certifying that:
 - (A) the school applied the truancy prevention measures adopted under Subsection (a) or (a-4) to the student; and
 - (B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

(c) A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Section 65.054, Family Code, if the court determines that the school district's referral:

- (1) does not comply with Subsection (b);
- (2) does not satisfy the elements required for truant conduct;
- (3) is not timely filed, unless the school district delayed the referral under Section 25.0951(d); or
- (4) is otherwise substantively defective.

(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.

(e) Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus.

(f) The agency shall adopt rules:

(1) creating minimum standards for truancy prevention measures adopted by a school district under this section; and

(2) establishing a set of best practices for truancy prevention measures.

(g) The agency shall adopt rules to provide for sanctions for a school district found to be not in compliance with this section.

§ 25.095. Warning notices.

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to referral to a truancy court for truant conduct under Section 65.003(a), Family Code.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the student is subject to truancy prevention measures under Section 25.0915; and

(2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or under Section 65.003(a), Family Code.

(d) In this section, "parent" includes a person standing in parental relation.

§ 25.0951. School district complaint or referral for failure to attend school.

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Section 65.003(a), Family Code.

(b) If a student fails to attend school without excuse as specified by Subsection (a), a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence.

In this subsection, "parent" includes a person standing in parental relation.

(c) A court shall dismiss a complaint made by a school district under Subsection (b) that:

(1) does not comply with this section;

(2) does not allege the elements required for the offense;

(3) is not timely filed, unless the school district delayed the referral under Subsection (d); or

(4) is otherwise substantively defective.

(d) Notwithstanding Subsection (a), a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:

- (1) is applying truancy prevention measures to the student under Section 25.0915; and
- (2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

REGULATIONS

19 TAC 129.21. Requirements for student attendance accounting for state funding purposes.

(h) Attendance for all grades must be determined by the absences recorded at the official attendance-taking time during the campus's instructional day, unless the local school board adopts a district policy, or delegates to the superintendent the authority to establish procedures, for recording absences in an alternative hour, or unless the students for which attendance is being taken are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.

- (1) Students enrolled on a half-day basis may earn only one half day of attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day that they are scheduled to be present. Students enrolled on a full-day basis may earn one full day of attendance each school day.
- (2) Students who are enrolled in and participating in an alternative attendance accounting program approved by the commissioner will earn attendance according to the statutory and rule provisions applicable to that program.
- (3) The established period in which absences are recorded may not be changed during the school year.
- (4) Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.

19 TAC 129.1049. Truancy reporting requirements.

Each school district and open-enrollment charter school shall report truancy data annually through the Texas Student Data System Public Education Information Management System to include:

- (1) the number of children who are required to attend school under TEC, § 25.085, are not exempted under TEC, § 25.086, and fail to attend school without excuse for 10 or more days or parts of days within a 6-month period in the same school year;
- (2) the number of students for whom the district initiates a truancy prevention measure under TEC, § 25.0915(a-4); and
- (3) the number of parents of students against whom an attendance officer or other appropriate school official has filed a complaint under TEC, § 25.093.

19 TAC 129.1043. Minimum standards.

The minimum standards for the truancy prevention measure(s) implemented by a school district under Texas Education Code, § 25.0915, include:

- (1) identifying the root cause of the student's unexcused absences and actions to address each cause;
- (2) maintaining ongoing communication with students and parents on the actions to be taken to improve attendance;
- (3) establishing reasonable timelines for completion of the truancy prevention measure; and

(4) establishing procedures to notify the admission, review, and dismissal committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or modifications to the student's individualized education program or Section 504 plan, as appropriate.

19 TAC 129.1045. Best practices.

(a) A school district shall consider the following best practices for truancy prevention measures.

(1) Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Texas Education Code (TEC), Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the school year.

(2) Create a culture of attendance that includes training staff to talk meaningfully with students and parents about the attendance policy and the root causes of unexcused absences.

(3) Create incentives for perfect attendance and improved attendance.

(4) Educate students and their families on the positive impact of school attendance on performance.

(5) Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.

(6) Develop collaborative partnerships, including planning, referral, and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.

(7) Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.

(8) Use existing school programs such as Communities In Schools, 21st Century Community Learning Centers, Restorative Discipline, and Positive Behavior Interventions and Supports (PBIS) to provide students and their parents with services.

(9) At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the school district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:

(A) services for pregnant and parenting students;

(B) services for students experiencing homelessness;

(C) services for students in foster care;

(D) federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;

(E) state programs including, but not limited to, State Compensatory Education programs;

(F) dropout prevention programs and programs for "at risk" youth;

(G) programs that occur outside of school time;

(H) counseling services;

(I) tutoring programs and services available at no or low cost;

(J) mental health services;

(K) alcohol and substance abuse prevention and treatment programs;

(L) mentoring programs and services;

(M) juvenile justice services and programs;

(N) child welfare services and programs;

(O) other state or locally funded programs for truancy prevention and intervention; and

(P) other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.

(10) After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.

(11) School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, pregnancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students' attendance barriers.

(b) In determining services offered to students identified in TEC, § 25.0915(a-3), a school district shall consider:

(1) offering an optional flexible school day program and evening and online alternatives;

(2) working with businesses that employ students to help students coordinate job and school responsibilities; and

(3) offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

19 TAC 129.1047. Sanctions.

(a) An aggrieved party may file a written complaint with the Texas Education Agency (TEA) regarding an allegation that a school district has failed to comply with the provisions set forth in Texas Education Code (TEC), § 25.0915, or this subchapter related to truancy prevention measures.

(b) TEA may request that a school district provide documentation regarding its compliance with required truancy prevention measures in response to a complaint filed with the TEA. If, after a review of this documentation or a school district's failure to provide this documentation, TEA determines that the school district is not in compliance with required truancy prevention measure provisions, TEA may issue a preliminary report of its findings to the school district in accordance with § 157.1122 of this title (relating to Notice).

(c) A school district may request in writing an informal review of TEA's preliminary report of findings in accordance with § 157.1123 of this title (relating to Informal Review). Following the informal review, or if no informal review is requested by the deadline, a final report will be issued.

(d) The commissioner of education may implement any sanction listed in TEC, § 39.102(a), against a school district found to be out of compliance with TEC, § 25.0915, or this subchapter.

Substance Use

LAWS

§ 8.155. Regional education service center property.

(a) A non-physician mental health professional employed under Section 8.152 shall, to the greatest extent possible, work collaboratively with the regional education service center and shall act as a resource for the center and school district personnel by:

(3) ensuring personnel are aware of:

(A) the list of recommended best practice-based programs and research-based practices developed under Section 161.325, Health and Safety Code;

(B) other public and private mental health and substance use prevention, treatment, and recovery programs available in the school district, including evidence-based programs provided by a local mental health authority and other public or private mental health providers; and

(C) other available public and private mental health and substance use prevention, treatment, and recovery program resources administered by the local mental health authority or the Health and Human Services Commission to support school districts, students, and families. [...]

(6) on a monthly basis, facilitating training on prevention and intervention programs that have been shown to be effective in helping students cope with pressures to:

(A) use alcohol, cigarettes, or illegal drugs; or

(B) misuse prescription drugs.

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

(1) grief-informed and trauma-informed practices;

(2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;

(3) positive behavior interventions and supports; and

(4) a safe and supportive school climate.

§ 28.004. Local school health advisory council and health education instruction.

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(3) a statement of:

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

§ 37.005. Suspension.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1) conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2) conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.006. Removal for certain conduct.

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

§ 37.007. Expulsion for serious offenses.

(b) A student may be expelled if the student:

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code.

§ 37.008. Disciplinary alternative education programs.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary

alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

§ 37.015. Reports to local law enforcement; liability.

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

- (1) conduct that may constitute an offense listed under Section 508.149, Government Code;
- (2) deadly conduct under Section 22.05, Penal Code;
- (3) a terroristic threat under Section 22.07, Penal Code;
- (4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;
- (5) the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;
- (6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or
- (7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

§ 37.016. Report of drug offenses; liability.

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

- (1) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;
- (2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;
- (3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or
- (4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.115. Threat assessment and safe and supportive school program and team.

(j) A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

§ 37.122. Possession of intoxicants on public school grounds.

(a) A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

- (1) on the grounds or in a building of a public school; or
- (2) entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

(a-1) It is a defense to prosecution under this section that the person possessed the intoxicating beverage:

- (1) at a performing arts facility; and
- (2) during an event held outside of regular school hours and not sponsored or sanctioned by a school district.

(b) An officer of this state who sees a person violating this section shall immediately seize the intoxicating beverage and, within a reasonable time, deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor.

(c) An offense under this section is a Class C misdemeanor.

§ 38.006. E-cigarettes and tobacco products on school property.

(a) In this section, "e-cigarette" has the meaning assigned by Section 161.081, Health and Safety Code.

(b) The board of trustees of a school district shall:

- (1) prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property;
- (2) prohibit students from possessing e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property; and
- (3) ensure that school personnel enforce the policies on school property.

§ 38.007. Alcohol-free school zones.

(a) The board of trustees of a school district shall prohibit the use of alcoholic beverages at a school-related or school-sanctioned activity on or off school property.

(a-1) This section does not apply to a performing arts facility leased to a nonprofit organization for an event as provided by Section 11.179.

(b) The board of trustees of a school district shall attempt to provide a safe alcohol-free environment to students coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage Code. Additionally, the board, if a majority of the area of a district is located in a municipality with a population of 900,000 or more, may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

§ 38.0591. Access to mental health services.

The agency, in cooperation with the Health and Human Services Commission, shall develop guidelines for school districts regarding:

- (1) partnering with a local mental health authority and with community or other private mental health services providers and substance abuse services providers to increase student access to mental health services; and
- (2) obtaining mental health services through the medical assistance program under Chapter 32, Human Resources Code.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

- (a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.
- (b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.
- (c) The list provided under Subsection (a) must include programs and practices in the following areas:
 - (3) substance abuse prevention and intervention.

REGULATIONS

19 TAC 129.1045. Best practices.

- (a) A school district shall consider the following best practices for truancy prevention measures.
 - (9) At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the school district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:
 - (K) alcohol and substance abuse prevention and treatment programs.

Gang-related Activity

LAWS

§ 33.006. School counselors; General duties.

- (a) The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities.
- (b) In addition to a school counselor's responsibility under Subsection (a), the school counselor shall:
 - (1) participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students:
 - (A) who are at risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide.

§ 37.110. Information regarding gang-free zones.

The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

§ 37.121. Fraternities, sororities, secret societies, and gangs.

(a) A person commits an offense if the person:

(1) is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 21.451. Staff development requirements.

(d) The staff development:

(3) must include training on:

(E) preventing, identifying, responding to, and reporting incidents of bullying.

§ 25.0342. Transfer of students who are victims of or have engaged in bullying.

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred;
or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred;
or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

- (b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.
- (c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.
- (d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.
- (e) The determination by the board of trustees or the board's designee is final and may not be appealed.
- (f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).
- (g) Section 25.034 does not apply to a transfer under this section.

§ 28.002. Required curriculum.

(z) The State Board of Education by rule shall require each school district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying. In this subsection:

- (1) "Cyberbullying" has the meaning assigned by Section 37.0832.
- (2) "Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions.
- (8) provide, as appropriate for students at each grade level, methods, including options, for:
 - (C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists. [...]

(b) In this section:

- (1) "Bullying" has the meaning assigned by Section 37.0832.
- (2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

§ 37.0052. Placement or expulsion of students who have engaged in certain bullying behavior.

(a) In this section:

- (1) "Bullying" has the meaning assigned by Section 37.0832.
- (2) "Intimate visual material" has the meaning assigned by Section 98B.001, Civil Practice and Remedies Code.

(b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:

- (1) engages in bullying that encourages a student to commit or attempt to commit suicide;

- (2) incites violence against a student through group bullying; or
- (3) releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

(c) Nothing in this section exempts a school from reporting a finding of intimate visual material of a minor.

§ 37.007. Expulsion for serious offenses.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(4) conduct that constitutes the offense of:

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

§ 37.083. Discipline management programs; sexual harassment policies.

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles.

(b) Each school district may develop and implement a sexual harassment policy to be included in the district improvement plan under Section 11.252.

§ 37.0832. Bullying prevention policies and procedures.

(a) In this section:

(1) "Bullying":

(A) means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements provided by Subsection (a-1), and that:

(i) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;

(ii) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;

(iii) materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or

(iv) infringes on the rights of the victim at school; and

(B) includes cyberbullying.

(2) "Cyberbullying" means bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

(a-1) This section applies to:

(1) bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;

- (2) bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
- (3) cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:

- (A) interferes with a student's educational opportunities; or
- (B) substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity. [...]

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

- (1) prohibits the bullying of a student;
- (2) prevents and mediates bullying incidents between students that:
 - (A) interfere with a student's educational opportunities; or
 - (B) substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity;
- (3) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
- (4) establishes a procedure for providing notice of an incident of bullying to:
 - (A) a parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and
 - (B) a parent or guardian of the alleged bully within a reasonable amount of time after the incident;
- (5) establishes the actions a student should take to obtain assistance and intervention in response to bullying;
- (6) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
- (7) establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
- (8) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and
- (9) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and
- (10) complies with the minimum standards adopted by the agency under Subsection (c-1).

(c-1) The agency shall adopt minimum standards for a school district's policy under Subsection (c). The standards must:

- (1) include an emphasis on bullying prevention by focusing on school climate and building healthy relationships between students and staff;
- (2) require each district campus to establish a committee to address bullying by focusing on prevention efforts and health and wellness initiatives;
- (3) require students at each grade level to meet periodically for instruction on building relationships and preventing bullying, including cyberbullying;
- (4) include an emphasis on increasing student reporting of bullying incidents to school employees by:
 - (A) increasing awareness about district reporting procedures; and
 - (B) providing for anonymous reporting of bullying incidents;

- (5) require districts to:
 - (A) collect information annually through student surveys on bullying, including cyberbullying; and
 - (B) use those survey results to develop action plans to address student concerns regarding bullying, including cyberbullying; and
- (6) require districts to develop a rubric or checklist to assess an incident of bullying and to determine the district's response to the incident.
- (d) The policy and any necessary procedures adopted under Subsection (c) must be included:
 - (1) annually, in the student and employee school district handbooks; and
 - (2) in the district improvement plan under Section 11.252.
- (e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.
- (f) Each school district may establish a district-wide policy to assist in the prevention and mediation of bullying incidents between students that:
 - (1) interfere with a student's educational opportunities; or
 - (2) substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity.

§ 37.115. Threat assessment and safe and supportive school program and team.

- (a) In this section:
 - (1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:
 - (A) specific interventions, including mental health or behavioral supports;
 - (B) in-school suspension;
 - (C) out-of-school suspension; or
 - (D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

§ 37.151. Definitions.

In this subchapter:

- (1) "Educational institution" includes a public or private high school.
- (2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.
- (3) "Pledging" means any action or activity related to becoming a member of an organization.
- (4) "Student" means any person who:
 - (A) is registered in or in attendance at an educational institution;
 - (B) has been accepted for admission at the educational institution where the hazing incident occurs; or
 - (C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
- (5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students.
- (6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the

purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization if the act:

(A) is any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(B) involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(C) involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by Paragraph (E), that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(D) is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code; or

(E) involves coercing, as defined by Section 1.07, Penal Code, the student to consume:

(i) a drug; or

(ii) an alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Section 49.01, Penal Code.

§ 37.152. Personal hazing offense.

(a) A person commits an offense if the person:

(1) engages in hazing;

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) recklessly permits hazing to occur; or

(4) has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

(b) The offense of failing to report is a Class B misdemeanor.

(c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.

(d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.

(e) Any other offense under this section that causes the death of another is a state jail felony.

(f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Chapter 42A, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

§ 37.153. Organization hazing offense.

(a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$5,000 nor more than \$10,000; or

(2) if the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than \$5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

§ 37.154. Consent not a defense.

It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

§ 37.155. Immunity from prosecution or civil liability.

(a) In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution.

(b) Any person who voluntarily reports a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person:

(1) reports the incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident; and

(2) as determined by the dean of students or other appropriate official of the institution designated by the institution, cooperates in good faith throughout any institutional process regarding the incident.

(c) Immunity under Subsection (b) extends to participation in any judicial proceeding resulting from the report.

(d) A person is not immune under Subsection (b) if the person:

(1) reports the person's own act of hazing; or

(2) reports an incident of hazing in bad faith or with malice.

§ 37.156. Offenses in addition to other penal provisions.

This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

§ 37.157. Reporting by medical authorities.

A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

(1) may report the suspected hazing activities to police or other law enforcement officials; and

(2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

§ 37.217. Community education relating to internet safety.

(a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:

(1) the potential dangers of allowing personal information to appear on an Internet website;

(2) the manner in which to report an inappropriate online solicitation; and

(3) the prevention, detection, and reporting of bullying or threats occurring over the Internet.

(b) In developing the program, the center shall:

(1) solicit input from interested stakeholders; and

(2) to the extent practicable, draw from existing resources and programs.

(c) The center shall make the program available to public schools.

§ 37.218. Programs on dangers of students sharing visual material depicting minor engaged in sexual conduct.

(a) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Cyberbullying" has the meaning assigned by Section 37.0832.

(3) "Harassment" has the meaning assigned by Section 37.001.

(4) "Sexual conduct" has the meaning assigned by Section 43.25, Penal Code.

(b) The center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

(1) the possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;

(2) other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:

(A) negative effects on relationships;

(B) loss of educational and employment opportunities; and

(C) possible removal, if applicable, from certain school programs or extracurricular activities;

(3) the unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:

(A) search and replication capabilities; and

(B) a potentially worldwide audience;

(4) the prevention of, identification of, responses to, and reporting of incidents of bullying; and

(5) the connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

(c) Each school district shall annually provide or make available information on the programs developed under Subsection (b) to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting. [...]

(e) The suicide prevention programs on the list provided under Subsection (a) must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

(1) recognize students at risk of attempting suicide, including students who are or may be the victims of or who engage in bullying.

§ 42.07. Harassment.

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

(1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;

(2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;

(3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

- (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;
- (5) makes a telephone call and intentionally fails to hang up or disengage the connection;
- (6) knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or
- (7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

(b) In this section:

(1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes:

(A) a communication initiated through the use of electronic mail, instant message, network call, a cellular or other type of telephone, a computer, a camera, text message, a social media platform or application, an Internet website, any other Internet-based communication tool, or facsimile machine; and

(B) a communication made to a pager.

(2) "Family" and "household" have the meaning assigned by Chapter 71, Family Code.

(3) "Obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.

(c) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if:

(1) the actor has previously been convicted under this section; or

(2) the offense was committed under Subsection (a)(7) and:

(A) the offense was committed against a child under 18 years of age with the intent that the child:

(i) commit suicide; or

(ii) engage in conduct causing serious bodily injury to the child; or

(B) the actor has previously violated a temporary restraining order or injunction issued under Chapter 129A, Civil Practice and Remedies Code.

§ 129A.001. Definition.

In this chapter, "cyberbullying" has the meaning assigned by Section 37.0832(a), Education Code.

§ 129A.002. Injunctive relief.

(a) A recipient of cyberbullying behavior who is younger than 18 years of age at the time the cyberbullying occurs or a parent of or person standing in parental relation to the recipient may seek injunctive relief under this chapter against the individual who was cyberbullying the recipient or, if the individual is younger than 18 years of age, against a parent of or person standing in parental relation to the individual.

(b) A court may issue a temporary restraining order, temporary injunction, or permanent injunction appropriate under the circumstances to prevent any further cyberbullying, including an order or injunction:

(1) enjoining a defendant from engaging in cyberbullying; or

(2) compelling a defendant who is a parent of or person standing in parental relation to an individual who is younger than 18 years of age to take reasonable actions to cause the individual to cease engaging in cyberbullying.

(c) A plaintiff in an action for injunctive relief brought under this section is entitled to a temporary restraining order on showing that the plaintiff is likely to succeed in establishing that the individual was

cyberbullying the recipient. The plaintiff is not required to plead or prove that, before notice can be served and a hearing can be held, immediate and irreparable injury, loss, or damage is likely to result from past or future cyberbullying by the individual against the recipient.

(d) A plaintiff is entitled to a temporary or permanent injunction under this section on showing that the individual was cyberbullying the recipient.

(e) A court granting a temporary restraining order or temporary injunction under this section may, on motion of either party or sua sponte, order the preservation of any relevant electronic communication. The temporary restraining order or temporary injunction is not required to:

- (1) define the injury or state why it is irreparable;
- (2) state why the order was granted without notice; or
- (3) include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

§ 129A.003. Promulgation of forms.

(a) The supreme court shall, as the court finds appropriate, promulgate forms for use as an application for initial injunctive relief by individuals representing themselves in suits involving cyberbullying and instructions for the proper use of each form or set of forms.

(b) The forms and instructions:

- (1) must be written in language that is easily understood by the general public;
- (2) shall be made readily available to the general public in the manner prescribed by the supreme court; and
- (3) must be translated into the Spanish language.

(c) The Spanish language translation of a form must:

- (1) state:
 - (A) that the Spanish language translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court; and
 - (B) that the English language version of the form must be submitted to the court; or
- (2) be incorporated into the English language version of the form in a manner that is understandable to both the court and members of the general public.

(d) Each form and its instructions must clearly and conspicuously state that the form is not a substitute for the advice of an attorney.

(e) The attorney general and the clerk of a court shall inform members of the general public of the availability of a form promulgated by the supreme court under this section as appropriate and make the form available free of charge.

(f) A court shall accept a form promulgated by the supreme court under this section unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

§ 129A.004. Inapplicability.

(a) An action filed under this chapter may not be joined with an action filed under Title 1, 4, or 5, Family Code.

(b) Chapter 27 does not apply to an action under this chapter.

§ 129A.005. Certain conduct excepted.

This chapter does not apply to a claim brought against an interactive computer service, as defined by 47 U.S.C. Section 230, for cyberbullying.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

§ 28.002. Required curriculum.

(p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. The program must:

- (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;
- (2) address relationship skills, including money management, communication skills, and marriage preparation; and
- (3) in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence. [...]

(p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:

- (1) child development;
- (2) parenting skills, including child abuse and neglect prevention; and
- (3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

§ 37.0831. Dating violence policies.

(a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

- (1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and
- (2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

- (A) specific interventions, including mental health or behavioral supports;
- (B) in-school suspension;
- (C) out-of-school suspension; or
- (D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

(f) Each team shall:

(1) conduct a threat assessment that includes:

(A) assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with the policies and procedures adopted under Subsection (c).

REGULATIONS

19 TAC 103.1201. Standards for the operation of school district disciplinary alternative education programs.

(h) Each school district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in the TEC, § 22.0511, shall not be impacted.

(4) Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

(i) Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

(1) training on the education and discipline of students with disabilities who receive special education services;

(2) instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and

(3) annual training on established procedures for reporting abuse, neglect, or exploitation of students.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

- (1) grief-informed and trauma-informed practices;
- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) positive behavior interventions and supports; and
- (4) a safe and supportive school climate.

§ 37.115. Threat assessment and safe and supportive school program and team.

(c) The board of trustees of each school district shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Subsection (b) at the district campus served by the team. The policies and procedures adopted under this section must:

- (1) be consistent with the model policies and procedures developed by the Texas School Safety Center;
- (2) require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs; and
- (3) require each team established under this section to report the information required under Subsection (k) regarding the team's activities to the agency.

§ 37.220. Model threat assessment team policies and procedures.

(a) The center, in coordination with the agency, shall develop model policies and procedures to assist school districts in establishing and training threat assessment teams.

(b) The model policies and procedures developed under Subsection (a) must include procedures, when appropriate, for:

- (1) the referral of a student to a local mental health authority or health care provider for evaluation or treatment;
- (2) the referral of a student for a full individual and initial evaluation for special education services under Section 29.004; and
- (3) a student or school personnel to anonymously report dangerous, violent, or unlawful activity that occurs or is threatened to occur on school property or that relates to a student or school personnel.

§ 38.0591. Access to mental health services.

The agency, in cooperation with the Health and Human Services Commission, shall develop guidelines for school districts regarding:

- (1) partnering with a local mental health authority and with community or other private mental health services providers and substance abuse services providers to increase student access to mental health services; and
- (2) obtaining mental health services through the medical assistance program under Chapter 32, Human Resources Code.

§ 38.251. Rubric to identify resources.

(a) The agency shall develop a rubric for use by regional education service centers in identifying resources related to student mental health that are available to schools in their respective regions. The agency shall develop the rubric in conjunction with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission; and
- (7) any other state agency the agency considers appropriate.

(b) The rubric developed by the agency must provide for the identification of resources relating to:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) Communities In Schools programs described by Subchapter E, Chapter 33;
- (5) school-based mental health providers; and
- (6) public and private funding sources available to address the mental health of students.

(c) Not later than December 1 of each odd-numbered year, the agency shall revise the rubric as necessary to reflect changes in resources that may be available to schools and provide the rubric to each regional education service center.

§ 38.252. Regional inventory of mental health resources.

(a) Each regional education service center shall use the rubric developed under Section 38.251 to identify resources related to student mental health available to schools in the center's region, including evidence-based and promising programs and best practices, that:

- (1) create school environments that support the social, emotional, and academic development of students;
- (2) identify students who may need additional behavioral or mental health support before issues arise;
- (3) provide early, effective interventions to students in need of additional support;
- (4) connect students and their families to specialized services in the school or community when needed; and
- (5) assist schools in aligning resources necessary to address the mental health of students.

(b) A regional education service center may consult with any entity the center considers necessary in identifying resources under Subsection (a), including:

- (1) school districts;

- (2) local mental health authorities;
- (3) community mental health services providers;
- (4) education groups;
- (5) hospitals; and
- (6) institutions of higher education.

(c) Not later than March 1 of each even-numbered year, each regional education service center shall:

- (1) use the revised rubric received from the agency under Section 38.251 to identify, in the manner provided by this section, any additional resources that may be available to schools in the center's region; and
- (2) submit to the agency a report on resources identified through the process, including any additional resources identified under Subdivision (1).

§ 38.253. Statewide inventory of mental health resources.

(a) The agency shall develop a list of statewide resources available to school districts to address the mental health of students, including:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) school-based mental health providers; and
- (5) public and private funding sources available to address the mental health of students.

(b) In developing the list required under Subsection (a), the agency shall collaborate with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission;
- (7) one or more representatives of Communities In Schools programs described by Subchapter E, Chapter 33, who are designated by the Communities In Schools State Office;
- (8) hospitals or other health care providers;
- (9) community service providers;
- (10) parent, educator, and advocacy groups; and
- (11) any entity the agency determines can assist the agency in compiling the list.

(c) The agency shall include on the list any resource available through an entity identified as a resource under Subsection (b), including an entity described by Subsection (b), that provides evidence-based and promising programs and best practices that:

- (1) create school environments that support the social, emotional, and academic development of students;
- (2) identify students who may need additional behavioral or mental health support before issues arise;
- (3) provide early, effective interventions to students in need of additional support; and
- (4) connect students and their families to specialized services in the school or community when needed.

(d) The agency shall revise the list not later than March 1 of each even-numbered year.

§ 38.254. Statewide plan for student mental health.

(a) The agency shall develop a statewide plan to ensure all students have access to adequate mental health resources. The agency shall include in the plan:

- (1) a description of any revisions made to the rubric required by Section 38.251;
- (2) the results of the most recent regional inventory of mental health resources required by Section 38.252, including any additional resources identified;
- (3) the results of the most recent statewide inventory of mental health resources required by Section 38.253, including any additional resources identified;
- (4) the agency's goals for student mental health access to be applied across the state, including goals relating to:
 - (A) methods to objectively measure positive school climate;
 - (B) increasing the availability of early, effective school-based or school-connected mental health interventions and resources for students in need of additional support; and
 - (C) increasing the availability of referrals for students and families to specialized services for students in need of additional support outside the school;
- (5) a list of actions the commissioner may take without legislative action to help all districts reach the agency's goals described by the plan; and
- (6) recommendations to the legislature on methods to ensure that all districts can meet the agency's goals described in the plan through legislative appropriations or other action by the legislature.

(b) In developing the agency's goals under Subsection (a)(4), the agency shall consult with any person the agency believes is necessary to the development of the goals, including:

- (1) educators;
- (2) mental health practitioners;
- (3) advocacy groups; and
- (4) parents.

(c) The agency shall revise the plan not later than April 1 of each even-numbered year.

(d) As soon as practicable after completing or revising the plan, the agency shall:

- (1) submit an electronic copy of the plan to the legislature;
- (2) post the plan on the agency's Internet website; and
- (3) hold public meetings in each regional education service center's region to present the statewide plan and shall provide an opportunity for public comment at each meeting.

§ 38.255. Agency use of statewide plan.

(a) The agency shall use the statewide plan for student mental health required by Section 38.254 to develop and revise the agency's long-term strategic plan.

(b) The agency shall use the recommendations to the legislature required by Section 38.254(a)(6) to develop each agency legislative appropriations request.

§ 38.256. Reports to legislature.

In addition to any other information required to be provided to the legislature under this chapter, not later than November 1 of each even-numbered year the agency shall provide to the legislature:

- (1) a description of any changes the agency has made to the rubric required by Section 38.251; and

(2) an analysis of each region's progress toward meeting the agency's goals developed under Section 38.254.

§ 38.302. Establishment.

The Collaborative Task Force on Public School Mental Health Services is established to study and evaluate:

- (1) mental health services that are funded by this state and provided at a school district or open-enrollment charter school directly to:
 - (A) a student enrolled in the district or school;
 - (B) a parent or family member of or person standing in parental relation to a student enrolled in the district or school; or
 - (C) an employee of the district or school;
- (2) training provided to an educator employed by the district or school to provide the mental health services described by Subdivision (1); and
- (3) the impact the mental health services described by Subdivision (1) have on:
 - (A) the number of violent incidents that occur at school districts or open-enrollment charter schools;
 - (B) the suicide rate of the individuals who are provided the mental health services described by Subdivision (1);
 - (C) the number of public school students referred to the Department of Family and Protective Services for investigation services and the reasons for those referrals;
 - (D) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and
 - (E) the number of public school students referred to outside counselors in accordance with Section 38.010.

§ 38.303. Membership.

- (a) The task force is composed of:
 - (1) the commissioner or the commissioner's designee;
 - (2) the following additional members appointed by the commissioner:
 - (A) three parents of students who are enrolled in school districts or open-enrollment charter schools and receive the mental health services described by Section 38.302(1);
 - (B) one person who provides the mental health services described by Section 38.302(1) or the training described by Section 38.302(2) and who is:
 - (i) a licensed professional counselor, as defined by Section 503.002, Occupations Code;
 - (ii) a licensed clinical social worker, as defined by Section 505.002, Occupations Code; or
 - (iii) a school counselor certified under Subchapter B, Chapter 21;
 - (C) one person who is a psychiatrist;
 - (D) two persons who are administrators of districts or schools that provide the mental health services described by Section 38.302(1) or the training described by Section 38.302(2);
 - (E) one person who is a member of a foundation that invests in the mental health services described by Section 38.302(1) or the training described by Section 38.302(2);
 - (F) one person who is an employee of an institution of higher education designated under Section 38.307; and

(G) one person who is a licensed specialist in school psychology, as defined by Section 501.002, Occupations Code; and

(3) for any other entity the task force considers necessary, one person appointed by the task force for each such entity.

(b) Appointments to the task force shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) Chapter 2110, Government Code, does not apply to the task force.

§ 38.307. Support services for task force.

(a) The commissioner shall designate one institution of higher education with experience in evaluating mental health services to serve as the lead institution for the task force. The institution designated under this subsection shall provide faculty, staff, and administrative support services to the task force as determined necessary by the task force to administer this subchapter.

(b) The commissioner shall designate two institutions of higher education with experience in evaluating mental health services to assist the task force and the lead institution designated under Subsection (a) as determined necessary by the task force to administer this subchapter.

(c) In making a designation under this section, the commissioner shall give preference to at least one predominantly black institution, as defined by 20 U.S.C. Section 1067q(c)(9).

(d) On request of the task force, the agency, a school district, or an open-enrollment charter school shall provide information or other assistance to the task force.

(e) The agency shall maintain the data collected by the task force and the work product of the task force in accordance with:

(1) the agency's information security plan under Section 2054.133, Government Code; and

(2) the agency's records retention schedule under Section 441.185, Government Code.

§ 38.308. Duties of task force.

The task force shall:

(1) gather data on:

(A) the number of students enrolled in each school district and open-enrollment charter school;

(B) the number of individuals to whom each school district or open-enrollment charter school provides the mental health services described by Section 38.302(1);

(C) the number of individuals for whom each school district or open-enrollment charter school has the resources to provide the mental health services described by Section 38.302(1);

(D) the number of individuals described by Paragraph (B) who are referred to an inpatient or outpatient mental health provider;

(E) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and

(F) the race, ethnicity, gender, special education status, educationally disadvantaged status, and geographic location of:

(i) individuals who are provided the mental health services described by Section 38.302(1);

(ii) individuals who are described by Paragraph (D); and

(iii) individuals who are described by Paragraph (E); and

(2) study, evaluate, and make recommendations regarding the mental health services described by Section 38.302(1), the training described by Section 38.302(2), and the impact of those mental health services, as described by Section 38.302(3), including addressing:

(A) the outcomes and the effectiveness of the services and training provided, including the outcomes and effectiveness of the service and training providers and the programs under which services and training are provided, in:

- (i) improving student academic achievement and attendance;
- (ii) reducing student disciplinary proceedings, suspensions, placements in a disciplinary alternative education program, and expulsions; and
- (iii) delivering prevention and intervention services to promote early mental health skills, including:
 - (a) building skills relating to managing emotions, establishing and maintaining positive relationships, and making responsible decisions;
 - (b) preventing substance abuse;
 - (c) preventing suicides;
 - (d) adhering to the purpose of the relevant program services or training;
 - (e) promoting trauma-informed practices;
 - (f) promoting a positive school climate, as defined by Section 161.325(a-3), Health and Safety Code, in the district or school; and
 - (g) improving physical and emotional safety and well-being in the district or school and reducing violence in the district or school;

(B) best practices for districts and schools in implementing the services or training;

(C) disparities in the race, ethnicity, gender, special education status, and geographic location of individuals receiving the services; and

(D) best practices to replicate the services or training for all districts and schools.

§ 38.310. Reports.

Not later than November 1 of each even-numbered year, the task force shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the agency a report of the results of the task force's activities conducted under Section 38.308 and any recommendations for legislative or other action.

§ 1001.203. Grants for training university employees, school district employees, and school resource officers in mental health first aid.

(a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to local mental health authorities to provide an approved mental health first aid training program, administered by mental health first aid trainers, at no cost to university employees, school district employees, and school resource officers. [...]

(c) The department shall grant \$100 to a local mental health authority for each university employee, school district employee, or school resource officer who successfully completes a mental health first aid training program provided by the authority under this section.

(d) A mental health first aid training program provided by a local mental health authority under this section must:

- (1) be conducted by a person trained as a mental health first aid trainer;
- (2) provide participants with the skills necessary to help an individual experiencing a mental health crisis until the individual is able to obtain appropriate professional care; and

(3) include:

- (A) instruction in a five-step strategy for helping an individual experiencing a mental health crisis, including assessing risk, listening respectfully to and supporting the individual, and identifying professional help and other supports for the individual;
- (B) an introduction to the risk factors and warning signs for mental illness and substance abuse problems;
- (C) experiential activities to increase participants' understanding of the impact of mental illness on individuals and families; and
- (D) a presentation of evidence-supported treatment and self-help strategies.

(e) A local mental health authority may contract with a regional education service center to provide a mental health first aid training program to university employees, school district employees, and school resource officers under this section.

(f) Two or more local mental health authorities may collaborate and share resources to develop and operate a mental health first aid training program under this section.

§ 1701.262. Training for school district peace officers and school resource officers.

(a) In this section:

- (1) "Center" means the Texas School Safety Center at Texas State University.
- (2) "Institute" means an institute dedicated to providing training to law enforcement and the development of law enforcement policies, such as the Law Enforcement Management Institute of Texas at Sam Houston State University or the Caruth Police Institute.
- (3) "School district peace officer" means a peace officer commissioned under Section 37.081, Education Code.
- (4) "School resource officer" has the meaning assigned by Section 1701.601.

(b) The commission, in consultation with an institute or the center, shall create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

(c) The curriculum developed under this section must incorporate learning objectives regarding:

- (1) child and adolescent development and psychology;
- (2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;
- (3) de-escalation techniques and techniques for limiting the use of force, including the use of physical, mechanical, and chemical restraints;
- (4) the mental and behavioral health needs of children with disabilities or special needs; and
- (5) mental health crisis intervention.

(d) Before adopting and distributing any curriculum under this section, the commission shall provide a 30-day period for public comment.

(e) The commission shall provide the curriculum developed under this section and any supplemental education materials created for the curriculum to:

- (1) school district police departments;
- (2) law enforcement agencies that place peace officers in a school as school resource officers under a memorandum of understanding; and
- (3) any entity that provides training to school district peace officers or school resource officers.

(f) The commission shall review curriculum developed and adopted under this section and update subject matter contained in the curriculum as needed at least once every four years.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.

(b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.

(c) The list provided under Subsection (a) must include programs and practices in the following areas:

- (1) early mental health prevention and intervention;
- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) substance abuse prevention and intervention;
- (4) suicide prevention, intervention, and postvention;
- (5) grief-informed and trauma-informed practices;
- (6) positive school climates;
- (7) positive behavior interventions and supports;
- (8) positive youth development; and
- (9) safe, supportive, and positive school climate.

(d) For purposes of Subsection (c), "school climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the school district, parents of those students, and personnel employed by the district.

(e) The suicide prevention programs on the list provided under Subsection (a) must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

- (1) recognize students at risk of attempting suicide, including students who are or may be the victims of or who engage in bullying;
- (2) recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
- (3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian; and
- (4) assist students in returning to school following treatment of a mental health concern or suicide attempt.

(f) In developing the list of best practice-based programs and research-based practices, the agency and the Health and Human Services Commission shall consider:

- (1) any existing suicide prevention method developed by a school district; and

(2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(g) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (e) for teachers, school counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(h) If a school district provides the training under Subsection (g):

(1) a school district employee described under that subsection must participate in the training at least one time; and

(2) the school district shall maintain records that include the name of each district employee who participated in the training.

(i) A school district shall develop practices and procedures concerning each area listed in Subsection (c), including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

(1) include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);

(2) include a procedure for providing notice of a student identified as at risk of attempting suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);

(3) establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention;

(4) set out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention; and

(5) include procedures:

(A) to support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse; and

(B) for suicide prevention, intervention, and postvention.

(j) The practices and procedures developed under Subsection (i):

(1) may address multiple areas listed in Subsection (c) together; and

(2) must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(k) The practices and procedures developed under Subsection (i) must be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Section 11.252.

(l) The agency shall develop and make available to school districts guiding principles on the coordination of programs and practices in areas listed under Subsection (c).

(m) The agency, the Health and Human Services Commission, and each regional education service center:

(1) may accept donations for purposes of this section from sources without a conflict of interest; and

(2) may not accept donations for purposes of this section from an anonymous source.

(n) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

(o) In this section, "postvention" includes activities that promote healing necessary to reduce the risk of suicide by a person affected by the suicide of another.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 11.252. District-level planning and decision-making.

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Section 39.053(c). The district improvement plan must include provisions for:

(3) strategies for improvement of student performance that include:

(E) positive behavior interventions and support, including interventions and support that integrate best practices on grief-informed and trauma-informed care.

§ 21.044. Educator preparation.

(c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction regarding mental health, substance abuse, and youth suicide. The instruction required must:

(1) be provided through:

(A) a program selected from the list of recommended best practice-based programs and research-based practices established under Section 38.351; or

(B) a course offered by any accredited public or private postsecondary educational institution as part of a degree program; and

(2) include effective strategies, including de-escalation techniques and positive behavioral interventions and supports, for teaching and intervening with students with mental health conditions or who engage in substance abuse.

§ 21.451. Staff development requirements.

(d) The staff development:

(1) may include training in:

(B) positive behavior intervention and support strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Chapter 37.

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

- (1) grief-informed and trauma-informed practices;
- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) positive behavior interventions and supports; and
- (4) a safe and supportive school climate.

§ 30.106. Reading and behavior plan.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

- (1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:
 - (A) are based on current behavioral research; and
 - (B) are systematically and individually applied to students consistent with the demonstrated level of need;
- (2) require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and
- (3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:
 - (A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;
 - (B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;
 - (C) validated measurement of systemic positive behavioral support interventions; and
 - (D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

§ 37.0013. Positive behavior program.

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (1) be age-appropriate and research-based;
- (2) provide models for positive behavior;
- (3) promote a positive school environment;

(4) provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and

(5) provide behavior management strategies, including:

- (A) positive behavioral intervention and support;
- (B) trauma-informed practices;
- (C) social and emotional learning;
- (D) a referral for services, as necessary; and
- (E) restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

§ 37.115. Threat assessment and safe and supportive school program and team.

(b) The agency, in coordination with the Texas School Safety Center, shall adopt rules to establish a safe and supportive school program. The rules shall incorporate research-based best practices for school safety, including providing for:

(3) a systemic and coordinated multitiered support system that addresses school climate, the social and emotional domain, and behavioral and mental health.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.

(b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.

(c) The list provided under Subsection (a) must include programs and practices in the following areas:

(7) positive behavior interventions and supports.

§ 1701.262. Training for school district peace officers and school resource officers.

(b) The commission, in consultation with an institute or the center, shall create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

(c) The curriculum developed under this section must incorporate learning objectives regarding:

(2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques.

REGULATIONS

19 TAC 129.1045. Best practices.

(a) A school district shall consider the following best practices for truancy prevention measures.

(8) Use existing school programs such as Communities In Schools, 21st Century Community Learning Centers, Restorative Discipline, and Positive Behavior Interventions and Supports (PBIS) to provide students and their parents with services.

Prevention

LAWS

§ 11.252. District-level planning and decision-making.

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Section 39.053(c). The district improvement plan must include provisions for:

(3) strategies for improvement of student performance that include:

(B) evidence-based practices that address the needs of students for special programs, including:

(ii) conflict resolution programs;

(iii) violence prevention programs.

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

(1) grief-informed and trauma-informed practices;

(2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;

(3) positive behavior interventions and supports; and

(4) a safe and supportive school climate.

§ 37.211. Recognition of schools.

The center shall provide for the public recognition of schools that implement effective school safety measures and violence prevention.

§ 38.252. Regional inventory of mental health resources.

(a) Each regional education service center shall use the rubric developed under Section 38.251 to identify resources related to student mental health available to schools in the center's region, including evidence-based and promising programs and best practices, that:

(1) create school environments that support the social, emotional, and academic development of students;

(2) identify students who may need additional behavioral or mental health support before issues arise;

(3) provide early, effective interventions to students in need of additional support;

(4) connect students and their families to specialized services in the school or community when needed; and

(5) assist schools in aligning resources necessary to address the mental health of students.

(b) A regional education service center may consult with any entity the center considers necessary in identifying resources under Subsection (a), including:

(1) school districts;

- (2) local mental health authorities;
- (3) community mental health services providers;
- (4) education groups;
- (5) hospitals; and
- (6) institutions of higher education.

(c) Not later than March 1 of each even-numbered year, each regional education service center shall:

- (1) use the revised rubric received from the agency under Section 38.251 to identify, in the manner provided by this section, any additional resources that may be available to schools in the center's region; and
- (2) submit to the agency a report on resources identified through the process, including any additional resources identified under Subdivision (1).

§ 38.253. Statewide inventory of mental health resources.

(a) The agency shall develop a list of statewide resources available to school districts to address the mental health of students, including:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) school-based mental health providers; and
- (5) public and private funding sources available to address the mental health of students.

(b) In developing the list required under Subsection (a), the agency shall collaborate with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission;
- (7) one or more representatives of Communities In Schools programs described by Subchapter E, Chapter 33, who are designated by the Communities In Schools State Office;
- (8) hospitals or other health care providers;
- (9) community service providers;
- (10) parent, educator, and advocacy groups; and
- (11) any entity the agency determines can assist the agency in compiling the list.

(c) The agency shall include on the list any resource available through an entity identified as a resource under Subsection (b), including an entity described by Subsection (b), that provides evidence-based and promising programs and best practices that:

- (1) create school environments that support the social, emotional, and academic development of students;
- (2) identify students who may need additional behavioral or mental health support before issues arise;
- (3) provide early, effective interventions to students in need of additional support; and
- (4) connect students and their families to specialized services in the school or community when needed.

(d) The agency shall revise the list not later than March 1 of each even-numbered year.

§ 38.308. Duties of task force.

The task force shall:

(1) gather data on:

- (A) the number of students enrolled in each school district and open-enrollment charter school;
- (B) the number of individuals to whom each school district or open-enrollment charter school provides the mental health services described by Section 38.302(1);
- (C) the number of individuals for whom each school district or open-enrollment charter school has the resources to provide the mental health services described by Section 38.302(1);
- (D) the number of individuals described by Paragraph (B) who are referred to an inpatient or outpatient mental health provider;
- (E) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and
- (F) the race, ethnicity, gender, special education status, educationally disadvantaged status, and geographic location of:
 - (i) individuals who are provided the mental health services described by Section 38.302(1);
 - (ii) individuals who are described by Paragraph (D); and
 - (iii) individuals who are described by Paragraph (E); and

(2) study, evaluate, and make recommendations regarding the mental health services described by Section 38.302(1), the training described by Section 38.302(2), and the impact of those mental health services, as described by Section 38.302(3), including addressing:

- (A) the outcomes and the effectiveness of the services and training provided, including the outcomes and effectiveness of the service and training providers and the programs under which services and training are provided, in:
 - (i) improving student academic achievement and attendance;
 - (ii) reducing student disciplinary proceedings, suspensions, placements in a disciplinary alternative education program, and expulsions; and
 - (iii) delivering prevention and intervention services to promote early mental health skills, including:
 - (a) building skills relating to managing emotions, establishing and maintaining positive relationships, and making responsible decisions;
 - (b) preventing substance abuse;
 - (c) preventing suicides;
 - (d) adhering to the purpose of the relevant program services or training;
 - (e) promoting trauma-informed practices;
 - (f) promoting a positive school climate, as defined by Section 161.325(a-3), Health and Safety Code, in the district or school; and
 - (g) improving physical and emotional safety and well-being in the district or school and reducing violence in the district or school;
- (B) best practices for districts and schools in implementing the services or training;
- (C) disparities in the race, ethnicity, gender, special education status, and geographic location of individuals receiving the services; and
- (D) best practices to replicate the services or training for all districts and schools.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.

(b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.

(c) The list provided under Subsection (a) must include programs and practices in the following areas:

- (1) early mental health prevention and intervention;
- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) substance abuse prevention and intervention;
- (4) suicide prevention, intervention, and postvention;
- (5) grief-informed and trauma-informed practices;
- (6) positive school climates;
- (7) positive behavior interventions and supports;
- (8) positive youth development; and
- (9) safe, supportive, and positive school climate.

(d) For purposes of Subsection (c), "school climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the school district, parents of those students, and personnel employed by the district.

(e) The suicide prevention programs on the list provided under Subsection (a) must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

- (1) recognize students at risk of attempting suicide, including students who are or may be the victims of or who engage in bullying;
- (2) recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
- (3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian; and
- (4) assist students in returning to school following treatment of a mental health concern or suicide attempt.

(f) In developing the list of best practice-based programs and research-based practices, the agency and the Health and Human Services Commission shall consider:

- (1) any existing suicide prevention method developed by a school district; and
- (2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(g) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (e) for teachers, school counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(h) If a school district provides the training under Subsection (g):

- (1) a school district employee described under that subsection must participate in the training at least one time; and
- (2) the school district shall maintain records that include the name of each district employee who participated in the training.

(i) A school district shall develop practices and procedures concerning each area listed in Subsection (c), including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

- (1) include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);
- (2) include a procedure for providing notice of a student identified as at risk of attempting suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);
- (3) establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention;
- (4) set out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention; and
- (5) include procedures:
 - (A) to support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse; and
 - (B) for suicide prevention, intervention, and postvention.

(j) The practices and procedures developed under Subsection (i):

- (1) may address multiple areas listed in Subsection (c) together; and
- (2) must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(k) The practices and procedures developed under Subsection (i) must be included in:

- (1) the annual student handbook; and
- (2) the district improvement plan under Section 11.252.

(l) The agency shall develop and make available to school districts guiding principles on the coordination of programs and practices in areas listed under Subsection (c).

(m) The agency, the Health and Human Services Commission, and each regional education service center:

- (1) may accept donations for purposes of this section from sources without a conflict of interest; and
- (2) may not accept donations for purposes of this section from an anonymous source.

(n) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

(o) In this section, "postvention" includes activities that promote healing necessary to reduce the risk of suicide by a person affected by the suicide of another.

§ 39.306. Performance report.

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

(2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making.

§ 28.002. Required curriculum.

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(2) an enrichment curriculum that includes:

(B) health, with emphasis on:

(ii) mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making.

§ 29.906. Character traits instruction.

(a) The State Board of Education shall integrate positive character traits into the essential knowledge and skills adopted for kindergarten through grade 12, as appropriate.

(b) The State Board of Education must include the following positive character traits:

(1) courage;

(2) trustworthiness, including honesty, reliability, punctuality, and loyalty;

- (3) integrity;
- (4) respect and courtesy;
- (5) responsibility, including accountability, diligence, perseverance, and self-control;
- (6) fairness, including justice and freedom from prejudice;
- (7) caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
- (8) good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law;
- (9) school pride; and
- (10) gratitude.

(c) Each school district and open-enrollment charter school must adopt a character education program that includes the positive character traits listed in Subsection (b). In developing or selecting a character education program under this section, a school district shall consult with a committee selected by the district that consists of:

- (1) parents of district students;
- (2) educators; and
- (3) other members of the community, including community leaders.

(d) This section does not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

(e) The agency shall:

- (1) maintain a list of character education programs that school districts have implemented that meet the criteria under Subsection (b);
- (2) based on data reported by districts, annually designate as a Character Plus School each school that provides a character education program that:
 - (A) meets the criteria prescribed by Subsection (b); and
 - (B) is approved by the committee selected under Subsection (c); and
- (3) include in the report required under Section 39.332:
 - (A) based on data reported by districts, the impact of character education programs on student discipline and academic achievement; and
 - (B) other reported data relating to character education programs the agency considers appropriate for inclusion.

(f) The agency may accept money from federal government and private sources to use in assisting school districts in implementing character education programs that meet the criteria prescribed by Subsection (b).

(g) The State Board of Education may adopt rules as necessary to implement this section.

§ 37.0013. Positive behavior program.

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (5) provide behavior management strategies, including:
 - (A) social and emotional learning.

§ 38.013. Coordinated health program for elementary, middle, and junior high school students.

(a) The agency shall make available to each school district one or more coordinated health programs in elementary school, middle school, and junior high school. Each program must provide for coordinating education and services related to:

(2) mental health education, including education about mental health conditions, mental health well-being, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.

(b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.

(c) The list provided under Subsection (a) must include programs and practices in the following areas:

(2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

§ 8.155. Regional education service center property.

(a) A non-physician mental health professional employed under Section 8.152 shall, to the greatest extent possible, work collaboratively with the regional education service center and shall act as a resource for the center and school district personnel by:

(5) on a monthly basis, facilitating training regarding the effects of grief and trauma and providing support to children with intellectual or developmental disabilities who suffer from grief or trauma.

§ 11.252. District-level planning and decision-making.

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Section 39.053(c). The district improvement plan must include provisions for:

(3) strategies for improvement of student performance that include:

(E) positive behavior interventions and support, including interventions and support that integrate best practices on grief-informed and trauma-informed care.

(10) the trauma-informed care policy required under Section 38.036.

§ 21.054. Continuing education.

(d) [As amended by Acts 2019, 86th Leg., ch. 464 (S.B. 11)] Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:

(6) how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. [...]

(d) [As amended by Acts 2019, 86th Leg., ch. 352 (H.B. 18)] Continuing education requirements for a classroom teacher must provide that at least 25 percent of the training required every five years include instruction regarding:

(6) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. [...]

(e) Continuing education requirements for a principal must provide that at least 25 percent of the training required every five years include instruction regarding:

(8) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. [...]

(f) Continuing education requirements for a counselor must provide that at least 25 percent of training required every five years include instruction regarding:

(4) counseling students concerning mental health conditions and substance abuse, including through the use of grief-informed and trauma-informed interventions and crisis management and suicide prevention strategies.

(g) The board shall adopt rules that allow an educator to fulfill continuing education requirements by participating in an evidence-based mental health first aid training program or an evidence-based grief-informed and trauma-informed care program. The rules adopted under this subsection must allow an educator to complete a program described by this subsection and receive credit toward continuing education requirements for twice the number of hours of instruction provided under that program, not to exceed 16 hours. The program must be offered through a classroom instruction format that requires in-person attendance.

§ 21.451. Staff development requirements.

(d) The staff development:

(3) must include training on:

(D) how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

(1) grief-informed and trauma-informed practices;

- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) positive behavior interventions and supports; and
- (4) a safe and supportive school climate.

§ 37.0013. Positive behavior program.

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (5) provide behavior management strategies, including:
 - (B) trauma-informed practices.

§ 37.108. Multihazard emergency operations plan; Safety and security audit.

(f) A school district shall include in its multihazard emergency operations plan:

- (6) provisions for supporting the psychological safety of students, district personnel, and the community during the response and recovery phase following a disaster or emergency situation that:
 - (B) include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel; [...]
 - (E) implement trauma-informed policies.

§ 37.115. Threat assessment and safe and supportive school program and team.

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

- (5) the number and percentage of school personnel trained in:
 - (A) a best-practices program or research-based practice under Section 161.325, Health and Safety Code, including the number and percentage of school personnel trained in:
 - (ii) grief and trauma-informed practices.

§ 38.036. Trauma-informed care policy.

(a) Each school district shall adopt and implement a policy requiring the integration of trauma-informed practices in each school environment. A district must include the policy in the district improvement plan required under Section 11.252.

(b) A policy required by this section must address:

- (1) using resources developed by the agency, methods for:
 - (A) increasing staff and parent awareness of trauma-informed care; and
 - (B) implementation of trauma-informed practices and care by district and campus staff; and
- (2) available counseling options for students affected by trauma or grief.

(c) The methods under Subsection (b)(1) for increasing awareness and implementation of trauma-informed care must include training as provided by this subsection. The training must be provided:

- (1) through a program selected from the list of recommended best practice-based programs and research-based practices established under Section 161.325, Health and Safety Code;

- (2) as part of any new employee orientation for all new school district educators; and
 - (3) to existing school district educators on a schedule adopted by the agency by rule that requires educators to be trained at intervals necessary to keep educators informed of developments in the field.
- (d) For any training under Subsection (c), each school district shall maintain records that include the name of each district staff member who participated in the training.
- (e) Each school district shall report annually to the agency the following information for the district as a whole and for each school campus:
- (1) the number of teachers, principals, and counselors employed by the district who have completed training under this section; and
 - (2) the total number of teachers, principals, and counselors employed by the district.
- (f) If a school district determines that the district does not have sufficient resources to provide the training required under Subsection (c), the district may partner with a community mental health organization to provide training that meets the requirements of Subsection (c) at no cost to the district.
- (g) The commissioner shall adopt rules as necessary to administer this section.

§ 38.308. Duties of task force.

The task force shall:

- (2) study, evaluate, and make recommendations regarding the mental health services described by Section 38.302(1), the training described by Section 38.302(2), and the impact of those mental health services, as described by Section 38.302(3), including addressing:
 - (A) the outcomes and the effectiveness of the services and training provided, including the outcomes and effectiveness of the service and training providers and the programs under which services and training are provided, in:
 - (iii) delivering prevention and intervention services to promote early mental health skills, including:
 - (e) promoting trauma-informed practices.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

- (a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.
- (b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.
- (c) The list provided under Subsection (a) must include programs and practices in the following areas:
 - (5) grief-informed and trauma-informed practices.

§ 42.168. School safety allotment.

- (b) Funds allocated under this section must be used to improve school safety and security, including costs associated with:
 - (3) school safety and security training and planning, including:
 - (A) active shooter and emergency response training;
 - (B) prevention and treatment programs relating to addressing adverse childhood experiences; and
 - (C) the prevention, identification, and management of emergencies and threats, including:

- (i) providing mental health personnel and support;
- (ii) providing behavioral health services; and
- (iii) establishing threat reporting systems.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§ 8.155. Regional education service center property.

(a) A non-physician mental health professional employed under Section 8.152 shall, to the greatest extent possible, work collaboratively with the regional education service center and shall act as a resource for the center and school district personnel by:

- (4) on a monthly basis, facilitating mental health first aid training.

§ 21.044. Educator preparation.

(c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction regarding mental health, substance abuse, and youth suicide. The instruction required must:

- (1) be provided through:

- (A) a program selected from the list of recommended best practice-based programs and research-based practices established under Section 38.351; or

- (B) a course offered by any accredited public or private postsecondary educational institution as part of a degree program; and

- (2) include effective strategies, including de-escalation techniques and positive behavioral interventions and supports, for teaching and intervening with students with mental health conditions or who engage in substance abuse.

§ 21.054. Continuing education.

(d) [As amended by Acts 2019, 86th Leg., ch. 352 (H.B. 18)] Continuing education requirements for a classroom teacher must provide that at least 25 percent of the training required every five years include instruction regarding:

- (6) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. [...]

(e) Continuing education requirements for a principal must provide that at least 25 percent of the training required every five years include instruction regarding:

- (5) mental health programs addressing a mental health condition.

- (8) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. [...]

(f) Continuing education requirements for a counselor must provide that at least 25 percent of training required every five years include instruction regarding:

(4) counseling students concerning mental health conditions and substance abuse, including through the use of grief-informed and trauma-informed interventions and crisis management and suicide prevention strategies. [...]

(g) The board shall adopt rules that allow an educator to fulfill continuing education requirements by participating in an evidence-based mental health first aid training program or an evidence-based grief-informed and trauma-informed care program. The rules adopted under this subsection must allow an educator to complete a program described by this subsection and receive credit toward continuing education requirements for twice the number of hours of instruction provided under that program, not to exceed 16 hours. The program must be offered through a classroom instruction format that requires in-person attendance.

§ 21.451. Staff development requirements.

(d) The staff development:

(3) must include training on:

(B) recognizing signs of mental health conditions and substance abuse.

§ 37.108. Multihazard emergency operations plan; Safety and security audit.

(f) A school district shall include in its multihazard emergency operations plan:

(6) provisions for supporting the psychological safety of students, district personnel, and the community during the response and recovery phase following a disaster or emergency situation that:

(A) are aligned with best practice-based programs and research-based practices recommended under Section 161.325, Health and Safety Code;

(B) include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;

(C) include training on integrating psychological safety and suicide prevention strategies into the district's plan, such as psychological first aid for schools training, from an approved list of recommended training established by the commissioner and Texas School Safety Center for:

(i) members of the district's school safety and security committee under Section 37.109;

(ii) district school counselors and mental health professionals; and

(iii) educators and other district personnel as determined by the district;

(D) include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by Subdivision (2); and

(E) implement trauma-informed policies.

§ 38.251. Rubric to identify resources.

(a) The agency shall develop a rubric for use by regional education service centers in identifying resources related to student mental health that are available to schools in their respective regions. The agency shall develop the rubric in conjunction with:

(1) the Health and Human Services Commission;

(2) the Department of Family and Protective Services;

(3) the Texas Juvenile Justice Department;

(4) the Texas Higher Education Coordinating Board;

(5) the Texas Child Mental Health Care Consortium;

(6) the Texas Workforce Commission; and

(7) any other state agency the agency considers appropriate.

(b) The rubric developed by the agency must provide for the identification of resources relating to:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) Communities In Schools programs described by Subchapter E, Chapter 33;
- (5) school-based mental health providers; and
- (6) public and private funding sources available to address the mental health of students.

(c) Not later than December 1 of each odd-numbered year, the agency shall revise the rubric as necessary to reflect changes in resources that may be available to schools and provide the rubric to each regional education service center.

§ 38.253. Statewide inventory of mental health resources.

(a) The agency shall develop a list of statewide resources available to school districts to address the mental health of students, including:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) school-based mental health providers; and
- (5) public and private funding sources available to address the mental health of students.

(b) In developing the list required under Subsection (a), the agency shall collaborate with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission;
- (7) one or more representatives of Communities In Schools programs described by Subchapter E, Chapter 33, who are designated by the Communities In Schools State Office;
- (8) hospitals or other health care providers;
- (9) community service providers;
- (10) parent, educator, and advocacy groups; and
- (11) any entity the agency determines can assist the agency in compiling the list.

(c) The agency shall include on the list any resource available through an entity identified as a resource under Subsection (b), including an entity described by Subsection (b), that provides evidence-based and promising programs and best practices that:

- (1) create school environments that support the social, emotional, and academic development of students;
- (2) identify students who may need additional behavioral or mental health support before issues arise;
- (3) provide early, effective interventions to students in need of additional support; and

- (4) connect students and their families to specialized services in the school or community when needed.
- (d) The agency shall revise the list not later than March 1 of each even-numbered year.

§ 38.302. Establishment.

The Collaborative Task Force on Public School Mental Health Services is established to study and evaluate:

- (1) mental health services that are funded by this state and provided at a school district or open-enrollment charter school directly to:
 - (A) a student enrolled in the district or school;
 - (B) a parent or family member of or person standing in parental relation to a student enrolled in the district or school; or
 - (C) an employee of the district or school;
- (2) training provided to an educator employed by the district or school to provide the mental health services described by Subdivision (1); and
- (3) the impact the mental health services described by Subdivision (1) have on:
 - (A) the number of violent incidents that occur at school districts or open-enrollment charter schools;
 - (B) the suicide rate of the individuals who are provided the mental health services described by Subdivision (1);
 - (C) the number of public school students referred to the Department of Family and Protective Services for investigation services and the reasons for those referrals;
 - (D) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and
 - (E) the number of public school students referred to outside counselors in accordance with Section 38.010.

§ 38.308. Duties of task force.

The task force shall:

- (1) gather data on:
 - (A) the number of students enrolled in each school district and open-enrollment charter school;
 - (B) the number of individuals to whom each school district or open-enrollment charter school provides the mental health services described by Section 38.302(1);
 - (C) the number of individuals for whom each school district or open-enrollment charter school has the resources to provide the mental health services described by Section 38.302(1);
 - (D) the number of individuals described by Paragraph (B) who are referred to an inpatient or outpatient mental health provider;
 - (E) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and
 - (F) the race, ethnicity, gender, special education status, educationally disadvantaged status, and geographic location of:
 - (i) individuals who are provided the mental health services described by Section 38.302(1);
 - (ii) individuals who are described by Paragraph (D); and
 - (iii) individuals who are described by Paragraph (E); and

(2) study, evaluate, and make recommendations regarding the mental health services described by Section 38.302(1), the training described by Section 38.302(2), and the impact of those mental health services, as described by Section 38.302(3), including addressing:

(A) the outcomes and the effectiveness of the services and training provided, including the outcomes and effectiveness of the service and training providers and the programs under which services and training are provided, in:

- (i) improving student academic achievement and attendance;
- (ii) reducing student disciplinary proceedings, suspensions, placements in a disciplinary alternative education program, and expulsions; and
- (iii) delivering prevention and intervention services to promote early mental health skills, including:
 - (a) building skills relating to managing emotions, establishing and maintaining positive relationships, and making responsible decisions;
 - (b) preventing substance abuse;
 - (c) preventing suicides;
 - (d) adhering to the purpose of the relevant program services or training;
 - (e) promoting trauma-informed practices;
 - (f) promoting a positive school climate, as defined by Section 161.325(a-3), Health and Safety Code, in the district or school; and
 - (g) improving physical and emotional safety and well-being in the district or school and reducing violence in the district or school;

(B) best practices for districts and schools in implementing the services or training;

(C) disparities in the race, ethnicity, gender, special education status, and geographic location of individuals receiving the services; and

(D) best practices to replicate the services or training for all districts and schools.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(e) The suicide prevention programs on the list provided under Subsection (a) must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

- (2) recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others
- (3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian; and
- (4) assist students in returning to school following treatment of a mental health concern or suicide attempt.

§ 42.168. School safety allotment.

(b) Funds allocated under this section must be used to improve school safety and security, including costs associated with:

- (3) school safety and security training and planning, including:

- (A) active shooter and emergency response training;
- (B) prevention and treatment programs relating to addressing adverse childhood experiences; and
- (C) the prevention, identification, and management of emergencies and threats, including:
 - (i) providing mental health personnel and support;
 - (ii) providing behavioral health services; and
 - (iii) establishing threat reporting systems.

§ 1001.203. Grants for training university employees, school district employees, and school resource officers in mental health first aid.

(a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to local mental health authorities to provide an approved mental health first aid training program, administered by mental health first aid trainers, at no cost to university employees, school district employees, and school resource officers. [...]

(c) The department shall grant \$100 to a local mental health authority for each university employee, school district employee, or school resource officer who successfully completes a mental health first aid training program provided by the authority under this section.

(d) A mental health first aid training program provided by a local mental health authority under this section must:

- (1) be conducted by a person trained as a mental health first aid trainer;
- (2) provide participants with the skills necessary to help an individual experiencing a mental health crisis until the individual is able to obtain appropriate professional care; and
- (3) include:
 - (A) instruction in a five-step strategy for helping an individual experiencing a mental health crisis, including assessing risk, listening respectfully to and supporting the individual, and identifying professional help and other supports for the individual;
 - (B) an introduction to the risk factors and warning signs for mental illness and substance abuse problems;
 - (C) experiential activities to increase participants' understanding of the impact of mental illness on individuals and families; and
 - (D) a presentation of evidence-supported treatment and self-help strategies.

(e) A local mental health authority may contract with a regional education service center to provide a mental health first aid training program to university employees, school district employees, and school resource officers under this section.

(f) Two or more local mental health authorities may collaborate and share resources to develop and operate a mental health first aid training program under this section.

§ 1001.204. Plans for mental health first aid training programs.

(a) Not later than July 1 of each state fiscal year for which a local mental health authority will seek a grant from the department under Section 1001.203, the authority shall submit to the department a plan demonstrating the manner in which grants made to the authority under that section will be used:

- (1) to train individuals in mental health first aid throughout the authority's local service area to maximize the number of children who have direct contact with an individual who has successfully completed a mental health first aid training program provided by the authority;
- (2) to meet the greatest needs of the authority's local service area, as identified by the authority; and

(3) to complement existing resources and not duplicate established mental health first aid training efforts.

(b) The department may not make a grant to a local mental health authority under Section 1001.203 unless the department has evaluated a plan submitted by the authority under this section.

§ 1001.207. Program promotion.

(a) The commission shall make available on its official Internet website information about the mental health first aid training program for the purpose of promoting public awareness of the program. An electronic link to an outside source of information is not sufficient.

(b) The Texas Education Agency shall make available on its official Internet website information about the mental health first aid training program for the purpose of promoting public awareness of the program. An electronic link to an outside source of information is not sufficient.

§ 1701.262. Training for school district peace officers and school resource officers.

(b) The commission, in consultation with an institute or the center, shall create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

(c) The curriculum developed under this section must incorporate learning objectives regarding:

- (4) the mental and behavioral health needs of children with disabilities or special needs; and
- (5) mental health crisis intervention.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 8.155. Regional education service center property.

(a) A non-physician mental health professional employed under Section 8.152 shall, to the greatest extent possible, work collaboratively with the regional education service center and shall act as a resource for the center and school district personnel by:

(1) helping personnel gain awareness and a better understanding of mental health and co-occurring mental health and substance use disorders;

(2) assisting personnel to implement initiatives related to mental health or substance use under state law or agency rules, interagency memorandums of understanding, and related programs;

(3) ensuring personnel are aware of:

(A) the list of recommended best practice-based programs and research-based practices developed under Section 161.325, Health and Safety Code;

(B) other public and private mental health and substance use prevention, treatment, and recovery programs available in the school district, including evidence-based programs provided by a local mental health authority and other public or private mental health providers; and

(C) other available public and private mental health and substance use prevention, treatment, and recovery program resources administered by the local mental health authority or the Health and Human Services Commission to support school districts, students, and families;

(4) on a monthly basis, facilitating mental health first aid training;

(5) on a monthly basis, facilitating training regarding the effects of grief and trauma and providing support to children with intellectual or developmental disabilities who suffer from grief or trauma; and
(6) on a monthly basis, facilitating training on prevention and intervention programs that have been shown to be effective in helping students cope with pressures to:

- (A) use alcohol, cigarettes, or illegal drugs; or
- (B) misuse prescription drugs.

(b) A non-physician mental health professional employed under Section 8.152 may not treat or provide counseling to a student or provide specific advice to school district personnel regarding a student.

§ 21.462. Resources regarding students with mental health or substance abuse conditions.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions or who engage in substance abuse. The agency must include on the Internet website information about:

- (1) grief-informed and trauma-informed practices;
- (2) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) positive behavior interventions and supports; and
- (4) a safe and supportive school climate.

§ 28.004. Local school health advisory council and health education instruction.

(c) The local school health advisory council's duties include recommending:

(2) policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:

(F) school health services, including mental health services.

(4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:

(A) school health services, including physical health services and mental health services, if provided at a campus by the district or by a third party under a contract with the district.

§ 37.023. Transition from alternative education program to regular classroom.

(d) The assistance required by Subsection (c) must include a personalized transition plan for the student developed by the campus administrator. A personalized transition plan:

(2) may include:

(B) recommendations for assistance for obtaining access to mental health services provided by the district or school, a local mental health authority, or another private or public entity.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports. [...]

(b) The agency, in coordination with the Texas School Safety Center, shall adopt rules to establish a safe and supportive school program. The rules shall incorporate research-based best practices for school safety, including providing for:

(3) a systemic and coordinated multitiered support system that addresses school climate, the social and emotional domain, and behavioral and mental health. [...]

(d) The superintendent of the district shall ensure that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a school district, provided that each district campus is assigned a team. [...]

(f) Each team shall:

(1) conduct a threat assessment that includes:

(A) gathering and analyzing data to determine the level of risk and appropriate intervention, including:

(i) referring a student for mental health assessment. [...]

(g) A team may not provide a mental health care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or person standing in parental relation to the student before providing the mental health care service. The consent required by this subsection must be submitted on a form developed by the school district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion. [...]

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

(3) the outcome of each assessment made by the team, including:

(B) a referral to or change in counseling, mental health, special education, or other services.

(4) the total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:

(E) referrals to or changes in counseling, mental health, special education, or other services.

§ 37.220. Model threat assessment team policies and procedures.

(a) The center, in coordination with the agency, shall develop model policies and procedures to assist school districts in establishing and training threat assessment teams.

(b) The model policies and procedures developed under Subsection (a) must include procedures, when appropriate, for:

(1) the referral of a student to a local mental health authority or health care provider for evaluation or treatment;

(2) the referral of a student for a full individual and initial evaluation for special education services under Section 29.004; and

(3) a student or school personnel to anonymously report dangerous, violent, or unlawful activity that occurs or is threatened to occur on school property or that relates to a student or school personnel.

§ 38.0101. Authority to employ or contract with nonphysician mental health professional.

(a) A school district may employ or contract with one or more nonphysician mental health professionals.

(b) In this section, "nonphysician mental health professional" means:

- (1) a psychologist licensed to practice in this state and designated as a health-service provider;
- (2) a registered nurse with a master's or doctoral degree in psychiatric nursing;
- (3) a licensed clinical social worker;
- (4) a professional counselor licensed to practice in this state; or
- (5) a marriage and family therapist licensed to practice in this state.

§ 38.0591. Access to mental health services.

The agency, in cooperation with the Health and Human Services Commission, shall develop guidelines for school districts regarding:

- (1) partnering with a local mental health authority and with community or other private mental health services providers and substance abuse services providers to increase student access to mental health services; and
- (2) obtaining mental health services through the medical assistance program under Chapter 32, Human Resources Code.

§ 38.251. Rubric to identify resources.

(a) The agency shall develop a rubric for use by regional education service centers in identifying resources related to student mental health that are available to schools in their respective regions. The agency shall develop the rubric in conjunction with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission; and
- (7) any other state agency the agency considers appropriate.

(b) The rubric developed by the agency must provide for the identification of resources relating to:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) Communities In Schools programs described by Subchapter E, Chapter 33;
- (5) school-based mental health providers; and
- (6) public and private funding sources available to address the mental health of students.

(c) Not later than December 1 of each odd-numbered year, the agency shall revise the rubric as necessary to reflect changes in resources that may be available to schools and provide the rubric to each regional education service center.

§ 38.252. Regional inventory of mental health resources.

(a) Each regional education service center shall use the rubric developed under Section 38.251 to identify resources related to student mental health available to schools in the center's region, including evidence-based and promising programs and best practices, that:

- (1) create school environments that support the social, emotional, and academic development of students;
- (2) identify students who may need additional behavioral or mental health support before issues arise;
- (3) provide early, effective interventions to students in need of additional support;
- (4) connect students and their families to specialized services in the school or community when needed; and
- (5) assist schools in aligning resources necessary to address the mental health of students.

(b) A regional education service center may consult with any entity the center considers necessary in identifying resources under Subsection (a), including:

- (1) school districts;
- (2) local mental health authorities;
- (3) community mental health services providers;
- (4) education groups;
- (5) hospitals; and
- (6) institutions of higher education.

(c) Not later than March 1 of each even-numbered year, each regional education service center shall:

- (1) use the revised rubric received from the agency under Section 38.251 to identify, in the manner provided by this section, any additional resources that may be available to schools in the center's region; and
- (2) submit to the agency a report on resources identified through the process, including any additional resources identified under Subdivision (1).

§ 38.253. Statewide inventory of mental health resources.

(a) The agency shall develop a list of statewide resources available to school districts to address the mental health of students, including:

- (1) training and technical assistance on practices that support the mental health of students;
- (2) school-based programs that provide prevention or intervention services to students;
- (3) community-based programs that provide school-based or school-connected prevention or intervention services to students;
- (4) school-based mental health providers; and
- (5) public and private funding sources available to address the mental health of students.

(b) In developing the list required under Subsection (a), the agency shall collaborate with:

- (1) the Health and Human Services Commission;
- (2) the Department of Family and Protective Services;
- (3) the Texas Juvenile Justice Department;
- (4) the Texas Higher Education Coordinating Board;
- (5) the Texas Child Mental Health Care Consortium;
- (6) the Texas Workforce Commission;

(7) one or more representatives of Communities In Schools programs described by Subchapter E, Chapter 33, who are designated by the Communities In Schools State Office;

(8) hospitals or other health care providers;

(9) community service providers;

(10) parent, educator, and advocacy groups; and

(11) any entity the agency determines can assist the agency in compiling the list.

(c) The agency shall include on the list any resource available through an entity identified as a resource under Subsection (b), including an entity described by Subsection (b), that provides evidence-based and promising programs and best practices that:

(1) create school environments that support the social, emotional, and academic development of students;

(2) identify students who may need additional behavioral or mental health support before issues arise;

(3) provide early, effective interventions to students in need of additional support; and

(4) connect students and their families to specialized services in the school or community when needed.

(d) The agency shall revise the list not later than March 1 of each even-numbered year.

§ 38.254. Statewide plan for student mental health.

(a) The agency shall develop a statewide plan to ensure all students have access to adequate mental health resources. The agency shall include in the plan:

(1) a description of any revisions made to the rubric required by Section 38.251;

(2) the results of the most recent regional inventory of mental health resources required by Section 38.252, including any additional resources identified;

(3) the results of the most recent statewide inventory of mental health resources required by Section 38.253, including any additional resources identified;

(4) the agency's goals for student mental health access to be applied across the state, including goals relating to:

(A) methods to objectively measure positive school climate;

(B) increasing the availability of early, effective school-based or school-connected mental health interventions and resources for students in need of additional support; and

(C) increasing the availability of referrals for students and families to specialized services for students in need of additional support outside the school;

(5) a list of actions the commissioner may take without legislative action to help all districts reach the agency's goals described by the plan; and

(6) recommendations to the legislature on methods to ensure that all districts can meet the agency's goals described in the plan through legislative appropriations or other action by the legislature.

(b) In developing the agency's goals under Subsection (a)(4), the agency shall consult with any person the agency believes is necessary to the development of the goals, including:

(1) educators;

(2) mental health practitioners;

(3) advocacy groups; and

(4) parents.

(c) The agency shall revise the plan not later than April 1 of each even-numbered year.

(d) As soon as practicable after completing or revising the plan, the agency shall:

- (1) submit an electronic copy of the plan to the legislature;
- (2) post the plan on the agency's Internet website; and
- (3) hold public meetings in each regional education service center's region to present the statewide plan and shall provide an opportunity for public comment at each meeting.

§ 38.255. Agency use of statewide plan.

- (a) The agency shall use the statewide plan for student mental health required by Section 38.254 to develop and revise the agency's long-term strategic plan.
- (b) The agency shall use the recommendations to the legislature required by Section 38.254(a)(6) to develop each agency legislative appropriations request.

§ 38.302. Establishment.

The Collaborative Task Force on Public School Mental Health Services is established to study and evaluate:

- (1) mental health services that are funded by this state and provided at a school district or open-enrollment charter school directly to:
 - (A) a student enrolled in the district or school;
 - (B) a parent or family member of or person standing in parental relation to a student enrolled in the district or school; or
 - (C) an employee of the district or school;
- (2) training provided to an educator employed by the district or school to provide the mental health services described by Subdivision (1); and
- (3) the impact the mental health services described by Subdivision (1) have on:
 - (A) the number of violent incidents that occur at school districts or open-enrollment charter schools;
 - (B) the suicide rate of the individuals who are provided the mental health services described by Subdivision (1);
 - (C) the number of public school students referred to the Department of Family and Protective Services for investigation services and the reasons for those referrals;
 - (D) the number of individuals who are transported from each school district or open-enrollment charter school for an emergency detention under Chapter 573, Health and Safety Code; and
 - (E) the number of public school students referred to outside counselors in accordance with Section 38.010.

§ 38.307. Support services for task force.

- (a) The commissioner shall designate one institution of higher education with experience in evaluating mental health services to serve as the lead institution for the task force. The institution designated under this subsection shall provide faculty, staff, and administrative support services to the task force as determined necessary by the task force to administer this subchapter.
- (b) The commissioner shall designate two institutions of higher education with experience in evaluating mental health services to assist the task force and the lead institution designated under Subsection (a) as determined necessary by the task force to administer this subchapter.
- (c) In making a designation under this section, the commissioner shall give preference to at least one predominantly black institution, as defined by 20 U.S.C. Section 1067q(c)(9).
- (d) On request of the task force, the agency, a school district, or an open-enrollment charter school shall provide information or other assistance to the task force.

(e) The agency shall maintain the data collected by the task force and the work product of the task force in accordance with:

- (1) the agency's information security plan under Section 2054.133, Government Code; and
- (2) the agency's records retention schedule under Section 441.185, Government Code.

§ 38.351. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

(a) The agency, in coordination with the Health and Human Services Commission and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (c) for implementation in public elementary, junior high, middle, and high schools within the general education setting.

(b) Each school district may select from the list provided under Subsection (a) a program or programs appropriate for implementation in the district.

(c) The list provided under Subsection (a) must include programs and practices in the following areas:

- (1) early mental health prevention and intervention. [...]

(i) A school district shall develop practices and procedures concerning each area listed in Subsection (c), including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

- (1) include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);
- (2) include a procedure for providing notice of a student identified as at risk of attempting suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (e)(2);
- (3) establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention;
- (4) set out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention; and
- (5) include procedures:
 - (A) to support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse; and
 - (B) for suicide prevention, intervention, and postvention.

(j) The practices and procedures developed under Subsection (i):

- (1) may address multiple areas listed in Subsection (c) together; and
- (2) must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention. [...]

(n) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

REGULATIONS

19 TAC 129.1045. Best practices.

(a) A school district shall consider the following best practices for truancy prevention measures.

(9) At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the school district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:

(J) mental health services.

25 TAC 37.538. Standards for school-based health centers.

(a) Funded applicants shall comply with the following standards for school-based health centers.

(2) Administration. The funded applicant shall plan and administer a school-based health center that meets the health needs of the community's children and families by use of the following strategies:

(E) Research, develop, and implement the forms and administrative procedures necessary to remain in compliance with all applicable and relevant legislation and regulations. Required procedures contained in applicable legislation for operation of school-based health centers include but are not limited to the following: (i) provision of services to a student only if the school-based health center has obtained written consent to the services from the student's parent within the one-year period preceding the date on which the services are provided, and the consent has not been revoked; (ii) joint identification by school-based health center staff and the student's parent of any health-related concerns of the student that may affect the student's health and/or success in school; (iii) provision of neither reproductive services, counseling, nor referrals through the school-based health center receiving grant funds awarded under this subchapter; (iv) provision of all services by only appropriately licensed, certified, or credentialed professionals as required by law; (v) referral of a student for mental health services only upon notification of and with the written consent of the student's parent, which must be followed by written consent by the student's parent for each treatment occasion(s) authorized by the provider, including informed consent when required for specific services; (vi) a good faith effort by staff of a school-based health center to identify and coordinate with existing health care providers; (vii) provision of notice by the staff of the school-based health center to the primary care physician of a student who has received services; (viii) coordination by the staff of the school-based health center with the primary care physician concerning the clinical treatment of any person who has a primary care physician under the state Medicaid program or another health plan and obtaining authorization before delivering a service; (ix) utilization of all available sources of funding to compensate for services provided by a school-based health center; (x) conduct client surveys in school-based health centers by funded applicants; and (xi) documentation in the student's medical record of the school-based health center's efforts to involve the student's parent in identification of the student's health-related concerns; notification of the student's parent of scheduled appointments and proposed services; coordination with the student's primary care physician; and maintenance of written consent for treatment by the student's parent, including informed consent when required for specific services.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 37.016. Report of drug offenses; liability.

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

- (1) marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;
- (2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;
- (3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or
- (4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.020. Reports relating to out-of-school suspensions, expulsions, and disciplinary alternative education program placements.

(a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

- (1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
- (2) information indicating whether the placement was based on:
 - (A) conduct violating the student code of conduct adopted under Section 37.001;
 - (B) conduct for which a student may be removed from class under Section 37.002(b);
 - (C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or
 - (D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);
- (3) the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
- (4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

- (1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
- (2) information indicating whether the expulsion was based on:
 - (A) conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or
 - (B) conduct for which expulsion is permitted under Section 37.007;

- (3) the number of full or partial days the student was expelled;
- (4) information indicating whether:
 - (A) the student was placed in a juvenile justice alternative education program under Section 37.011;
 - (B) the student was placed in a disciplinary alternative education program; or
 - (C) the student was not placed in a juvenile justice or other disciplinary alternative education program;
 and
- (5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). [...]
- (f) For each out-of-school suspension under Section 37.005, the district shall report:
 - (1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
 - (2) information indicating the basis for the suspension;
 - (3) the number of full or partial days the student was suspended; and
 - (4) the number of out-of-school suspensions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(3).

§ 37.0832. Bullying prevention policies and procedures.

- (c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:
 - (7) establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred.

REGULATIONS

19 TAC 89.1053. Procedures for use of restraint and time-out.

- (e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.
 - (1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
 - (2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
 - (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
 - (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).
 - (5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:
 - (A) name of the student;
 - (B) name of the staff member(s) administering the restraint;
 - (C) date of the restraint and the time the restraint began and ended;

- (D) location of the restraint;
- (E) nature of the restraint;
- (F) a description of the activity in which the student was engaged immediately preceding the use of restraint;
- (G) the behavior that prompted the restraint;
- (H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- (I) information documenting parent contact and notification.

Parental Notification

LAWS

§ 25.095. Warning notices.

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year:

- (1) the student's parent is subject to prosecution under Section 25.093; and
- (2) the student is subject to referral to a truancy court for truant conduct under Section 65.003(a), Family Code.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

- (1) inform the parent that:
 - (A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and
 - (B) the student is subject to truancy prevention measures under Section 25.0915; and
- (2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or under Section 65.003(a), Family Code.

(d) In this section, "parent" includes a person standing in parental relation.

§ 37.001. Student code of conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

- (6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion. [...]

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

§ 37.0012. Designation of campus behavior coordinator.

(d) The campus behavior coordinator shall promptly notify a student's parent or guardian as provided by this subsection if under this subchapter the student is placed into in-school or out-of-school suspension,

placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus behavior coordinator must comply with this subsection by:

- (1) promptly contacting the parent or guardian by telephone or in person; and
- (2) making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

§ 37.008. Disciplinary alternative education programs.

(1-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (1) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

- (1) include information regarding all methods available for completing the coursework; and
- (2) state that the methods are available at no cost to the student.

§ 37.009. Conference; hearing; review.

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the factors under Section 37.001(a)(4), shall order the placement of the student for a period consistent with the student code of conduct. Before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, the behavior coordinator must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

§ 37.0091. Notice to noncustodial parent.

(a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

§ 37.023. Transition from alternative education program to regular classroom.

(b) As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

(1) provide written notice of that date to:

(A) the student's parent or a person standing in parental relation to the student. [...]

(e) If practicable, the campus administrator, or the administrator's designee, shall meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition.

§ 37.054. Parental notice, consent, and access to information.

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

(1) the reason that the student has been assigned to the center;

(2) a statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

§ 37.055. Parental involvement.

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

- (1) a statement of the student's behavioral and learning objectives;
- (2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
- (3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

§ 37.0832. Bullying prevention policies and procedures.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

- (4) establishes a procedure for providing notice of an incident of bullying to:
 - (A) a parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and
 - (B) a parent or guardian of the alleged bully within a reasonable amount of time after the incident.

§ 37.144. Graduated sanctions for certain school offenses.

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;
- (3) the performance of school-based community service by the child; and
- (4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

REGULATIONS

19 TAC 89.1053. Procedures for use of restraint and time-out.

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:

- (A) name of the student;
- (B) name of the staff member(s) administering the restraint;
- (C) date of the restraint and the time the restraint began and ended;
- (D) location of the restraint;
- (E) nature of the restraint;
- (F) a description of the activity in which the student was engaged immediately preceding the use of restraint;
- (G) the behavior that prompted the restraint;
- (H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- (I) information documenting parent contact and notification.

19 TAC 129.1045. Best practices.

(a) A school district shall consider the following best practices for truancy prevention measures.

(5) Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 30.106. Reading and behavior plan.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

(1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

- (A) are based on current behavioral research; and
- (B) are systematically and individually applied to students consistent with the demonstrated level of need;

(2) require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

- (A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;
- (B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;
- (C) validated measurement of systemic positive behavioral support interventions; and
- (D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

§ 37.002. Removal by teacher.

(e) A student who is sent to the campus behavior coordinator's or other administrator's office under Subsection (a) or removed from class under Subsection (b) is not considered to have been removed from

the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law.

§ 37.0021. Use of confinement, restraint, seclusion, and time-out.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

§ 37.008. Disciplinary alternative education programs.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

§ 37.020. Reports relating to out-of-school suspensions, expulsions, and disciplinary alternative education program placements.

(a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the placement was based on:

(A) conduct violating the student code of conduct adopted under Section 37.001;

(B) conduct for which a student may be removed from class under Section 37.002(b);

(C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or

(D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);

(3) the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the expulsion was based on:

(A) conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) conduct for which expulsion is permitted under Section 37.007;

(3) the number of full or partial days the student was expelled;

(4) information indicating whether:

(A) the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) the student was placed in a disciplinary alternative education program; or

(C) the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). [...]

(f) For each out-of-school suspension under Section 37.005, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating the basis for the suspension;

(3) the number of full or partial days the student was suspended; and

(4) the number of out-of-school suspensions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(3).

§ 37.115. Threat assessment and safe and supportive school program and team.

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

(1) the occupation of each person appointed to the team;

(2) the number of threats and a description of the type of the threats reported to the team;

(3) the outcome of each assessment made by the team, including:

(A) any disciplinary action taken, including a change in school placement;

(B) any action taken by law enforcement; or

(C) a referral to or change in counseling, mental health, special education, or other services;

(4) the total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:

(A) citations issued for Class C misdemeanor offenses;

(B) arrests;

(C) incidents of uses of restraint;

(D) changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program;

(E) referrals to or changes in counseling, mental health, special education, or other services;

(F) placements in in-school suspension or out-of-school suspension and incidents of expulsion;

(G) unexcused absences of 15 or more days during the school year; and

(H) referrals to juvenile court for truancy; and

- (5) the number and percentage of school personnel trained in:
- (A) a best-practices program or research-based practice under Section 161.325, Health and Safety Code, including the number and percentage of school personnel trained in:
 - (i) suicide prevention; or
 - (ii) grief and trauma-informed practices;
 - (B) mental health or psychological first aid for schools;
 - (C) training relating to the safe and supportive school program established under Subsection (b); or
 - (D) any other program relating to safety identified by the commissioner.

§ 39.306. Performance report.

- (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:
- (1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;
 - (2) information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Chapter 39A;
 - (3) the district's current special education compliance status with the agency;
 - (4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);
 - (5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;
 - (6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.);
 - (7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner; and
 - (8) the progress of the district and each campus in the district toward meeting the goals set in the district's:
 - (A) early childhood literacy and mathematics proficiency plans adopted under Section 11.185; and
 - (B) college, career, and military readiness plans adopted under Section 11.186.
- (b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators described by Sections 39.053 and 39.301 and descriptive information required by this section shall be provided by the agency.
- (c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner.
- (d) The report must also include a comparison provided by the agency of:
- (1) the performance of each campus to its previous performance and to state-established standards; and
 - (2) the performance of each district to its previous performance and to state-established standards.

(d-1) The report must also include the number of school counselors providing counseling services at each campus.

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary alternative education program under Chapter 37.

(f) The commissioner by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

§ 39.332. Comprehensive biennial report.

(a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the two preceding school years and containing the information described by Subsection (b).

(b)(1) The report must contain an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002.

(2) The report must contain an evaluation of the status of education in the state as reflected by:

(A) the achievement indicators described by Section 39.053; and

(B) the reporting indicators described by Section 39.301.

(3) The report must contain a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

(4) The report must contain a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

(5) The report must contain a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

- (6) The report must contain an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023.
- (7) The report must contain a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12.
- (8) The report must contain a statement of:
- (A) the completion rate of students who enter grade level 9 and graduate not more than four years later;
 - (B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;
 - (C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;
 - (D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and
 - (E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D).
- (9) The report must contain a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate.
- (10) The report must contain a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less.
- (11) The report must contain a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:
- (A) the number and percentage of students retained; and
 - (B) the performance of retained students on assessment instruments required under Section 39.023(a).
- (12) The report must contain information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:
- (A) the number of students placed in a disciplinary alternative education program established under Section 37.008;
 - (B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;
 - (C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and
 - (D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008.
- (13) The report must contain a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions.
- (14) The report must contain an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002.
- (15) The report must contain a description of all funds received by and each activity and expenditure of the agency.

(16) The report must contain a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071.

(17) The report must contain a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.232.

(18) The report must contain a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements.

(19) The report must contain a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions.

(20) The report must contain a comparison of the performance of open-enrollment charter schools and school districts on the achievement indicators described by Section 39.053(c), the reporting indicators described by Section 39.301(c), and the accountability measures adopted under Section 39.053(i), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as described by Section 29.081(d), with the performance of school districts.

(21) The report must contain a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district.

(22) The report must contain a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any.

(23) The report must contain an evaluation of the availability of endorsements under Section 28.025(c-1), including the following information for each school district:

(A) the endorsements under Section 28.025(c-1) for which the district offers all courses for curriculum requirements as determined by board rule; and

(B) the district's economic, geographic, and demographic information, as determined by the commissioner.

(24) The report must contain any additional information considered important by the commissioner or the State Board of Education.

(c) In reporting the information required by Subsection (b)(3) or (4), the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29.

(d) In reporting the information required by Subsections (b)(3), (5), and (7), the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program instructional model, if any, in which the students are or were enrolled.

(e) Each report must contain the most recent data available.

REGULATIONS

19 TAC 89.1053. Procedures for use of restraint and time-out.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.

19 TAC 129.1045. Best practices.

(a) A school district shall consider the following best practices for truancy prevention measures.

(7) Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.

19 TAC 129.1049. Truancy reporting requirements.

Each school district and open-enrollment charter school shall report truancy data annually through the Texas Student Data System Public Education Information Management System to include:

(1) the number of children who are required to attend school under TEC, § 25.085, are not exempted under TEC, § 25.086, and fail to attend school without excuse for 10 or more days or parts of days within a 6-month period in the same school year;

(2) the number of students for whom the district initiates a truancy prevention measure under TEC, § 25.0915(a-4); and

(3) the number of parents of students against whom an attendance officer or other appropriate school official has filed a complaint under TEC, § 25.093.

19 TAC 103.1201. Standards for the operation of school district disciplinary alternative education programs.

(b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, § 11.251 and § 11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:

(1) student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;

(2) attendance rates;

(3) pre- and post-assessment results;

(4) dropout rates;

(5) graduation rates; and

(6) recidivism rates.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 15.27. Notification to schools required.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code or whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

§ 37.007. Expulsion for serious offenses.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

§ 37.010. Court involvement.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

§ 37.013. Coordination between school districts and juvenile boards.

The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central

administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

§ 37.015. Reports to local law enforcement; liability.

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

- (1) conduct that may constitute an offense listed under Section 508.149, Government Code;
- (2) deadly conduct under Section 22.05, Penal Code;
- (3) a terroristic threat under Section 22.07, Penal Code;
- (4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;
- (5) the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;
- (6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or
- (7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

§ 37.0151. Reports to local law enforcement regarding certain conduct constituting assault or harassment; liability.

(a) The principal of a public primary or secondary school, or a person designated by the principal under Subsection (c), may make a report to any school district police department, if applicable, or the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 or 42.07(a)(7), Penal Code.

(b) A person who makes a report under this section may include the name and address of each student the person believes may have participated in the conduct.

(c) The principal of a public primary or secondary school may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report under this section.

(d) A person who is not a school employee but is employed by an entity that contracts with a district or school to use school property is not required to make a report under this section and may not be designated by the principal of a public primary or secondary school to make a report. A person who voluntarily makes a report under this section is immune from civil or criminal liability.

(e) A person who takes any action under this section is immune from civil or criminal liability or disciplinary action resulting from that action.

(f) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act under this section.

(g) A school district and school personnel and school volunteers are immune from suit resulting from an act under this section, including an act under related policies and procedures.

(h) An act by school personnel or a school volunteer under this section, including an act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district or the district's employees.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§ 37.0812. Training policy: school district peace officers and school resource officers.

(a) A school district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement.

(b) A school district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Section 1701.263, Occupations Code.

§ 42.168. School safety allotment.

(b) Funds allocated under this section must be used to improve school safety and security, including costs associated with:

(3) school safety and security training and planning, including:

(A) active shooter and emergency response training;

(B) prevention and treatment programs relating to addressing adverse childhood experiences; and

(C) the prevention, identification, and management of emergencies and threats, including:

(i) providing mental health personnel and support;

(ii) providing behavioral health services; and

(iii) establishing threat reporting systems.

§ 1001.203. Grants for training university employees, school district employees, and school resource officers in mental health first aid.

(a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to local mental health authorities to provide an approved mental health first aid training program, administered by mental health first aid trainers, at no cost to university employees, school district employees, and school resource officers. [...]

(c) The department shall grant \$100 to a local mental health authority for each university employee, school district employee, or school resource officer who successfully completes a mental health first aid training program provided by the authority under this section.

(d) A mental health first aid training program provided by a local mental health authority under this section must:

- (1) be conducted by a person trained as a mental health first aid trainer;
- (2) provide participants with the skills necessary to help an individual experiencing a mental health crisis until the individual is able to obtain appropriate professional care; and
- (3) include:
 - (A) instruction in a five-step strategy for helping an individual experiencing a mental health crisis, including assessing risk, listening respectfully to and supporting the individual, and identifying professional help and other supports for the individual;
 - (B) an introduction to the risk factors and warning signs for mental illness and substance abuse problems;
 - (C) experiential activities to increase participants' understanding of the impact of mental illness on individuals and families; and
 - (D) a presentation of evidence-supported treatment and self-help strategies.

(e) A local mental health authority may contract with a regional education service center to provide a mental health first aid training program to university employees, school district employees, and school resource officers under this section.

(f) Two or more local mental health authorities may collaborate and share resources to develop and operate a mental health first aid training program under this section.

§ 1701.262. Training for school district peace officers and school resource officers.

(a) In this section:

- (1) "Center" means the Texas School Safety Center at Texas State University.
- (2) "Institute" means an institute dedicated to providing training to law enforcement and the development of law enforcement policies, such as the Law Enforcement Management Institute of Texas at Sam Houston State University or the Caruth Police Institute.
- (3) "School district peace officer" means a peace officer commissioned under Section 37.081, Education Code.
- (4) "School resource officer" has the meaning assigned by Section 1701.601.

(b) The commission, in consultation with an institute or the center, shall create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

(c) The curriculum developed under this section must incorporate learning objectives regarding:

- (1) child and adolescent development and psychology;
- (2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;

- (3) de-escalation techniques and techniques for limiting the use of force, including the use of physical, mechanical, and chemical restraints;
- (4) the mental and behavioral health needs of children with disabilities or special needs; and
- (5) mental health crisis intervention.

(d) Before adopting and distributing any curriculum under this section, the commission shall provide a 30-day period for public comment.

(e) The commission shall provide the curriculum developed under this section and any supplemental education materials created for the curriculum to:

- (1) school district police departments;
- (2) law enforcement agencies that place peace officers in a school as school resource officers under a memorandum of understanding; and
- (3) any entity that provides training to school district peace officers or school resource officers.

(f) The commission shall review curriculum developed and adopted under this section and update subject matter contained in the curriculum as needed at least once every four years.

§ 1701.263. Education and training program for school district peace officers and school resource officers.

(a) In this section:

- (1) "School district peace officer" has the meaning assigned by Section 1701.262.
- (2) "School resource officer" has the meaning assigned by Section 1701.601.

(b) The commission by rule shall require a school district peace officer or a school resource officer who is commissioned by or who provides law enforcement at a school district to successfully complete an education and training program described by this section before or within 180 days of the officer's commission by or placement in the district or a campus of the district. The program must:

- (1) consist of at least 16 hours of training;
- (2) be approved by the commission; and
- (3) provide training in accordance with the curriculum developed under Section 1701.262 in each subject area listed in Subsection (c) of that section.

(b-1) Notwithstanding Subsection (b) or a rule adopted under that section, a school district peace officer or school resource officer is not required to successfully complete the education and training program required by this section if the officer has successfully completed the advanced training course conducted by the National Association of School Resource Officers or a training course equivalent to that advanced training course, as determined by the commission.

(c) The education and training program required under this section may not require a peace officer to pass an examination, except that the commission shall administer an examination to qualify officers to provide the education and training to other officers. The examination to qualify officers to provide the education and training must test the officer's knowledge and recognition of the subject areas listed in Section 1701.262(c).

(d) The commission shall issue a professional achievement or proficiency certificate to a peace officer who completes the education and training program under this section.

REGULATIONS

37 TAC 227.5. School marshal training entities.

(b) The training program must be preapproved and conducted by commission staff or approved provider. The training program shall include 80 hours of instruction designed to:

- (1) emphasize strategies for preventing school shootings and for securing the safety of potential victims of school shootings;
- (2) educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
- (3) introduce the trainee to effective law enforcement strategies and techniques;
- (4) improve the trainee's proficiency with a handgun; and
- (5) enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter.

37 TAC 221.43. School-Based law enforcement proficiency certificate.

(a) To qualify for a school-based law enforcement proficiency certificate, an applicant must complete a course approved by the commission under Texas Occupations Code § 1701.262.

(b) School district peace officers and school resource officers providing law enforcement at a school district must obtain a school-based law enforcement proficiency certificate within 180 days of the officer's commission or placement in the district or campus of the district.

(c) The effective date of this section is February 1, 2020.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 2.127. School marshals.

(a) Except as provided by Subsection (b), a school marshal may:

- (1) make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by:
 - (A) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;
 - (B) the governing body of a private school under Section 37.0813, Education Code; or
 - (C) the governing board of a public junior college under Section 51.220, Education Code; and
- (2) only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

§ 37.0021. Use of confinement, restraint, seclusion, and time-out.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

- (1) is employed or commissioned by a school district; or
- (2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

§ 37.081. School district peace officers, school resource officers, and security personnel.

(a) The board of trustees of any school district may employ security personnel, enter into a memorandum of understanding with a local law enforcement agency for the provision of school resource officers, and commission peace officers to carry out this subchapter. If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer.

The jurisdiction of a peace officer, a school resource officer, or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

- (1) has the powers, privileges, and immunities of peace officers;
- (2) may enforce all laws, including municipal ordinances, county ordinances, and state laws;
- (3) may, in accordance with Chapter 52, Family Code, or Article 45.058, Code of Criminal Procedure, take a child into custody; and
- (4) may dispose of cases in accordance with Section 52.03 or 52.031, Family Code.

(c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.

(d) The board of trustees of the school district shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

- (1) the district improvement plan under Section 11.252;
- (2) the student code of conduct adopted under Section 37.001;
- (3) any memorandum of understanding providing for a school resource officer; and
- (4) any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

(d-1) A school district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting:

- (1) the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and
- (2) the property of the school district.

(d-2) A school district may not assign or require as duties of a school district peace officer, a school resource officer, or security personnel:

- (1) routine student discipline or school administrative tasks; or
- (2) contact with students unrelated to the law enforcement duties of the peace officer, resource officer, or security personnel.

(d-3) This section does not prohibit a school district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

- (1) the assigned duties of the officer or security personnel; or
- (2) an incident involving student behavior or law enforcement.

(d-4) In determining the law enforcement duties under Subsection (d), the board of trustees of the school district shall coordinate with district campus behavior coordinators and other district employees to ensure that school district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

(e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent. School district police officers shall be supervised by the chief of

police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement.

(g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of \$1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement.

§ 37.0811. School marshals: public schools.

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint one or more school marshals for each campus.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees or governing body may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and

(2) at a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the district or charter school; or

(4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a school inquires in writing, the school district or open-enrollment charter school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

§ 37.109. School safety and security committee.

(b) The committee shall:

(5) consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

§ 37.2121. Memoranda of understanding and mutual aid agreements.

(a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

§ 42.168. School safety allotment.

(b) Funds allocated under this section must be used to improve school safety and security, including costs associated with:

(2) providing security for the district, including:

(A) employing school district peace officers, private security officers, and school marshals; and

(B) collaborating with local law enforcement agencies, such as entering into a memorandum of understanding for the assignment of school resource officers to schools in the district.

§ 1701.601. Definition.

In this subchapter, "school resource officer" means a peace officer who is assigned by the officer's employing political subdivision to provide:

(1) a police presence at a public school;

- (2) safety or drug education to students of a public school; or
- (3) other similar services.

§ 1701.602. License required.

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by this chapter.

§ 1701.603. Firearms accident prevention program.

- (a) A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the school district.
- (b) A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle GunSafe Program, including animated videos and activity books.

REGULATIONS

19 TAC 89.1053. Procedures for use of restraint and time-out.

(l) Peace officers. The provisions adopted under this section apply to a peace officer only if the peace officer is employed or commissioned by the school district or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency, except that the data reporting requirements in subsection (k) of this section apply to the use of restraint by any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

Threat Assessment Protocols

LAWS

§ 15.27. Notification to schools required.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts

allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code or whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination. [...]

(k-1) In addition to the information provided under Subsection (k), the law enforcement agency shall provide to the superintendent or superintendent's designee information relating to the student that is requested for the purpose of conducting a threat assessment or preparing a safety plan relating to that student. A school board may enter into a memorandum of understanding with a law enforcement agency regarding the exchange of information relevant to conducting a threat assessment or preparing a safety plan. Absent a memorandum of understanding, the information requested by the superintendent or the superintendent's designee shall be considered relevant.

§ 37.115. Threat assessment and safe and supportive school program and team.

(a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports;

(B) in-school suspension;

(C) out-of-school suspension; or

(D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

(2) "Team" means a threat assessment and safe and supportive school team established by the board of trustees of a school district under this section.

(b) The agency, in coordination with the Texas School Safety Center, shall adopt rules to establish a safe and supportive school program. The rules shall incorporate research-based best practices for school safety, including providing for:

(1) physical and psychological safety;

(2) a multiphase and multihazard approach to prevention, mitigation, preparedness, response, and recovery in a crisis situation;

(3) a systemic and coordinated multitiered support system that addresses school climate, the social and emotional domain, and behavioral and mental health; and

(4) multidisciplinary and multiagency collaboration to assess risks and threats in schools and provide appropriate interventions, including rules for the establishment and operation of teams.

(c) The board of trustees of each school district shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Subsection (b) at the district campus served by the team. The policies and procedures adopted under this section must:

(1) be consistent with the model policies and procedures developed by the Texas School Safety Center;

(2) require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs; and

(3) require each team established under this section to report the information required under Subsection (k) regarding the team's activities to the agency.

(d) The superintendent of the district shall ensure that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction,

special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a school district, provided that each district campus is assigned a team.

(e) The superintendent of a school district may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility under this subsection must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

(f) Each team shall:

(1) conduct a threat assessment that includes:

- (A) assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with the policies and procedures adopted under Subsection (c); and
- (B) gathering and analyzing data to determine the level of risk and appropriate intervention, including:
 - (i) referring a student for mental health assessment; and
 - (ii) implementing an escalation procedure, if appropriate based on the team's assessment, in accordance with district policy;

(2) provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and

(3) support the district in implementing the district's multihazard emergency operations plan.

(g) A team may not provide a mental health care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or person standing in parental relation to the student before providing the mental health care service. The consent required by this subsection must be submitted on a form developed by the school district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

(h) On a determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. The requirements of this subsection do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

(i) A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

(j) A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

- (1) the occupation of each person appointed to the team;
- (2) the number of threats and a description of the type of the threats reported to the team;
- (3) the outcome of each assessment made by the team, including:
 - (A) any disciplinary action taken, including a change in school placement;
 - (B) any action taken by law enforcement; or

- (C) a referral to or change in counseling, mental health, special education, or other services;
- (4) the total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
 - (A) citations issued for Class C misdemeanor offenses;
 - (B) arrests;
 - (C) incidents of uses of restraint;
 - (D) changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program;
 - (E) referrals to or changes in counseling, mental health, special education, or other services;
 - (F) placements in in-school suspension or out-of-school suspension and incidents of expulsion;
 - (G) unexcused absences of 15 or more days during the school year; and
 - (H) referrals to juvenile court for truancy; and
- (5) the number and percentage of school personnel trained in:
 - (A) a best-practices program or research-based practice under Section 161.325, Health and Safety Code, including the number and percentage of school personnel trained in:
 - (i) suicide prevention; or
 - (ii) grief and trauma-informed practices;
 - (B) mental health or psychological first aid for schools;
 - (C) training relating to the safe and supportive school program established under Subsection (b); or
 - (D) any other program relating to safety identified by the commissioner.
- (I) The commissioner may adopt rules to implement this section.

§ 37.220. Model threat assessment team policies and procedures.

- (a) The center, in coordination with the agency, shall develop model policies and procedures to assist school districts in establishing and training threat assessment teams.
- (b) The model policies and procedures developed under Subsection (a) must include procedures, when appropriate, for:
 - (1) the referral of a student to a local mental health authority or health care provider for evaluation or treatment;
 - (2) the referral of a student for a full individual and initial evaluation for special education services under Section 29.004; and
 - (3) a student or school personnel to anonymously report dangerous, violent, or unlawful activity that occurs or is threatened to occur on school property or that relates to a student or school personnel.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Texas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Coordinated School Health - Bullying and Cyberbullying, Texas Education Agency (TEA)	Defines bullying and cyberbullying and provides links to laws and resources related to bullying and cyberbullying.	https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health_-_Bullying_and_Cyberbullying/
Healthy and Safe School Environment of the Coordinated School Health Model, TEA	Provides an overview on health and safe school environment of the coordinated school health model and links to laws and resources related to health and safety including bullying and school climate.	http://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health/Healthy_and_Safe_School_Environment_of_the_Coordinated_School_Health_Model
Health, Safety, and Discipline, TEA	Addresses school safety in Texas schools and provides an overview on Senate Bill 11 including links to related topics such as restorative discipline practices.	https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools
Positive Behavior Interventions and Supports (PBIS), TEA	Presents an overview of PBIS and provides various TEA approved frameworks, trainings, registries, and supplemental programs for schools and families.	https://tea.texas.gov/about-tea/other-services/mental-health/positive-behavior-interventions-and-supports
Restorative Discipline Practices in Texas, TEA	Provides an overview on restorative discipline practices with definitions, data collections tools, lesson plans, and training sessions.	https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Restorative_Discipline_Practices_in_Texas
Safe, Supportive, and Positive School Climate	Provides information, tools, and resources for creating a safe and supportive school climate.	Safe, Supportive, and Positive School Climate Texas Education Agency
Texas School Safety Center	Serves as a central location for school safety information providing schools with research, training, and technical support relating to school safety.	https://txssc.txstate.edu/

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Tiered Interventions Using Evidence-Based Research (T.I.E.R), TEA	Project funded by the TEA to provide educators with knowledge and resources to ensure implementation of multi-tiered system of supports (MTSS) in Texas schools. Website provides online modules, trainings, and additional resources for educators.	https://tier.tea.texas.gov/about
Documents		
Disciplinary Policy and Mission Statement - State Board for Educator Certification, TEA	Disciplinary Policy Guidelines, Mission Statement, Core Principles, and Goals for the State Board for Educator Certification (SBEC).	http://tea.texas.gov/Texas_Educators/Investigations/Disciplinary_Policy_and_Mission_Statement_-_State_Board_for_Educator_Certification
Other Resources		
Annual Discipline Report Annual State Summary, TEA	Discipline Reports provides an overview of data of students in discipline settings.	https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/Download_State_Summaries.html
Discipline Action Group Summary-State, TEA	Summary provides counts of students and discipline actions by student categories and discipline action groups.	https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/DAG_Summaries/Download_State_DAG_Summaries.html
Restorative Discipline Practices in Texas, Texas Gateway by TEA	Online training for educators regarding best practices for restorative discipline for students.	https://www.texasgateway.org/resource/restorative-discipline-practices-texas
Student Discipline, TEA	Addresses student discipline in Texas schools and provides an overview of TEA's Student Discipline Program including links to related topics.	https://tea.texas.gov/texas-schools/health-safety-discipline/student-discipline



Utah

Compilation of School

Discipline Laws and

Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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§ 53G-9-606. Model policy and state board duties.

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§ 53G-9-702. Youth suicide prevention programs – State board to develop model programs.

§ 53G-10-407. Positive Behaviors plan—Positive behaviors specialist stipend—Reports.

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R277-217-2. Prohibited conduct by an educator

R277-217-3. Required conduct for an educator

R277-304. Teacher Preparation Programs

R277-304-3. General teacher preparation

R277-316. Professional Standards and Training for Non-Licensed Employees and Volunteers

R277-316-5. Association professional standard setting, training, and monitoring

R277-400 School Facility Emergency and Safety

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R277-436-1. Authority and Purpose

R277-436-2. Definitions

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- R277-475-1. Authority and purpose
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- R277-605-4. Coaches and school activity leaders as supervisors and role models

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- R277-607-3. Truancy policy requirements
- R277-607-4. Compulsory education procedures

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- R277-608-1. Authority and Purpose
- R277-608-2. Definitions
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- R277-609-1. Authority and purpose
- R277-609-2. Definitions
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- R277-609-4. LEA Responsibility to Develop Plans
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- R277-613-1. Authority and Purpose
- R277-613-2. Definitions
- R277-613-3. Superintendent Responsibilities
- R277-613-4. LEA Responsibility to Create or Update Bullying Policies
- R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct
- R277-613-6. Training by LEAs specific to participants in public school athletic programs and school clubs
- R277-613-7. Abusive Conduct

R277-615. Standards and Procedures for Student Searches

- R277-615-3. Superintendent responsibilities
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R277-620. Suicide Prevention Programs

- R277-620-3. Youth suicide prevention grants - LEA reporting requirements

R277-622. School-based Mental Health Qualified Grant Program

- R277-622-1. Authority and purpose
- R277-622-2. Definitions
- R277-622-3. School-based Mental Health Plan

R277-625. Mental Health Screeners

- R277-625-1. Authority and purpose
- R277-625-2. Definitions
- R277-625-3. Approval of mental health screeners

R277-736. Juvenile Court or Law Enforcement Notice and Information Dissemination

- R277-736-3. Dissemination of information received

R277-910. Underage Drinking Prevention Program

- R277-910-1. Authority and purpose
- R277-910-3. Mandatory offering of underage drinking prevention program

R277-912. Law Enforcement Related Incident Reporting

- R277-912-1. Authority and purpose
- R277-912-2. LEA reporting requirements
- R277-912-3. Annual report content and access

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 53E-3-501. State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

(b)(v) discipline and control.

§ 53G-8-202. Public school discipline policies - Basis of the policies - Enforcement.

(2)(a) To foster such an environment, each local school board or charter school governing board, with input from school employees, parents of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted standards of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

§ 53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare.

§ 53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) On or before September 1, 2018, an LEA governing board shall update the LEA governing board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

REGULATIONS

R277-609-1. Authority and purpose.

(1) This rule is authorized by:

(c) Subsection 53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control.

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

(b) written standards for student behavior expectations, including school and classroom management.

R277-613-1. Authority and Purpose.

(1) This rule is authorized by:

(c) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the public schools governing discipline and control.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(8)(a) An LEA's policies developed under this section shall complement existing school policies and research based school discipline plans.

Scope

LAWS

§ 53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events; [...]

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

- (i) the school;
- (ii) school property;
- (iii) a person associated with the school; or
- (iv) property associated with a person described in Subsection (1)(e)(iii).

§ 53G-9-602. Bullying, hazing, and cyber-bullying prohibited.

(1) A school employee or student may not engage in bullying a school employee or student:

- (a) on school property;
- (b) at a school related or sponsored event;
- (c) on a school bus;
- (d) at a school bus stop; or
- (e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) A school employee or student may not engage in hazing or cyber-bullying a school employee or student at any time or in any location.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 53G-6-803. Parental right to academic accommodations.

(10)(a) An LEA shall provide for:

- (i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53G-8-204; and
- (ii) a parent's signature acknowledging receipt of the school's discipline and conduct policy.

§ 53G-8-204. Suspension and expulsion procedures - Notice to parents - Distribution of policies.

(2)(a) Each local school board or charter school governing board shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

§ 53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(3) A policy shall include the following components:

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the LEA governing board's policy, from each:

- (i) school employee;
- (ii) student who is at least eight years old; and
- (iii) parent of a student enrolled in the charter school or school district.

(4) A copy of a policy shall be:

- (a) included in student conduct handbooks;
- (b) included in employee handbooks; and
- (c) provided to a parent of a student enrolled in the charter school or school district.

REGULATIONS

R277-609-4. LEA Responsibility to Develop Plans.

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, school discipline and restorative practices. [...]

(4) A plan described in Subsection (1) shall include:

- (v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:
 - (iii) a provision for publication of notice to parents and school employees of policies by reasonable means.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:

- (i) bullying;
- (ii) cyber-bullying;
- (iii) hazing;
- (iv) retaliation;
- (v) abusive conduct and;
- (vi) making a false report;

(b) post a copy of the LEA's policy on the LEA website;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation;

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually, and;

(e) review the policies required by this Subsection (1) regularly with input from stakeholders, as described in Subsection 53G-9-605(2)(a).

R277-615-4. LEA responsibilities.

(4) An LEA shall make policies available electronically and in printed form to parents and students upon enrollment.

In-School Discipline

Discipline Frameworks

LAWS

53G-8-202. Conduct and discipline policies and procedures.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2)(a) To foster such an environment, each local school board or charter school governing board, with input from school employees, parents of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted standards of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c)(i) On or before September 1, 2015, the state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

53G-8-203. Public school discipline policies - Basis of the policies - Enforcement.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(2)(a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b)(i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3)(a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

(iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

(i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and

(ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

REGULATIONS

R277-609-4. LEA Responsibility to Develop Plans.

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, school discipline, and restorative practices.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) An LEA shall include as part of the plan, parental outreach and education regarding the plan and how it can provide a discrimination and harassment free environment, through strategies promoting positive engagement between staff, students, and parents.

(4) A plan described in Subsection (1) shall include:

(a) the definitions of Section 53G-8-210;

(b) written standards for student behavior expectations, including school and classroom management;

(c) effective instructional practices for teaching student expectations, including:

- (i) self-discipline;
 - (ii) citizenship;
 - (iii) civic skills; and
 - (iv) social emotional skills;
- (d) systematic methods for reinforcement of expected behaviors;
- (e) uniform and equitable methods for correction of student behavior;
- (f) consistent processes to collect student discipline data and incident or infraction data, including collection of the number of days of student suspensions and data collected from the school's climate survey as described in Rule R277-623;
- (g) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness;
- (h) an ongoing staff development program related to development of:
- (i) student behavior expectations;
 - (ii) effective instructional practices for teaching and reinforcing behavior expectations;
 - (iii) effective intervention strategies; and
 - (iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;
- (i) procedures for ongoing training of appropriate school personnel in:
- (i) crisis management;
 - (ii) emergency safety interventions; and
 - (iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;
- (j) policies and procedures relating to the use and abuse of alcohol, controlled substances, electronic cigarette products, and other harmful trends by students;
- (k) policies and procedures for responding to possession or use of electronic cigarette products by a student on school property as required by Subsection 53G-8-203(3);
- (l) policies and procedures, consistent with requirements of Rule R277-613, related to:
- (i) bullying;
 - (ii) cyber-bullying;
 - (iv) hazing; and
 - (v) retaliation;
- (l) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:
- (i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection 53G-8-302(2);
 - (ii) prone, or face-down, physical restraint;
 - (iii) supine, or face-up, physical restraint;
 - (iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;
 - (v) mechanical restraint, except:
 - (A) protective or stabilizing restraints;
 - (B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and
 - (C) any device used by a law enforcement officer in carrying out law enforcement duties;
 - (vi) chemical restraint, except as:

- (A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and
 - (B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;
 - (vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and
 - (viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:
 - (A) school personnel, the family, and the IEP team agree less restrictive means have been attempted;
 - (B) a FBA has been conducted; and
 - (C) a positive behavior intervention, based on data analysis has been written into the plan and implemented;
 - (m) direction for dealing with bullying and disruptive students;
 - (n) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address student behavior, including students who engage in disruptive student behaviors as described in Section 53G-8-210;
 - (o) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;
 - (p) identification of individuals who shall receive notices of disruptive and bullying student behavior;
 - (q) a requirement to provide for documentation of an alleged class B misdemeanor or a nonperson class A misdemeanor before referral of students with an alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;
 - (r) strategies to provide for necessary adult supervision;
 - (s) a requirement that policies be clearly written and consistently enforced;
 - (t) notice to employees that violation of this rule may result in employee discipline or action;
 - (u) gang prevention and intervention policies in accordance with Subsection 53E-3-509(1);
 - (v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:
 - (i) the role of law enforcement;
 - (ii) emergency medical services; and
 - (iii) a provision for publication of notice to parents and school employees of policies by reasonable means; and
 - (iv) a plan for referral for a student with a qualifying offense to alternative school-related interventions, including:
 - (A) a mobile crisis outreach team, as defined in Section 78A-6-105;
 - (B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;
 - (C) a youth court; or
 - (w) a comparable restorative justice program.
- (4) A plan described in Subsection (1) may include:
- (a) the provisions of Subsection 53E-3-509(2); and
 - (b) a plan for training administrators and school resource officers in accordance with Section 53G-8-702.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§ 53G-8-207. Alternatives to suspension or expulsion.

(1) Each local school board or charter school governing board shall establish:

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

§ 53G-8-210. Disruptive student behavior.

(1) As used in this section:

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

- (i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and
- (ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

REGULATIONS

R277-609-1. Authority and purpose.

2)(a) The purpose of this rule is to outline requirements for school discipline plans, restorative practices and related policies.

R277-609-2. Definitions.

(16) "Policy" means standards and procedures that include:

(a) the provisions of Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

(iii) requires training regarding:

(B) the use of restorative practices, positive behavior interventions and supports, and emergency safety interventions. [...]

(19) "Restorative practice" means the building and sustaining of relationships among students, school personnel, families and community members to build and strengthen social connections within communities and hold individuals accountable to restore relationships when harm has occurred.

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

(n) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address student behavior, including students who engage in disruptive student behaviors as described in Section 53G-8-210. [...]

(w) a comparable restorative justice program.

R277-609-6. Implementation.

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs before suspension or court referral.

(3) An LEA shall implement positive behavior interventions, supports, and restorative practices as part of the LEA's continuum of behavior interventions strategies.

R277-613-2. Definitions.

(12) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(8)(c) An LEA shall ensure that a discipline plan required by Rule R277-609:

(i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(7) Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 53G-8-301. Definitions.

As used in this part:

- (1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.

§ 53G-8-302. Prohibition of corporal punishment - Use of reasonable and necessary physical restraint.

- (1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

§ 53G-8-303. Investigation of complaint - Confidentiality - Immunity.

- (1)(a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

- (b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

- (2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

- (3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

§ 53G-8-304. Liability.

- (1)(a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

- (b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

- (2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

§ 53G-8-305. Exception.

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53E-7-204 is excepted from this part.

REGULATIONS

R277-217-2. Prohibited conduct by an educator.

An educator may not:

- (9) use corporal punishment, excessive physical force, or inappropriate physical restraint, except as provided in Section 53G-8-302.

R277-608-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Sections 53G-8-301 through 53G-8-305, which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.
- (2) The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

R277-608-2. Definitions.

- (1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

R277-608-3. Reporting requirements.

- (1) Each LEA shall incorporate in the LEA plan submitted to the Superintendent annually, the prohibition of corporal punishment consistent with the law.
- (2) An LEA policy shall include:
 - (a) a prohibition of corporal punishment consistent with the law;
 - (b) criteria and procedures for using appropriate behavior reduction intervention in accordance with federal and state law;
 - (c) appropriate sanctions for LEA employees who use corporal punishment; and
 - (d) appeal procedures for LEA employees disciplined for a violation of the LEA's policy.

Search and Seizure

LAWS

§ 53G-8-508. Admissibility of evidence in civil and criminal actions.

- (1) Evidence relating to a violation of Section 53G-8-505, 53G-8-506, 53G-8-507, or 53G-8-509, which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.
- (2) An LEA shall dispose of or destroy seized electronic cigarette products in accordance with the LEA's policies adopted under Subsection 53G-8-203(3).
- (3) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

§ 53G-8-509. Board rules to ensure protection of individual rights.

The state board and LEA governing boards shall adopt rules or policies to implement Sections 53G-8-505 through 53G-8-508. The rules or policies shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

REGULATIONS

R277-615-3. Superintendent responsibilities.

- (1) The Superintendent shall provide consistent definitions for LEAs to include in search and seizure policies.
- (2) The Superintendent shall develop a model search and seizure policy as guidance for LEAs.
- (3) The Superintendent shall require an assurance from LEAs in the Utah Consolidated Report regarding the student search policy required under Section 53G-8-509.

R277-615-4. LEA responsibilities.

- (1) An LEA shall update the LEA's policy for searching students for controlled substances and weapons to include provisions related to searching students for electronic cigarette products.
- (2) An LEA shall include appropriate interested parties in the development of student search policies, including:
 - (a) parents;
 - (b) school employees; and
 - (c) licensed school employees.
- (3) An LEA policy described in Subsection (1) shall ensure protection of individual student rights against excessive and unreasonable intrusion.
- (4) An LEA shall make policies available electronically and in printed form to parents and students upon enrollment.
- (5) An LEA shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.

Restraint and Seclusion

LAWS

§ 53G-8-203. Conduct and discipline policies and procedures.

- (1) The conduct and discipline policies required under Section 53G-8-202 shall include:
 - (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302.

§ 53G-8-209. Extracurricular activities - Prohibited conduct - Reporting of violations - Limitation of liability.

- (2)(a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.
- (b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):
 - (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under state law.

§ 53G-8-301. Definitions.

As used in this part:

- (3) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.

§ 53G-8-302. Prohibition of corporal punishment - Use of reasonable and necessary physical restraint.

(2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:

- (a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;
- (b) protect a student or another individual from physical injury;
- (c) remove from a situation a student who is violent; or
- (d) protect property from being damaged, when physical safety is at risk.

§ 53G-8-303. Investigation of complaint - Confidentiality - Immunity.

(1)(a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

- (b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

§ 53G-8-304. Liability.

(1)(a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

- (b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

§ 53G-8-305. Exception.

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53E-7-204 is excepted from this part.

REGULATIONS

R277-605-4. Coaches and School Activity Leaders as Supervisors and Role Models.

(3) Coaches, assistants and advisors shall act in a manner consistent with Section 53G-8-209 and may not:

- (a) use foul, abusive, or profane language while engaged in school related activities; or

(b) permit hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

R277-608-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Sections 53G-8-301 through 53G-8-305, which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

(2) The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

R277-609-1. Authority and purpose.

(1) This rule is authorized by:

(g) Section 53G-8-302, which describes the instances when a school employee may use reasonable and necessary physical restraint.

R277-609-2. Definitions.

(4)(a) "Emergency safety intervention" or "ESI" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others. [...]

(12) "Physical restraint" has the same meaning as defined in Section 53G-8-301. [...]

(22) "Seclusionary time out" means that a student is:

(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;

(b) purposefully isolated from adults and peers; and

(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

R277-609-3. Incorporation of least restricted behavioral interventions (LRBI) technical assistance manual by reference.

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, which provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

(a) promote positive behaviors while preventing negative or risky behaviors; and

(b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

(a) <https://www.schools.utah.gov/safehealthyschools/programs/behaviorsupport?mid=5333&tid=2>; and

(b) the Utah State Board of Education.

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

(l) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection 53G-8-302(2);

(ii) prone, or face-down, physical restraint;

(iii) supine, or face-up, physical restraint;

(iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;

(v) mechanical restraint, except:

(A) protective or stabilizing restraints;

(B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and

(C) any device used by a law enforcement officer in carrying out law enforcement duties;

(vi) chemical restraint, except as:

(A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;

(vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

(A) school personnel, the family, and the IEP team agree less restrictive means have been attempted;

(B) a FBA has been conducted; and

(C) a positive behavior intervention, based on data analysis has been written into the plan and implemented.

R277-609-5. Physical Restraint and Seclusionary Time Out.

(1) When used consistently with an LEA plan under Subsection R277-609-4(1):

(a) a physical restraint must be immediately terminated when:

(i) a student is no longer an immediate danger to self or others; or

(ii) a student is in severe distress; and

(b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.

(2) If a public education employee physically restrains a student, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school as described in Section R277-609-10 to the student's parent.

(3) A public education employee may not use physical restraint on a student for more than the shortest of the following before stopping, releasing, and reassessing the intervention used:

(a) the amount of time described in the LEA's emergency intervention training program;

- (b) 30 minutes; or
 - (c) when law enforcement arrives.
- (4) A public education employee may not use physical restraint as a means of discipline or punishment.
- (5) If a public education employee uses seclusionary time out, the public education employee shall:
- (a) use the minimum time necessary to ensure safety;
 - (b) use release criteria as outlined in LEA policies;
 - (c) ensure that any door remains unlocked consistent with the fire and public safety requirements described in Rules R392-200 and R710-4;
 - (d) maintain the student within line of sight of the public education employee;
 - (e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and
 - (f) ensure that the enclosed area meets the fire and public safety requirements described in Rules R392-200 and R710-4.
- (6) If a student is placed in seclusionary time out, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school to:
- (a) the student's parent; and
 - (b) school administration.
- (7) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.
- (8) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than 15 minutes, the school or the public education employee shall immediately provide notice to:
- (a) the student's parent or guardian; and
 - (b) school administration.
- (9) Seclusionary time out may only be used for maintaining safety.
- (10) A public education employee may not use seclusionary time out as a means of discipline or punishment.

R277-609-6. Implementation.

- (1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.
- (2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs before suspension or court referral.
- (3) An LEA shall implement positive behavior interventions, supports, and restorative practices as part of the LEA's continuum of behavior interventions strategies.

R277-609-7. LEA Emergency Safety Intervention (ESI) .

- (1) An LEA shall establish an Emergency Safety Intervention (ESI) Committee.
- (2) An LEA's ESI Committee:
- (a) shall include:
 - (i) at least two administrators;

- (ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and
 - (iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;
- (b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;
- (c) shall determine and recommend professional development needs; and
- (d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions; and
- (e) shall ensure that each emergency incident where a school employee uses an emergency safety intervention is documented in the LEA's student information system and reported to the Superintendent through the Board's Utah Transcript and Record Exchange (UTREx) system.

R277-609-8. LEA Reporting.

- (1) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.
- (2) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (1).
- (3) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.
- (4)(a) An LEA shall submit all required UTREx discipline data and incident or infraction data elements, and suspensions to the Superintendent no later than June 30 of each year.
- (b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline data and incident or infraction data elements as part of the LEA's daily UTREx submission.

R277-609-9. Special Education Exceptions to this Rule.

- (1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.
- (2) The Superintendent shall periodically review:
- (a) all LEA special education behavior intervention, procedures, and manuals; and
 - (b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

R277-609-10. Parent/Guardian Notification and Court Referral.

- (3)(a) When an emergency safety intervention is used to protect a student or others from harm, a school shall:
- (i) provide notice to the student's parent as soon as reasonably possibly and before the student leaves the school;
 - (ii) provide notice to school administration; and
 - (iii) provide documentation of the emergency safety intervention to the LEA's ESI Committee described in Section R277-609-7.
- (b) In addition to the notice described in Subsection (3)(a), if the use of an emergency safety intervention occurs for more than 15 minutes, the school shall immediately provide a second notification to:
- (i) the student's parent or guardian; and
 - (ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during the use of the emergency safety intervention upon request of the parent or guardian.

(b) Within 24 hours of the school using an emergency safety intervention with a student, a school shall provide notice to a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during the use of the emergency safety intervention.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss the use of an emergency safety intervention.

R277-609-11. Model Policies.

(1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

R277-609-12. LEA Compliance.

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

- (1) A student may be suspended or expelled from a public school for any of the following reasons:
- (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;
 - (b) willful destruction or defacing of school property;
 - (c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;
 - (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;
 - (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or
 - (f) possession or use of pornographic material on school property.
- (2)(a) A student shall be suspended or expelled from a public school for any of the following reasons:
- (i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:
 - (A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;
 - (B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or
 - (C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or
 - (ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.
- (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:
- (i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and
 - (ii) the superintendent, chief administrator, or designee shall determine:
 - (A) what conditions must be met by the student and the student's parent for the student to return to school;
 - (B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and
 - (C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or

charter school governing board and giving highest priority to providing a safe school environment for all students.

§ 53G-8-207. Alternatives to suspension or expulsion.

(1) Each local school board or charter school governing board shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school.

§ 53G-8-212. Defacing or damaging school property - Student's liability - Work program alternative.

(1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(2)(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(ii) the superintendent, chief administrator, or designee shall determine:

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or charter school governing board and giving highest priority to providing a safe school environment for all students.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§ 53G-8-204. Suspension and expulsion procedures - Notice to parents - Distribution of policies.

(1)(a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

§ 53G-8-206. Delegation of authority to suspend or expel a student - Procedure for suspension - Readmission.

(5)(c) A suspension may not extend beyond 10 school days unless the student and the student's parent have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

§ 53G-8-212. Defacing or damaging school property - Student's liability - Work program alternative.

(4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.

REGULATIONS

R277-607-4. Compulsory education procedures.

(2) The compulsory education procedures shall:

(c) provide an appeals process to contest:

(i) a notice of truancy; or

(ii) any disciplinary actions against a student pursuant to absenteeism and the truancy policy or. [...]

(3) An LEA shall publish the appeals process described in Subsection R277-607-4(2)(c) for use by a student or the student's parents.

R277-609-10. Parent/Guardian Notification and Court Referral.

(2) An LEA shall establish policies that:

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

Return to School Following Removal

LAWS

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(2)(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school.

§ 53G-8-206. Delegation of authority to suspend or expel a student - Procedure for suspension - Readmission.

(5)(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent of the suspended student and the student have agreed to participate in such a meeting.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§ 53E-3-501. State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

(c)(iii) alternative and pilot programs.

§ 53G-6-209. Truancy support centers.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(2)(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(ii) the superintendent, chief administrator, or designee shall determine:

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in.

§ 53G-8-207. Alternatives to suspension or expulsion.

(1) Each local school board or charter school governing board shall establish:

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

§ 53G-8-208. Student suspended or expelled - Responsibility of parent - Application for students with disabilities.

(1) If a student is suspended or expelled from a public school under this part for more than 10 school days, the parent is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2)(a) The parent shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

REGULATIONS

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

(v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(iv) a plan for referral for a student with a qualifying office to alternative school-related interventions, including:

(A) a mobile crisis outreach team, as defined in Section 78A-6-105;

(B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(C) a youth court.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(2)(a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities. [...]

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or charter school governing board and giving highest priority to providing a safe school environment for all students.

§ 53G-8-510. Notification of teachers of weapons on school property - Immunity from civil and criminal liability .

(1) As used in this section:

(a) "dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "minor" means the same as that term is defined in section 80-1-102.

(c) "school employee" means an individual working in the individual's capacity as:

(i) A school teacher;

(ii) A school staff member;

(iii) A school administrator; or

(iv) An individual:

(a) Who is employed, directly or indirectly, by a school, an lea governing board, or a school district; and

(b) Who works on a school campus.

(d) "school is in session" means the same as that term is defined in section 53e-3-516.

- (e) "school-sponsored activity" means the same as that term is defined in section 53e-3-516.
- (2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.
- (3) After receiving a notification under subsection (2), the principal shall notify:
 - (a) A law enforcement officer or agency; and
 - (b) School or district personnel if the principal determines that school or district personnel should be informed.
- (4) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

REGULATIONS

R277-615-4. LEA responsibilities.

- (1) An LEA shall update the LEA's policy for searching students for controlled substances and weapons to include provisions related to searching students for electronic cigarette products.

Students with Chronic Disciplinary Issues

LAWS

§ 53G-8-203. Conduct and discipline policies and procedures.

- (1) The conduct and discipline policies required under Section 53G-8-202 shall include:
 - (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part.

§ 53G-8-207. Alternatives to suspension or expulsion.

- (1) Each local school board or charter school governing board shall establish:
 - (a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school.

§ 53G-8-210. Disruptive student behavior.

- (5) A habitual disruptive student behavior notice:
 - (a) may only be issued to a qualifying minor who:
 - (i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;
 - (ii)(A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and
 - (B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or
 - (iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and
 - (b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board to issue a habitual disruptive student behavior notice.

(6)(a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection

(5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§53G-6-201. Definitions.

As used in this part:

(1)(a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

(2) "Minor" means a person under the age of 18 years.

(3) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (3)(a) or (b).

(4) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

(5) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

(6) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

(7)(a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

(8) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(9)(a) "Valid excuse" means:

- (i) an illness, which may be either mental or physical, regardless of whether the school-age child or parent provides documentation from a medical professional;
- (ii) mental or behavioral health of the school-age child;
- (iii) a family death;
- (iv) an approved school activity;
- (v) an absence permitted by a school-age child's:
 - (A) individualized education program; or
 - (B) Section 504 accommodation plan;
- (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or
- (vii) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (9)(a)(vi).

§ 53G-6-202. Compulsory education.

(1) As used in this section:

- (a) "Intentionally" means the same as that term is defined in Section 76-2-103.
- (b) "Notice of compulsory education violation" means a notice issued in accordance with Subsections (3) and (4).
- (c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which a notice of compulsory education violation is served and ending on the last day of the school year.

(2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age child shall enroll and send the school-age child to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:

- (a) in grade 1 through 6; and
- (b) truant at least five times during the school year.

(4) A notice of compulsory education violation issued to a parent:

- (a) shall direct the parent to:
 - (i) meet with school authorities to discuss the school-age child's school attendance problems; and
 - (ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child;
- (b) shall designate the school authorities with whom the parent is required to meet;
- (c) shall state that it is a class B misdemeanor for the parent to intentionally or without good cause:
 - (i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or
 - (ii) fail to prevent the school-age child from being truant five or more times during the remainder of the school year;
- (d) shall be served on the parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) Except during the period between March 17, 2021 and June 1, 2022, it is a class B misdemeanor for a parent of a school-age child to intentionally or without good cause fail to enroll the school-age child in school, unless the school-age child is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

(6) Except during the period between March 17, 2021 and June 1, 2022, it is a class B misdemeanor for a parent of a school-age child who is in grade 1 through 6 to, after being served with a notice of compulsory education violation, intentionally or without good cause:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being truant five or more times during the remainder of the school year.

(7) Except during the period described in Subsections (5) and (6), a local school board, charter school governing board, or school district shall report violations of this section to the appropriate county or district attorney.

(8) Except during the period described in Subsections (5) and (6), if school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent has failed to make a good faith effort to ensure that the school-age child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:

(a) identifying information of the school-age child and the parent who received the notice of compulsory education violation;

(b) information regarding the longest number of consecutive school days the school-age child has been absent or truant from school and the percentage of school days the school-age child has been absent or truant during each relevant school term;

(c) whether the school-age child has made adequate educational progress;

(d) whether the requirements of Section 53G-6-206 have been met;

(e) whether the school-age child is two or more years behind the local public school's age group expectations in one or more basic skills; and

(f) whether the school-age child is receiving special education services or systematic remediation efforts.

(9) Notwithstanding this section, during the period described in Subsections (5) and (6), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of compulsory education.

§ 53G-6-203. Truancy - Notice of truancy - Failure to cooperate with school authorities.

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.

(2) In accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

(4) A notice of truancy described in Subsection (3):

(a) may not be issued until a school-age child has been truant at least five times during the school year;

(b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;

(c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's trancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and

(e) shall be mailed to, or served on, the school-age child's parent.

(5)(a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

(b) A local school board, charter school governing board, or school district may not take punitive action to resolve a truancy problem with a school-age child during the period described in Subsection (2).

(6) Notwithstanding this section, during the period described in Subsection (2), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of truancy.

§ 53G-6-206. Duties of a local school board, charter school governing board, or school district in resolving attendance problems - Parental involvement - Liability not imposed.

(2) (a) Subject to Subsection (2)(b), a local school board, charter school governing board, or school district shall make efforts to promote regular attendance and resolve school absenteeism and truancy issues for each school-age child who is, or should be, enrolled in the school district or charter school.

(b) A school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702, or a school-age child who is enrolled in a regularly established private school or part-time school, is not considered to be a school-age child who is or should be enrolled in a school district or charter school under Subsection (2)(a).

(3) The efforts described in Subsection (2) shall include, as reasonably feasible:

(a) counseling of the school-age child by school authorities;

(b)(i) issuing a notice of truancy to the school-age child in accordance with Section 53G-6-203; or

(ii) issuing a notice of compulsory education violation to the school-age child's parent in accordance with Section 53G-6-202;

(c) making any necessary adjustment to the curriculum and schedule to meet special needs of the school-age child;

(d) considering alternatives proposed by the school-age child's parent;

(e) monitoring school attendance of the school-age child;

(f) voluntary participation in truancy mediation, if available; and

(g) providing the school-age child's parent, upon request, with a list of resources available to assist the parent in resolving the school-age child's attendance problems.

(4) In addition to the efforts described in Subsection (2), the local school board, charter school governing board, or school district may enlist the assistance of community and law enforcement agencies and

organizations for early intervention services as appropriate and reasonably feasible in accordance with Section 53G-8-211.

(5) This section does not impose civil liability on boards of education, local school boards, charter school governing boards, school districts, or their employees.

(6) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

(7) Each LEA shall annually report the following data separately to the state board:

- a. absences with a valid excuse; and
- b. absences without a valid excuse.

§ 53G-6-207. Truancy specialists.

A local school board or charter school governing board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the state board.

§ 53G-6-208. Taking custody of a person believed to be a truant minor - Disposition - Reports - Immunity from liability.

(1) Except during the period between March 17, 2021 and June 1, 2022, a peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

- (a) the principal of the minor's school;
- (b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or
- (c) a truancy center established under Subsection (5).

(3) If the minor described in Subsection (2) refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5)(a)(i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b)(i) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to ensure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.

(ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6)(a) An individual taking action under this section shall report the action to the appropriate school district.

(b) The district described in Subsection (6)(a) shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

§ 53G-6-209. Truancy support centers.

(1) A school district may establish one or more truancy support centers for:

- (a) truant minors taken into custody under Section 53G-6-208; or
- (b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

- (a) assessments of the truant minor's needs and abilities;
- (b) support for the parents and truant minor through counseling and community programs; and
- (c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents.

§ 53G-8-211. Responses to school-based behavior.

(1) As used in this section:

- (b) "Habitual truant" means a school-age child who:
 - (i) is in grade 7 or above, unless the school-age child is less than 12 years old;
 - (ii) is subject to the requirements of Section 53G-6-202; and
 - (iii)(A) is truant at least 10 times during one school year; or
 - (B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

REGULATIONS

R277-607-1. Authority and purpose.

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state; and
- (c) Section 53G-6-206, which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or who should be enrolled in an LEA.

(2) The purpose of this rule is to direct an LEA to create policies for truancy procedures and compulsory education.

R277-607-2. Definitions.

- (1) "Absence" means the same as that term is defined in Subsection 53G-6-201(1).
- (2) "Behavioral health" means the impact a student's actions can have on a student's physical or mental health and includes conditions in which services provided by social workers, counselors, psychiatrists, neurologists, behavior analyst, psychologists, and physicians would be appropriate.
- (3) "Mental health" means the same as that term is defined in Subsection R277-625-2(2).
- (4) "Notice of truancy" is a citation issued consistent with Section 53G-6-203.
- (5) "Punitive action" means
 - (a) a Notice of truancy;
 - (b) a notice of compulsory education violation consistent with Section 53G-6-202; and
 - (c) does not mean any other supports or alternative interventions as determined by an LEA
- (6) "Truant" means the same as that term is defined in Subsection 53G-6-201(7).
- (7) "Unexcused absence" means a student's absence from school for reasons other than those deemed a valid excuse.
- (8) "Valid excuse" means the same as that term is defined in Subsection 53G-6-201(9).

R277-607-3. Truancy policy requirements.

- (1) An LEA shall:
 - (a) develop an absenteeism and truancy policy that
 - (i) encourages regular, punctual attendance of students, consistent with Section 53G-8-211 and Title 53G Public Education System - Local Administration, Chapter 6 Participation in Public Schools, Part 2 Compulsory Education;
 - (ii) ensures valid excused absences for mental health or behavioral health are not used to circumvent Free Appropriate Public Education (FAPE) requirements or other educational services requirement under federal law including the Individuals with Disabilities Education Act (IDEA);
 - (iii) ensure between March 17, 2021 and June 1, 2022 that no punitive action is taken against a student or student's parent for being truant
 - (b) review the LEA's absenteeism and truancy policy regularly;
 - (c) create and operate an attendance review team as described in Subsection (3);
 - (d) review attendance data annually and consider revisions to the absenteeism; truancy policy to encourage student attendance;
 - (e) make the absenteeism and truancy policy available for review by parents or interested parties; and
 - (f) as described in Subsection 53G-8-211(2)(b), ensure that the LEA does not refer a student to a court for being truant between March 17, 2021 and June 1, 2022.
- (2) An LEA may issue a notice of truancy to a student consistent with the LEA's absenteeism and truancy policy and Section 53G-6-203.
- (3) An LEA's attendance review team shall:
 - (a) consist of:
 - (i) administrators including those responsible for:
 - (A) academic instruction;
 - (B) health and wellness;
 - (C) student support services; and

- (D) attendance data;
- (ii) where possible, community agencies; and
- (iii) may include the LEA's multi-disciplinary team;
- (b) review attendance data to inform actions and tiered interventions development at least monthly;
- (c) create a systematic LEA and school level response for the LEA's absenteeism and truancy policy including:
 - (i) practice improvement; and
 - (ii) prevention and intervention strategies; and
- (d) promote shared accountability and continuous improvement related to an LEA's absenteeism and truancy policy including a school level attendance plan developed at the end of the previous school year.

R277-607-4. Compulsory education procedures.

- (1) An LEA shall develop compulsory education procedures as part of the LEA's absenteeism and truancy policy described in Section R277-607-3.
- (2) The compulsory education procedures shall:
 - (a) provide a process for notice to parents about the absenteeism and truancy policy;
 - (b) require notice to parents regarding the progress of a student's discipline and consequences for violation of the truancy policy;
 - (c) provide an appeals process to contest:
 - (i) a notice of truancy; or
 - (ii) any disciplinary actions against a student pursuant to absenteeism and the truancy policy or;
 - (d) establish definitions not provided in law or this rule necessary to implement the absenteeism and truancy policy and compulsory education procedures;
 - (e) include definitions of:
 - (i) "approved school activity" under Subsection 53G-6-201(9)(c); and
 - (ii) "any other excuse" under Subsection 53G-6-201(9)(e);
 - (f) include criteria and procedures for preapproval of extended absences consistent with Section 53G-6-205; and
 - (g) establish programs and meaningful incentives which promote regular, punctual student attendance.
- (3) An LEA shall publish the appeals process described in Subsection R277-607-4(2)(c) for use by a student or the student's parents.

Substance Use

LAWS

§ 53E-3-522. Substance abuse prevention in public school programs - Funds allocated.

The state board shall provide for:

- (1) substance abuse prevention and education;
- (2) substance abuse prevention training for teachers and administrators; and
- (3) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

§ 53G-8-203. Conduct and discipline policies and procedures.

- (3)(a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

- (i) prohibit students from possessing or using electronic cigarette products on school property;
- (ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and
- (iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

- (i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and
- (ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for any of the following reasons:

- (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102; [...] (2)(a)

A student shall be suspended or expelled from a public school for any of the following reasons:

- (i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:
 - (C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3.

§ 53G-8-209. Extracurricular activities - Prohibited conduct - Reporting of violations - Limitation of liability.

(2)(a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

- (i) the use of foul, abusive, or profane language while engaged in school related activities;
- (ii) the illicit use, possession, or distribution of:
 - (A) a controlled substance or drug paraphernalia;
 - (B) a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101; or
 - (C) an alcoholic beverage.

§ 53G-8-501. Definitions.

For purposes of Sections 53G-8-502 through 53G-8-504:

- (1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.
- (2) "Prohibited act" means an act prohibited by Section 53G-8-602, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

§ 53G-8-502. Mandatory reporting of prohibited acts.

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

§ 53G-8-503. Reporting procedure.

- (1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.
- (2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.
- (3) The designated educator may not disclose to the student or to the student's parent the identity of the educator who made the initial report.

§ 53G-8-504. Immunity from civil or criminal liability.

An educator who in good faith makes a report under Sections 53G-8-502 and 53G-8-503 is immune from any liability, civil or criminal, that might otherwise result from that action.

§ 53G-8-505. Definitions.

For purposes of Sections 53G-8-506 through 53G-8-509:

- (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to Sections 53G-8-506 through 53G-8-509.
- (2) "Prohibited act" means:
 - (a) an act punishable under Section 53G-8-602, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (b) possession of an electronic cigarette product by a student on school property.
- (3) "School" means a public or private elementary or secondary school.

§ 53G-8-506. Reporting of prohibited acts affecting a school -Confidentiality.

- (1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:
 - (a) the principal;
 - (b) an administrator of the affected school;
 - (c) the superintendent of the affected school district; or
 - (d) an administrator of the affected school district.
- (2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.
- (3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.
- (4) The identity of persons making reports pursuant to this section shall be kept confidential.

§ 53G-8-507. Immunity from civil or criminal liability.

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under Section 53G-8-505, 53G-8-506, 53G-8-508, or 53G-8-509, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

§ 53G-9-702. Youth suicide prevention programs required in secondary schools - State board to develop model programs.

(3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):

(a) considers appropriate coordination with the following prevention programs:

(ii) the prevention of underage drinking of alcohol and substance abuse under Section 53G-10-406.

§ 53G-9-703. Parent education - Mental health - Bullying - Safety.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the SafeUT Crisis Line established in Section 53B-17-1202; and

(b) provide the curriculum, including resources and training, to school districts upon request.

§ 53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances - Rulemaking authority - Assistance from the Division of Substance Abuse and Mental Health.

(4) The state board shall establish a library of documented best practices and resources for alcohol, tobacco, and electronic cigarette product cessation interventions for use by local school districts.

§ 53G-10-406. Underage Drinking Prevention Program - State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

(b) a school-based prevention program for students in grade 7 or 8; and

(c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3)(a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

(c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6)(a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective.

(7)(a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

(c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

§ 53G-10-407. Positive behaviors plan - Positive behaviors specialist stipend - Reports.

(1) As used in this section:

(a) "Positive behaviors plan" means a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and other controlled substances through promoting positive behaviors.

(b) "Positive behaviors specialist" means an individual designated to administer a positive behaviors plan.

(2)(a) A school principal shall:

(i) create a positive behaviors plan based on the input of students, parents, and staff; and

(ii) submit the positive behaviors plan to the LEA governing board for approval.

(b) A positive behaviors plan shall address issues including peer pressure, mental health, and creating meaningful relationships.

(c) A positive behaviors plan may include programs, clubs, service opportunities, and pro-social activities.

(3) Each LEA shall designate one or more employees as a positive behaviors specialist for each school to administer the positive behaviors plan.

(4)(a) Except as provided in section 53F-2-525, the state board shall distribute annually to each school:

- (i) \$3,000 as a stipend for the positive behaviors specialists; and
- (ii) \$1,000 to administer the positive behaviors plan.

(b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs associated with stipends, the state board may reduce the amount of the stipend.

(5)(a) A positive behaviors specialist shall annually submit a written report to the LEA governing board detailing how the positive behaviors plan was implemented in the prior year.

(b) Except as provided in subsection 53F-2-525(5), an LEA governing board shall submit an annual report to the state board confirming that each school under the governing board's jurisdiction has an approved positive behaviors plan.

REGULATIONS

R277-460-1. Authority and purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53G-10-405, which directs the Board to adopt rules providing for instruction on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(d) Section 51-9-405, which provides for funds from the Substance Abuse Prevention Account to be allocated to the Board for:

- (i) substance abuse prevention and education;
- (ii) substance abuse prevention training for teachers and administrators; and
- (iii) LEA programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

(2) The purpose of this rule is to provide for the distribution of the Board's share of the money from the Substance Abuse Prevention Account.

R277-460-2. Definitions.

(1) "Educational materials" means visual and auditory media, curricula, textbooks, and other disposable or non-disposable items that enhance student understanding of the subject matter.

(2) "Electronic cigarette product" has the same meaning as that term is defined in Section 59-14-802.

(3) "Local substance abuse authority" means the person or group designated by the Legislature as the county authority to receive public funds for substance abuse prevention and treatment.

(4) "Substance abuse prevention education activities and intervention" means proactive educational activities designed to eliminate any illegal use of alcohol, tobacco, electronic cigarette products, and controlled substances.

R277-460-3. Fund allocations.

(1) Before making the distributions described in Subsections (2) and (3), the Superintendent shall retain sufficient substance abuse prevention funds to pay for the salary, benefits, and indirect costs of a

program administrator at a salary level to be determined by the Superintendent and support staff costs for the program administrator.

(2) After the allocation of substance abuse prevention funds is retained as described in Subsection (1), the Superintendent may use up to 45% to:

- (a) purchase educational materials to support and supplement existing substance abuse prevention efforts;
- (b) encourage and support statewide substance abuse prevention training for school district and charter school teachers and administrators; and
- (c) promote substance abuse prevention in the classroom.

(3) At least 55% of the substance abuse prevention funds remaining after the allocation described in Subsection (1) shall be distributed to LEAs for use by the LEAs or individual schools within the LEA based on application.

R277-460-4. Applications.

(1) The Superintendent shall develop an application for LEAs that are interested in applying for substance abuse prevention funds available as described in this R277-460.

(2) An LEA shall submit the LEA's application to the specialist designated by the Superintendent.

(3)(a) Substance abuse prevention funds shall be distributed to LEAs based on funds available from the Substance Abuse Prevention Account.

(b) The Superintendent shall describe the available funding amounts in the Board application described in Subsection (1).

(4) An LEA's application for substance abuse prevention funds shall include the following:

- (a) the applicant's intention to collaborate with the local substance abuse authority and community groups, including shared plans and strategies for substance abuse prevention education, activities, and intervention;
- (b) the applicant's plan for professional development on substance abuse;
- (c) the use of funds to implement applicant's plan;
- (d) teacher reports of classroom implementation and plans for classroom monitoring visits;
- (e) applicant's enhancement of substance abuse curriculum with additional substance abuse activities and strategies; and
- (f) applicant's implementation of substance abuse curriculum with school-based behavioral/health or coordinated school health initiatives.

R277-460-5. Limitations on funds.

(1) The Superintendent and LEAs shall use substance abuse prevention funds exclusively for purposes set forth in Section 51-9-405.

(2) Transfer of funds between line items or the extension of project completion dates may be made only with prior written approval of the Superintendent.

(3) An LEA may not use funds received under this R277-460 to supplant:

- (a) funds currently available to the LEA; or
- (b) funds available from other state or local sources.

R277-460-6. Evaluation and reports.

(1) An applicant that receives substance abuse prevention funds shall provide the Superintendent with a year-end report on or before July 1 of the fiscal year in which the award was made.

(2) The year-end report described in Subsection (1) shall include:

- (a) an expenditure report;

- (b) a narrative description of activities funded; and
- (c) an action research or data project report.

(3) The Superintendent may require additional evaluation or audit procedures from an award recipient to demonstrate the use of funds consistent with the law and Board rules.

(4) The Superintendent shall annually report the following information to the Board's Finance Committee:

- (a) the number of LEAs receiving substance abuse prevention funds;
- (b) a summary of the LEAs' use of program funds; and
- (c) a description of how the Superintendent is using the funds described in Subsections R277-460-3(1) and (2).

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

- (j) policies and procedures relating to the use and abuse of alcohol, controlled substances, electronic cigarette products, and other harmful trends by students;
- (k) policies and procedures for responding to possession or use of electronic cigarette products by a student on school property as required by Subsection 53G-8-203(3).

R277-615-4. LEA responsibilities.

(1) An LEA shall update the LEA's policy for searching students for controlled substances and weapons to include provisions related to searching students for electronic cigarette products.

R277-910-1. Authority and purpose.

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Subsection 53G-10-406 which directs the Board to establish rules regarding:
 - (i) a requirement that an LEA offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5, grade 7 or 8, and grade 9 or 10; and
 - (ii) the criteria for the board to use in selecting a provider for the Underage Drinking and Substance Abuse Prevention Program.

(2) The purpose of this rule is to establish the criteria for selecting a provider for the Underage Drinking and Substance Abuse Prevention Program and general requirements of an LEA when offering the program.

R277-910-3. Mandatory offering of underage drinking and substance abuse prevention program.

(1) Except as provided in Subsection (3), an LEA shall offer to each student in grades 4 or 5, grades 7 or 8, and grades 9 or 10, respectively, the Underage Drinking and Substance Abuse Prevention Program procured by the Board.

(2) An LEA shall offer the Underage Drinking and Substance Abuse Prevention Program to students:

- (a) in grades 7 or 8 and grades 9 or 10; and
- (b) for students in grades 4 or 5, beginning in the 2021-22 school year.

Gang-related Activity

LAWS

§ 53E-3-509. Gang prevention and intervention policies.

(1)(a) The state board shall adopt rules that require a local school board or charter school governing board to enact gang prevention and intervention policies for all schools within the state board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;

(vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and

(vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or charter school governing board to publicize the policies enacted by the local school board or charter school governing board in

accordance with the rules described in Subsection (1) to all students, parents, and faculty through school websites, handbooks, letters to parents, or other reasonable means of communication.

(4) The state board may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

§ 53F-2-410. Gang prevention and intervention program.

Juvenile gang and other violent crime prevention and intervention program -- Funding.

(1) Subject to appropriations by the legislature, the state board shall:

(a) Create a juvenile gang and other violent crime prevention and intervention program that is designed to help students at risk for violent criminal involvement stay in school; and

(b) Distribute money under the program to school districts and charter schools through the distribution formula described in subsection (2).

(2) In accordance with title 63g, chapter 3, Utah administrative rulemaking act, the state board shall make rules that:

(a) Establish a formula to distribute program funding to schools in school districts and charter schools that:

(i) Uses the data reported to the state board under section 80-6-104; and

(ii) Prioritizes the schools in school districts and charter schools based on the prevalence of crimes committed by minors within the boundaries of each municipality where a school is located;

(b) Annually adjust the distribution of program funding using the data reported to the state board under section 80-6-104; and

(c) Establish baseline performance standards that school districts or charter schools are required to meet in order to receive funding under the program.

(3) (a) A school district or a charter school seeking program funding shall submit a proposal to the state board that:

(i) Describes how the school district or charter school intends to use the funds; and

(ii) Provides data related to subsection (2)(a)(ii).

(b) The state board shall allocate funding on a per student basis to prioritized school districts and charter schools that submit a successful proposal under subsection (3)(a).

(4) The state board may not distribute funds to a school district or a charter school that fails to meet performance standards described in subsection (2)(c).

(5) A school district or a charter school that is awarded funds under this section shall submit a report to the state board that includes details on:

(a) How the school district or the charter school used the funds; and

(b) The school district's, or the charter school's, compliance with the performance standards described in subsection (2)(c).

§ 53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events.

REGULATIONS

R277-436-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Subsection 53F-2-410(1)(b), which appropriates funds to be used for Gang Prevention and Intervention Programs in the schools.
- (2) The purpose of this rule is to establish standards and procedures for distributing funding for gang prevention and intervention programs in public schools.

R277-436-2. Definitions.

- (1) "At-risk student" means any student who because of the student's individual needs requires some kind of uniquely designed intervention to achieve literacy, graduate, and be prepared for transition from school to post-school options.
- (2)(a) "Gang" means a group of three or more people who form an allegiance and engage in criminal activity, which uses violence or intimidation to further its criminal objectives.
 - (b) A gang may have a name, turf, colors, symbols, distinct dress, or any combination of the preceding characteristics.
- (3)(a) "Gang prevention" means instructional and support strategies, activities, programs, or curricula designed and implemented to provide successful experiences for youth and families.
 - (b) Gang prevention activities shall promote cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.
- (4) "Gang intervention" means specially designed services required by an individual student experiencing difficulty in cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationships, within or outside of the school, which may impact the individual's susceptibility to gang membership or gang-like activities.
- (5) "Gang Prevention and Intervention Program" means specifically designed projects and activities to help at-risk students stay in school and enhance their cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.

R277-436-3. Application, distribution of funds, and administrative support.

- (1) An LEA may apply for gang intervention funds by submitting a proposal on a form approved by the Superintendent.
 - (a) An school district may submit:
 - (i) a proposal for a single school; or
 - (ii) a single district-wide proposal.
 - (b) A charter school may apply individually or jointly with other charter schools.
- (2) A proposal submitted in accordance with Subsection (1) shall:
 - (a) provide for distribution of funds to individual schools;
 - (b) explain prevention and intervention activities and strategies planned for individual schools;
 - (c) identify the school's at-risk student population and demonstrate how the prevention and intervention strategies will benefit at-risk students; and

- (d) demonstrate interagency collaboration between the LEA and other service providers.
- (3) The Superintendent shall award gang intervention funds based on proposals submitted in accordance with Subsection (1), and subject to the annual legislative appropriation.
- (4) The Superintendent shall give priority in awarding funds to:
 - (a) schools that demonstrate multiple risk factors for gang involvement; and
 - (b) schools with outcome data that show successful reduction of gang involvement.
- (5) The Superintendent shall notify successful applicants of their awards by July 1 annually.
- (6) An LEA or charter consortia may use up to 10% of its funding awarded in accordance with this rule for:
 - (a) administrative oversight; and
 - (b) professional development for licensed and non-licensed employees who directly engage in gang prevention or intervention activities;

R277-436-4. Evaluation and reports.

- (1) An LEA or charter school consortia shall provide the Superintendent a year-end evaluation report by June 30 for the previous fiscal year.
- (2) A year-end report shall include:
 - (a) an expenditure report;
 - (b) a narrative description of all activities funded;
 - (c) copies of products developed;
 - (d) an effectiveness report detailing evidence of individual and overall program impact on gang and gang-related activities and involvement; and
 - (e) any other information or data required by the Superintendent.
- (3) The Superintendent may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

R277-436-5. Waivers.

Notwithstanding Rule R277-121, the Superintendent may grant a written request for a waiver of a requirement or deadline contained in this rule, which a district or school finds unduly restrictive.

R277-609-1. Authority and purpose.

- (1) This rule is authorized by:
 - (c) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.

R277-609-4. LEA Responsibility to Develop Plans.

- (4) A plan described in Subsection (1) shall include:
 - (u) gang prevention and intervention policies in accordance with Subsection 53E-3-509(1).

Bullying, Harassment, or Hazing

LAWS

§ 53B-17-1202. SafeUT Crisis Line established.

The University Neuropsychiatric Institute shall:

- (1) establish a SafeUT Crisis Line to provide:
 - (a) a means for an individual to anonymously report:

- (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
 - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
 - (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and
- (b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;
- (2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and
- (3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:
- (a) school officials; and
 - (b) law enforcement officials.

§ 53G-8-209. Extracurricular activities - Prohibited conduct - Reporting of violations - Limitation of liability.

(2)(a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

- (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under state law.

§ 53G-8-802. State Safety and Support Program - State board duties – LEA duties.

(2) The state board shall:

- (b) provide training:
 - (ii) in evidence-based approaches to improve school climate and address and correct bullying behavior.

§ 53G-9-601. Definitions.

As used in this part:

(1)(a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

- (a) causing physical or emotional harm to the school employee or student;
- (b) causing damage to the school employee's or student's property;
- (c) placing the school employee or student in reasonable fear of:
 - (i) harm to the school employee's or student's physical or emotional well-being; or
 - (ii) damage to the school employee's or student's property;
- (d) creating a hostile, threatening, humiliating, or abusive educational environment due to:

- (i) the pervasiveness, persistence, or severity of the actions; or
 - (ii) a power differential between the bully and the target; or
- (e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
- (3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.
- (4) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- (5)(a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:
- (i)(A) endangers the mental or physical health or safety of a school employee or student;
 - (B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - (C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or
 - (D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and
 - (ii)(A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or
 - (B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.
- (b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (6) "LEA governing board" means a local school board or charter school governing board.
- (7) "Policy" means an LEA governing board policy described in Section 53G-9-605.
- (8) "Public education suicide prevention coordinator" means the public education suicide prevention coordinator described in section 53g-9-702.
- (9) "Retaliate" means an act or communication intended:
- (a) as retribution against a person for reporting bullying or hazing; or
 - (b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.
- (10) "School" means a public elementary or secondary school, including a charter school.
- (11) "School employee" means an individual working in the individual's official capacity as:
- (a) a school teacher;
 - (b) a school staff member;
 - (c) a school administrator; or
 - (d) an individual:

(i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(ii) who works on a school campus.

(12) "State suicide prevention coordinator" means the state suicide prevention coordinator described in section 62a-15-1101.

(13) "state superintendent" means the state superintendent of public instruction appointed under section 53e-3-301.

§ 53G-9-602. Bullying, hazing, and cyber-bullying prohibited.

(1) A school employee or student may not engage in bullying a school employee or student:

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) A school employee or student may not engage in hazing or cyber-bullying a school employee or student at any time or in any location.

§ 53G-9-603. Retaliation and making false allegation prohibited.

(1) A school employee or student may not engage in retaliation against:

(a) a school employee;

(b) a student; or

(c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.

(2) A school employee or student may not make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.

§ 53G-9-604. Parental notification of certain incidents and threats required.

(1) A school shall:

(a) notify a parent if the parent's student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student.

(2)(a) If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall

(i) produce and maintain a record that verifies that the parent was notified of the incident or threat.

(ii) maintain a record described in Subsection (2)(a)(i) in accordance with the requirements of:

(A) Title 53E, Chapter 9, Part 2, Student Privacy;

(B) Title 53E, Chapter 9, Part 3, Student Data Protection;

(C) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(D) 34 C.F.R. Part 99; and

(iii) Provide the parent with

(A) suicide prevention materials and information; and

(B) information on ways to limit the student's access to fatal means, including a firearm or medication

(b) The state superintendent shall select the materials and information described in subsection(2)(a)(III) in collaboration with the state suicide prevention coordinator and public education suicide prevention coordinator

(3) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (1); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).

(4) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).

(5) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

§ 53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) On or before September 1, 2018, an LEA governing board shall update the LEA governing board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

(2) A policy shall:

(a) be developed only with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student's legal status.

(3) A policy shall include the following components:

(a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this part;

(b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this part;

(d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

(e) as required in Section 53G-9-604, parental notification of:

(i) a student's threat to commit suicide; and

(ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;

(f) a grievance process for a school employee who has experienced abusive conduct;

(g) an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the LEA governing board's policy, from each:

(i) school employee;

- (ii) student who is at least eight years old; and
- (iii) parent of a student enrolled in the charter school or school district.

(4) A copy of a policy shall be:

- (a) included in student conduct handbooks;
- (b) included in employee handbooks; and
- (c) provided to a parent of a student enrolled in the charter school or school district.

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

(6) Nothing in this part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.

§ 53G-9-606. Model policy and state board duties.

(1) On or before September 1, 2018, the state board shall:

- (a) update the state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and
- (b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require an LEA governing board to report annually to the state board on:

- (a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);
- (b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(c) the demographics of an individual who is subject to bullying, hazing, cyber-bullying, or retaliation subject to:

- (i) Title 53E, Chapter 9, Part 2, Student Privacy;
- (ii) Title 53E, Chapter 9, Part 3, Student Data Protection;
- (iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- (iv) 34 C.F.R. Part 99; and

(d) other information related to this part, as determined by the state board.

§ 53G-9-607. Training, education, and prevention - Standards.

(1)(a) An LEA governing board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) An LEA governing board may offer voluntary training to parents and students regarding abusive conduct.

(2) To the extent that state or federal funding is available for this purpose, LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, abusive conduct, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

- (a) the establishment of a bullying task force; or
- (b) the involvement of school employees, students, or law enforcement.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

§ 53G-9-608. Other forms of legal redress.

- (1) Nothing in this part prohibits a victim of bullying, cyber-bullying, hazing, abusive conduct, or retaliation from seeking legal redress under any other provisions of civil or criminal law.
- (2) This section does not create or alter tort liability.

§ 53G-9-702. Youth suicide prevention programs required in secondary schools - State board to develop model programs.

- (3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):

- (a) considers appropriate coordination with the following prevention programs:
 - (i) the prevention of bullying and cyber-bullying, as those terms are defined in Section 53G-9-601.

§ 53G-9-703. Parent education - Mental health - Bullying - Safety.

- (2) The state board shall:
 - (a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:
 - (i) substance abuse, including illegal drugs and prescription drugs and prevention;
 - (ii) bullying;
 - (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;
 - (iv) Internet safety, including pornography addiction; and
 - (v) the SafeUT Crisis Line established in Section 53B-17-1202; and
 - (b) provide the curriculum, including resources and training, to school districts upon request.

§ 63C-22-101. Title.

- (1) This chapter is known as the "Digital Wellness, Citizenship, and Safe Technology Commission."
- (2) This part is known as "General Provisions."

§ 63C-22-102. Definitions.

As used in this chapter:

- (1) "Commission" means the Digital Wellness, Citizenship, and Safe Technology Commission created in Section 63C-22-201.
- (2) "Cyber-bullying" means the same as that term is defined in Section 53G-9-601.
- (3) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.
- (4) "Local education agency" or "LEA" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
- (5) "State board" means the State Board of Education.
- (6) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.
- (7) "Student" means a child who is under the age of 18.

§ 63C-22-201. Commission established - Members.

- (1) There is created the Digital Wellness, Citizenship, and Safe Technology Commission to advance the goal of reaching every student, parent, and student's support network with training and ongoing support in digital citizenship, composed of the following 11 members:
 - (a) one member of the Senate, appointed by the president of the Senate who shall serve as co-chair of the commission;

- (b) one member of the House of Representatives, appointed by the speaker of the House of Representatives who shall serve as co-chair of the commission;
- (c) two members appointed by the state superintendent, that may include:
 - (i) a current or former classroom teacher; and
 - (ii) a parent of a student;
- (d) the governor or the governor's designee;
- (e) the attorney general or the attorney general's designee; and
- (f) five members with experience and expertise related to digital citizenship training and education, recommended by the co-chairs of the commission and jointly approved by the president of the Senate and the speaker of the House of Representatives, that may include:

- (i) a mental health professional;
- (ii) a facilitator of a school community council;
- (iii) a media literacy librarian; and
- (iv) a representative of the Utah Education and Telehealth Network created in Section 53B-17-105.

(2)(a) A majority of the members of the commission constitutes a quorum of the commission.

(b) The action by a majority of the members of a quorum constitutes the action of the commission.

(3)(a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

- (i) Sections 63A-3-106 and 63A-3-107; and
- (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) The commission shall meet up to seven times per year.

§ 63C-22-202. Commission duties - Reporting requirements.

(1) To ensure students are digital media-literate, and able to use technology safely and ethically, the commission shall:

- (d) collaborate and coordinate efforts with programs related to cyber-bullying, suicide prevention, anti-pornography, and social and emotional learning to provide resources for promoting digital citizenship to LEAs, students, teachers, and parents.

§ 76-5-107.5. Prohibition of "hazing" - Definitions - Penalties.

(1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:

- (a)(i) endangers the mental or physical health or safety of another;
- (ii) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
- (iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or
- (iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and

(b)(i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or

(ii) if the actor knew that the victim is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.

(2) It is not a defense to prosecution of hazing that a person under 21, against whom the hazing was directed, consented to or acquiesced in the hazing activity.

(3) An actor who hazes another is guilty of a:

(a) class B misdemeanor except as provided in Subsection (3)(b), (c), (d), or (e);

(b) class A misdemeanor if the act involves:

(i) the operation or other use of a motor vehicle;

(ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or

(iii) the consumption of a drug or a substance as defined in Section 76-5-113;

(c) third degree felony if the act involves the use of a dangerous weapon as defined in Section 76-1-601;

(d) third degree felony if the hazing results in serious bodily injury to a person; or

(e) second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon as defined in Section 76-1-601.

(4) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.

(5)(a) This section does not apply to military training or other official military activities.

(b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.

(6)(a) A prosecution under this section does not bar a prosecution of the actor for:

(i) any other offense for which the actor may be liable as a party for conduct committed by the person hazed; or

(ii) any offense, caused in the course of the hazing, that the actor commits against the person who is hazed.

(b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing offense and the conduct committed by the person hazed.

(c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

REGULATIONS

R277-609-2. Definitions.

(8) "Harassment and discrimination free learning" means a learning environment in which a student is treated fairly regardless of the student's characteristics including race, color, religion, or sex, and in which a student's ability to participate in or benefit from the services, activities, or opportunities offered, is not limited or interfered with by conduct that is physically threatening, harmful, or humiliating.

R277-217-3. Required conduct for an educator.

(3) take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee that the educator knew or should have known may result in a hostile, intimidating, abusive, offensive, or oppressive environment.

R277-316-5. Association professional standard setting, training, and monitoring.

(2) An association shall establish policies or rules that require:

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53G, Chapter 9, Part 6, Bullying and Hazing.

R277-409-3. Membership Restrictions.

(6) An association shall establish policies or rules that require:

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53G, Chapter 9, Part 6, Bullying and Hazing.

R277-495-4. LEA Electronic Device Policy Requirements.

(1) An LEA's policy shall include at least the following:

(b) prohibitions on the use of electronic devices in ways that:

(i) bully, humiliate, harass, or intimidate school-related individuals, including students, employees, and guests, consistent with R277-609 and R277-613. [...]

(2) In addition to the requirements of Subsection (1), an LEA's policies for student use of electronic devices shall include directives regarding the following:

(f) uses of privately-owned electronic devices to bully or harass other students or employees during school hours or at school-sponsored activities that may result in the student being subject to LEA disciplinary action.

R277-605-4. Coaches and School Activity Leaders as Supervisors and Role Models.

(3) Coaches, assistants and advisors shall act in a manner consistent with Section 53G-8-209 and may not:

(b) permit hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

R277-609-2. Definitions.

(16) "Policy" means standards and procedures that include:

(a) the provisions of Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

(i) defines hazing, bullying, and cyber-bullying;

(ii) prohibits hazing and bullying;

(iii) requires training regarding:

(A) the prevention of hazing, bullying, cyber-bullying, and discipline among school employees and students; and

(B) the use of restorative practices, positive behavior interventions and supports, and emergency safety interventions; and

(iv) provides for enforcement through employment action or student discipline.

(v) are informed and updated by data obtained by any regular safety or health related survey including a school's climate survey as described in Rule R277-623; and

(vi) other appropriate measurements.

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

- (l) policies and procedures, consistent with requirements of Rule R277-613, related to:
 - (i) bullying;
 - (ii) cyber-bullying;
 - (iv) hazing; and
 - (v) retaliation; [...]
- (m) direction for dealing with bullying and disruptive students;
- (o) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;
- (p) identification of individuals who shall receive notices of disruptive and bullying student behavior.

R277-613-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Section 53G-9-606, which directs the board to monitor LEA development and implementation of bullying and hazing policies;
 - (b) Section 53G-9-607, which directs the board to make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, and abusive conduct, and retaliation;
 - (c) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the public schools governing discipline and control;
 - (d) Section 53G-8-209, which requires the Board, when making rules regarding student participation in cocurricular or extracurricular activities, to include:
 - (i) prohibitions against the use of foul, abusive, or profane language while in the classroom, on school property, or during a school sponsored activity; and
 - (ii) prohibitions against hazing, demeaning, or assaultive behavior, whether consensual or not;
 - (e) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
 - (f) Subsection 53E-3-401(4)(a), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of the rule is to:
 - (a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;
 - (b) provide for regular and meaningful training of school employees and students;
 - (c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and
 - (d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

R277-613-2. Definitions.

- (2)(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2).
 - (b) The conduct described in Subsection 53G-9-601(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (3) "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that is targeted at a student based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:
 - (a) Title VI of the Civil Rights Act of 1964;
 - (b) Title IX of the Education Amendments of 1972;

- (c) Section 504 of the Rehabilitation Act of 1973; or
- (d) Title II of the Americans with Disabilities Act of 1990.
- (4) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4).
- (5) "Disruptive student behavior" means the same as that term is defined in Subsection 53G-8-210(1)(a).
- (6) "Hazing" means the same as that term is defined in Subsection 53G-9-601(5). [...]
- (11) "Policy" means standards and procedures that:
 - (a) are required in Section 53G-9-605;
 - (b) include the provisions of Section 53G-8-202; and
 - (c) provide additional standards, procedures, and training adopted in an open meeting by an LEA board that:
 - (i) define bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
 - (ii) prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
 - (iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, and retaliation among school employees and students; and
 - (iv) provide for enforcement through employment action or student discipline.

R277-613-3. Superintendent Responsibilities.

- (1) The Superintendent shall provide:
 - (a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;
 - (b) subject to availability of funds, model training and training opportunities on:
 - (i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and
 - (ii) the reporting and review requirements in Section R277-613-5;
 - (c) subject to availability of funds, evidence based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and retaliation.
- (2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).
- (3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:
 - (a) Title 53G, Chapter 9, Bullying and Hazing; and
 - (b) this rule.
- (4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

- (1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:
 - (a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:
 - (i) bullying;
 - (ii) cyber-bullying;
 - (iii) hazing;
 - (iv) retaliation;
 - (v) abusive contact; and

- (vi) making a false report;
 - (b) post a copy of the LEA's policy on the LEA website;
 - (c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and
 - (d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.
 - (e) review the policies required by this Subsection (1) regularly with input from stakeholders, as described in Subsection 53G-9-605(2)(a).
- (2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:
- (i) a parent's student's threat to commit suicide; or
 - (ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a victim or an individual who is alleged to have engaged in prohibited conduct.
- (b) An LEA shall:
- (i) notify a parent described in Subsection (2)(a) in a timely manner;
 - (ii) designate the appropriate school employee to provide parental notification; and
 - (iii) designate the format in which notification is provided to parents and maintained by the LEA.
- (3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.
- (4) An LEA shall take strong responsive action against retaliation, including assistance to victims and their parents in reporting subsequent problems and new incidents.
- (5)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals qualified to provide such training.
- (b) The training described in Subsection (5)(a) shall
- (i) include information on:
 - (A) bullying, cyber-bullying, hazing and retaliation;
 - (B) Discrimination under the following federal laws:
 - (i) Title VI of the Civil Rights Act of 1964;
 - (ii) Title IX of the Education Amendments of 1972;
 - (iii) Section 504 of the Rehabilitation Act of 1973;
 - (iv) Title II of the Americans with Disabilities Act of 1990;
 - (C) how bullying, cyber-bullying, hazing and retaliation are different from discrimination and may occur separately from each other or in combination;
 - (D) bullying, cyber-bullying, hazing, and retaliation based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes; and
 - (E) the right of free speech and how it differs for students, employees, and parents;
 - (ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and
 - (iii) include information on when issues relating to this rule may lead to student or employee discipline.

- (6) The training described in Subsection (5) shall be offered to:
 - (a) new school employees, coaches, and volunteers; and
 - (b) all school employees, coaches, and volunteers at least once every three years.
- (8)(a) An LEA's policies developed under this section shall complement existing school policies and research based school discipline plans.
 - (b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, retaliation and disruptive students.
 - (c) An LEA shall ensure that a discipline plan required by Rule R277-609:
 - (i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students;
 - (ii) provides for identification, by position, of individuals designated to issue notices of disruptive student behavior, bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
 - (iii) designates to whom notices shall be provided;
 - (iv) provides for documentation of disruptive student behavior in the LEA's student information system;
 - (v) includes strategies to provide for necessary adult supervision;
 - (vi) is clearly written and consistently enforced; and
 - (vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

- (1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:
 - (a) investigate allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct in accordance with this section;
 - (b) provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct with adequate training on conducting an investigation; and
 - (c) identify an LEA employee to be the point person with training and expertise to assist, direct and supervise training of other employees in the responsibilities established in Subsections R277-613-5(1)(a) and (b).
- (2)(a) An LEA shall investigate allegations of incidents described in Subsection (1)(a) by interviewing:
 - (i) the alleged victim
 - (ii) the individual who is alleged to have engaged in prohibited conduct;
 - (iii) parents of the alleged victim, and the individual who is alleged to have engaged in prohibited conduct;
 - (iv) any witnesses;
 - (v) school staff familiar with the alleged victim;
 - (vi) school staff familiar with the individual who is alleged to have engaged in prohibited conduct, or
 - (vii) other individuals who may provide additional information.
- (c) An individual who investigates an allegation of an incident shall inform an individual being interviewed that:
 - (i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and
 - (ii) further reports of bullying will become part of the review.

- (3) The confidentiality requirement in Subsection (2)(c) does not apply to:
 - (a) conversations with law enforcement professionals;
 - (b) requests for information pursuant to a warrant or subpoena;
 - (c) a state or federal reporting requirement; or
 - (d) other reporting required by this rule.
- (4) In conducting an investigation under this section, an LEA may:
 - (a) review disciplinary reports of involved students; and
 - (b) review physical evidence, consistent with search and seizure law in schools, which may include:
 - (i) video or audio;
 - (ii) notes;
 - (iii) email;
 - (iv) text messages;
 - (v) social media; or
 - (vi) graffiti.
- (5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.
- (6) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, retaliation, and abusive conduct as civil rights violations.
- (7) Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, if appropriate, an LEA may:
 - (a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and
 - (b) support involved students through trauma-informed practices, if appropriate.
- (8)(a) An alleged victim is not required to participate in a restorative justice practice as described in Subsection (7)(a) with an individual who is alleged to have engaged in prohibited conduct.
 - (b) If an LEA would like a student to participate in a restorative justice practice, the LEA shall notify the student's parent of the restorative justice practice and obtain consent from the student's parent before including the alleged victim in the process.
- (9) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.
- (10) An LEA shall follow up with the parents of all parties to:
 - (a) inform parents when an investigation is concluded;
 - (b) inform parents what safety measures will be in place for their child, as determined by the investigation;
 - (c) provide additional information about the investigation or the resolution consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and
 - (d) inform parents of appeal options, if available, if the parents disagree with resolution of the investigation.
- (11) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:
 - (a) a copy of the LEA's policy required in Section R277-613-4;
 - (b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);
 - (c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, retaliation, and abusive conduct described in Section 53G-9-607;

(d) verified and alleged incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
(e) the number and type of incidents described in Subsection (8)(d) required to be reported separately under federal law, including the reporting requirements in:

- (i) Title VI of the Civil Rights Act of 1964;
- (ii) Title IX of the Education Amendments of 1972;
- (iii) Section 504 of the Rehabilitation Act of 1973; and
- (iv) Title II of the Americans with Disabilities Act of 1990; and

(f) the number and type of incidents described in Subsection (11)(d) that include a student or LEA employee who was bullied, cyber-bullied, hazed, or retaliated against based on the student's or LEA employee's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

(12) The requirements of this Rule R277-613 are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.

R277-613-6. Training by LEAs specific to participants in public school athletic programs and school clubs.

(1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

R277-613-7. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53G-9-605 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 53-22-101. School Security Act -- Definitions

As used in this chapter:

- (1) "Public school" means the same as that term is defined in Section 53G-9-205.1.
- (2) "School resource officer" or "SRO" means a law enforcement officer hired by a public school in accordance with Section 53-8-703.
- (3) "State security chief" means an individual appointed by the commissioner under Section 53-22-102.

§ 53-22-104. School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration.

There is created a school security task force composed of the following 18 members:

- (a) the House chair of the Law Enforcement and Criminal Justice Interim Committee, who shall serve as chair, and who shall ensure that at least three members of the task force are parents of children in Utah schools;
 - (b) the House chair of the Criminal Code Evaluation Task Force;
 - (c) a member of the Senate, appointed by the president of the Senate;
 - (d) the state superintendent of the State Board of Education or the state superintendent's designee;
 - (e) the school safety specialist to the State Board of Education;
 - (f) the public safety liaison described in Section 53-1-106;
 - (g) the commissioner of the Department of Public Safety or the commissioner's designee;
 - (h) the director of the Utah Division of Juvenile Justice Youth Services or the director's designee;
 - (i) a member of the Utah School Superintendents Association, selected by the president of the association;
 - (j) two members of the Chiefs of Police Association, one from a city of the first or second class and one from a city of the third, fourth, fifth, or sixth class, selected by the president of the association;
 - (k) two members of the Sheriffs Association, one from a county of the first, second, or third class and one from a county of the fourth, fifth, or sixth class, selected by the president of the association;
 - (l) a representative from the Utah Association of Public Charter Schools selected by the president of the association;
 - (m) a representative from a school district, selected by the chair;
 - (n) an expert in school security, selected by the chair;
 - (o) a member of a local law enforcement agency recommended by the commissioner of the Department of Public Safety; and
 - (p) a member of the SafeUT and school safety commission, selected by the chair.
- (2) The task force shall:
- (a) determine the specific qualifications, duties, and responsibilities of the state security chief created in Section 53-22-102;

- (b) create statewide standardized training requirements and hiring policies for school resource officers;
- (c) review and revise, if necessary, the model critical incident response training program developed under Section 53g-8-802;
- (d) develop training standards for active threats and emergency response in schools;
- (e) recommend standards for the use of school security specialists;

53F-5-220. School Safety and Support Grant Program – Rulemaking.

(1)The state board may award a grant to an LEA in response to an LEA request for proposal to provide a school with:

- (a) school resource officer services;
- (b) school safety specialists and school safety specialist training;
- (c) safety and security training by law enforcement agencies for school employees;
- (d) interoperable communication hardware, software, equipment maintenance, and training for first responder communication systems;
- (e)enhanced physical security at a school upon completion of the school's threat assessment;
- (f) first-aid kits for classrooms; or
- (g) bleeding control kits.

(2) An LEA may not apply for a grant under this section to fund services already in place, but an LEA may submit a request for proposal to fund an expansion of or enhancement to existing services.

(3)The state board shall prioritize grant funding for LEAs with low student counts that have designated a school safety specialist in each school.

(4)The state board may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this section.

§ 53G-8-202. Public school discipline policies - Basis of the policies - Enforcement.

(2)(c)(i) On or before September 1, 2015, the state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

§ 53G-8-207. Alternatives to suspension or expulsion.

(4) The state superintendent, in cooperation with school districts and charter schools, shall:

- (d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel.

§ 53G-8-802. State Safety and Support Program - State board duties – LEA duties.

(2) The state board shall:

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes:

(l) protocols for conducting a threat assessment, and ensuring building security during an incident, as required in section 53G-8-701.5

§ 53G-9-606. Model policy and state board duties.

(1) On or before September 1, 2018, the state board shall:

- (a) update the state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and
- (b) post the model policy described in Subsection (1)(a) on the state board's website.

- (2) The state board shall require an LEA governing board to report annually to the state board on:
- (a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);
 - (b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607; and
 - (c) other information related to this part, as determined by the state board.

REGULATIONS

R277-609-1. Authority and purpose.

- (1) This rule is authorized by:
- (f) Section 53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

R277-609-11. Model Policies.

- (1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.
- (2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

R277-613-3. Superintendent Responsibilities.

- (1) The Superintendent shall provide:
 - (a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606. [...]
- (2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

R277-615-3. Superintendent responsibilities.

- (1) The Superintendent shall provide consistent definitions for LEAs to include in search and seizure policies.
- (2) The Superintendent shall develop a model search and seizure policy as guidance for LEAs.
- (3) The Superintendent shall require an assurance from LEAs in the Utah Consolidated Report regarding the student search policy required under Section 53G-8-509.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

R277-400-8. Prevention and Intervention.

- (3) An LEA shall also develop or incorporate to the extent resources permit:
 - (b) tiered student assistance programs.

R277-609-2. Definitions.

- (14) "Positive behavior interventions and support" means an implementation framework for maximizing the selection and use of evidence-based prevention practices along a multi-tiered continuum that supports the academic, social, emotional, and behavioral competence of a student. [...]
- (16) "Policy" means standards and procedures that include:
 - (a) the provisions of Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:
 - (iii) requires training regarding:
 - (B) the use of restorative practices, positive behavior interventions and supports, and emergency safety interventions.

R277-609-4. LEA Responsibility to Develop Plans.

(4) A plan described in Subsection (1) shall include:

(l) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

(C) a positive behavior intervention, based on data analysis has been written into the plan and implemented.

R277-609-6. Implementation.

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs before suspension or court referral.

(3) An LEA shall implement positive behavior interventions, supports, and restorative practices as part of the LEA's continuum of behavior interventions strategies.

Prevention

LAWS

No relevant laws found.

REGULATIONS

R277-609-2. Definitions

E(12) "Plan" means an LEA and school-wide written model for prevention and intervention addressing:

- (a) student behavior management;
- (b) restorative practices;
- (c) harassment and discrimination free learning, and
- (d) discipline procedures for students

R277-400-8. Prevention and Intervention.

(1) An LEA shall provide a school comprehensive violence prevention and intervention strategies as part of a school's regular curriculum including:

- (a) resource lessons and materials on anger management;
- (b) conflict resolution; and
- (c) respect for diversity and other cultures.

(2) As part of a violence prevention and intervention strategy in subsection (1), a school may provide age-appropriate instruction on firearm safety including appropriate steps to take if a student sees a firearm or facsimile in school.

(3) An LEA shall also develop or incorporate to the extent resources permit:

- (a) care teams;
- (b) tiered student assistance programs;
- (c) social-emotional learning;

- (d) support through multi-disciplinary teams, such as care teams, that may:
 - (i) review school safety related data;
 - (ii) conduct threat assessments;
 - (iii) consult on case-specific interventions and disciplinary actions;

- (iv) involve parents in the intervention process; and
 - (v) suggest referrals to resources as appropriate;
- (4) An LEA's multi-disciplinary school team as described in Subsection R277-400-8(3) may include:
- (a) administration personnel;
 - (b) local law enforcement or a school resource officer;
 - (c) a mental health professional; and
 - (d) a general education or special education teacher.
- (5) In developing student assistance programs, an LEA may coordinate with other state agencies and the Superintendent.

Social-emotional Learning (SEL)

LAWS

§ 53G-10-204. Civic and character education - Definitions - Legislative finding - Elements - Reporting requirements.

- (1) As used in this section:
- (a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.
 - (b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.
 - (c) "Civics engagement pilot program" means the pilot program described in Subsection (6).
 - (d) "Civics engagement project" means the civics engagement project described in Subsection (6), which a student enrolled in a participating LEA may complete.
 - (e) "Participating LEA" means an LEA that meets the eligibility criteria, and is selected by the state board, to participate in the civics engagement pilot program.
 - (f) "Values" means time-established principles or standards of worth.
- (2) The Legislature recognizes that:
- (a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;
 - (b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;
 - (c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;
 - (d) the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;
 - (e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and
 - (f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.
- (3) Through an integrated curriculum, students shall be taught in connection with regular school work:
- (a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6)(a) In accordance with this section, subject to appropriations by the Legislature for this purpose, beginning with the 2020-21 school year, the state board shall administer a three-year civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.

(b) The state board shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) to create a civics engagement project that complies with core standards for Utah public education for social studies and prepares students for lifelong civic motivation and participation through applied learning of civics content;

(B) to establish eligibility requirements for participating LEAs;

(C) to create an application process for LEAs to apply to participate in the pilot program; and

(D) for a report that a participating LEA is required to submit to the state board at the end of the pilot program;

(ii) select participating LEAs:

(A) from diverse geographic areas within the state; and

(B) with a range of student population sizes; and

(iii) subject to appropriations by the Legislature for this purpose, in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide training that prepares teachers in a participating LEA to assist students to successfully complete the civics engagement project.

(c) A participating LEA shall submit a report to the state board in accordance with the rules described in Subsection (6)(b)(i)(D).

§ 63C-22-202. Commission duties - Reporting requirements.

(1) To ensure students are digital media-literate, and able to use technology safely and ethically, the commission shall:

(d) collaborate and coordinate efforts with programs related to cyber-bullying, suicide prevention, anti-pornography, and social and emotional learning to provide resources for promoting digital citizenship to LEAs, students, teachers, and parents.

REGULATIONS

R277-400-8. Prevention and Intervention.

(3) An LEA shall also develop or incorporate to the extent resources permit:

(c) social-emotional learning.

R277-475-1. Authority and Purpose.

(1) This rule is authorized by:

(a) the Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board;

(b) Subsection 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53G-10-304 which directs the Board to provide a rule for a program of instruction within the public schools relating to the flag of the United States.

(2) The purpose of this rule is to provide direction for patriotic, civic and character education programs in an LEA.

R277-475-2. Definitions.

(1) "Character education" means the same as that term is defined in Subsection 53G-10-204(1)(a).

(2) "Civic education" means the same as that term is defined in Subsection 53G-10-204(1)(b).

(3) "LEA" includes for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Patriotic" means having love of and dedication to one's country.

(5) "Patriotic education" means the educational and systematic process to help students identify, acquire, and act upon a dedication to one's country.

R277-475-3. Patriotic, Civic and Character Education.

(1) An LEA shall provide instruction for patriotic, civic and character education in the social studies curricula of kindergarten through grade twelve.

(2) An LEA shall ensure an educator has responsibility for patriotic, civic and character education taught in an integrated school curriculum and in the regular course of school work.

R277-475-4. School Responsibilities and Required Instruction.

(1) An LEA shall:

(a) ensure that all patriotic, civic and character education programs are consistent with the requirements of Sections 53G-10-302, 53G-10-304, and 53G-10-204;

(b) provide the setting and opportunities to teach patriotic values associated with the flag of the United States by example; and

(c) make information about the flag, respect for the flag, and civility toward all during patriotic activities available on the LEA's website.

Trauma-informed Practices

LAWS

§ 53F-2-415. Student health and counseling support - Qualifying personnel - Distribution formula - Rulemaking.

(2)(a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

- (ii) Employing behavioral health support personnel; or
 - (iii) entering into contracts for services provided by qualifying personnel, including telehealth services.
- [...]

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

§ 53F-2-519. Appropriation for school nurses.

(2)(a) A school district or charter school that is awarded a grant under this section shall require each school nurse employed by the school district or charter school to complete two hours of continuing nurse education on the emotional and mental health of students.

(b) The continuing nurse education described in Subsection (2)(a) shall include training on:

- (ii) trauma-informed care.

§ 53F-5-209. Grants for school-based mental health supports.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs educators on the impact of trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

REGULATIONS

R277-304-4. General teacher preparation.

Prior to approval by the Board, a teacher preparation program shall:

(4) require competency in:

- (h) establishing a consistent, organized, and respectful learning environment, including:
 - (iii) trauma-informed practices.

R277-461-5. Grant Recipient Requirements, Accountability, and Reporting.

(4) Qualifying personnel funded by these grant funds shall:

- (d) in accordance with Subsection 53F-5-209(8), participate in trauma-informed modules.

R277-613-2. Definitions.

(13) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged victim and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(7) Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, if appropriate, an LEA may:

- (b) support involved students through trauma-informed practices, if appropriate.

R277-620-3. Youth Suicide Prevention Grants - LEA Reporting Requirements.

(1) The Superintendent, in collaboration with the Department of Health - State Division of Substance Abuse and Mental Health and the State suicide prevention coordinator, shall establish model youth suicide prevention programs for LEAs that include training and resources addressing:

- (b) standard response protocols that utilize trauma informed practices, which may reference the ACES or other empirical data.

R277-622-3. School-based Mental Health Plan.

- (1) To qualify for a School-based Mental Health Qualifying Grant, an LEA shall submit a plan to the Superintendent.
- (2) The plan shall include:
 - (a) a three-year projection for the LEA's goals, metrics, and outcomes;
 - (b) requirements outlined in Subsection 53F-2-415(3);
 - (c) a plan for how qualifying personnel will increase access to mental health services for students in need, including students who are underserved or at risk;
 - (d) a process for utilization of qualifying personnel in participating with an LEA's multidisciplinary team as outlined in R277-400;
 - (e) a timeline and process for school personnel training in trauma-informed practices, including documentation of compliance.
- (3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.
- (4) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.
- (5) An LEA may submit a revised plan for approval by the board, in a manner described by the Superintendent, if the LEA identifies deficiencies with the LEA's ability to implement the LEA's plan including a change in available funding.

Mental Health Literacy Training

LAWS

§ 53F-2-519. Appropriation for school nurses.

- (2)(a) A school district or charter school that is awarded a grant under this section shall require each school nurse employed by the school district or charter school to complete two hours of continuing nurse education on the emotional and mental health of students.
 - (b) The continuing nurse education described in Subsection (2)(a) shall include training on:
 - (i) the awareness of, screening for, and triaging to appropriate treatment for mental health problems;
 - (ii) trauma-informed care;
 - (iii) signs of mental illness;
 - (iv) alcohol and substance abuse;
 - (v) response to acute mental health crises; and
 - (vi) suicide prevention, including information about the 24-hour availability of the SafeUT Crisis Line established under Section 53B-17-1202.

§ 53G-8-802. State Safety and Support Program - State board duties – LEA duties.

- (2) The state board shall:
 - (b) provide training:
 - (iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness.

§ 53G-9-203. Definitions - School personnel - Medical recommendations - Exceptions - Penalties.

- (7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 53F-2-415. Student health and counseling support - Qualifying personnel - Distribution formula - Rulemaking.

(1) As used in this section:

(a) "Behavioral health support personnel" means an individual who:

(i) works under the direct supervision of qualifying personnel to:

(a) Support and track a student's progress and access to and completion of school curriculum; and

(b) Support students by prompting, redirecting, encouraging, and reinforcing positive behaviors;

(ii) Is not certified or licensed in mental health; and

(iii) Meets the professional qualifications as defined by state board rule;

(b) "Qualifying personnel" means a school counselor or other counselor, a school psychologist or other psychologist, a school social worker or other social worker, or a school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(c) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2)(a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel;

(ii) Employing behavioral health support personnel; or

(iii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b)(i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(iii) The state board shall provide guidance for LEAs regarding the training, qualifications, roles, and scopes of practice for qualifying personnel and behavioral health support personnel that incorporates parent consent and partnership as key components in addressing the mental health and behavioral health needs of students.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

- (a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school climate, or academic achievement;
 - (b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;
 - (c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and
 - (d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.
- (4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3);, based on the formula described in Subsection (2)(b);
- (5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:
- (a) employ qualifying personnel;
 - (b) employ behavioral health support personnel; or
 - (c) enter into contracts for services provided by qualified personnel, including telehealth services.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:
- (a) procedures for submitting a plan for and distributing money under this section;
 - (b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and
 - (c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.
- (7) An LEA that receives money under this section shall submit an annual report to the state board, including:
- (a) progress toward achieving the goals submitted under Subsection (3)(a);
 - (b) if the LEA discontinues a qualifying personnel position or a behavioral health support personnel position, the LEA's reason for discontinuing the positions; and
 - (c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.
- (8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.
- (9) The state board may use up to 2% of an appropriation under this section for costs related to the administration of the provisions of this section.
- (10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:
- (a) the SafeUT Crisis Line described in Section 53B-17-1202; or
 - (b) (i) youth suicide prevention programs described in Section 53G-9-702 or
 - (iii) A comprehensive prevention plan, as that term is defined in section 53-2-525

§ 53F-2-522. Public education mental health screening.

- (1) As used in this section:
- (a) "Division" means the Division of Integrated Healthcare.
 - (b) "Non-Participating LEA" means an LEA that does not administer an approved mental health screening program described in this section.

(c) "Participating LEA" means an LEA that has an approved screening program described in this section.

(d) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(e) "Qualifying parent" means a parent:

- (i) Of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and
- (ii) Who qualifies for financial assistance to pay for the resources under rules made by the state board.

(f) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2) (a) (a) On or before July 1, 2023, an LEA governing board shall determine whether the LEA will be a participating LEA or a non-participating LEA for the 2023-24 school year.

(b) (i) During the 2023-24 school year, and each year after, a participating LEA may change the LEA's participation status and become a non-participating LEA for the next school year by reporting the status change to the state board by the end of the current school year.

(ii) An LEA that changed the LEA's status from participating to non-participating in subsection (2)(b)(i) is subject to the requirements of a non-participating LEA described in subsection (2)(c).

(c) (i) During the 2023-24 school year, and each year after, a non-participating LEA's governing board shall submit a record of determination to the state board by the end of the school year, which record shall state whether the non-participating LEA will:

- (A) maintain the LEA's non-participating status; or
- (B) change the LEA's status to be a participating LEA.

(3) (ii) If the non-participating lea determines the lea will change participation status and become a participating lea, the lea's status of participation will change at the end of the current school year. The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (i) establish a process for a participating LEA to submit a selected screening program to the state board for approval;
- (ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, establish who may access and use a participating student's screening data; and
- (iii) establish a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;
- (iv) determine whether a parent is eligible to receive the financial support described in subsection (5)(a) as a qualifying parent; and
- (v) apply for and distribute the financial support described in subsection (5)(a);

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

- (i) is age appropriate for each grade in which the screening program is administered;
- (ii) screens for the mental health conditions determined by the state board and division; and
- (iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before November 30 of each year, submit a report on the screening programs to:

the State Suicide Prevention Coalition created under Subsection 62A-15-1101(2); and the Education Interim Committee in accordance with Section 53E-1-201.

(i) The approximate number of participating students that were screened in each participating LEA the previous school year

(ii) The names and number of:

(A) participating LEAs; and

(B) non-participating LEAs

(iii) An overview of how participating LEAs utilized distributed funds; and

(iv) whether the amount of distributed funds to each participating LEA was sufficient for the participating LEA's needs.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected screening program to the state board for approval;

(b) Implement and administer a state board-approved mental health screening program to participating students in the participating LEA by:

(i) Annually notifying each parent with a student in the participating LEA that the parent may have the student screened for mental health conditions;

(ii) obtaining prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA screens a participating student;

(iii) screening the student for mental health conditions; and

(iv) if results of a participating student's screening indicate a potential mental health condition, notify the parent of the participating student of:

(A) the participating student's results; and

(B) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity.

(c) use state board-distributed funds for the purposes described in subsection (5)(a); and

(d) provide the state board with necessary information and data for the state board to complete the report described in subsection (3)(c).

(5)(a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to:

(i) Implement and administer a mental health screening for participating students as described in subsection(4)(b); and

(ii) assist a qualifying parent to pay for resources described in Subsection (4)(B)(iv)(B) that cannot be provided by a school mental health professional in the school setting.

(b) The state board may not distribute funds described in Subsection(5)(a) to a non-participating LEA.

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

§ 53F-2-525. Block grant funding for prevention programs in public education.

(1) As used in this section, "comprehensive prevention plan" means an LEA's plan:

(a) To implement evidence-based early-intervention and prevention practices tailored to achieve outcomes and mitigate risk factors in a manner consistent with the following programs:

(i) Substance abuse prevention programs described in section 53e-3-522;

(ii) Gang prevention and intervention programs described in section 53f-2-410;

- (iii) Youth suicide prevention programs described in section 53g-9-702; and
 - (iv) Positive behavior plans described in section 53g-10-407;
- (b) That includes:
- (i) Information on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment; and
 - (ii) Resiliency building skills; and
- (c) That an LEA designs in collaboration with the state board, as described in subsection (4)(a)(i), and with input from parents, students, educators, and student support staff within the LEA.
- (2) Subject to legislative appropriations, the state board shall distribute block grant funding to LEAs for use in accordance with subsection (5)(b)(iii) to implement a comprehensive prevention plan that the state board approves in accordance with subsection (3).
- (3) In accordance with title 63g, chapter 3, Utah administrative rulemaking act, the state board shall make rules to:
- (a) Establish an application process that allows an LEA to:
 - (i) Articulate the approach and rationale underlying the LEA's comprehensive prevention plan,
 - (ii) Demonstrate the LEA's specific prevention needs;
 - (iii) Provide data that supports the substance and cost of the LEA's comprehensive prevention plan;
 - (iv) Outline the ways in which the LEA will use the block grant funding in a united prevention effort to achieve the outcomes that the individual programs described in subsection (1) target; and
 - (v) Identify the specific outcomes described in subsection (3)(a)(iv) by which the LEA will measure the success of the comprehensive prevention plan; and
 - (b) Establish additional grant application conditions.
- (4) The state board shall:
- (a) (i) Provide guidance to each LEA that is preparing a prevention block grant funding application on the design and implementation of the LEA's comprehensive prevention program;
 - (ii) Review each prevention block grant funding application for compliance and eligibility; and
 - (iii) Provide to each LEA that receives block grant funding:
 - (a) Technical assistance that is tailored to the lea's specified prevention needs; and
 - (b) Targeted professional learning opportunities in evidence-based prevention practices;
 - (b) Evaluate and prioritize block grant funding applications under this section and individual funding needs for LEAs that choose to seek out funding for individual prevention programs, as described in subsection (5)(a), as the state board deems necessary to ensure the effectiveness of statewide prevention efforts.
- (5) (a) An LEA may seek block grant funding under this section or segregated funding for the individual programs described in subsection (1), based on the LEA governing board's determination of specific prevention needs within the LEA.
- (b) Notwithstanding any other provision of law or state board rule, an LEA that receives block grant funding under this section:
- (i) Shall submit to the state board a report that:
 - (a) Accounts for the LEA's use of the block grant funding; and

- (b) Provides data points, including the measurement of the specified outcomes described in subsection (3)(a)(v), that demonstrate the effectiveness of the LEA's comprehensive prevention plan;
- (ii) Is not required to submit to the state board an individual report for each program described in subsection (1); and
- (iii) May use block grant funding to:
 - (a) Implement the state board-approved comprehensive prevention plan;
 - (b) Carry out the prevention-focused parent seminars described in subsection 53g-9-703(2); and
 - (c) Other evidence-based prevention practices that the state board authorizes.

§ 53F-5-209. Grants for school-based mental health supports.

- (1) As used in this section:
 - (a) "Elementary school" means a school that includes any one or all of grades kindergarten through grade 6.
 - (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.
 - (c) "Qualifying personnel" means a school counselor or school social worker who:
 - (i) is licensed by the state board; and
 - (ii) collaborates with educators and a student's family or guardian on:
 - (A) early identification and intervention of a student's academic and mental health needs; and
 - (B) removing barriers to learning and developing skills and behaviors critical for a student's academic achievement.
- (2) Subject to legislative appropriations and Subsection (3), the state board shall award a grant to an LEA to provide targeted school-based mental health support in an elementary school, including trauma-informed care, through employment of qualifying personnel.
- (3) In awarding a grant under this section, the state board shall give:
 - (a) first priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students exhibiting risk factors for childhood trauma; and
 - (b) second priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students experiencing intergenerational poverty.
- (4) To qualify for a grant, an LEA shall:
 - (a) submit an application to the state board that includes:
 - (i) measurable goals on improving student safety, student engagement, school culture, and academic achievement; and
 - (ii) how the LEA intends to meet goals submitted under Subsection (4)(a)(i) through the use of the grant funds; and
 - (b) provide local funds to match grant funds received under this section in an amount equal to one-half of the amount of the grant funds.
- (5) An LEA may not replace federal, state, or local funds previously allocated to employ qualified personnel with funds distributed under this section.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying:
 - (a) procedures for applying for and awarding grants under this section, including:
 - (i) a definition of risk factors for childhood trauma;
 - (ii) the duration of a grant; and

(iii) a schedule for submission of matching grant funds; and

(b) annual reporting requirements for grantees in accordance with Subsection (7).

(7) An LEA that receives a grant under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (4)(a)(i); and

(b) if the LEA decides to discontinue the qualifying personnel position, the LEA's reason for discontinuing the position.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs educators on the impact of trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

§ 53G-9-203. Definitions - School personnel - Medical recommendations - Exceptions - Penalties.

(2) School personnel may:

(b) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the state board, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

(d) provide to a parent, upon the specific request of the parent, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.

53G-9-702 Youth suicide prevention programs – State board to develop model programs.

(1) As used in the section:

(a) "Elementary grades" means:

(i) kindergarten through grade 5; and

(ii) if the associated middle or junior high school does not include grade 6, grade 6.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the state board as described in Subsection (4).

(f) "Secondary grades" means:

(i) grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 26B-5-611.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) for elementary grades and secondary grades:

(i) life-affirming education, including on the concepts of resiliency, healthy habits, self-care, problem solving, and conflict resolution;

- (ii) methods of strengthening the family; and
- (iii) methods of strengthening a youth's relationships in the school and community; and (
- (b) for secondary grades:
 - (i) prevention of youth suicide;
 - (ii) decreasing the risk of suicide among youth who are:
 - (A) not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth; or
 - (B) suffer from bullying;
 - (iii) youth suicide intervention; and
 - (iv) postvention for family, students, and faculty.
- (3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):
 - (a) considers appropriate coordination with the following prevention programs:
 - (i) the prevention of bullying and cyber-bullying, as those terms are defined in Section 53G-9-601; and
 - (ii) the prevention of underage drinking of alcohol and substance abuse under Section 53G-10-406

§ 53G-9-703. Parent education - Mental health - Bullying - Safety.

- (2) The state board shall:
 - (a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:
 - (i) substance abuse, including illegal drugs and prescription drugs and prevention;
 - (ii) bullying;
 - (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;
 - (iv) Internet safety, including pornography addiction; and
 - (v) the SafeUT Crisis Line established in Section 53B-17-1202; and
 - (b) provide the curriculum, including resources and training, to school districts upon request.

§ 62A-15-103. Division - Creation - Responsibilities.

- (11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:
 - (a) provide coordination between a local education agency and local mental health authority;
 - (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and
 - (c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

§ 62A-15-114. Division - Creation - Responsibilities.

- (1) As used in this section:
 - (a) "Grant" means a grant awarded by the division under this section to a person to develop and implement a project.
 - (b) "Project" means a telehealth mental health pilot project for which the division awards a grant.
 - (c) "Public school" means:
 - (i) a school district;
 - (ii) a school under the control of a school district;
 - (iii) a charter school; or
 - (iv) the Utah Schools for the Deaf and the Blind.

(d) "Telehealth mental health services" means mental health services provided remotely through the use of telecommunications technology.

(e) "Utah State Hospital" means the Utah State Hospital established in Section 62A-15-601.

(2)(a) On or before July 1, 2018, the division shall issue a project proposal request in accordance with this section to award a grant to:

(i) one or more local authorities to develop and implement one or more projects in one or more public schools in the state; or

(ii) the Utah State Hospital.

(b) An application for a project described in Subsection (2)(a) shall be submitted jointly by:

(i) a public school or the Utah State Hospital; and

(ii) a provider of telehealth mental health services.

(c) The division shall award all grants under this section before December 31, 2018.

(d) A project shall run for two years.

(3) The purpose of the telehealth mental health pilot program is to:

(a) determine how telehealth mental health services can best be used in the state to:

(i) increase access to mental health services by public school students;

(ii) increase the timeliness and effectiveness of mental health crisis intervention services for public school students;

(iii) reduce the cost associated with providing mental health services to public school students; and

(iv) increase access to mental health services by public school students in underserved areas of the state;

(b) identify best practices for providing telehealth mental health services to public school students in the state; and

(c) identify the best methods of using telecommunications technology to provide mental health services to public school students remotely.

(4) Persons who apply for a grant under this section shall:

(a) identify the population to which the proposed project will provide telehealth mental health services;

(b) explain how the population described in Subsection (4)(a):

(i) is currently underserved; and

(ii) will benefit from the provision of telehealth mental health services;

(c) provide details regarding:

(i) how the proposed project will provide the telehealth mental health services;

(ii) the projected costs of providing the telehealth mental health services;

(iii) the sustainability of the proposed project; and

(iv) the methods that the proposed project will use to:

(A) protect the privacy of students and patients;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(d) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (5).

(5) In evaluating a proposal for a grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (3);

(b) the extent to which the population that will be served by the proposed project is:

- (i) currently underserved; and
 - (ii) likely to benefit from the proposed project;
 - (c) the cost of the proposed project;
 - (d) the viability and innovation of the proposed project; and
 - (e) the extent to which the proposed project will yield useful data to evaluate the effectiveness of the proposed project.
- (6)(a) Within six months after the day on which the division awards a grant, the division shall report to the Health and Human Services Interim Committee regarding:
- (i) each person who received a grant; and
 - (ii) the details of each project.
- (b) Within six months after the day on which a project concludes, the division shall report to the Health and Human Services Interim Committee regarding:
- (i) the success of each project;
 - (ii) data gathered in relation to each project;
 - (iii) knowledge gained from each project relating to the provision of telehealth mental health services;
 - (iv) proposals for the future use of telehealth mental health services in the state;
 - (v) obstacles encountered in the provision of telehealth mental health services; and
 - (vi) changes needed in the law to overcome obstacles to providing telehealth mental health services.

REGULATIONS

R277-461-5. Grant Recipient Requirements, Accountability, and Reporting.

- (1) A grant recipient shall engage in systemic leadership and planning to align efforts in supporting school improvement and school-based mental health, based on the Utah School Counseling Program Model. [...]
- (4) Qualifying personnel funded by these grant funds shall:
- (a) implement a systemic school-based mental health program.

R277-622-1. Authority and purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53F-2-415 which requires the Board to make rules that establish:
 - (i) procedures for submitting a plan for the School-based Mental Health Qualified Grant Program;
 - (ii) a distribution formula the Board will use to distribute funds to an LEA; and
 - (iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualified Grant Program.
- (2) The purpose of this rule is to establish the procedures for an LEA to receive a School-based Mental Health Qualified Grant including:
- (i) plan submission process, format, and requirements;
 - (ii) funding distribution methods; and
 - (iii) additional requirements including reporting and accountability.

R277-622-2. Definitions.

- (2) "Plan" means a School-based Mental Health Qualifying Grant plan described in Section R277-622-3.
- (3) "Qualifying personnel" means the same as the term is defined in Subsection 53F-2-415(1) including being licensed.
- (5) "Related services" means
 - a. mental-health or school nursing services provided by:
 - i. qualifying personnel within the scope of their practice
 - ii. the local mental health authority, or
 - iii. or a private provider through a contract.

R277-622-3. School-based Mental Health Plan.

- (1) To qualify for a School-based Mental Health Qualifying Grant, an LEA shall submit a plan to the Superintendent.
- (2) The plan shall include:
 - a. a three-year projection for the LEA's goals, metrics, and outcomes;
 - b. requirements outlined in Subsection 53F-2-415(3);
 - c. a plan for how qualifying personnel will increase access to mental health services for students in need, including students who are underserved or at risk;
 - d. a process for utilization of qualifying personnel in participating with an LEA's multidisciplinary team as outlined in R277-400;
 - e. a timeline and process for school personnel training in trauma-informed practices, including documentation of compliance.
- (3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.
- (4) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.
- (5) An LEA may submit a revised plan for approval by the board, in a manner described by the Superintendent, if the LEA identifies deficiencies with the LEA's ability to implement the LEA's plan including a change in available funding.

R277-625-1. Authority and purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Section 53F-2-522 which directs the board to make rules regarding the selection of a mental health screener and financial aid for qualifying parents.
- (2) The purpose of this rule is to:
 - (a) provide the approval process for a mental health screener chosen by an LEA; and
 - (b) establish the approval and distribution of funds for a qualifying parent to receive financial assistance for related mental health services.

R277-625-2. Definitions.

- (1) "Division of Substance Abuse and Mental Health" or "DSAMH" means the same as the term is defined in Section 62A-15-103.

(2) "Mental health" means a person's emotional, psychological, and social well-being which can affect how a person thinks, feels, and acts including how a person handles stress, relates to others, and makes healthy choices.

(3) "Mental health Screener" or "screeener" means the use of a systematic tool or process:

(a) to identify if a student is experiencing, or is at risk of experiencing, issues related to the student's mental health;

(b) for an early identification strategy to detect the onset of mental health conditions, enabling the mental health conditions to be potentially addressed; and

(c) that is not:

(i) a diagnostic tool or process; or

(ii) a system or process used by a student's teacher to observe behavior targeted learning interventions.

(4) "Mental health services" means the same as the term is defined in Subsection R523-1-3(3).

(5) "Qualifies for financial assistance" means a qualifying parent that has a student receiving educational services through an LEA who:

(a) receives free or reduced lunch; or

(b) as recommended by the local mental health authority, demonstrates need including being:

(i) uninsured;

(ii) underinsured;

(iii) ineligible for Medicaid to cover part or all of any recommended mental health treatments; or

(iv) demonstrates a high need for interventions based upon results of the LEA's mental health screener.

(6) "Qualifying parent" means the same as the term is defined in Subsection 53F-2-522(1)(d).

(7) "Relevant services" means mental health services provided to a student that are directly related to mental health needs identified by a student's mental health screening.

R277-625-3. Approval of mental health screeners.

(1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a list of pre-approved mental health screeners to the Board's website.

(b) the published pre-approved list shall include:

(i) the name or brand of the mental health screener including a link to the screening program's website;

(ii) the recommended ages for the mental health screener;

(iii) any limitations of the mental health screener including the typical level of false positives;

(iv) the mental health conditions the mental health screener can detect; and

(v) the scientific data or research used to verify a screener is evidence-based.

(2) The Board shall approve:

(a) the pre-approved mental health screener list; and

(b) the mental health conditions for which a screener can be used.

(3) All pre-approved mental health screeners shall comply with the requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(4) , An LEA that plans to administer a mental health screener shall notify the Superintendent by a deadline established by the Superintendent:

(a) if the LEA plans to:

- (i) use a mental health screener from the Board's pre-approved list; or
 - (ii) apply to the Superintendent for approval of a mental health screener that is not on the pre-approved list as described in Subsection (5); and
- (b) whether an LEA elects to participate in providing a qualifying parent with financial assistance.
- (5) If the LEA chooses to apply for use of a mental health screener that is not on the pre-approved list, the LEA shall submit an application in a form prescribed by the Superintendent specifying:
- (a) the mental health screener proposed for use by the LEA;
 - (b) the reason for choosing the mental health screener over a screener from the pre-approved list;
 - (c) the approved mental health conditions the mental health screener measures;
 - (d) how the mental health screening program complies with all state and federal data privacy laws; and
 - (e) the scientific data or research demonstrating the mental health screener is evidence based and meets industry standards;
 - (f) why the mental health screener is age appropriate for each grade the screener is administered; and
 - (g) why the mental health screener is an effective tool for identifying whether a student has a mental health condition that requires intervention.
- (6) The Superintendent shall review the application in consultation with DSAMH and approve or deny the application within 30 days of receipt.
- (7) If the application is approved, the Superintendent shall submit the approved application to the Board for final approval.
- (8) Subject to legislative appropriation, the Superintendent shall provide annually a maximum reimbursement amount an LEA may receive for use of a mental health screener.
- (9) An LEA may request in writing a reimbursement from the Superintendent in an amount not to exceed the amount described in Subsection (8).
- (10)(a) An LEA shall require relevant staff, who will be administering a mental health screener, to attend an annual mental health screener training provided by the Superintendent in collaboration with DSAMH;
- (b) the training described in Subsection (10)(a) shall provide an LEA with information needed for appropriate parental consent including:
- (i) consent shall be obtained:
 - (A) within eight weeks before administration of the mental health screener; and
 - (B) in accordance with Subsection 53E-9-203(4);
 - (ii) the consent form shall be provided separately from other consent forms given to a parent pursuant to other state or federal laws;
 - (iii) additional variables that might influence a screener's results; and
 - (iv) a statement that:
 - (A) the mental health screener is optional;
 - (B) a screener is not a diagnostic tool;
 - (C) a parent has the right to seek outside resources or opinions; and
 - (D) specifies which board approved mental health conditions the mental health screener measures.
- (11) An LEA may not administer a mental health screener if the LEA has not attended the annual mental health screener training described in Subsection (10).
- (12) An LEA shall report annually to the Superintendent aggregate data regarding the types of LEA provided mental health interventions, referrals, or other actions taken based on screener results.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 53G-8-209. Extracurricular activities - Prohibited conduct - Reporting of violations - Limitation of liability.

(3)(a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

§ 53G-8-501. Definitions.

For purposes of Sections 53G-8-502 through 53G-8-504:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section 53G-8-602, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

§ 53G-8-502. Mandatory reporting of prohibited acts.

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

§ 53G-8-503. Reporting procedure.

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.

(3) The designated educator may not disclose to the student or to the student's parent the identity of the educator who made the initial report.

§ 53G-8-504. Immunity from civil or criminal liability.

An educator who in good faith makes a report under Sections 53G-8-502 and 53G-8-503 is immune from any liability, civil or criminal, that might otherwise result from that action.

§ 53G-8-506. Reporting of prohibited acts affecting a school -Confidentiality.

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:

(a) the principal;

- (b) an administrator of the affected school;
- (c) the superintendent of the affected school district; or
- (d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

§ 53G-8-507. Immunity from civil or criminal liability.

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under Section 53G-8-505, 53G-8-506, 53G-8-508, or 53G-8-509, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

§ 53G-8-510. Notification of teachers of weapons on school property - Immunity from civil and criminal liability .

(1)As used in this section:

(a) "dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "minor" means the same as that term is defined in section 80-1-102.

(c) "school employee" means an individual working in the individual's capacity as:

- (i) A school teacher;
- (ii) A school staff member;
- (iii) A school administrator; or
- (iv) An individual:

(a) Who is employed, directly or indirectly, by a school, an lea governing board, or a school district; and

(b) Who works on a school campus.

(d) "school is in session" means the same as that term is defined in section 53e-3-516.(e) "school-sponsored activity" means the same as that term is defined in section 53e-3-516.

(2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under subsection (2), the principal shall notify:

(a) A law enforcement officer or agency; and

(b) School or district personnel if the principal determines that school or district personnel should be

(4) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

REGULATIONS

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, retaliation, and abusive conduct as civil rights violations.

Parental Notification

LAWS

§ 53E-3-509. Gang prevention and intervention policies.

(2) The rules described in Subsection (1) may include the following provisions:

(c) gang-related graffiti or damage to school property shall result in parent notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage; [...]

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents of students in the school:

- (i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;
- (ii) emphasizing the school's concern for safety; and
- (iii) outlining the action taken at the school regarding the incident.

§ 53G-6-202. Compulsory education.

(4) A notice of compulsory education violation issued to a parent:

(a) shall direct the parent to:

- (i) meet with school authorities to discuss the school-age child's school attendance problems; and
- (ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent to intentionally or without good cause:

- (i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or
- (ii) fail to prevent the school-age child from being truant five or more times during the remainder of the school year;

(d) shall be served on the parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

§ 53G-6-203. Truancy - Notice of truancy - Failure to cooperate with school authorities.

(4) A notice of truancy described in Subsection (3):

(e) shall be mailed to, or served on, the school-age child's parent.

§ 53G-6-208. Taking custody of a person believed to be a truant minor - Disposition - Reports - Immunity from liability.

(3) If the minor described in Subsection (2) refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

§ 53G-6-803. Parental right to academic accommodations.

(10)(b) An LEA shall notify a parent of a student's violation of a school's discipline and conduct policy and allow a parent to respond to the notice in accordance with Chapter 8, Part 2, School Discipline and Conduct Plans.

§ 53G-8-204. Suspension and expulsion procedures - Notice to parents - Distribution of policies.

(1)(b)(i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the charter school governing board.

§ 53G-8-206. Delegation of authority to suspend or expel a student - Procedure for suspension - Readmission.

(4) If a student is suspended, a designated school official shall notify the parent of the student of the following without delay:

- (a) that the student has been suspended;
- (b) the grounds for the suspension;
- (c) the period of time for which the student is suspended; and
- (d) the time and place for the parent to meet with a designated school official to review the suspension.

§ 53G-8-208. Student suspended or expelled - Responsibility of parent - Application for students with disabilities.

(4)(b) The district or charter school shall contact the parent of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

§ 53G-8-210. Disruptive student behavior.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

- (b) shall require that the qualifying minor and a parent of the qualifying minor:
 - (i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and
 - (ii) cooperate with the local school board or charter school governing board in correcting the qualifying minor's disruptive student behavior. [...]

(6)(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

§ 53G-9-604. Parental notification of certain incidents and threats required.

(1) A school shall:

- (a) notify a parent if the parent's student threatens to commit suicide; or
- (b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student.

(2)(a) If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall

- (i) Produce and maintain a record that verifies that the parent was notified of the incident or threat;
- (ii) maintain a record described in Subsection (2)(a)(i) in accordance with the requirements of:

- (A) Title 53E, Chapter 9, Part 2, Student Privacy;
- (B) Title 53E, Chapter 9, Part 3, Student Data Protection;
- (C) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- (D) 34 C.F.R. Part 99; and
- (iii) Provide the parent with:
 - (A) Suicide prevention materials and information; and
 - (B) Information on ways to limit the student's access to fatal means, including a firearm or medication
- (b) The state superintendent shall select the materials and information described in subsection (2)(a)(iii) in collaboration with the state suicide prevention coordinator and public education suicide prevention coordinator.
- (3) A local school board or charter school governing board shall adopt a policy regarding the process for:
 - (a) notifying a parent as required in Subsection (1); and
 - (b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).
- (4) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).
- (5) A school shall:
 - (a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and
 - (b) expunge a record maintained in accordance with this section that relates to a student if the student:
 - (i) has graduated from high school; and
 - (ii) requests the record be expunged.

§ 53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

- (3) A policy shall include the following components:
 - (e) as required in Section 53G-9-604, parental notification of:
 - (i) a student's threat to commit suicide; and
 - (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student.

REGULATIONS

R277-607-4. Compulsory education procedures.

- (2) The compulsory education procedures shall:
 - (a) provide a process for notice to parents about the absenteeism and truancy policy;
 - (b) require notice to parents regarding the progress of a student's discipline and consequences for violation of the truancy policy.

R277-609-4. LEA Responsibility to Develop Plans.

- (4) A plan described in Subsection (1) shall include:
 - (v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:
 - (iii) a provision for publication of notice to parents and school employees of policies by reasonable means.

R277-609-5. Physical Restraint and Seclusionary Time Out.

- (6) If a student is placed in seclusionary time out, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school to:

- (a) the student's parent; and
- (b) school administration. [...]

(8) In addition to the notice described in Subsection (6), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately provide notice to:

- (a) the student's parent or guardian; and
- (b) school administration.

R277-609-10. Parent/Guardian Notification and Court Referral.

(1) LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

- (a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;
- (b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:
 - (i) numbers of disruptions, suspensions, and timelines in accordance with Section 53G-8-210;
 - (ii) school resources available;
 - (iii) cooperation from the appropriate juvenile court in accessing student school records, including:
 - (A) attendance;
 - (B) grades;
 - (C) behavioral reports; and
 - (D) other available student school data; and
 - (iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When an emergency safety intervention is used to protect a student or others from harm, a school shall:

- (i) provide notice to the student's parent as soon as reasonably possibly and before the student leaves the school;
- (ii) provide notice to school administration; and
- (iii) provide documentation of the emergency safety intervention to the LEA's ESI Committee described in R277-609-7.

(b) In addition to the notice described in Subsection (3)(a), if the use of an emergency safety intervention occurs for more than fifteen minutes, the school shall immediately provide a second notification to:

- (i) the student's parent or guardian; and
- (ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during the use of the emergency safety intervention upon request of the parent or guardian.

(b) Within 24 hours of the school using an emergency safety intervention with a student, a school shall provide notice to a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during the use of the emergency safety intervention.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss the use of the use of an emergency safety intervention.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:

- (i) a parent's student's threat to commit suicide; or
- (ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a victim or an individual who is alleged to have engaged in prohibited conduct.

(b) An LEA shall:

- (i) notify a parent described in Subsection (3)(a) in a timely manner;
- (ii) designate the appropriate school employee to provide parental notification; and
- (iii) designate the format in which notification is provided to parents and maintained by the LEA.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(8)(b) If an LEA would like a student to participate in a restorative justice practice, the LEA shall notify the student's parent of the restorative justice practice and obtain consent from the student's parent before including the student in the process.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

53G-9-606. Model policy and state board duties.

(1) On or before September 1, 2018, the state board shall:

- (a) update the state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and
- (b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require an LEA governing board to report annually to the state board on:

- (a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);
- (b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;
- (c) the demographics of an individual who is subject to bullying, hazing, cyber-bullying, or retaliation subject to:
 - (i) Title 53E, Chapter 9, Part 2, Student Privacy;
 - (ii) Title 53E, Chapter 9, Part 3, Student Data Protection;
 - (iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
 - (iv) 34 C.F.R. Part 99; and
- (d) other information related to this part, as determined by the state board.

§ 53E-3-516. School disciplinary and law enforcement action report - Rulemaking authority.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and

(c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

- (a) the number of arrests of a minor, including the reason why the minor was arrested;
- (b) the number of other law enforcement activities, including the following information for each incident:
 - (i) the reason for the other law enforcement activity; and
 - (ii) the type of other law enforcement activity used;
- (c) the number of disciplinary actions imposed, including:
 - (i) the reason for the disciplinary action; and
 - (ii) the type of disciplinary action;
- (d) the number of SROs employed; and
- (e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

- (a) Chapter 9, Part 3, Student Data Protection;
- (b) Chapter 9, Part 2, Student Privacy; and
- (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2)

- (a) in accordance with Section 53E- 1-203 for incidents that occurred during the previous school year; and
- (b) To the state commission on criminal and juvenile justice before July 1 of each year for incidents that occurred during the previous school year.

§ 53G-8-205. Grounds for suspension or expulsion from a public school.

(5) Each local school board and charter school governing board shall prepare an annual report for the state board on:

- (a) each violation committed under this section; and
- (b) each action taken by the school district against a student who committed the violation.

§ 53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(4) The state board shall require an LEA to:

- (a) (i) review data from the state board-facilitated surveys containing school climate data for each school within the LEA; and
- (ii) based on the review described in Subsection (4)(a)(i):

- (A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;
 - (B) adopt a plan for harassment- and discrimination-free learning; and
 - (C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);
- (b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and
- (c) report to the state board:
- (i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and
 - (ii) after August 1, 2023, annually on the LEA's implementation of the plan and progress.

REGULATIONS

R277-436-4. Evaluation and reports.

- (1) An LEA or charter school consortia shall provide the Superintendent a year-end evaluation report by June 30 for the previous fiscal year.
- (2) A year-end report shall include:
- (a) an expenditure report;
 - (b) a narrative description of all activities funded;
 - (c) copies of products developed;
 - (d) an effectiveness report detailing evidence of individual and overall program impact on gang and gang-related activities and involvement; and
 - (e) any other information or data required by the Superintendent.
- (3) The Superintendent may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

R277-607-3. Truancy policy requirements.

- (1) An LEA shall:
- (d) review attendance data annually and consider revisions to the absenteeism and truancy policy to encourage student attendance. [...]
- (3) An LEA's attendance review team shall:
- (b) review attendance data to inform actions and tiered interventions development at least monthly.

R277-609-4. LEA Responsibility to Develop Plans.

- (4) A plan described in Subsection (1) shall include:
- (f) consistent processes to collect student discipline data and incident or infraction data, including collection of the number of days of student suspensions;
 - (g) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness.

R277-609-8. LEA Reporting.

- (1) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.
- (2) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (1).
- (3) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

(4)(a) An LEA shall submit all required UTREx discipline data and incident or infraction data elements, and suspensions to the Superintendent no later than June 30 of each year.

(b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline data and incident or infraction data elements as part of the LEA's daily UTREx submission.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(11) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of the LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, retaliation, and abusive conduct described in Section 53G-9-607;

(d) verified and alleged incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(e) the number and type of incidents described in Subsection (11)(d) required to be reported separately under federal law, including the reporting requirements in:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972;

(iii) Section 504 of the Rehabilitation Act of 1973; and

(iv) Title II of the Americans with Disabilities Act of 1990; and

(f) the number and type of incidents described in Subsection (10)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

R277-912-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-516 which directs the Board to establish rules regarding a collaborative annual report meeting all the requirements of Subsection 53E-3-516(2).

(2) The purpose of this rule is to generate the report required by Subsection 53E-3-516 and the form that the report may be accessed.

R277-912-2. LEA Reporting Requirements.

(1) An LEA shall work with the Superintendent and the relevant law enforcement agencies and school personnel to collect the following data for incidents that occurred on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities as defined in Section 53E-3-516(1);

(c) disciplinary actions as defined in section 53E-3-516(1); and

(d) all other data as outlined in subsection 53E-3-516(3) and (4).

(2) An LEA shall collect the data in a form agreed upon by the Superintendent and the relevant law enforcement agencies.

(3) An LEA shall report the data required to the Superintendent in a timely manner.

- (4) Beginning in the 2022-2023 school year, an LEA shall report the data compiled for each school year to the Superintendent on or before September 1st of the year in which the school year ended.
- (5) An LEA shall report the data to the Superintendent as prescribed by the Superintendent.

R277-912-3. Annual Report Content and Access.

- (1) The Superintendent shall compile the data to form an aggregated report consistent with the requirements of Subsection 53E-3-516(3), (4) and (5).
- (2) The report shall exclude all identifiable student information and data.
- (3) The report shall be compiled no later than November 1st of each year in which the school year ended and provided to the board.
- (4) An external entity may request access to the data used to compile the report consistent with Utah Code Title 63G, Chapter 2, Government Records Access Management Act.
- (5) The Superintendent shall respond to the request within 15 business days and provide the report within 30 business days of the request by providing the most recent data set available at the time of the request, so long as the data set is aggregated and no student identifiable information is included in the data set.
- (6) If the request is for the data being used for an upcoming report that is more than 30 days from being compiled, the Superintendent may wait longer than 30 days to provide the requested report.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 53B-17-1202. SafeUT Crisis Line established.

The University Neuropsychiatric Institute shall:

- (1) establish a SafeUT Crisis Line to provide:
 - (a) a means for an individual to anonymously report:
 - (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
 - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
 - (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and
 - (b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;
- (2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and
- (3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:
 - (a) school officials; and
 - (b) law enforcement officials.

§ 53E-3-509. Gang prevention and intervention policies.

(2)The rules described in Subsection (1) may include the following provisions:

- (a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement.

§ 53G-6-208. Taking custody of a person believed to be a truant minor - Disposition - Reports - Immunity from liability.

(1)Except during the period between March 17, 2021 and June 1, 2022, a peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

§ 53G-8-211. Responses to school-based behavior.

(6)(c) Notwithstanding Subsection (4)a school resource officer may:

- a) investigate possible criminal offenses and conduct, including conducting probable cause searches;
- b) consult with school administration about the conduct of a minor enrolled in a school;
- c) transport a minor enrolled in a school to a location if the location is permitted by law;
- d) take temporary custody of a minor in accordance with Subsection 78A-6-112(1); or
- e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances. [...]

(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant if the minor:

- (a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and
- (b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).

§ 53G-8-402. Notification by juvenile court and law enforcement agencies.

(1) A notification received by a school district from the juvenile court or law enforcement agency under Section 80-6-103 is governed by this part.

(2) A school district may enter into an agreement with a law enforcement agency regarding a notification under subsection (1).

§ 53G-8-403. Superintendent required to notify school.

(1) Within three days of receiving a notification from the juvenile court or a law enforcement agency under section 80-6-103, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

- (a) make a notation in a secure file other than the student's permanent file; and
- (b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

§ 53G-8-503. Reporting procedure.

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.

(3) The designated educator may not disclose to the student or to the student's parent the identity of the educator who made the initial report.

§ 53G-8-506. Reporting of prohibited acts affecting a school -Confidentiality.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

§ 53G-8-510. Notification of teachers of weapons on school property - Immunity from civil and criminal liability .

(1) (As used in this section:

(a) "dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "minor" means the same as that term is defined in section 80-1-102.

(c) "school employee" means an individual working in the individual's capacity as:

- (i) A school teacher;
- (ii) A school staff member;
- (iii) A school administrator; or
- (iv) An individual:

(a) Who is employed, directly or indirectly, by a school, an lea governing board, or a school district; and

(b) Who works on a school campus.

(d) "school is in session" means the same as that term is defined in section 53e-3-516.

(e) "school-sponsored activity" means the same as that term is defined in section 53e-3-516.

(2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under subsection (2), the principal shall notify:

- (a) A law enforcement officer or agency; and
- (b) School or district personnel if the principal determines that school or district personnel should be informed

(4) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

§ 53G-8-802. State Safety and Support Program - State board duties – LEA duties.

(2)The state board shall:

- (a) develop in conjunction with the Office of Substance Use and Mental Health model student safety and support policies for an LEA, including:
 - (ii) procedures for referrals to law enforcement.

REGULATIONS

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§ 53-1-106. Department duties - Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

- (j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:
 - (i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;
 - (ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and
 - (iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.

§ 53G-8-702. School resource officer training - Curriculum.

(1)In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that prepare and make available a training program for school principals, school personnel, and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the state board shall:

- (a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

- (b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;
- (c) Consult with a nationally recognized organization that provides resources and training for school resource officers;
- (d) solicit input from local law enforcement and other interested community stakeholders; and
- (e) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

- (a) childhood and adolescent development;
- (b) responding age-appropriately to students;
- (c) working with disabled students;
- (d) techniques to de-escalate and resolve conflict;
- (e) cultural awareness;
- (f) restorative justice practices;
- (g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;
- (h) student privacy rights;
- (i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;
- (j) strategies to reduce juvenile justice involvement;
- (k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure;
- (l) developing and supporting successful relationships with students; and
- (m) legal parameters of searching and questioning students on school property.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies, procedures, and training requirements for school resource officers.

§ 53G-8-703. Contracts between an LEA and law enforcement for school resource officer services Requirements.

(2) An LEA contracts with a law enforcement agency to provide SRO services at the LEA, shall require in the contract:

- (f) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702.

REGULATIONS

R277-609-4. LEA Responsibility to Develop Plans.

(4)A plan described in Subsection (1) may include:

- (a) the provisions of Subsection 53E-3-509(2); and
- (b) a plan for training administrators and school resource officers in accordance with Section 53G-8-702.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 53-1-106. Department duties - Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.

§ 53G-6-202. Compulsory education.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:

(a) in grade 1 through 6; and

(b) truant at least five times during the school year.

§ 53G-6-203. Truancy - Notice of truancy - Failure to cooperate with school authorities.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

§ 53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

§ 53G-8-701. Definitions.

As used in this part:

(1) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(2) "Public School" means the same as that term is defined in section 53G-205.1.

(3) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

(4) "School Safety Specialist" means a school employee who is responsible for supporting school safety initiatives, including the threat assessment described in subsection 53G-8-802(2)(G)(I)

§ 53G-8-702. School resource officer training - Curriculum.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies, procedures, and training requirements for school resource officers.

§ 53G-8-703. Contracts between an LEA and law enforcement for school resource officer services Requirements.

- (1) An LEA may contract with a local law enforcement agency to provide school resource officer services at the LEA.
- (2) An LEA contract with a law enforcement agency to provide SRO services at the LEA, shall require in the contract:
 - (a) an acknowledgment by the law enforcement agency that an SRO hired under the contract shall:
 - (i) provide for and maintain a safe, healthy, and productive learning environment in a school;
 - (ii) act as a positive role model to students;
 - (iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;
 - (iv) emphasize the use of restorative approaches to address negative behavior; and
 - (v) at the request of the LEA, teach a vocational law enforcement class;
 - (b) a description of the shared understanding of the LEA and the law enforcement agency regarding the roles and responsibilities of law enforcement and the LEA to:
 - (i) maintain safe schools;
 - (ii) improve school climate; and
 - (iii) support educational opportunities for students;
 - (c) a designation of student offenses that, in accordance with section 53G-8-211, the SRO:
 - (i) may refer to the juvenile court
 - (ii) shall confer with the LEA to resolve; and
- (iii) shall refer to a school administrator for resolution as an administrative issue with the understanding that the SRO will be informed of the outcome of the administrative issue;
 - (d) a detailed description of the rights of a student under state and federal law with regard to:
 - (i) searches;
 - (ii) questioning;
 - (iii) arrests; and
 - (iv) information privacy;
 - (e) a detailed description of:
 - (i) job assignment and duties, including
 - a) the school to which the SRO will be assigned
 - b) The hours the SRO is expected to be present at school
 - c) The point of contact at the school;
 - d) Specific responsibilities for providing and receiving information; and
 - e) Types of records to be kept, and by whom;
 - (ii) training requirements; and
 - (iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;
 - (f) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702;
 - (g) that both parties agree to jointly discuss SRO applicants; and
 - (h) that the law enforcement agency will, at least annually, seek out and accept feedback from an LEA about an SRO's performance.

§ 53G-8-703.2. LEA establishment of SRO policy – Public comment

(1) An LEA shall establish an SRO policy.

(2) The SRO policy described in Subsection (1) shall include:

(a) the contract described in Section [53G-8-703](#); and

(b) all other procedures and requirements governing the relationship between the LEA and an SRO.

(3) Before implementing the SRO policy described in Subsection (1), the LEA shall present the SRO policy at a public meeting and receive public comment on the SRO policy.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

§ 53G-8-701.5. Threat assessment and school safety specialist.

Every public primary and secondary school shall:

(1) conduct a threat assessment as described in Subsection 53G-8-802(2)(g)(i); and

(2) designate a school safety specialist

§ 53G-8-802. State Safety and Support Program - State board duties – LEA duties.

(2) The state board shall:

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes

(i) protocols for conducting a threat assessment, and ensuring building security during an incident , as required in section 53g-8-701.5 ;

(ii) standardized response protocol terminology for use throughout the state;

(iii) protocols for planning and safety drills; and

(iv) recommendations for safety equipment for schools including amounts and types of first aid supplies;

REGULATIONS

R277-400-8. Prevention and Intervention.

(3) An LEA shall also develop or incorporate to the extent resources permit:

(d) support though multi-disciplinary teams, such as care teams, that may:

(ii) conduct threat assessments.

R277-736-3. Dissemination of information received.

(1)(a) A school principal that receives information from the LEA's governing authority shall not share the information before consulting with the school's multi-disciplinary team.

(b) A school principal may share the information without consulting the school's multi-disciplinary team when the information demonstrates possible imminent harm to self or others.

(2) A school principal and the school's multi-disciplinary team shall use the information regarding a student to assess the level of threat the student poses including potential for:

(a) self-harm;

(b) suicide ideation;

(c) harm to others; or

(d) harm to school property.

- (3) A school principal and the school's multi-disciplinary team shall use an evidence-based threat assessment, as approved by the board, to perform the requirements described in Subsection (2).
- (4) A school principal and the school's multi-disciplinary team shall determine, based on the level of threat, the appropriate school staff to inform regarding the information of a student.
- (5) A school principal and the school's multi-disciplinary team shall only share the information and data needed to ensure the safety of the student or the school's general population and the victim.
- (6) An LEA shall ensure that any action taken toward a student related to the information received is in accordance with restorative justice practices as described in Subsection R277-613-2(12).

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Utah provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Prevention and At-Risk Programs, Utah State Board of Education (USBE)	Provides information and links to absenteeism and dropout prevention, bullying prevention, restorative practices, and other related topics.	https://www.schools.utah.gov/prevention
Restorative Practices, USBE	Provides information and resources about restorative practices.	https://www.schools.utah.gov/prevention/restorativepractices
Safe and Healthy Schools, USBE	Provides an overview of Utah's framework for school safety that includes 8 conditions schools may follow to create comprehensive safe and healthy school policies, plans, protocols and partnerships. Also includes resources regarding support programs (PBIS, MTSS, Social Emotional Learning, Trauma-Informed Practices) for educators.	https://www.schools.utah.gov/safehealthyschools
Attending to School-based Mental Health, USBE	Provides resources on school-based mental health, and information on state funded initiatives supporting the implementation of mental health supports in schools.	https://www.schools.utah.gov/safehealthyschools/mentalhealth
Utah Multi-Tiered System of Supports (UMTSS), USBE	Provides an overview of Utah MTSS and additional resources for learning and implementation tools of UMTSS.	https://www.schools.utah.gov/curr/umtss
Utah State Board of Education Administrative Rules, USBE	Compilation of administrative rules regarding various topics within education.	https://www.schools.utah.gov/administrativerules

Title	Description	Website address (if applicable)
Documents		
Behavior and Equity Recommendations for PBIS Teams	Describes potential pitfalls that a PBIS team might experience, including those related to discipline and behavior management, and offers recommendations for each pitfall.	https://www.schools.utah.gov/file/f1552e2f-a71f-4759-9c1f-6ba828da01b4
Bullying, Cyberbullying, Harassment, Hazing, and Retaliation Model Policy (Revised July 2018), USBE	Model policy addressing bullying, cyberbullying, harassment, hazing, and retaliation in Utah schools.	https://schools.utah.gov/file/86110147-0c87-43be-a6cd-21617e053cf5
Electronic Device Model Policy, USBE	Model policy addressing the permissive and restrictive use of electronic devices in Utah schools.	https://schools.utah.gov/file/f9238285-76c4-4128-9615-6517887d3a52
School District or Charter School Search and Seizure Model Policy (Revised April 2012), USBE	Model policy addressing search and seizure in Utah schools.	https://schools.utah.gov/file/bc7b118f-62ea-4600-af74-5aa3bdce7a07
Student Suspension/Expulsion Model Policy (December 2003), USBE	Model policy addressing suspension and expulsion in Utah schools.	https://schools.utah.gov/file/a9185614-c0a1-40e1-9f9f-54b69a1fb0ed
XYZ School District Student Discipline Model Policy (including Safe School Policy), USBE	Model policy addressing student discipline In Utah schools.	https://schools.utah.gov/file/4516c544-dcb9-48ec-9a9a-97cdfd49cab8
Other Resources		
Data and Statistics - Reports, Utah State Board of Education	Superintendent's annual report of incidents of prohibited behavior in school or school-related activities.	https://www.schools.utah.gov/data/reports?mid=1424&tid=6
Trauma-Informed Resources, USBE	Resource library for school leaders and educators regard student trauma including guides and toolkits, videos, and models.	https://www.schools.utah.gov/file/188f11df-9c61-424a-b57b-47a34e29cf55



Vermont Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Vermont Revised Statutes

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Chapter 85. Weapons

Title 16. Education

Chapter 1. Administration Generally

Subchapter 1. General Provisions

[§ 11.](#) Classifications and definitions

Subchapter 8. Tobacco Use Policy

[§ 140.](#) Tobacco use prohibited on public school grounds

Chapter 3. State Board of Education

Subchapter 1. General Provisions

[§ 164.](#) State Board; general powers and duties

[§ 165.](#) Education quality standards; equal educational opportunities; independent school meeting education quality standards

Chapter 9. School Districts

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[§ 563.](#) Powers of school boards; form of vote

Subchapter 5. Harassment

[§ 570.](#) Harassment, hazing, and bullying prevention policies

[§ 570a.](#) Harassment

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Chapter 23. Courses of Study

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[§ 909.](#) Tobacco use, alcohol and drug abuse prevention education curriculum

Chapter 25. Attendance and Discipline

Subchapter 3. Compulsory Attendance

[§ 1125.](#) Truant officers

[§ 1126.](#) Failure to attend; notice

- [§ 1127.](#) Notice and complaint by truant officer; penalty
[§ 1128.](#) Legal pupil taken to school; nonresident child living in district

Subchapter 4: Effective Discipline Measures

- [§ 1161a.](#) Discipline
[§ 1162.](#) Suspension or expulsion of students
[§ 1163.](#) Transfer of suspension or expulsion to other schools
[§ 1165.](#) Alcohol and drug abuse
[§ 1166.](#) Possession of a firearm at school
[§ 1167.](#) School resource officer; memorandum of understanding

Chapter 99. General Policy

- [§2902.](#) Tiered system of supports and education support team

Title 18. Health

Chapter 225. Tobacco Prevention, Cessation, and Control

- [§ 9503.](#) Vermont tobacco prevention and treatment

Title 20. Internal Security and Public Safety

Chapter 151. Vermont Criminal Justice Council

Title 33. Human Services

Chapter 52. Delinquency Proceedings

Subchapter 2: Petition

HB95.

- Section 35. Agency of education; restorative justice practices

S.16 (Act 35). An act relating to the Task Force on Equitable and Inclusive School Environment

- Section 2. Task force on equitable and inclusive environments; Report

Vermont Regulations

The State of Vermont contracts with LexisNexis to provide free public access to the Vermont Regulations (<http://www.lexisnexis.com/hottopics/codeofvtrules/>). Users must agree to terms and conditions prior to use of the site. All listed statutes are searchable by title and chapter number or by using key search terms.

Agency 22. Department of Education Sub-Agency 000. General

Chapter 003. State Board Rule 2000 Education Quality Standards

Section 2121. Professional Resources

2121.5. Tiered system of support

Section 2122. Learning Environment

2122.1. School facilities and the learning environment

Section 2124. Reporting of Results

2124. Reporting of results

Section 2125. Continuous Improvement Plan

2125. Continuous improvement plan

Chapter 006. Special Education Rules (2360-2369)

Section 2365. Parental Rights and Confidentiality of Information

Chapter 009. Pupils (4000)

Section 4200. Alcohol and Drugs

4211. Definition

4212. Policy

requirements **Section 4300.**

Disciplinary Action 4311.

Procedures

Chapter 036. Use of Restraint and Seclusion in Schools (4500)

Section 4500. Use of Restraint and Seclusion in Schools

4500.1. Statement of purpose

4500.2. Applicability

4500.3. Definitions

4501. Prohibitions

4502. Permissible use of restraint and seclusion

4503. Reporting the use of restraint and seclusion

4504. Documentation

4505. Debriefing following use of restraint or seclusion

4506. Annual notification

4507. Complaints and investigations

4508. Monitoring and corrective action

4509. State recommended training

4510. Effective date

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 140. Tobacco use prohibited on public school grounds.

No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds or at public school sponsored functions. Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.

§ 570. Harassment, hazing, and bullying prevention policies.

(a) State policy. - It is the policy of the State of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. - Each school board shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the Secretary. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the Secretary.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

- (1) The school's approach to classroom management and response to disruptive behavior, including the use of alternative educational settings.
- (2) The manner in which the school will provide information and training to students in methods of conflict resolution, peer mediation, and anger management.
- (3) Procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior.
- (4) The school's response to significant disruptions, such as threats or use of bombs or weapons.
- (5) A description of how the school will ensure that all staff and contractors who routinely have unsupervised contact with students periodically receive training on the maintenance of a safe, orderly, civil, and positive learning environment. The training shall be appropriate to the role of the staff member being trained and shall teach classroom and behavior management, enforcement of the school's discipline policies, and positive youth development models.
- (6) A description of behaviors on and off school grounds that constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors that may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title that, although serious, does not rise to the level of harassment or bullying as those terms are defined in these subdivisions.
- (7) Standard due process procedures for suspension and expulsion of a student.

§ 1165. Alcohol and drug abuse.

(a) The State Board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities, and the juvenile court system shall formulate a general policy for the education, discipline, and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The State Board shall adopt rules for all school districts that include standards consistent with due process of law for discipline, suspension, or dismissal of students and recommended procedures for education and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the State Board's rules setting forth recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the Department for Children and Families.

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school; provided, however, the school board may modify the expulsion on a case-by-case basis. Modifications may be granted in circumstances such as:

- (A) The student is unaware that he or she has brought a firearm to or possessed a firearm at school.
- (B) The student did not intend to use the firearm to threaten or endanger others.
- (C) The student has a disability and the misconduct is related to the student's disability.
- (D) The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the student.

REGULATIONS

22 000 003. Section 2122.1. School facilities and the learning environment.

Each school shall maintain a safe, orderly, civil, flexible and positive learning environment, which is free from hazing, harassment and bullying and based on sound instructional and classroom management practices and clear discipline and attendance policies that are consistently and effectively enforced.

The design and operation of the school facilities shall be in full compliance with all state and federal fire, health, and safety, chemical and architectural standards.

Each school's comprehensive plan for responding to student misbehavior, as required by 16 V.S.A. §1161a(a) , shall address student behavior, language, classroom attendance, clothing and treatment of property, as well as consequences for violations of policy, and shall be clear and consistently enforced. Each school shall observe due process requirements as set forth in Rule 4300 et seq .

22 000 009. Section 4212. Policy requirements.

School districts shall adopt an alcohol and drug abuse policy which shall contain the following:

4212.1 Statement of Philosophy. This policy shall be concerned with the health and well-being of all students and the policy shall take into consideration the individual needs of students with problems as well as the right of the majority of students to an education.

4212.2 Education Program. The policy shall define an educational program consistent with the Vermont Alcohol and Drug Education Curriculum Plan.

4212.3 Support and Referral Systems and Cooperative Agreements. The policy shall provide for a support and referral system for students in distress due to their own or another's use of alcohol or other drugs. Such a system shall include both a clearly defined in-school process for initial assessment, support, and if necessary, referral to community resources of such students, and a written referral agreement with at least one community substance abuse treatment provider approved by the Office of Alcohol and Drug Abuse Programs. Such an agreement should define the process for making an effective referral and the nature and extent of information to be provided during and after such a referral to all parties involved.

4212.3A Immediate Procedures. The policy shall provide for the handling of any alcohol/drug-related incident until the student has been discharged to the parent, guardian, social service, medical or law enforcement agency.

4212.3B Emergency. The school district policy shall establish procedures for administering emergency first-aid related to alcohol and drug abuse. The procedures will define the roles of the personnel involved.

Scope

LAWS

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

(6) A description of behaviors on and off school grounds that constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors that may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title that, although serious, does not rise to the level of harassment or bullying as those terms are defined in these subdivisions.

§ 1162. Suspension or expulsion of students.

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 570. Harassment, hazing, and bullying prevention policies.

(c) Notice. - Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

§ 570f. Harassment; notice and response.

(a)(1) An educational institution that receives actual notice of alleged conduct that may constitute harassment shall promptly investigate to determine whether harassment occurred. After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian. Nothing in this section shall be construed to prohibit educational institutions from investigating and imposing disciplinary consequences upon students for misconduct. Elementary and secondary school officials shall strive to implement the plan developed in accordance with subdivision 1161a(a)(6) of this title in order to prevent misconduct from escalating to the level of harassment.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

- (3) Procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior.

REGULATIONS

22 000 036. Section 4506. Annual notification.

Annually, at or before the beginning of the academic year, each school (defined in 4500.3(10)) shall inform all school personnel, and parents of students enrolled in the school of the policies pertaining to the use of physical restraint and seclusion and the intent to emphasize the use of positive behavioral interventions and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

In-School Discipline

Discipline Frameworks

LAWS

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

- (1) The school's approach to classroom management and response to disruptive behavior, including the use of alternative educational settings.
- (2) The manner in which the school will provide information and training to students in methods of conflict resolution, peer mediation, and anger management.
- (3) Procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior.
- (4) The school's response to significant disruptions, such as threats or use of bombs or weapons.
- (5) A description of how the school will ensure that all staff and contractors who routinely have unsupervised contact with students periodically receive training on the maintenance of a safe, orderly, civil, and positive learning environment. The training shall be appropriate to the role of the staff member being trained and shall teach classroom and behavior management, enforcement of the school's discipline policies, and positive youth development models.
- (6) A description of behaviors on and off school grounds that constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors that may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title that, although serious, does not rise to the level of harassment or bullying as those terms are defined in these subdivisions.
- (7) Standard due process procedures for suspension and expulsion of a student.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§ 570a. Harassment.

(a) Policies and plan. - The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

(2) The manner in which the school will provide information and training to students in methods of conflict resolution, peer mediation, and anger management.

HB 95. Section 35. Agency of education; restorative justice practices.

The Agency of Education shall explore the use of restorative and similar practices regarding school climate and culture, truancy, bullying and harassment, and school discipline. The Agency shall consider the research that demonstrates that restorative approaches lead to reductions in absenteeism, suspensions, and expulsions and to improved educational outcomes.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 1161a. Discipline.

(b) For the purpose of this chapter, "corporal punishment" means the intentional infliction of physical pain upon the body of a pupil as a disciplinary measure.

(c) No person employed by or agent of a public or approved independent school shall inflict or cause to be inflicted corporal punishment upon a student attending the school or the institution. However, this section does not prohibit a person from using reasonable and necessary force:

- (1) to quell a disturbance;
- (2) to obtain possession of weapons or other dangerous objects upon the person of or within the control of a student;
- (3) for the purpose of self defense; or
- (4) for the protection of persons or property.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§ 1167. School resource officer; memorandum of understanding.

(a) Neither the State Board nor the Agency shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

REGULATIONS

22 000 036. Section 4500.1. Statement of purpose.

The purposes of these rules are to:

- a. Create and maintain a positive and safe learning environment in schools;
- b. Promote positive behavioral interventions and supports in schools; and
- c. Ensure that students are not subjected to inappropriate use of restraint or seclusion.

22 000 036.Section 4500.2. Applicability.

These rules are applicable to all learning environments that receive public funding, or over which the Vermont Department of Education has regulatory authority.

22 000 036.Section 4500.3. Definitions.

For purposes of these rules, the following definitions apply:

2. Chemical Restraint means a drug, medication or chemical used on a student to control behavior or restrict movement that is not:

- a. Prescribed by a student's licensed physician for the standard treatment of a student's medical or psychiatric condition; and
- b. Administered as prescribed by the licensed physician. [...]

4. Mechanical Restraint means the use of any device or object that restricts a student's movement or limits a student's sensory or motor functions unless under the direction of a healthcare professional for medical or therapeutic purposes.

The term does not include devices implemented by trained school personnel, or utilized by a student for the specific and approved therapeutic and safety purposes for which such devices were designed including:

- a. Restraints for medical immobilization,
- b. Adaptive devices or mechanical supports used to achieve proper body position, balance or alignment;
- c. Vehicle safety restraints including a seat belt or harness used for balance or safety on a car or bus; or
- d. Seat belts in wheelchairs or on toilets. [...]

7. Physical Restraint means the use of physical force to prevent an imminent and substantial risk of bodily harm to the student or others. Physical restraint does not include:

- a. Momentary periods of physical restriction by direct person-to-person contact, accomplished with limited force and designed either
 - i. to prevent a student from completing an act that would result in potential physical harm to himself/herself or another person; or
 - ii. to remove a disruptive student who is unwilling to leave the area voluntarily;
- b. The minimum contact necessary to physically escort a student from one place to another;
- c. Hand-over-hand assistance with feeding or task completion; or
- d. Techniques prescribed by a qualified medical professional for reason of safety or for therapeutic or medical treatment. [...]

9. Prone Physical Restraint means holding a student face down on his or her stomach using physical force for the purpose of controlling the student's movement. [...]

12. Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision. [...]

14. Supine Physical Restraint means holding a student on his or her back using physical force for the purpose of controlling the student's movement.

22 000 036. Section 4501. Prohibitions.

4501.1 School personnel and contract service providers are prohibited from imposing on a student any of the following as defined in rule 4500.3:

- a. Mechanical restraint,
- b. Chemical restraint,
- c. Any physical restraint, escort or seclusion that restricts or limits breathing or communication, causes pain or is imposed without maintaining direct visual contact.

4501.2 Physical restraint or seclusion shall not be used:

- a. For convenience of staff;
- b. As a substitute for an educational program;
- c. As a form of discipline or punishment;
- d. As a substitute for inadequate staffing or training;
- e. In response to a student's use of profanity or other verbal or gestural display of disrespect; or
- f. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.

4501.3 The restraints and seclusion prohibited by these Rules shall not be considered "reasonable and necessary force" as that term is used in 16 VSA §1161a(c) .

4501.4 Schools may have policies and procedures for the use of physical restraint and seclusion in school-wide safety plans, provided such plans are consistent with these Rules.

22 000 036. Section 4502. Permissible use of restraint and seclusion.

4502.1 Permissible Use of Physical Restraint

Physical restraint, not otherwise prohibited by these Rules, may be used only:

- a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;
- b. Within the limits set forth in 16 VSA § 1161 a;
- c. Less restrictive interventions have failed or would be ineffective in stopping such imminent danger of physical injury or property damage;
- d. In accordance with a school-wide safety plan that is consistent with these rules; and
- e. In a manner that is safe, proportionate to and sensitive to the student's:
 - i. Severity of behavior;
 - ii. Chronological and developmental age;
 - iii. Physical size;
 - iv. Gender;
 - v. Ability to communicate;
 - vi. Cognitive ability; and
 - vii. Known physical, medical, psychiatric condition, and personal history, including any history of physical, emotional or sexual abuse or trauma.

4502.1.1 Prone and supine physical restraints are more restrictive than other forms of physical restraint and may be used only when the student's size and severity of behavior require such a restraint because a less restrictive restraint has failed or would be ineffective to prevent harm to the student or others.

4502.2 Permissible Use of Seclusion

Seclusion, not otherwise prohibited by these rules, may be used only:

- a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;
- b. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;
- c. As a temporary intervention;
- d. When physical restraint is contraindicated;
- e. When there is no known developmental, medical, psychological or other contraindication to its use;
- f. When the student is visually monitored at all times by an adult; and
- g. In a space large enough to permit safe movement that is adequately lit, heated, ventilated, free of sharp or otherwise dangerous objects; and in compliance with all fire and safety codes.

4502.3 In rare circumstances where the use of physical restraint or seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, physical restraint and/or seclusion may be included in an individual safety plan only if all of the following conditions apply:

- a. School personnel have reviewed and agreed to the safety plan;
- b. The use of physical restraint and seclusion complies with these Rules;
- c. The student has a documented history showing a series of behaviors in the preceding six (6) months that have created an imminent and substantial risk of physical injury to the student or others in the school;
- d. A comprehensive, data-driven, functional behavioral assessment has been conducted;
- e. A behavioral intervention plan, emphasizing positive behavioral interventions and supports, has been implemented;
- f. The educational planning team, IEP team or Section 504 team has reviewed the student's program and placement to determine whether it is sufficient to meet the student's unique needs;
- g. The criteria for use are clearly identified;
- h. Any contraindications for use are identified;
- i. Staff implementing the individual safety plan have received training from a state-recommended training program;
- j. The parents are fully informed of the inherent risks of using restraint and seclusion;
- k. The parents provide informed consent to the use of restraint and/or seclusion, which shall be revocable at any time; and
- l. The ongoing need for an individual safety plan is reviewed and revised, as appropriate, and in any event at least annually.

4502.3.1 Any restraint or seclusion imposed as a result of an individual safety plan is subject to all the reporting, documentation and debriefing requirements set forth in 4503, 4504 and 4505 below.

4502.4 Physical restraint or seclusion shall only be imposed:

- a. By school personnel or contract service providers who have been trained to provide the selected intervention unless, due to the unforeseeable nature of the danger of the circumstance, trained personnel are not immediately available;
- a. When a restrained student is monitored face-to-face by school personnel or contract service providers; or

b. If personnel safety is significantly compromised by face-to-face monitoring, or the student is in seclusion, school personnel or a contract service provider are in direct visual contact with the student.

4502.5 Physical restraint or seclusion shall be terminated as soon as:

- a. The student demonstrates that he/she is in unnecessary pain or significant physical distress indicating a possible need for emergency medical assistance or that his/her breathing or communication is compromised; or
- b. The student's behavior no longer poses an imminent danger of physical injury to the student or others or danger to property; or
- c. Less restrictive interventions would be effective in stopping such imminent danger of physical injury or property damage.

4502.6 Following termination of any physical restraint or seclusion, the student shall be evaluated and monitored for the remainder of the school day on which physical restraint or seclusion is imposed. The evaluation shall include a routine physical/medical assessment conducted by someone not involved in the restraint or seclusion, and documentation of any injury received by the student as a result of the restraint or seclusion.

22 000 036. Section 4503. Reporting the use of restraint and seclusion.

4503.1 To the School Administrator.

Any person who imposes a restraint or seclusion shall report its use to the school administrator as soon as possible, but in no event later than the end of the school day of its use.

4503.2 To Parents.

- a. The school administrator shall make a documented attempt to provide verbal or electronic notice of any incident of restraint or seclusion to the student's parents (as defined in 4500.3(13)) as soon as practical but in no event later than the end of the school day of its use; and
- b. Shall provide written notice to the parents within 24 hours of each use of restraint or seclusion that includes:
 - i. The date and time of its use;
 - ii. A description of the restraint and other intervention used;
 - iii. The date and time when the debriefing session will occur; including notice that the parents have the opportunity to participate in the debriefing; and
 - iv. The name and telephone number of the contact person who can provide further

information. 4503.3 To the Superintendent.

The school administrator shall report the use of restraint or seclusion to the superintendent of the Supervisory Union whenever:

- a. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or
- b. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more students; or
- c. Physical restraint has been used for more than fifteen (15) minutes; or
- d. Any student has been restrained or secluded three (3) or more times per school year; or
- e. A student has been restrained or secluded more than once in a school day; or
- f. A student is restrained or secluded who is not on a behavioral intervention plan; or
- g. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

4503.3.1 Learning environments other than public schools shall fulfill this reporting requirement by reporting to the Superintendent of the Supervisory Union that is the LEA or sending district for the student. If there is no sending district or LEA, this requirement shall be fulfilled by reporting to the Commissioner of the Department of Education in accordance with Rule 4503.4.

4503.4 To the Commissioner of the Department of Education.

The Superintendent of the supervisory union shall report the use of restraint or seclusion to the Commissioner of the Department of Education within three (3) school days of receipt of a report indicating any the following:

- a. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or
- b. Physical restraint or seclusion has been used for more than thirty (30) minutes or
- c. Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.

The report shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

22 000 036. Section 4504. Documentation.

Each school shall maintain written records of each use of restraint and seclusion. The records shall be maintained by the school administrator and shall include the following:

- a. The name, age, gender and grade of the student;
- b. The date, time and duration of the restraint or seclusion;
- c. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;
- d. The location where the restraint or seclusion occurred;
- e. The precipitating event[s] leading up to the restraint or seclusion;
- f. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;
- g. The type of restraint or seclusion used;
- h. The reason for the restraint or seclusion;
- i. A description of all the interventions used prior to the application of the restraint or seclusion;
- j. Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and
- k. The date notification was provided to the student's parents.

22 000 036. Section 4505. Debriefing following use of restraint or seclusion.

Following each incident of restraint or seclusion, the school administrator shall implement follow-up procedures that include:

- a. Within two (2) school days, a proper staff person reviewing the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior[s] that precipitated the use of restraint or seclusion;

- b. Within two (2) school days, reviewing the incident with the staff person(s) who administered the restraint or seclusion to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion;
- c. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:
 - i. Parents shall receive prior written (including e-mail) notice of the review meeting; and
 - ii. The meeting shall be convened at a mutually acceptable time and place; and
- d. Determining, in consultation with the parents, any specific follow up actions to be taken.

22 000 036. Section 4506. Annual notification.

Annually, at or before the beginning of the academic year, each school (defined in 4500.3(10)) shall inform all school personnel, and parents of students enrolled in the school of the policies pertaining to the use of physical restraint and seclusion and the intent to emphasize the use of positive behavioral interventions and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

22 000 036. Section 4507. Complaints and investigations.

4507.1 Filing a Complaint

- a. A parent (as defined in 4500.3(13)) or school personnel may file a complaint regarding the use of restraint or seclusion at any time in accordance with school district policy.
- b. The complaint shall be in writing and shall be directed to the principal, director or administrator of the school in which the student participates.
- c. If the person filing the complaint is unable to submit the complaint in writing, the recipient of the complaint shall complete the form based on a verbal complaint. In this case, the complainant shall be provided with a copy of the complaint.

4507.2 Investigation

All complaints shall be investigated by the school or district and written findings issued within thirty (30) days;

4507.3 Unresolved Complaints

Unresolved complaints shall be directed to the superintendent of the Supervisory Union where the student resides in accordance with the school board's established complaint process. A student on an individualized education plan (IEP) or Section 504 Plan may also use the dispute resolution options available under Rules 2365.1.4 - 2365.1.6, if appropriate.

22 000 036. Section 4508. Monitoring and corrective action.

The commissioner of the Department of Education shall review reports received pursuant to Rule 4503.4 and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

22 000 036. Section 4509. State recommended training.

The Department of Education shall maintain a directory of recommended physical restraint training programs, which must include at least the following elements:

- a. Appropriate procedures for preventing the need for physical restraint, including the de-escalation of dangerous behavior, relationship-building, and the use of alternatives to physical restraint;

- b. Identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm to determine if physical restraint is warranted;
- c. Simulated experience in administering and in receiving a variety of physical restraint techniques, across a range of increasingly restrictive interventions;
- d. Instruction regarding the effects of physical restraint on the person restrained, including monitoring physical signs of distress and how to obtain medical assistance;
- e. Instruction regarding investigation of injuries and complaints.

A school may use a training program that is not on the state recommended list if it submits a plan to the Commissioner of Education demonstrating how that training program meets the purposes of these Rules and contains the elements listed above.

22 000 036. Section 4510. Effective date.

These Rules shall become effective on August 15, 2011, however schools shall have until September 30, 2011, to have trained staff available.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

(6) A description of behaviors on and off school grounds that constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors that may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title that, although serious, does not rise to the level of harassment or bullying as those terms are defined in these subdivisions.

§ 1162. Suspension or expulsion of students.

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school; provided, however, the school board may modify the expulsion on a case-by-case basis. Modifications may be granted in circumstances such as:

(A) The student is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The student did not intend to use the firearm to threaten or endanger others.

(C) The student has a disability and the misconduct is related to the student's disability.

(D) The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the student.

S. 16 (Act 35). An act relating to the Task Force on Equitable and Inclusive School Environment

Section 2. (a) Creation. There is created the Task Force on Equitable and Inclusive School Environments. Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and compile data regarding school discipline in Vermont public and approved independent schools in order to inform strategic planning, guide statewide and local decision making and resource allocation, and measure the effectiveness of statewide and local policies and practices

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 1162. Suspension or expulsion of students.

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school; provided, however, the school board may modify the expulsion on a case-by-case basis. Modifications may be granted in circumstances such as:

(A) The student is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The student did not intend to use the firearm to threaten or endanger others.

(C) The student has a disability and the misconduct is related to the student's disability.

(D) The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the student.

REGULATIONS

22 000 009. Section 4311. Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.3 (1) When a student, because of his or her conduct or condition, is an immediate threat to himself or herself, others, property or educational environment, the school district may take whatever action is appropriate under the circumstances, including, but not limited to, immediate suspension pending a hearing as soon as possible thereafter. In addition, in cases where a student brings a weapon (as defined in the federal Gun-Free School Act) to school, the school district must refer the student to a law enforcement agency and expel the student for a period of not less than one calendar year unless such expulsion is modified in accordance with the provisions of 16 V.S.A. § 1166(b)(2) in circumstances such as but not limited to:

- (a) the student is unaware that he or she has brought a weapon to school,
- (b) the student did not intend to use the weapon to threaten or endanger others,
- (c) the student is disabled and the misconduct is related to the disability,
- (d) the student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interest of the student.

(2) In situations where a student with a disability brings a weapon to school, the provisions of regulation 4312(2) shall apply. In any such situation, an opportunity for a hearing prior to an expulsion must be provided prior to the expulsion, pursuant to 16 V.S.A. § 1166(b)(2).

Due Process

LAWS

§ 570a. Harassment.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the Secretary of Education and the Human Rights Commission and maintained by the Secretary. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any

evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The Secretary may adopt rules implementing this subsection.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

(7) Standard due process procedures for suspension and expulsion of a student.

§ 1162. Suspension or expulsion of students.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a student who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a student who brings a weapon to school pursuant to section 1166 of this title.

§ 1165. Alcohol and drug abuse.

(a) The State Board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities, and the juvenile court system shall formulate a general policy for the education, discipline, and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The State Board shall adopt rules for all school districts that include standards consistent with due process of law for discipline, suspension, or dismissal of students and recommended procedures for education and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the State Board's rules setting forth recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school; provided, however, the school board may modify the expulsion on a case-by-case basis. Modifications may be granted in circumstances such as:

(A) The student is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The student did not intend to use the firearm to threaten or endanger others.

(C) The student has a disability and the misconduct is related to the student's disability.

(D) The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the student.

REGULATIONS

22 000 003. Section 2122.1. School facilities and the learning environment.

Each school shall observe due process requirements as set forth in Rule 4300 et seq.

22 000 009. Section 4311. Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.1 In all cases of short-term suspension from school, which is generally regarded as 10 days or less, the student and his or her parent/guardian shall be given an opportunity for an informal hearing before an appropriately designated school official. Except for cases set forth in the last paragraph 4311.3, the hearing must precede the suspension and the district shall provide:

- (1) notice of the charges;
- (2) explanation of the evidence against the student;
- (3) opportunity for the student to tell his or her side of the story;
- (4) decision in writing to the parent/guardian.

4311.2 In cases of a long term suspension which is generally more than 10 days unless a school district establishes a shorter period, the student and his or her parent/guardian shall be given an opportunity for a formal hearing before the school board and the district shall provide:

- (1) written notice of the following:
 - (a) nature of charges against the student;
 - (b) date, time and place of hearing;
 - (c) right to legal representation;
 - (d) possible penalties involved;
- (2) opportunity to present evidence;
- (3) opportunity to cross-examine witnesses;
- (4) decision in writing to parent/guardian.

4311.3 (1) When a student, because of his or her conduct or condition, is an immediate threat to himself or herself, others, property or educational environment, the school district may take whatever action is appropriate under the circumstances, including, but not limited to, immediate suspension pending a hearing as soon as possible thereafter. In addition, in cases where a student brings a weapon (as defined in the federal Gun-Free School Act) to school, the school district must refer the student to a law enforcement agency and expel the student for a period of not less than one calendar year unless such expulsion is modified in accordance with the provisions of 16 V.S.A. § 1166(b)(2) in circumstances such as but not limited to:

- (a) the student is unaware that he or she has brought a weapon to school,
- (b) the student did not intend to use the weapon to threaten or endanger others,
- (c) the student is disabled and the misconduct is related to the disability,
- (d) the student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interest of the student.

(2) In situations where a student with a disability brings a weapon to school, the provisions of regulation 4312(2) shall apply. In any such situation, an opportunity for a hearing prior to an expulsion must be provided prior to the expulsion, pursuant to 16 V.S.A. § 1166(b)(2).

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

- (1) The school's approach to classroom management and response to disruptive behavior, including the use of alternative educational settings.

§ 1162. Suspension or expulsion of students.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

§ 1163. Transfer of suspension or expulsion to other schools.

(b) During a period of suspension or expulsion imposed under section 1162 of this title, a student, or parent or guardian, shall not be subject to the provisions of subchapter 3 of this chapter regarding compulsory attendance at school, unless the conditions of the suspension or expulsion include participation in a program in the school or an alternative program outside the school. Further, nothing in this section shall prohibit a suspended or expelled student from applying to a different Vermont public or independent school during the period of suspension or expulsion and attending if accepted.

(c) A school district that provides for the education of a suspended or expelled student by paying tuition to a public or approved independent school may, at the discretion of the school board, provide for the education of the student during the period of suspension or expulsion by paying tuition to another public or approved independent school.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 563. Powers of school boards; form of vote.

The school board of a school district, in addition to other duties and authority specifically assigned by law:

(5) Shall keep the school buildings and grounds in good repair, suitably equipped, insured, and in safe and sanitary condition at all times. The school board shall regulate or prohibit firearms or other dangerous or deadly weapons on school premises. At a minimum, a school board shall adopt and implement a policy at least consistent with section 1166 of this title and 13 V.S.A. § 4004, relating to a student who brings a firearm to or possesses a firearm at school.

§ 1162. Suspension or expulsion of students.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a student who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a student who brings a weapon to school pursuant to section 1166 of this title.

§ 1166. Possession of a firearm at school.

(a) In this section, the terms "to school" and "firearm" shall have the same meaning that the terms have in 18 U.S.C. § 921. The school board may expand the definitions, however, provided they remain consistent with federal law.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the Department for Children and Families.

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school; provided, however, the school board may modify the expulsion on a case-by-case basis. Modifications may be granted in circumstances such as:

(A) The student is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The student did not intend to use the firearm to threaten or endanger others.

(C) The student has a disability and the misconduct is related to the student's disability.

(D) The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the student.

(c) Annually at a time and on a form determined by the Secretary, each superintendent shall provide the Secretary with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled, and the type of firearm involved.

REGULATIONS

22 000 009. Section 4311. Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.3 (1) When a student, because of his or her conduct or condition, is an immediate threat to himself or herself, others, property or educational environment, the school district may take whatever action is appropriate under the circumstances, including, but not limited to, immediate suspension pending a hearing as soon as possible thereafter. In addition, in cases where a student brings a weapon (as defined in the federal Gun-Free School Act) to school, the school district must refer the student to a law enforcement agency and expel the student for a period of not less than one calendar year unless such expulsion is modified in accordance with the provisions of 16 V.S.A. § 1166(b)(2) in circumstances such as but not limited to:

- (a) the student is unaware that he or she has brought a weapon to school,
- (b) the student did not intend to use the weapon to threaten or endanger others,
- (c) the student is disabled and the misconduct is related to the disability,
- (d) the student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interest of the student.

(2) In situations where a student with a disability brings a weapon to school, the provisions of regulation 4312(2) shall apply. In any such situation, an opportunity for a hearing prior to an expulsion must be provided prior to the expulsion, pursuant to 16 V.S.A. § 1166(b)(2) .

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 1125. Truant officers.

(a) A school board shall annually appoint one or more truant officers and record their appointments with the clerk of the school district on or before July 3. State police, sheriffs, deputy sheriffs, constables, and police officers shall be truant officers ex officio.

(b) Truant officers shall receive remuneration for time actually spent in performance of their duties and shall be allowed their necessary expenses incurred in connection therewith.

§ 1126. Failure to attend; notice.

When a student between the ages of six and 16 years, who is not excused or exempted from school attendance, fails to enter school at the beginning of the academic year or, being enrolled, fails to attend the school, and when a student who is at least 16 years of age becomes enrolled in a public school and

fails to attend, the teacher or principal shall notify the truant officer and either the superintendent or the school board, unless the teacher or principal is satisfied that the student is absent on account of illness.

§ 1127. Notice and complaint by truant officer; penalty.

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall inquire into the cause of the nonattendance of the child. If he or she finds that the child is absent without cause, the truant officer shall give written notice to the person having the control of the child that the child is absent from school without cause and shall also notify that person to cause the child to attend school regularly thereafter.

(b) When, after receiving notice, a person fails, without legal excuse, to cause a child to attend school as required by this chapter, he or she shall be fined not more than \$ 1,000.00 pursuant to subsection (c) of this section.

(c) The truant officer shall enter a complaint to the State's Attorney of the county and shall provide a statement of the evidence upon which the complaint is based. The State's Attorney shall prosecute the person. In the prosecution, the complaint, information, or indictment shall be deemed sufficient if it states that the respondent (naming the respondent) having the control of a child of school age (naming the child) neglects to send that child to a public school or an approved or recognized independent school or a home study program as required by law.

§ 1128. Legal pupil taken to school; nonresident child living in district.

(a) A superintendent may and the truant officer shall stop a child between the ages of six and 16 years or a child 16 years of age or over and enrolled in public school, wherever found during school hours, and shall, unless such child is excused or exempted from school attendance, take the child to the school that she or he should attend.

(b) A child of legal school age who is not exempt from school attendance and who has not finished the elementary school course and is living in a district other than the place of legal residence shall, with the school board's approval, be admitted immediately to a school in the district where he or she is found. If the child is not admitted to school, then immediate action shall be taken by the truant officer to cause the return of the child to the district of his or her residence.

HB 95. Section 35. Agency of education; restorative justice practices.

The Agency of Education shall explore the use of restorative and similar practices regarding school climate and culture, truancy, bullying and harassment, and school discipline. The Agency shall consider the research that demonstrates that restorative approaches lead to reductions in absenteeism, suspensions, and expulsions and to improved educational outcomes.

REGULATIONS

No relevant regulations found.

Substance Use

LAWS

§ 140. Tobacco use prohibited on public school grounds.

No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds or at public school sponsored functions. Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.

§ 909. Tobacco use, alcohol and drug abuse prevention education curriculum.

(b) The Secretary shall:

(1) Provide for pre-service and in-service training programs for school personnel on alcohol and drug abuse prevention and on the effects and legal consequences of the possession and use of tobacco products. At least one training program shall be made available in electronic format. Each superintendent shall determine the content, duration, and frequency of training on issues concerning alcohol and drug abuse for the districts in his or her supervisory union.

§ 1165. Alcohol and drug abuse.

(a) The State Board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities, and the juvenile court system shall formulate a general policy for the education, discipline, and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The State Board shall adopt rules for all school districts that include standards consistent with due process of law for discipline, suspension, or dismissal of students and recommended procedures for education and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the State Board's rules setting forth recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

§ 9503. Vermont tobacco prevention and treatment.

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based.

(b) The Department shall establish goals for reducing adult and youth smoking rates, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.

(c) The Department of Liquor and Lottery shall administer the component of the program that relates to enforcement activities.

(d) The Agency of Education shall administer school-based programs.

(e) The Department shall pay all fees and costs of the surveillance and evaluation activities, including the costs associated with hiring a contractor to conduct an independent evaluation of the program.

REGULATIONS

22 000 009. Section 4211. Definition.

Alcohol and drug abuse (substance abuse) shall be defined as: "the ingestion of a substance in such a way that it interferes with a person's ability to perform physically, intellectually, emotionally or socially." Vermont Office of Alcohol and Drug Abuse Programs.

22 000 009. Section 4212. Policy requirements.

School districts shall adopt an alcohol and drug abuse policy which shall contain the following:

4212.1 Statement of Philosophy. This policy shall be concerned with the health and well-being of all students and the policy shall take into consideration the individual needs of students with problems as well as the right of the majority of students to an education.

4212.2 Education Program. The policy shall define an educational program consistent with the Vermont Alcohol and Drug Education Curriculum Plan.

4212.3 Support and Referral Systems and Cooperative Agreements. The policy shall provide for a support and referral system for students in distress due to their own or another's use of alcohol or other drugs. Such a system shall include both a clearly defined in-school process for initial assessment, support, and if necessary, referral to community resources of such students, and a written referral agreement with at least one community substance abuse treatment provider approved by the Office of Alcohol and Drug Abuse Programs. Such an agreement should define the process for making an effective referral and the nature and extent of information to be provided during and after such a referral to all parties involved.

4212.3A Immediate Procedures. The policy shall provide for the handling of any alcohol/drug-related incident until the student has been discharged to the parent, guardian, social service, medical or law enforcement agency.

4212.3B Emergency. The school district policy shall establish procedures for administering emergency first-aid related to alcohol and drug abuse. The procedures will define the roles of the personnel involved.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 11. Classifications and definitions.

(a) As used in this title, unless the context otherwise clearly requires:

(26)(A) "Harassment" means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

(B) "Harassment" includes conduct that violates subdivision (A) of this subdivision (26) and constitutes one or more of the following:

(i) Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:

(I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

(ii) Racial harassment, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to racial customs.

(iii) Harassment of members of other protected categories, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, sex, sexual orientation, gender identity, or disability and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, taunts on manner of speech, and negative references to customs related to any of these protected categories. [...]

(30)(A) "Hazing" means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization that is affiliated with an educational institution; and that is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating, or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in these acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

(i) the goals are approved by the educational institution; and

(ii) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

(B) The definitions of "educational institution," "organization," "pledging," and "student" shall be the same as those in section 570i of this title. [...]

(32) "Bullying" means any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and that:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C)(i) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity; or

(ii) does not occur during the school day on school property, on a school bus, or at a school-sponsored activity and can be shown to pose a clear and substantial interference with another student's right to access educational programs.

§ 164. State Board; general powers and duties.

The State Board shall engage local school board members and the broader education community and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high-priority educational policies and issues as they arise; and act in accordance with legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

(17) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

§ 165. Education quality standards; equal educational opportunities; independent school meeting education quality standards.

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities that are substantially equal in quality, each Vermont public school, including each career technical center, shall meet the following education quality standards:

(1) The school, through a process including parents, teachers, students, and community members, develops, implements, and annually updates a continuous improvement plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve its goals. The plan shall also address the effectiveness of efforts made since the previous continuous improvement plan to ensure the school maintains a safe, orderly, civil, and positive learning environment that is free from harassment, hazing, and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title. [...]

(8) The school maintains a safe, orderly, civil, and positive learning environment that is free from hazing, harassment, and bullying, and is based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced.

§ 570. Harassment, hazing, and bullying prevention policies.

(a) State policy. - It is the policy of the State of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. - Each school board shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the Secretary. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the Secretary.

(c) Notice. - Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures,

and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

(d) Duties of the Secretary. - The Secretary shall:

- (1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and
- (2) establish an Advisory Council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The Council shall report annually in January to the State Board and the House and Senate Committees on Education. The Council shall include:
 - (A) the Executive Director of the Vermont Principals' Association or designee;
 - (B) the Executive Director of the Vermont School Boards Association or designee;
 - (C) the Executive Director of the Vermont Superintendents Association or designee;
 - (D) the President of the Vermont-National Education Association or designee;
 - (E) the Executive Director of the Vermont Human Rights Commission or designee;
 - (F) the Executive Director of the Vermont Independent Schools Association or designee; and
 - (G) other members selected by the Secretary, at least one of whom shall be a current secondary student who has witnessed or experienced harassment, hazing, or bullying in the school environment.

(e) Definitions. - In this subchapter:

- (1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.
- (2) "Organization," "pledging," and "student" have the same meanings as in section 570i of this title.
- (3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.
- (4) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.

§ 570a. Harassment.

(a) Policies and plan. - The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

- (1) A statement that harassment, as defined in subdivision 11(a)(26) of this title, is prohibited and may constitute a violation of the public accommodations act as more fully described in article 2 of this subchapter 5.
- (2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.
- (3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.
- (4) A description of the circumstances under which harassment may be reported to a law enforcement agency.
- (5) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is

initiated no later than one school day from the filing of a complaint and the investigation and determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (7) of this subsection. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

(8) A procedure for publicizing the availability of the Vermont Human Rights Commission and the federal Department of Education's Office of Civil Rights and other appropriate State and federal agencies to receive complaints of harassment.

(9) A statement that acts of retaliation for the reporting of harassment or for cooperating in an investigation of harassment are unlawful pursuant to 9 V.S.A. § 4503.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the Secretary of Education and the Human Rights Commission and maintained by the Secretary. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The Secretary may adopt rules implementing this subsection.

§ 570b. Hazing.

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

- (1) a statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited and may be subject to civil penalties pursuant to article 3 of this subchapter 5;
- (2) a procedure that directs students, staff, parents, and guardians how to report violations and file complaints;
- (3) a procedure for investigating reports of violations and complaints;
- (4) a description of the circumstances under which hazing may be reported to a law enforcement agency;
- (5) appropriate penalties or sanctions, or both, for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing;
- (6) a description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing; and
- (7) annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

§ 570c. Bullying.

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

- (1) a statement that bullying, as defined in subdivision 11(a)(32) of this title, is prohibited;
- (2) a procedure that directs students, staff, parents, and guardians how to report violations and file complaints;
- (3) a procedure for investigating reports of violations and complaints;
- (4) a description of the circumstances under which bullying may be reported to a law enforcement agency;
- (5) consequences and appropriate remedial action for students who commit bullying;
- (6) a description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying; and
- (7) annual designation of two or more people at each school campus to receive complaints and a procedure both for publicizing the availability of those people and clarifying that their designation does not preclude a student from bringing a complaint to any adult in the building.

§ 570f. Harassment; notice and response.

(a)(1) An educational institution that receives actual notice of alleged conduct that may constitute harassment shall promptly investigate to determine whether harassment occurred. After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian. Nothing in this section shall be construed to prohibit educational institutions from investigating and imposing disciplinary consequences upon students for misconduct. Elementary and secondary school officials shall strive to implement the plan developed in accordance with subdivision 1161a(a)(6) of this title in order to prevent misconduct from escalating to the level of harassment.

- (2) If, after notice, the educational institution finds that the alleged conduct occurred and that it constitutes harassment, the educational institution shall take prompt and appropriate remedial action reasonably calculated to stop the harassment.

(b) A claim may be brought under the Fair Housing and Public Accommodations Act pursuant to 9 V.S.A. chapter 139 only after the administrative remedies available to the claimant under the policy adopted by the educational institution pursuant to subsection 166(e) or section 570 of this title or pursuant to the harassment policy of a postsecondary school have been exhausted. Such a showing shall not be necessary where the claimant demonstrates that:

- (1) the educational institution does not maintain such a policy;
- (2) a determination has not been rendered within the time limits established under section 570a of this title;
- (3) the health or safety of the complainant would be jeopardized otherwise;
- (4) exhaustion would be futile; or
- (5) requiring exhaustion would subject the student to substantial and imminent retaliation.

(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and 9 V.S.A. chapter 139, the plaintiff shall prove both of the following:

- (1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.
- (2) The conduct was either:
 - (A) for multiple instances of conduct, so pervasive that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution; or
 - (B) for a single instance of conduct, so severe that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution.

(d) As used in this article:

- (1) "Designated employee" means an employee who has been designated by an educational institution to receive complaints of harassment pursuant to section 570a of this title or in accordance with the harassment policy of a postsecondary school.
- (2) "Educational institution" means a Vermont public or independent school or a postsecondary school that offers or operates a program of college or professional education for credit or degree in Vermont.
- (3) "Notice" means a written complaint or oral information that harassment may have occurred that has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the complaint is oral, the designated employee shall promptly reduce the complaint to writing, including the time, place, and nature of the conduct, and the identity of the participants and complainant.

§ 570i. Definitions.

As used in this subchapter:

- (1) "Educational institution" means a Vermont public or independent school or a postsecondary school that offers or operates a program of college or professional education for credit or a degree in Vermont.
- (2) "Organization" means a fraternity, sorority, athletic team, association, corporation, order, society, corps, cooperative, club, or other similar group, whose members primarily are students at an educational institution, and that is affiliated with the educational institution.

- (3) "Pledging" means any action or activity related to becoming a member of an organization.
- (4) "Student" means any person who:
 - (A) is registered in or in attendance at an educational institution;
 - (B) has been accepted for admission at the educational institution where the hazing incident occurs; or
 - (C) intends to attend an educational institution during any of its regular sessions after an official academic break.

§ 570j. Unlawful conduct.

- (a) For purposes of this subchapter, "hazing" means any intentional, knowing, or reckless act committed by a student, whether individually or in concert with others, against another student:
 - (1) in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization that is affiliated with the educational institution; and
 - (2) that is intended to have the effect of, or should reasonably be expected to have the effect of, endangering the mental or physical health of the student.
- (b) Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:
 - (1) the goals are approved by the educational institution; and
 - (2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.
- (c) It shall be unlawful to:
 - (1) engage in hazing;
 - (2) solicit, direct, aid, or attempt to aid, or abet another person engaged in hazing; or
 - (3) knowingly fail to take reasonable measures within the scope of the person's authority to prevent hazing.
- (d) It is not a defense in an action under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

§ 570k. Civil penalty; Judicial Bureau; waiver penalty.

- (a) A person who commits an unlawful act under this subchapter shall be subject to a civil penalty of not more than \$ 5,000.00.
- (b) Any law enforcement officer may issue a summons and complaint for an act of hazing, which shall be heard by the Judicial Bureau pursuant to the procedures provided in 4 V.S.A. chapter 29.
- (c) The Court Administrator shall appoint a panel of Judicial Bureau hearing officers to establish a waiver penalty for an act of hazing.
- (d) Nothing in this section shall limit or affect the right of an educational institution to enforce its own penalties against hazing.

§ 570l. Criminal prosecution and civil action.

Nothing in this subchapter shall limit or preclude a criminal prosecution or any criminal or civil action based on any act that may constitute hazing.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

(6) A description of behaviors on and off school grounds that constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors that may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title that, although serious, does not rise to the level of harassment or bullying as those terms are defined in these subdivisions.

HB 95. Section 35. Agency of education; restorative justice practices.

The Agency of Education shall explore the use of restorative and similar practices regarding school climate and culture, truancy, bullying and harassment, and school discipline. The Agency shall consider the research that demonstrates that restorative approaches lead to reductions in absenteeism, suspensions, and expulsions and to improved educational outcomes.

REGULATIONS

22 000 003. Section 2122.1. School facilities and the learning environment.

Each school shall maintain a safe, orderly, civil, flexible and positive learning environment, which is free from hazing, harassment and bullying and based on sound instructional and classroom management practices and clear discipline and attendance policies that are consistently and effectively enforced.

22 000 003. Section 2125. Continuous improvement plan.

The school board shall approve the plan, which at minimum shall contain

- a. goals and objectives for improved student learning;
- b. educational strategies and activities specifically designed to achieve these goals, including professional learning of administrative and instructional staff;
- c. strategies and supports to ensure the school maintains a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying; and
- d. required technical assistance from the Vermont Agency of Education as appropriate or determined by law.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 165. Education quality standards; equal educational opportunities; independent school meeting education quality standards.

(b) Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

- (1) the Agency continue to provide technical assistance for one more cycle of review;
- (2) the State Board adjust supervisory union boundaries or responsibilities of the superintendency pursuant to section 261 of this title;
- (3) the Secretary assume administrative control of an individual school, school district, or supervisory union, including budgetary control to ensure sound financial practices, only to the extent necessary to correct deficiencies;
- (4) the State Board close an individual school or schools and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title; or
- (5) the State Board require two or more school districts to consolidate their governance structures.

§ 570. Harassment, hazing, and bullying prevention policies.

(a) State policy. - It is the policy of the State of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. - Each school board shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the Secretary. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the Secretary. [...]

(d) Duties of the Secretary. - The Secretary shall:

- (1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and
- (2) establish an Advisory Council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The Council shall report annually in January to the State Board and the House and Senate Committees on Education. The Council shall include:
 - (A) the Executive Director of the Vermont Principals' Association or designee;
 - (B) the Executive Director of the Vermont School Boards Association or designee;
 - (C) the Executive Director of the Vermont Superintendents Association or designee;
 - (D) the President of the Vermont-National Education Association or designee;

- (E) the Executive Director of the Vermont Human Rights Commission or designee;
- (F) the Executive Director of the Vermont Independent Schools Association or designee; and
- (G) other members selected by the Secretary, at least one of whom shall be a current secondary student who has witnessed or experienced harassment, hazing, or bullying in the school environment.

REGULATIONS

22 000 003. Section 2125. Continuous improvement plan.

The school board shall approve the plan, which at minimum shall contain

- a. goals and objectives for improved student learning;
- b. educational strategies and activities specifically designed to achieve these goals, including professional learning of administrative and instructional staff;
- c. strategies and supports to ensure the school maintains a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying; and
- d. required technical assistance from the Vermont Agency of Education as appropriate or determined by law.

22 000 036. Section 4509. State recommended training.

The Department of Education shall maintain a directory of recommended physical restraint training programs, which must include at least the following elements:

- a. Appropriate procedures for preventing the need for physical restraint, including the de-escalation of dangerous behavior, relationship-building, and the use of alternatives to physical restraint;
- b. Identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm to determine if physical restraint is warranted;
- c. Simulated experience in administering and in receiving a variety of physical restraint techniques, across a range of increasingly restrictive interventions;
- d. Instruction regarding the effects of physical restraint on the person restrained, including monitoring physical signs of distress and how to obtain medical assistance;
- e. Instruction regarding investigation of injuries and complaints.

A school may use a training program that is not on the state recommended list if it submits a plan to the Commissioner of Education demonstrating how that training program meets the purposes of these Rules and contains the elements listed above.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 2902. Tiered system of supports and education support team.

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support

beyond what can be provided in the general education classroom and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for emotional or behavioral challenges and to students in need of specialized, individualized behavior supports;
- (5) provide all students with a continuum of evidence-based positive behavioral practices that promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;
- (6) promote collaboration with families, community supports, and the system of health and human services; and
- (7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

- (1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.
- (2) Identify the classroom accommodations, remedial services, and other supports to be provided to the identified student.
- (3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.
- (4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.
- (5) Maintain a written record of its actions. [...]

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

- (1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;
- (2) guidance on how long children are to be served in each tier; and
- (3) guidance on how a child's progress is to be measured.

REGULATIONS

22 000 003. Section 2121.5. Tiered system of support.

In accordance with 16 V.S.A. §2902 and State Board Rule 2194, each school shall ensure that a tiered system of academic and behavioral supports is in place to assist all students in working toward

attainment of the standards. This system shall be aligned with the school's Personalized Learning Plan structures, and specific student support services shall be specified within a student's Personalized Learning Plan.

22 000 036.Section 4500.1. Statement of purpose.

The purposes of these rules are to:

- a. Create and maintain a positive and safe learning environment in schools;
- b. Promote positive behavioral interventions and supports in schools; and
- c. Ensure that students are not subjected to inappropriate use of restraint or seclusion.

22 000 036.Section 4500.3. Definitions.

For purposes of these rules, the following definitions apply:

8. Positive Behavioral Interventions and Supports means an approach to preventing and responding to targeted behavior that:
 - a. Is based on evidence-based practices;
 - b. Is proactive and instructional, rather than reactive;
 - c. Can operate on individual, group, classroom, or school wide levels;
 - d. Includes a system of continual data collection; and
 - e. Relies on data-driven decisions.

22 000 036.Section 4502. Permissible use of restraint and seclusion.

4502.3 In rare circumstances where the use of physical restraint or seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, physical restraint and/or seclusion may be included in an individual safety plan only if all of the following conditions apply:

- e. A behavioral intervention plan, emphasizing positive behavioral interventions and supports, has been implemented.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 2902. Tiered system of supports and education support team.

(b) The tiered system of supports shall:

- (5) provide all students with a continuum of evidence-based positive behavioral practices that promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

§ 2902. Tiered system of supports and education support team.

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

- (5) provide all students with a continuum of evidence-based positive behavioral practices that promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 2902. Tiered system of supports and education support team.

(b) The tiered system of supports shall:

- (4) seek to identify and respond to students in need of support for emotional or behavioral challenges and to students in need of specialized, individualized behavior supports.

REGULATIONS

22-000-003. Section 2121.5. Tiered system of support.

In accordance with 16 V.S.A. §2902 and State Board Rule 2194, each school shall ensure that a tiered system of academic and behavioral supports is in place to assist all students in working toward attainment of the standards. This system shall be aligned with the school's Personalized Learning Plan structures, and specific student support services shall be specified within a student's Personalized Learning Plan. [...] Health services, including health appraisal and counseling, communicable disease control, mental health, and emergency and first aid care, shall be made available in a confidential manner to students in each school. These health services shall be delivered in accordance with the school district's written policies and procedures, which shall be developed in collaboration with parents and community health resources.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 570a. Harassment.

(a) Policies and plan. - The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

§ 570b. Hazing.

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(2) a procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

§ 570c. Bullying.

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(2) a procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

§ 1126. Failure to attend; notice.

When a student between the ages of six and 16 years, who is not excused or exempted from school attendance, fails to enter school at the beginning of the academic year or, being enrolled, fails to attend the school, and when a student who is at least 16 years of age becomes enrolled in a public school and fails to attend, the teacher or principal shall notify the truant officer and either the superintendent or the school board, unless the teacher or principal is satisfied that the student is absent on account of illness.

§ 1127. Notice and complaint by truant officer; penalty.

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall inquire into the cause of the nonattendance of the child. If he or she finds that the child is absent without cause, the truant officer shall give written notice to the person having the control of the child that the child is absent from school without cause and shall also notify that person to cause the child to attend school regularly thereafter.

(b) When, after receiving notice, a person fails, without legal excuse, to cause a child to attend school as required by this chapter, he or she shall be fined not more than \$ 1,000.00 pursuant to subsection (c) of this section.

(c) The truant officer shall enter a complaint to the State's Attorney of the county and shall provide a statement of the evidence upon which the complaint is based. The State's Attorney shall prosecute the person. In the prosecution, the complaint, information, or indictment shall be deemed sufficient if it states that the respondent (naming the respondent) having the control of a child of school age (naming the child) neglects to send that child to a public school or an approved or recognized independent school or a home study program as required by law.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the Department for Children and Families.

REGULATIONS

22 000 036.Section 4503. Reporting the use of restraint and seclusion.

4503.1 To the School Administrator.

Any person who imposes a restraint or seclusion shall report its use to the school administrator as soon as possible, but in no event later than the end of the school day of its use. [...]

4503.3 To the Superintendent.

The school administrator shall report the use of restraint or seclusion to the superintendent of the Supervisory Union whenever:

- a. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or
- b. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more students; or
- c. Physical restraint has been used for more than fifteen (15) minutes; or
- d. Any student has been restrained or secluded three (3) or more times per school year; or
- e. A student has been restrained or secluded more than once in a school day; or
- f. A student is restrained or secluded who is not on a behavioral intervention plan; or
- g. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

4503.3.1 Learning environments other than public schools shall fulfill this reporting requirement by reporting to the Superintendent of the Supervisory Union that is the LEA or sending district for the student. If there is no sending district or LEA, this requirement shall be fulfilled by reporting to the Commissioner of the Department of Education in accordance with Rule 4503.4.

4503.4 To the Commissioner of the Department of Education.

The Superintendent of the supervisory union shall report the use of restraint or seclusion to the Commissioner of the Department of Education within three (3) school days of receipt of a report indicating any the following:

- a. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or
- b. Physical restraint or seclusion has been used for more than thirty (30) minutes or
- c. Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.

The report shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

22 000 036.Section 4504. Documentation.

Each school shall maintain written records of each use of restraint and seclusion. The records shall be maintained by the school administrator and shall include the following:

- a. The name, age, gender and grade of the student;
- b. The date, time and duration of the restraint or seclusion;
- c. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;
- d. The location where the restraint or seclusion occurred;
- e. The precipitating event[s] leading up to the restraint or seclusion;
- f. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;

- g. The type of restraint or seclusion used;
- h. The reason for the restraint or seclusion;
- i. A description of all the interventions used prior to the application of the restraint or seclusion;
- j. Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and
- k. The date notification was provided to the student's parents.

22 000 036. Section 4507. Complaints and investigations.

4507.1 Filing a Complaint

- a. A parent (as defined in 4500.3(13)) or school personnel may file a complaint regarding the use of restraint or seclusion at any time in accordance with school district policy.
- b. The complaint shall be in writing and shall be directed to the principal, director or administrator of the school in which the student participates.
- c. If the person filing the complaint is unable to submit the complaint in writing, the recipient of the complaint shall complete the form based on a verbal complaint. In this case, the complainant shall be provided with a copy of the complaint.

4507.2 Investigation

All complaints shall be investigated by the school or district and written findings issued within thirty (30) days;

4507.3 Unresolved Complaints

Unresolved complaints shall be directed to the superintendent of the Supervisory Union where the student resides in accordance with the school board's established complaint process. A student on an individualized education plan (IEP) or Section 504 Plan may also use the dispute resolution options available under Rules 2365.1.4 - 2365.1.6, if appropriate.

Parental Notification

LAWS

§ 570f. Harassment; notice and response.

(d) As used in this article:

- (3) "Notice" means a written complaint or oral information that harassment may have occurred that has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the complaint is oral, the designated employee shall promptly reduce the complaint to writing, including the time, place, and nature of the conduct, and the identity of the participants and complainant.

§ 1127. Notice and complaint by truant officer; penalty.

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall inquire into the cause of the nonattendance of the child. If he or she finds that the child is absent without cause, the truant officer shall give written notice to the person having the control of the child that the child is absent from school without cause and shall also notify that person to cause the child to attend school regularly thereafter.

§ 1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youths. The plan shall include:

- (3) Procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior.

REGULATIONS

22 000 009. Section 4311. Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.1 In all cases of short-term suspension from school, which is generally regarded as 10 days or less, the student and his or her parent/guardian shall be given an opportunity for an informal hearing before an appropriately designated school official. Except for cases set forth in the last paragraph 4311.3, the hearing must precede the suspension and the district shall provide:

- (1) notice of the charges;
- (2) explanation of the evidence against the student;
- (3) opportunity for the student to tell his or her side of the story;
- (4) decision in writing to the parent/guardian.

4311.2 In cases of a long term suspension which is generally more than 10 days unless a school district establishes a shorter period, the student and his or her parent/guardian shall be given an opportunity for a formal hearing before the school board and the district shall provide:

- (1) written notice of the following:
 - (a) nature of charges against the student;
 - (b) date, time and place of hearing;
 - (c) right to legal representation;
 - (d) possible penalties involved;
- (2) opportunity to present evidence;
- (3) opportunity to cross-examine witnesses;
- (4) decision in writing to parent/guardian.

22 000 036. Section 4503. Reporting the use of restraint and seclusion.

4503.2 To Parents.

- a. The school administrator shall make a documented attempt to provide verbal or electronic notice of any incident of restraint or seclusion to the student's parents (as defined in 4500.3(13)) as soon as practical but in no event later than the end of the school day of its use; and
- b. Shall provide written notice to the parents within 24 hours of each use of restraint or seclusion that includes:
 - i. The date and time of its use;
 - ii. A description of the restraint and other intervention used;
 - iii. The date and time when the debriefing session will occur; including notice that the parents have the opportunity to participate in the debriefing; and
 - iv. The name and telephone number of the contact person who can provide further information.

22 000 036. Section 4505. Debriefing following use of restraint or seclusion.

Following each incident of restraint or seclusion, the school administrator shall implement follow-up procedures that include:

- c. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:
 - i. Parents shall receive prior written (including e-mail) notice of the review meeting; and
 - ii. The meeting shall be convened at a mutually acceptable time and place.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 164. State Board; general powers and duties.

The State Board shall engage local school board members and the broader education community and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high-priority educational policies and issues as they arise; and act in accordance with legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

(17) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

§ 1166. Possession of a firearm at school.

(c) Annually at a time and on a form determined by the Secretary, each superintendent shall provide the Secretary with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled, and the type of firearm involved.

REGULATIONS

22 000 003. Section 2124. Reporting of results.

As required in 16 V.S.A. §165(a)(2) , each school shall report student and system performance results to the community at least annually in a format selected by the school board. The report shall at minimum include those elements listed in 16 V.S.A. §165a(2)(A-K) .

The performance criteria of the school shall be clear and be communicated to administrators, educators and other building staff.

Each supervisory union shall establish a secure student data system that enables regular access for teachers and administrators. Teachers shall have access to data on individual students whom they teach and aggregate data on student and system performance results. Administrators shall have access to individual student data and on student and system performance results.

For aggregate school data, in no case shall personally identifiable information on any student be revealed.

22 000 036. Section 4508. Monitoring and corrective action.

The commissioner of the Department of Education shall review reports received pursuant to Rule 4503.4 and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 140. Tobacco use prohibited on public school grounds.

No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds or at public school sponsored functions. Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.

§ 570a. Harassment.

(a) Policies and plan. - The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

- (4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

§ 570b. Hazing.

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

- (4) a description of the circumstances under which hazing may be reported to a law enforcement agency.

§ 570c. Bullying.

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

- (4) a description of the circumstances under which bullying may be reported to a law enforcement agency.

§ 1166. Possession of a firearm at school.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school, which at a minimum shall include:

- (1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the Department for Children and Families.

REGULATIONS

22 000 009. Section 4311. Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

- 4311.3 (1) When a student, because of his or her conduct or condition, is an immediate threat to himself or herself, others, property or educational environment, the school district may take whatever action is appropriate under the circumstances, including, but not limited to, immediate suspension pending a hearing as soon as possible thereafter. In addition, in cases where a student brings a weapon (as defined in the federal Gun-Free School Act) to school, the school district must refer the student to a law enforcement agency and expel the student for a period of not less than one calendar year unless such

expulsion is modified in accordance with the provisions of 16 V.S.A. § 1166(b)(2) in circumstances such as but not limited to:

- (a) the student is unaware that he or she has brought a weapon to school,
- (b) the student did not intend to use the weapon to threaten or endanger others,
- (c) the student is disabled and the misconduct is related to the disability,
- (d) the student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interest of the student.

(2) In situations where a student with a disability brings a weapon to school, the provisions of regulation 4312(2) shall apply. In any such situation, an opportunity for a hearing prior to an expulsion must be provided prior to the expulsion, pursuant to 16 V.S.A. § 1166(b)(2).

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 1167. School resource officer; memorandum of understanding.

(b) School boards and law enforcement agencies are encouraged to enter into memoranda of understanding relating to:

- (1) the possession and use of weapons and devices by a school resource officer on school property; and
- (2) the nature and scope of assistance that a school resource officer will provide to the school system.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Vermont provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Website		
Healthy and Safe Schools, Vermont Agency of Education	Presents the Whole School, Whole Community, Whole Child (WSCC) model and provides links to school health profiles report, crisis planning guide, and youth risk behavior survey.	https://education.vermont.gov/student-support/healthy-and-safe-schools
Multi-tiered System of Supports, Vermont Agency of Education	Presents information on multi-tiered system of supports in Vermont schools and provides links to briefs, surveys, and toolkits for educators.	https://education.vermont.gov/student-support/vermont-multi-tiered-system-of-supports
Restraint and Seclusion, Vermont Agency of Education	Addresses restraint and seclusion in Vermont schools with the State Board Rule 4500 and provides incident reporting forms for restraint and seclusion.	https://education.vermont.gov/student-support/healthy-and-safe-schools/restraint-and-seclusion
School Climate, Vermont Agency of Education	Provides an overview of school climate and information about the Harassment, Hazing, and Bullying Prevention Advisory Council (HHB). Includes links to model policies and data on harassment, hazing and bullying incidents in Vermont schools.	http://education.vermont.gov/student-support/healthy-and-safe-schools/school-climate
Vermont Multi-tiered System of Support (VTmtss) Framework Tools, Vermont Agency of Education	Provides educators with a structure for assessing the strengths and areas of growth in their system and using that data to support the goals of their Continuous Improvement Plan.	https://education.vermont.gov/student-support/vermont-multi-tiered-system-of-supports/vtmtss-framework-tools
Vermont Positive Behavioral Interventions and Supports (VTPBIS), Vermont Agency of Education, UVM Center on	Provides information and resources on Vermont PBIS including a brief overview of PBIS, training modules and resources, guides for	https://www.pbisvermont.org/

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Disability and Community Inclusion Collaborations	implementation, and a resource library to assist schools and educators form a systems approach to improving the social and academic competence of Vermont students.	
Documents		
Manual of Rules and Practices Series 4500 - Use of Restraint and Seclusion in Schools, Vermont State Board of Education	Manual of education rules and statutes on the use of restraint and seclusion in schools.	http://education.vermont.gov/sites/aoe/files/documents/edu-state-board-rules-series-4500.pdf
Model Policy on the Prevention of Harassment, Hazing, and Bullying of Students (August 2016), Vermont Agency of Education	Model policy addressing prevention of harassment, hazing and bullying of students in Vermont schools.	https://education.vermont.gov/sites/aoe/files/documents/edu-healthy-safe-schools-hhb-model-policy.docx
Vermont Agency of Education's Response to "Implementing Restorative Principles and Practices in Vermont Schools: A Meeting Report on the Future Visions, Current Initiatives and Strategic Recommendations of Restorative Practice Trainers and Vested Stakeholders," Vermont Agency of Education	Report summarizing a set of recommendations for how to improve and increase the use of restorative practices in Vermont schools.	https://education.vermont.gov/sites/aoe/files/documents/edu-integrated-frameworks-aoe-response-to-restorative-practices-report_0.pdf
Other Resources		
Harassment, Hazing, and Bullying Data for School Year 2017, Vermont Agency of Education	School district data on the number of reported incidents of harassment, hazing and bullying in Vermont schools.	https://education.vermont.gov/documents/harassment-hazing-bullying-school-level-sy2017
Rule 4500 - Use of Restraint and Seclusion in Schools Questions and Answers, Vermont State Board of Education	Guidance document providing questions and answers on the use of restraint and seclusion in Vermont schools.	http://education.vermont.gov/sites/aoe/files/documents/edu-rule-4500-questions-answers-rebranded.pdf
School Reports, Vermont Agency of Education	School reports on student support services and enrollment data by school and grade level.	http://education.vermont.gov/data-and-reporting/school-reports



Virginia Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Article 6. Secretary of Health and Human Resources

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Title 8.01. Civil Remedies and Procedure

Chapter 3. Actions

Article 21. Miscellaneous Provisions

8.01-220.1:2. Civil immunity for teachers under certain circumstances

Title 9.1. Commonwealth Public Safety

Chapter 1. Department of Criminal Justice Services

Article 1. General Provision

9.1-101. Definitions

9.1-102. Powers and duties of the Board and the Department

9.1-110. School resource officer grants program and fund

9.1-114.1. Compliance with minimum training standards by school resource officers

Article 10. Virginia Center for School and Campus Safety

9.1-184. Virginia Center for School and Campus Safety created; duties

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Article 5. Intake, Petition and Notice

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Chapter 4. Crimes Against the Person

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18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials; penalty

Title 22.1. Education

Chapter 2. Board of Education

22.1-16.6. Guidelines for alternatives to suspension

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[22.1-23.3.](#) Treatment of transgender students; policies

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- [22.1-291.4.](#) Bullying and abusive work environments prohibited

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Title 6. Criminal Justice and Corrections

Agency 20. Department of Criminal Justice Services

Chapter 240. Regulations relating to school security officers

- [6 VAC20-240-10.](#) Definitions
- [6 VAC20-240-20.](#) Initial certification and training requirements for school security officers
- [6 VAC20-240-50.](#) Recertification of school security officers

Title 8. Education

Agency 20. State Board of Education

Chapter 23. Licensure Regulations for School Personnel

- [8 VAC20-23-130.](#) Professional studies requirements for early/primary education, elementary education, and middle education endorsements

Chapter 131. Regulations Establishing Standards for Accrediting Public Schools in Virginia

- [8 VAC20-131-260.](#) School facilities and safety

Chapter 310. Rules Governing Instructions Concerning Drugs and Substance Abuse

- [8 VAC20-310-10.](#) Health education program

Chapter 560. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools

[8 VAC20-560-10.](#) Reportable incidents

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[8 VAC20-730-10.](#) Definitions

[8 VAC20-730-20.](#) Unexcused absences intervention process and responsibilities

[8 VAC20-730-30.](#) Data collection and reporting

Chapter 750. Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia

[8 VAC20-750-5.](#) Application

[8 VAC20-750-10.](#) Definitions related to permitted and prohibited actions

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.

Each school board shall develop and implement a policy to prohibit, at any time, the use and distribution of any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.

Each school board shall work to ensure adequate notice of this policy.

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

"Bullying" means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.

"Disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

"Dress or grooming code" means any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire, appearance, or grooming, including hairstyle, of any enrolled student.

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than 30 calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for 11 to 45 school days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a

school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal or his designee to notify the parent of any student involved in an alleged incident of bullying within 24 hours of learning of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

REGULATIONS

No relevant regulations found.

Scope

LAWS

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other

than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation. [...]

E. As used in this section:

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 22.1-279.3. Parental responsibility and involvement requirements.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

REGULATIONS

8 VAC 20-750-70. School division policies and procedures.

D. Consistent with § 22.1-253.13:7 D of the Code of Virginia, a current copy of a school division's policies and procedures regarding restraint and seclusion shall be posted on the school division's website and shall be available to school personnel and to the public. School boards shall ensure that printed copies of such policies and procedures are available as needed to citizens who do not have online access.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

§ 22.1-276.2. Removal of students from classes.

- A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class.
- B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:
 - 1. Criteria for teachers to remove disruptive students from their classes;
 - 2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;
 - 3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;
 - 4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and
 - 5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.
- C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.
- D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.
- E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.
- F. This section shall not be construed to limit or restrict other school board policies and regulations for maintaining order in the classroom.

§ 22.1-277. Suspensions and expulsions of pupils generally.

- D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

REGULATIONS

8 VAC 20-750-110. Construction and interpretation.

Nothing in this chapter shall be construed to modify or restrict:

1. The initial authority of teachers to remove students from a classroom pursuant to § 22.1-276.2 of the Code of Virginia.

Alternatives to Suspension

LAWS

§ 22.1-16.6. Guidelines for alternatives to suspension.

The Board of Education shall establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards. Such alternatives may include positive behavior incentives, mediation, peer-to-peer counseling, community service, and other intervention alternatives.

§ 22.1-279.3:3. Alternative school discipline process.

A. A school board may establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1 the option to enter into a mutually agreed-upon process between the involved parties. Such process shall be designed to hold the student accountable for a noncriminal offense through a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report pursuant to subsection D of § 22.1-279.3:1 a party who successfully completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 22.1-279.1. Corporal punishment prohibited.

A. No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control.

B. In determining whether a person was acting within the exceptions provided in this section, due deference shall be given to reasonable judgments at the time of the event which were made by a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth.

C. For the purposes of this section, "corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

This definition shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in subdivision (i) of subsection A of this section or the use of reasonable and necessary force as permitted by subdivisions (ii), (iii), (iv), and (v) of subsection A of this section, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

REGULATIONS

8 VAC 20-750-10. Definitions related to permitted and prohibited actions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Aversive stimuli" means interventions that are intended to induce pain or discomfort to a student for the purposes of punishing the student or eliminating or reducing maladaptive behaviors, such as:

4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia;

"Corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

8 VAC 20-750-30. Prohibited actions.

A. The following actions are prohibited in the public elementary and secondary schools in the Commonwealth of Virginia:

- [7.] Use of corporal punishment.

Search and Seizure

LAWS

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

§ 22.1-279.7. Guidelines for student searches.

The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, voluntary and mandatory drug testing, and strip searches, consistent with relevant state and federal laws and constitutional principles.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§ 22.1-279.1:1. The use of seclusion and restraint in public schools; Board of Education regulations.

The Board shall adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document;

(ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students. The Board shall specifically (1) identify and prohibit the use of any method of restraint or seclusion that it determines poses a significant danger to the student and (2) establish safety standards for seclusion.

REGULATIONS

8 VAC 20-750-5. Application.

A. This chapter is applicable to all students and school personnel in the public elementary and secondary schools of the Commonwealth of Virginia, as defined in 8VAC20-750-20. This chapter governs the use of seclusion and restraint for the purpose of behavioral intervention. [This chapter does not apply to any secure facility or detention home as defined in § 16.1-228 of the Code of Virginia, or to any facility operated by the Virginia Department of Behavioral Health and Developmental Services.]

B. To comply with this chapter, school personnel must first determine whether the action constitutes restraint or seclusion, as defined in 8VAC20-750-10. If the action does not meet the definition, or if the action falls under any of the "does not include" portions of the definitions in 8VAC20-750-10, then school personnel may act within their reasonable discretion. If the action falls within the definition of restraint or seclusion, it may be used, but only under the circumstances described in 8VAC20-750-40 and 8VAC20-750-50, and is subject to the other requirements of this chapter.

C. 8VAC20-750-30 identifies certain practices that constitute restraint or seclusion that may be detrimental to the health, safety, or dignity of the student and that may never be used by school personnel.

8 VAC 20-750-10. Definitions related to permitted and prohibited actions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Aversive stimuli" means interventions that are intended to induce pain or discomfort to a student for the purposes of punishing the student or eliminating or reducing maladaptive behaviors, such as:

1. Noxious odors and tastes;
2. Water and other mists or sprays;
3. Blasts of air;
4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia;
5. Verbal and mental abuse;
6. Forced exercise when:
 - a. The student's behavior is related to the student's disability;
 - b. The exercise would have a harmful effect on the student's health; or
 - c. The student's disability prevents participation in such activities; or
7. Deprivation of necessities, including:
 - a. Food and liquid at a time it is customarily served;
 - b. Medication; or
 - c. Use of the restroom.

"Corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

"Mechanical restraint" means the use of any material, device, or equipment to restrict a student's freedom of movement. The term "mechanical restraint" does not include the devices implemented by trained school personnel or used by a student that have been prescribed by an appropriate medical or related service professional and are used with parental consent and for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
2. Vehicle restraints, including seat belts, when used as intended during the transport of a student in a moving vehicle;
3. Restraints for medical immobilization;
4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm; or
5. High chairs and feeding stations used for age or developmentally appropriate students.

"Pharmacological restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not (i) prescribed by a licensed physician or other qualified health professional under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition and (ii) administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority.

"Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move freely. The term "physical restraint" does not include (i) briefly holding a student to calm or comfort the student; (ii) holding a student's hand or arm to escort the student safely from one area to another; or (iii) the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.

"Restraint" means mechanical restraint, physical restraint, or pharmacological restraint.

"Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Provided that no such room or space is locked, the term "seclusion" does not include (i) time-out, as defined in this chapter; (ii) in-school suspension; (iii) detention; (iv) student-requested breaks in a different location in the room or in a separate room; (v) removal of a student for a short period of time from the room or a separate area of the room to provide the student with an opportunity to regain self-control, so long as the student is in a setting from which the student is not physically prevented from leaving; (vi) removal of a student for disruptive behavior from a classroom by the teacher as provided in § 22.1-276.2 of the Code of Virginia; or (vii) confinement of a student alone in a room or area from which the student is physically prevented from leaving during the investigation and questioning of the student by school personnel regarding the student's knowledge of or participation in events constituting a violation of the code of student conduct, such as a physical altercation, or an incident involving drugs or weapons.

"Time-out" means a behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined.

8 VAC 20-750-20. General definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Behavioral intervention plan" or "BIP" means a plan that utilizes positive behavioral interventions and supports to address (i) behaviors that interfere with a student's learning or that of others or (ii) behaviors that require disciplinary action.

"Board" means the Virginia Board of Education.

"Business day" means Monday through Friday, 12 months of the year, exclusive of federal and state holidays (unless holidays are specifically included in the designation of business days).

"Chapter" means these regulations, that is, Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia, 8VAC20-750.

"Calendar days" means consecutive days, inclusive of Saturdays and Sundays. Whenever any period of time fixed by this chapter expires on a Saturday, Sunday, federal holiday, or state holiday, the period of time for taking such action shall be extended to the next day that is not a Saturday, Sunday, federal holiday, or state holiday.

"Child with a disability" or "student with a disability" means a public elementary or secondary school student evaluated in accordance with the provisions of 8VAC20-81 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability (referred to in 8VAC20-81 as an emotional disability), an orthopedic impairment, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities who, by reason thereof, requires special education and related services. This also includes developmental delay if the school division recognizes this category as a disability under 8VAC20-81-80 M 3. If it is determined through an appropriate evaluation that a child has one of the disabilities identified but only needs related services and not special education, the child is not a child with a disability under 8VAC20-81. If the related service required by the child is considered special education rather than a related service under Virginia standards, the child would be determined to be a child with a disability. As used in this chapter, the disability categories set forth in this definition and the terms "special education" and "related services" shall have the meanings set forth in 8VAC20-81-10.

"Day" means calendar day unless otherwise designated as business day or school day.

"Department" means the Virginia Department of Education.

"Evaluation" means procedures used in accordance with 8VAC20-81 to determine whether a child has a disability and the nature and extent of the special education and related services the child needs.

"Functional behavioral assessment" or "FBA" means a process to determine the underlying cause or functions of a student's behavior that impede the learning of the student or the learning of the student's peers. A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined as set forth in 8VAC20-750-70.

"Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised at least annually in a team meeting in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81). The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs.

"Individualized education program team" or "IEP team" means a group of individuals described in 8VAC20-81-110 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

"School day" means any day, including a partial day, that students are in attendance at school for instructional purposes. The term has the same meaning for all students in school, including students with and without disabilities.

"School personnel" means individuals employed by the school division on a full-time or part-time basis or as independent contractors or subcontractors as instructional, administrative, and support personnel and include individuals serving as a student teacher or intern under the supervision of appropriate school personnel.

"Section 504 plan" means a written plan of modifications and accommodations under Section 504 of the Rehabilitation Act of 1973 (29 USC § 794.).

"Student" means any student, with or without a disability, enrolled in a public elementary or secondary school as defined in § 22.1-1 of the Code of Virginia.

1. For purposes of this chapter, the term "student" shall also include those students (i) attending a public school on a less-than-full-time basis, such as those students identified in § 22.1-253.13:2 N of the Code of Virginia; (ii) receiving homebound instruction pursuant to 8VAC20-131-180 and as defined in 8VAC20-81-10, without regard to special education status; (iii) receiving home-based instruction pursuant to 8VAC20-81-10; and (iv) who are preschool students enrolled in a program operated by a school division or receiving services from school personnel.

2. As used in this chapter, "student" shall not include children meeting compulsory attendance requirements of § 22.1-254 of the Code of Virginia by (i) enrollment in private, denominational, or parochial schools; (ii) receipt of instruction by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the relevant division superintendent; [] (iii) receipt of home instruction pursuant to § 22.1-254 of the Code of Virginia [or (iv) receipt of instruction in a secure facility or detention home as defined in § 16.1-228 of the Code of Virginia or in a facility operated by the Virginia Department of Behavioral Health and Developmental Services]. With regard to restraint and seclusion, students placed through public or private means in a private day or residential school for students with disabilities shall be afforded the protections set forth in 8VAC20-671.

8 VAC 20-750-30. Prohibited actions.

A. The following actions are prohibited in the public elementary and secondary schools in the Commonwealth of Virginia:

1. Use of mechanical restraints.
2. Use of pharmacological restraints.
3. Use of aversive stimuli.
4. Use of [prone restraints (i.e. lying face down)] or any other restraints] that [restrict] a student's breathing or [harm] the student.
- [5. Use of seclusion that restricts a student's breathing or harms the student.]
- [6.] Use of physical restraint or seclusion as (i) punishment or discipline; (ii) a means of coercion or retaliation; (iii) a convenience; [or] (iv) to prevent property damage, or in any manner other than as provided in 8VAC20-750-40 and 8VAC20-750-50.
- [7.] Use of corporal punishment.
- [8.] Use of seclusion rooms or freestanding units not meeting the standards set forth in this chapter.
- [9.] Use of restraint or seclusion when medically or psychologically contraindicated as stated in documentation by the IEP team, the student's Section 504 team, school professionals, or by a licensed physician, psychologist, or other qualified health professional under the scope of the professional's authority.

B. Nothing in this section shall be construed to prohibit physical restraint or seclusion under the conditions outlined in 8VAC20-750-40 and 8VAC20-750-50.

8 VAC 20-750-40. Use of physical restraint and seclusion.

A. Nothing in this chapter shall be construed to require a school division to employ physical restraint or seclusion in its schools. School divisions electing to use physical restraint and seclusion shall comply with the requirements of this chapter.

B. School personnel may implement physical restraint or seclusion only when other interventions are or would be, in the reasonable judgment of the particular school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others;
2. Quell a disturbance or remove a student from the scene of a disturbance in which such student's behavior or damage to property threatens serious physical harm or injury to persons;
3. Defend self or others from serious physical harm or injury;
4. Obtain possession of controlled substances or paraphernalia that are upon the person of the student or within the student's control; or
5. Obtain possession of weapons or other dangerous objects that are upon the person of the student or within the student's control.

C. Physical restraint and seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated.

D. Nothing in this section shall be construed to require school personnel to attempt to implement a less restrictive intervention prior to using physical restraint or seclusion when, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective.

E. Unless a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others, the damage of property does not itself indicate an imminent risk of serious physical harm or injury and shall not be the justification for the restraint or seclusion of a student.

F. Any incident involving physical restraint or seclusion in any of the circumstances described in this section shall be subject to the requirements of 8VAC20-750-50 through 8VAC20-750-100.

8 VAC 20-750-50. Seclusion; standards for use.

A. School divisions electing to use seclusion as permitted by this chapter shall meet the following structural and physical standards for rooms designated by the school to be used for seclusion:

1. Any seclusion room or area shall be free of any objects or physical features that may cause injury to the student.
2. Any seclusion room or area shall be of sufficient dimensions and shall have sufficient lighting, heating, cooling, and ventilation to comport with the dignity and safety of the student.
3. Windows in the seclusion room shall be constructed to minimize breakage and otherwise prevent the occupant from harming himself.
4. All space in the seclusion room shall be visible through the door, either directly or by mirrors.

B. School divisions electing to use seclusion as authorized by this chapter shall provide for the continuous visual monitoring of any seclusion, either by the presence of school personnel in the seclusion room or area or observation by school personnel through a window, viewing panel, or half-door.

C. School divisions electing to use seclusion as authorized by this chapter shall include within their local policies and procedures provisions that address the appropriate use and duration of seclusion based upon the age and development of the student.

8 VAC 20-750-60. Notification and reporting.

A. When any student has been physically restrained or secluded:

1. The school personnel involved shall report the incident and the use of any related first aid to the school principal or the principal's designee as soon as possible by the end of the school day in which the incident occurred; and

2. The school principal or the principal's designee, or other school personnel shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as email, to notify the parent of the incident and any related first aid on the day the incident occurred.

B. When any student has been physically restrained or secluded after the regular school day, the notifications required by subsection A of this section shall be made as soon as practicable in compliance with the school division's school crisis, emergency management, and medical emergency response plan required by § 22.1-279.8 of the Code of Virginia.

C. As soon as practicable, but no later than two school days after an incident in which physical restraint or seclusion has been implemented, the school personnel involved in the incident or other school personnel, as may be designated by the principal, shall complete and provide to the principal or the principal's designee a written incident report. The school division shall provide the parent with a copy of the incident report within seven calendar days of the incident.

The written incident report shall contain information sufficient to inform the parent about the incident. Such information would typically include the following:

1. Student name, age, gender, grade, and ethnicity;
2. Location of the incident;
3. Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion;
4. Date of report;
5. Name of person completing the report;
6. School personnel involved in the incident, their roles in the use of physical restraint or seclusion, and documentation of their completion of the division's training program;
7. Description of the incident, including the resolution and process of return of the student to the student's educational setting, if appropriate;
8. Detailed description of the physical restraint or seclusion method used;
9. Student behavior that justified the use of physical restraint or seclusion;
10. Description of prior events and circumstances prompting the student's behavior, to the extent known;
11. Less restrictive interventions attempted prior to the use of physical restraint or seclusion, and an explanation if no such interventions were employed;
12. Whether the student has an IEP, a Section 504 plan, a BIP, or other plan;
13. If a student, school personnel, or any other individual sustained bodily injury, the date and time of nurse or emergency response personnel notification and the treatment administered, if any;
14. Date, time, and method of parental notification of the incident, as required by this section; and
15. Date, time, and method of school personnel debriefing.

D. Following an incident of physical restraint or seclusion, the school division shall ensure that, within two school days, the principal or the principal's designee reviews the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:

1. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and
2. How to prevent or reduce the future need for physical restraint or seclusion.

E. As appropriate, depending on the student's age and developmental level, following each incident of physical restraint or seclusion the school division shall ensure that, as soon as practicable, but no later

than two school days or upon the student's return to school, the principal or the principal's designee shall review the incident with the student involved to discuss:

1. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and
2. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint or seclusion.

F. The principal or the principal's designee shall regularly review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures. When there are multiple incidents within the same classroom or by the same individual, the principal or the principal's designee shall take appropriate steps to address the frequency of use.

8 VAC 20-750-70. School division policies and procedures.

A. Each school division that elects to use physical restraint or seclusion shall develop and implement written policies and procedures that meet or exceed the requirements of this chapter and that include, at a minimum, the following:

1. A statement of intention that the school division will encourage the use of positive behavioral interventions and supports to reduce and prevent the need for the use of physical restraint and seclusion.
2. Examples of the positive behavioral interventions and support strategies consistent with the student's rights to be treated with dignity and to be free from abuse that the school division uses to address student behavior, including the appropriate use of effective alternatives to physical restraint and seclusion.
3. A description of initial and advanced training for school personnel that addresses (i) appropriate use of effective alternatives to physical restraint and seclusion and (ii) the proper use of restraint and seclusion.
4. A statement of the circumstances in which physical restraint and seclusion may be employed, which shall be no less restrictive than that set forth in 8VAC20-750-40 and 8VAC20-750-50.
5. Provisions addressing the:
 - a. Notification of parents regarding incidents of physical restraint or seclusion, including the manner of such notification;
 - b. Documentation of the use of physical restraint and seclusion;
 - c. Continuous visual monitoring of the use of any physical restraint or seclusion to ensure the appropriateness of such use and the safety of the student being physically restrained or secluded, other students, school personnel, and others. These provisions shall include exceptions for emergency situations in which securing visual monitoring before implementing the physical restraint or seclusion would, in the reasonable judgment of the school personnel implementing the physical restraint or seclusion, result in serious physical harm or injury to persons; and
 - d. Securing of any room in which a student is placed in seclusion. These provisions shall ensure that any seclusion room or area meet specifications for size and viewing panels that ensure the student's safety at all times, including during a fire or other emergency, as required by this chapter.

B. School divisions utilizing school resource officers shall enter into a memorandum of understanding with local law enforcement addressing the use of seclusion and restraint by law enforcement personnel in school settings.

C. Each school division shall review its policies and procedures regarding physical restraint and seclusion at least annually and shall update these policies and procedures as appropriate. In developing, reviewing,

and revising its policies, school divisions shall consider the distinctions in emotional and physical development between elementary and secondary students and between students with and without disabilities.

D. Consistent with § 22.1-253.13:7 D of the Code of Virginia, a current copy of a school division's policies and procedures regarding restraint and seclusion shall be posted on the school division's website and shall be available to school personnel and to the public. School boards shall ensure that printed copies of such policies and procedures are available as needed to citizens who do not have online access.

E. In developing their policies and procedures, school divisions shall give due consideration to practices that encourage parent involvement and collaboration with regard to these matters.

8 VAC 20-750-80. Prevention; multiple uses of restraint or seclusion.

A. In the initial development and subsequent review and revision of a student's IEP or Section 504 plan, the student's IEP or Section 504 team shall consider whether the student displays behaviors that are likely to result in the use of physical restraint or seclusion. If the IEP or Section 504 team determines that future use is likely, the team shall consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

Within 10 school days following the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, the student's IEP or Section 504 team shall meet to discuss the incident and to consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

B. For students other than those described in subsection A of this section, within 10 school days of the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, a team consisting of the parent, the principal or the principal's designee, a teacher of the student, school personnel involved in the incident (if not the teacher or administrator already invited), and other appropriate school personnel, such as a school psychologist, school counselor, or school resource officer, as determined by the school division, shall meet to discuss the incident and to consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; and (iii) a referral for evaluation.

C. Nothing in this section shall be construed to (i) excuse the team convened under subsection B of this section or its individual members from the obligation to refer the student for evaluation if the team or members have reason to suspect that the student may be a student with a disability; or (ii) prohibit the completion of an FBA or BIP for any student, with or without a disability, who might benefit from these measures but whose behavior has resulted in fewer than two incidents of physical restraint or seclusion in a single school year.

8 VAC 20-750-90. Annual reporting.

The principal or the principal's designee shall submit to the division superintendent a report on the use of physical restraint and seclusion in the school based on the individual incident reports completed and submitted to the principal or the principal's designee by school personnel pursuant to 8VAC20-750-60 C. The division superintendent shall annually report the frequency of such incidents to the Superintendent of Public Instruction [] and shall make such information available to the public.

8 VAC 20-750-100. Training.

School divisions that employ physical restraint or seclusion shall:

1. Ensure that all school personnel receive [] training that focuses on skills related to positive behavior support, conflict prevention, de-escalation, and crisis response [, including follow-up support and social-emotional strategy support for students, staff, and families];
2. Ensure that all school personnel receive initial training regarding the regulations, policies, and procedures governing the use of physical restraint and seclusion;
3. Provide advanced training in the use of physical restraint and seclusion for at least one administrator in every school building and for school personnel assigned to work with any student whose IEP or Section 504 team determines the student is likely to be physically restrained or secluded; and
4. Ensure that any initial or advanced training is evidence-based.

8 VAC 20-750-110. Construction and interpretation.

Nothing in this chapter shall be construed to modify or restrict:

1. The initial authority of teachers to remove students from a classroom pursuant to § 22.1-276.2 of the Code of Virginia;
2. The authority and duties of school resource officers and school security officers, as defined in § 9.1-101 of the Code of Virginia, except to the extent governed by a memorandum of understanding between the local law enforcement agency and the school division;
3. The authority of the Virginia Department of Juvenile Justice with regard to students in its custody at any of its sites or in any of its programs; or
4. The civil immunity afforded teachers employed by local school boards for any acts or omissions resulting from the supervision, care, or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care, or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct, as provided in § 8.01-220.1:2 of the Code of Virginia.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than 30 calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for 11 to 45 school days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in accordance with subsection B of § 54.1-3408.3 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or

whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for 11 to 45 school days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within 30 days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

B. A school board shall include in the written notice of a suspension for 11 to 45 school days required by this section notification of the length of the suspension. In the case of a suspension for 11 to 45 school days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

C. Notwithstanding the provisions of subsections A and B, a long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if (i) the offense is one described in § 22.1-277.07 or 22.1-277.08 or involves serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department. Such definition shall include a consideration of a student's disciplinary history.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

C. A school board may adopt regulations authorizing the principal or his designee to impose a short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

§ 22.1-277.06. Expulsions; procedures; readmission.

C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:

1. The nature and seriousness of the violation;
2. The degree of danger to the school community;
3. The student's disciplinary history, including the seriousness and number of previous infractions;
4. The appropriateness and availability of an alternative education placement or program;
5. The student's age and grade level;
6. The results of any mental health, substance abuse, or special education assessments;
7. The student's attendance and academic records; and
8. Such other matters as he deems appropriate.

No decision to expel a student shall be reversed on the grounds that such factors were not considered.

Nothing in this subsection shall be deemed to preclude a school board from considering any of these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled

substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§ 22.1-277.04. Short-term suspension; procedures; readmission.

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for 11 to 45 school days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a

hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within 30 days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

B. A school board shall include in the written notice of a suspension for 11 to 45 school days required by this section notification of the length of the suspension. In the case of a suspension for 11 to 45 school days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

C. Notwithstanding the provisions of subsections A and B, a long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if (i) the offense is one described in § 22.1-277.07 or 22.1-277.08 or involves serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department. Such definition shall include a consideration of a student's disciplinary history.

§ 22.1-277.06. Expulsions; procedures; readmission.

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program.

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to

the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, committee thereof, or superintendent or his designee, as the case may be, at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

§ 22.1-279.3. Parental responsibility and involvement requirements.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal or his designee notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation is likely to result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of

the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations district court may be filed under certain circumstances to declare the student a child in need of supervision.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

§ 22.1-276.2. Removal of students from classes.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

B. A school board shall include in the written notice of a suspension for 11 to 45 school days required by this section notification of the length of the suspension. In the case of a suspension for 11 to 45 school days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an

appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

§ 22.1-277.06. Expulsions; procedures; readmission.

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program.

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school. [...]

C. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, committee thereof, or superintendent or his designee, as the case may be, at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

§ 22.1-279.3. Parental responsibility and involvement requirements.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§ 22.1-209.1:2. Regional alternative education programs for certain students.

A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a program consisting of regional alternative education options for elementary, middle, and high school students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another person, or against whom a petition or warrant has been filed alleging such acts or school board charges alleging such policy violations are pending; (ii) have been expelled from school attendance or have received one suspension for an entire semester, or have received two or more long-term suspensions within one school year; or (iii) have been released from a juvenile correctional center and have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education and the relevant division superintendent as requiring a regional alternative education program. Based on available space, a student may also be administratively assigned to a regional alternative education program either at the request of the parent and with the consent of the division superintendent or by the division superintendent after written notice to the student and his parent. Such notice of the opportunity for the student and/or his parent to participate in a hearing conducted by the division superintendent or his designee regarding such placement shall be issued and the assignment shall be final unless altered by the school board, upon timely written petition, in accordance with regulations of the school board, by the student or his parent, for a review of the record by the school board. However, no child shall be assigned to any regional alternative education program described in this section for more than one school year without an annual assessment of the placement to determine the appropriateness of transitioning the child into the school division's regular program.

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.
2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.
3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies;

institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.
5. An emphasis on building self-esteem and the promotion of personal and social responsibility.
6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.
7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.
8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.
9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.
10. The number of children who may be assigned to the regional alternative education program during the school year.
11. A plan for transitioning the enrolled students into the relevant school division's regular program.
12. A current program of staff development and training.

C. Beginning with the first year of program implementation, the Department of Education shall be entitled to deduct annually from the locality's share for the education of its students a sum equal to the actual local expenditure per pupil for the support of those students placed by the relevant school division in any such program. The amount of the actual transfers shall be based on data accumulated during the prior school year.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

E. For the purposes of this section, "regional alternative education program" means a program supported and implemented by two or more school divisions which are either geographically contiguous or have a community of interest.

F. For the purposes of this section, "one school year" means no more than 180 teaching days.

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

1. Career guidance counseling;
2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;
3. Mandatory enrollment in a program to earn a Board approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment;
4. Successful completion of the course in economics and personal finance required to earn a Board approved high school diploma;
5. Counseling on the economic impact of failing to complete high school; and
6. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

§ 22.1-269.1. Alternative attendance programs.

A. The Board of Education shall promulgate regulations for the voluntary participation of school divisions in programs to allow each school-age child to receive educational services at another public school, either in the division in which the child resides or in another division, as selected by the child's parent or guardian. Each public school in a school division participating in an alternative attendance program shall be eligible to participate in an alternative attendance program unless exceptional circumstances, as defined by the Board of Education, render the participation of the school contrary to public interest.

B. The Board's regulations shall be promulgated under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) and shall include, but shall not be limited to, provisions which address the following: the required acknowledgement by a local school of its decision to participate in an alternative attendance program, including school board resolutions for intradistrict programs and agreements between divisions participating in interdistrict programs; the equitable allocation of places to accommodate students when there are insufficient places to serve such students; transportation and school bus scheduling needs within the local school divisions; school enrollment capacity, class size, pupil-teacher ratios, and staffing levels for related instructional, administrative, and supervisory personnel as required by the Standards of Quality and the Standards for Accrediting Public Schools; the adequacy of school resources to accommodate an increase in student enrollment, grade level designations, and course offerings; the enrollment of students whose education is subject to an individualized education plan (I.E.P.) as required under P.L. 94-142 as amended; the preservation of the uniqueness of schools established for particular educational purposes; the fiscal impact of accommodating parental preference on local school divisions; in the case of interdistrict attendance programs, the establishment of tuition charges authorized by § 22.1-5; and the need to maintain racial balance in the public schools. The regulations shall also establish the value of educational services, based on consideration of per pupil expenditures and state aid in the affected school. Any local school board which has been ordered by a state or federal court to achieve racial balance in its public schools shall maintain such racial balance when accommodating preference in the assignment of children to a school.

C. From such funds as may be appropriated, the Board shall provide for the independent evaluation of this alternative attendance program and shall submit the evaluation to the Governor, the Senate, and the House of Delegates by January 1 of each year.

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

§ 22.1-276.2. Removal of students from classes.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

B. A school board shall include in the written notice of a suspension for 11 to 45 school days required by this section notification of the length of the suspension. In the case of a suspension for 11 to 45 school days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

§ 22.1-277.06. Expulsions; procedures; readmission.

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school

division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program.

D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

C. A school board may adopt regulations authorizing the principal or his designee to impose a short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

§ 22.1-277.2:2. Alternative education program data.

The Department of Education shall annually collect from each school board and publish on its website data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. Such data shall (i) be published in a manner that protects the identities of individual students; (ii) be disaggregated by local school division and by student race, ethnicity, gender, and disability; and (iii) include:

1. The number of students enrolled in alternative education programs pursuant to each of the five clauses set forth in subsection A of § 22.1-277.2:1;
2. The number of students enrolled in alternative education programs who have received (i) a short-term suspension, (ii) a long-term suspension, or (iii) an expulsion;
3. The current availability of various categories of alternative education programs available to all students and not solely special education students, including full-day programs with on-site, in-school teacher instruction; full-day programs with off-site, out-of-school teacher instruction; primarily virtual instruction; home-based or home-bound instruction; partial-day instruction; and any other category that the Department of Education may identify;
4. The average length of enrollment in an alternative education program per program during each school year;
5. The number of students who transition within the same school year from an alternative education program back into the school at which they were enrolled immediately preceding enrollment in the alternative education program; and
6. Relevant student achievement data, as determined by the Department of Education.

§ 22.1-279.3:3. Alternative school discipline process.

A. A school board may establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1 the option to enter into a mutually agreed-upon process between the involved parties. Such process shall be designed to hold the student accountable for a noncriminal offense through a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report pursuant to subsection D of § 22.1-279.3:1 a party who successfully completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994 and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and
2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun

shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in § 18.2-308.2:2.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § 15.2-915.4.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

F. The exemptions set out in §§ 18.2-308 and 18.2-308.016 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-277.07:1. Policies prohibiting possession of firearms.

Notwithstanding any other provision of law to the contrary, each school division may develop and implement procedures addressing disciplinary actions against students, and may establish disciplinary policies prohibiting the possession of firearms on school property, school buses, and at school-sponsored activities.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection C of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance

with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

§ 22.1-280.2:4. School boards; firearms on school property.

No school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 16.1-260. Intake; petition; investigation.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has

complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

22.1-207.7. 4-H educational programs and activities; attendance.

A. No student who misses a partial or full day of school while participating in a 4-H educational program or activity shall be counted as absent for the purposes of calculating average daily membership and each such student shall receive course credit in the same manner as he would for a school field trip, provided that:

2. Each local school board may determine the maximum number of school days per academic year that a student may spend participating in 4-H educational programs or activities to not be counted absent; and
3. No school shall provide course credit to a student pursuant this section if the student's participation in a 4-H educational program or activity occurs during scheduled Standards of Learning assessments or during any period of time that the student is suspended or expelled from school.

B. Upon request from a school principal or an assistant principal, an agent or representative from 4-H shall provide documentation as proof of a student's participation in an activity or program sponsored by 4-H.

§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

3. Student support positions, including (i) social workers and social work administrative positions; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including licensed behavior analysts, licensed assistant behavior analysts, school nurses, and school psychologists.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the board of psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school; plan; conference; court proceedings.

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports

the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee shall make a reasonable effort to ensure that direct contact is made with the parent in person, through telephone conversation, or through the use of other communications devices to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent for more than one additional day after direct contact with the pupil's parent, and school personnel have received no indication that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall schedule a conference with the pupil, his parent, and school personnel. Such conference may include the attendance officer and other community service providers to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 10 school days after the tenth absence of the pupil, regardless of whether his parent approves of the conference. The conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns and plan additional interventions if attendance does not improve. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the pupil is resisting parental efforts to comply with compulsory attendance requirements, the principal or his designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) institute proceedings against the parent pursuant to § 18.2-371 or 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

An attendance officer, or a division superintendent or his designee when acting as an attendance officer pursuant to § 22.1-258, may complete, sign, and file with the intake officer of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, a petition for a violation of a school attendance order entered by the juvenile and domestic relations district court pursuant to § 16.1-278.5 in response to the filing of a petition alleging the pupil is a child in need of supervision as defined in § 16.1-228.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

The attendance officer or the division superintendent or his designee shall check the reports submitted pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent or his designee shall, within five days after receiving all reports submitted pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

§ 22.1-266. Law-enforcement officers and truant children.

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

§ 22.1-267. Proceedings against habitually absent child.

Any child permitted by any parent, guardian, or other person having control thereof to be habitually absent from school contrary to the provisions of this article may be proceeded against as a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

§ 22.1-268. Duty of attorneys for the Commonwealth to prosecute cases arising under article; jurisdiction of offenses.

It shall be the duty of the attorneys for the Commonwealth of the several counties and cities to prosecute all cases arising under this article. Juvenile and domestic relations district courts shall have exclusive original jurisdiction for the trial of such cases.

§ 22.1-269. Board to enforce.

The Board of Education shall have the authority and it shall be its duty to see that the provisions of this article are properly enforced throughout the Commonwealth.

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

REGULATIONS

8 VAC 20-730-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Attendance conference" means a face-to-face meeting, or an interaction that is conducted through the use of communication technology, scheduled with the student, parent, and school personnel after the seventh unexcused absence. The attendance conference shall be held no later than 10 school days after

the 10th unexcused absence. The attendance conference is held by a multi-disciplinary team and may include the parents and student.

"Attendance plan" means a plan developed jointly by a school representative, such as a school principal or the principal's designee; parent; and student to resolve the student's nonattendance and engage the student in regular school attendance. The plan shall identify reasons for nonattendance and academic, social, emotional, and familial barriers that impede daily attendance along with positive strategies to address such reasons and impediments and support regular attendance. This plan may include school-based activities or suggested referrals to community supports, or both.

"Court referral" means filing a complaint with the Juvenile and Domestic Relations Court after the multi-disciplinary team has held an attendance conference and attempted interventions to address the student's continued nonattendance. Documentation of interventions regarding the student's unexcused absences, such as copies of the attendance plan and documentation of conference meetings, and compliance with § 22.1-258 of the Code of Virginia will be provided to the intake worker.

"Excused absence" means an absence of an entire assigned instructional school day with a reason acceptable to the school administration that is provided by the parent. If circumstances permit, the parent should provide the school administration with the reason for the nonattendance prior to the absence. Examples of an excused absence may include, but are not limited to, the following reasons: funeral, illness (including mental health and substance abuse illnesses), injury, legal obligations, medical procedures, suspensions, religious observances, and military obligation. Suspended students continue to remain under the provisions of compulsory school attendance as described in § 22.1-254 of the Code of Virginia. An absence from school attendance resulting from a suspension shall be recorded in compliance with 8VAC20-730-30 for the period of the suspension.

"Instructional school day" means the length of a regularly scheduled school day for an individual student.

"Multi-disciplinary team" means a conference team that may be convened to review student records and to participate in prevention, early intervention, and provision of support services to address unexcused absences, including school-based case management. These services should address academic, social, emotional, and familial issues in order to improve regular school attendance. Team members may include but are not limited to, the following: an administrator, school counselor, social worker or psychologist, student assistance specialist, special education and general education teacher, attendance officer, and community representatives.

"Parent" means the parent or parents, guardian or guardians, legal custodian or legal custodians, or other person or persons having legal control or charge of the student.

"Truancy" means the act of accruing one or more unexcused absences.

"Unexcused absence" means an absence where (i) the student misses his scheduled instructional school day in its entirety and (ii) no indication has been received by school personnel within five days of the absence that the student's parent is aware and supports the absence, or the parent provides a reason for the absence that is unacceptable to the school administration. The school administration may change an unexcused absence to an excused absence when it determines that the parent has provided an acceptable reason meeting criteria for the student's absence or there are extenuating circumstances.

8 VAC 20-730-20. Unexcused absences intervention process and responsibilities.

A. Each local school board shall provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.

B. Each local school board shall develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.

C. The following intervention steps shall be implemented to respond to unexcused absences from school and to engage students in regular school attendance.

1. Whenever a student fails to report to school on a regularly scheduled school day and no information has been received by school personnel that the student's parent is aware of and supports the absence, or the parent provides a reason for the absence that is unacceptable to the school administration, the school principal or designee, attendance officer, or other school personnel or volunteer will notify the parent by phone or email or any other electronic means to obtain an explanation. The school staff shall record the student's absence for each day as "excused" or "unexcused." Early intervention with the student and parent or parents shall take place for repeated unexcused absences.

2. When a student has received five unexcused absences, the school principal or designee shall make a reasonable effort to ensure that direct contact is made with the parent. The parent shall be contacted in a face-to-face conference, by telephone, or through the use of other communication devices. During the direct contact with the parent and the student (if appropriate), reasons for nonattendance shall be documented and the consequences of nonattendance explained. An attendance plan shall be made with the student and parent or parents to resolve the nonattendance issues. The student and parent may be referred to a school-based multi-disciplinary team for assistance implementing the attendance plan and case management.

3. When the student accrues a seventh unexcused absence, the school principal or principal's designee shall schedule a face-to-face attendance conference, or an interaction that is conducted through the use of communication technology. The attendance conference must be held within 10 school days from the date of the 10th unexcused absence. The principal or principal's designee shall make reasonable efforts to contact the student's parent or parents to attend the attendance conference either in person or via communication technology. If the principal or principal's designee, after reasonable efforts have been made, is unable to contact the student's parent, the conference shall be held regardless of whether the student's parent approves of the conference. The conference shall include the principal or principal's designee and a representative from the multi-disciplinary team.

4. The multi-disciplinary team shall monitor the student's attendance and, as necessary, meet again to address concerns and plan additional interventions if the student's attendance does not improve. If additional meetings are necessary, the principal or principal's designee shall make reasonable efforts to contact the student's parent or parents and schedule a face-to-face meeting, or an interaction that is conducted through the use of communication technology. If the principal or principal's designee, after reasonable efforts have been made, is unable to contact the student's parent, the conference shall be held regardless of whether the student's parent approves of the conference.

5. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the student is resisting parental efforts to comply with compulsory attendance requirements, the school principal or principal's designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the student and the student's parent or parents within 10 days of receiving the referral. The attendance officer may (i) file a complaint with the juvenile and domestic relations district court alleging the student is a child in need of supervision as defined in § 16.1-228 of the Code of Virginia or (ii) institute proceedings against the parent pursuant to § 18.2-371 or 22.1-262 of the Code of Virginia. In addition to written documentation of the efforts to comply with the notice provisions of § 22.1-258 of the Code of Virginia, all records of intervention regarding the student's unexcused absences, such as copies of the conference meeting notes, attendance plan, and description of the supports offered or made available to the student shall be presented to the intake worker.

D. A record shall be maintained of each meeting that includes the attendance plan, the name of individuals in attendance at each conference meeting (including via telephone or electronic devices), the location and date of the conference, a summary of what occurred, and follow-up steps.

8 VAC 20-730-30. Data collection and reporting.

Data collection shall begin on the first day students attend for the school year. Each school division shall provide student level attendance data for each student that includes the number of unexcused absences in a manner prescribed by the Virginia Department of Education. A student's attendance is cumulative and begins on the first official day of the school year or the first day the student is officially enrolled. All nonattendance days are cumulative and begin with the first absence. For purposes of this data collection, truancy shall start with the first unexcused absence and will be cumulative. Data shall be reported to the Virginia Department of Education pursuant to § 22.1-258 of the Code of Virginia and 8VAC20-730-20.

Substance Use

LAWS

§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.

Each school board shall develop and implement a policy to prohibit, at any time, the use and distribution of any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.

Each school board shall work to ensure adequate notice of this policy.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection

G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection C of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or

grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct. [...]

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

REGULATIONS

8 VAC 20-310-10. Health education program.

The Board of Education recognizes that the illegal and inappropriate use of certain substances constitutes a hazard to the development of students. Elementary and secondary schools shall include in the health education program instruction in drugs and drug abuse.

Therefore, the public schools of the Commonwealth shall:

1. Be concerned with education and prevention in all areas of substance use and abuse.
2. Establish and maintain a realistic, meaningful substance abuse prevention and education program that shall be developed and incorporated in the total education program.
3. Establish and maintain an ongoing in-service substance abuse prevention program for all school personnel.
4. Cooperate with government and approved private agencies involved with health of students relating to the abuse of substances.
5. Encourage and support pupil-run organizations and activities that will develop a positive peer influence in the area of substance abuse.
6. Create a climate whereby students may seek and receive counseling about substance abuse and related problems without fear of reprisal.

Gang-related Activity

LAWS

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 8.01-220.1:2. Civil immunity for teachers under certain circumstances.

A. Any teacher employed by a local school board in the Commonwealth shall not be liable for any civil damages for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct.

B. No school employee or school volunteer shall be liable for any civil damages arising from the prompt good faith reporting of alleged acts of bullying or crimes against others to the appropriate school official in compliance with §§ 22.1-279.6 and 22.1-291.4 and specified procedures.

C. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, to affect any claim occurring prior to the effective date of this law, or to prohibit any person subject to bullying or a criminal act from seeking redress under any other provision of law.

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance.
2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights.

§ 18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials; penalty.

It shall be unlawful to haze so as to cause bodily injury, any student at any school or institution of higher education.

Any person found guilty thereof shall be guilty of a Class 1 misdemeanor.

Any person receiving bodily injury by hazing shall have a right to sue, civilly, the person or persons guilty thereof, whether adults or infants.

The president or other presiding official of any school or institution of higher education receiving appropriations from the state treasury shall, upon satisfactory proof of the guilt of any student hazing another student, sanction and discipline such student in accordance with the institution's policies and procedures. The institution's policies and procedures shall provide for expulsions or other appropriate discipline based on the facts and circumstances of each case and shall be consistent with the model policies established by the Department of Education or the State Council of Higher Education for Virginia, as applicable. The president or other presiding official of any school or institution of higher education receiving appropriations from the state treasury shall report hazing which causes bodily injury to the

attorney for the Commonwealth of the county or city in which such school or institution of higher education is, who shall take such action as he deems appropriate.

For the purposes of this section, "hazing" means to recklessly or intentionally endanger the health or safety of a student or students or to inflict bodily injury on a student or students in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity.

§ 22.1-23.3. Treatment of transgender students; policies.

A. The Department of Education shall develop and make available to each school board model policies concerning the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards relating to:

2. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students;
3. Prevention of and response to bullying and harassment;

B. Each school board shall adopt policies that are consistent with but may be more comprehensive than the model policies developed by the Department of Education pursuant to subsection A.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-276.01.

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Bullying" means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim;

and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct. [...]

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal or his designee to notify the parent of any student involved in an alleged incident of bullying within 24 hours of learning of the allegation of bullying. Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

§ 22.1-279.9. Development of programs to prevent crime and violence.

All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events, which shall include prevention of hazing. Activities designed to prevent the recurrence of violence and crime, including hazing, may include such interventions as education relating to Virginia's criminal law, school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.

§ 22.1-291.4. Bullying and abusive work environments prohibited.

A. Each school board shall implement policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

B. Each school board shall adopt policies to:

1. Prohibit abusive work environments in the school division;
2. Provide for the appropriate discipline of any school board employee who contributes to an abusive work environment; and
3. Prohibit retaliation or reprisal against a school board employee who alleges an abusive work environment or assists in the investigation of an allegation of an abusive work environment.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

§ 22.1-207.1:1. Family life education; certain curricula and standards of learning.

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on (i) the prevention of dating violence, domestic abuse, sexual harassment, including sexual harassment using electronic means, sexual violence, and human trafficking and (ii) the law and meaning of consent. Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;
2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;
3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;
4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;
5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department and, in conjunction with the Department of Education, information relating to the activities of school resource officers submitted pursuant to Section 22.1-279.10;;
6. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;
7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;
8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;
9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;
10. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth;
11. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; and
12. Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of subsection A of § 22.1-280.2:3.

13. Designate an employee of the center as the school personnel safety official for the commonwealth whose duty is to compile, maintain, and make publicly available a list of each division safety official designated and the contact information for such individual included in each collated packet of school safety audits received pursuant to subsection b of section 22.1-279.8. Such school personnel safety official for the commonwealth shall at least annually confirm with each division superintendent that such contact information is up to date and accurate.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

§ 22.1-23.3. Treatment of transgender students; policies.

A. The Department of Education shall develop and make available to each school board model policies concerning the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards relating to:

1. Compliance with applicable nondiscrimination laws;
2. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students;
3. Prevention of and response to bullying and harassment;
4. Maintenance of student records;
5. Identification of students;
6. Protection of student privacy and the confidentiality of sensitive information;
7. Enforcement of sex-based dress codes; and
8. Student participation in sex-specific school activities and events and use of school facilities. Activities and events do not include athletics.

B. Each school board shall adopt policies that are consistent with but may be more comprehensive than the model policies developed by the Department of Education pursuant to subsection A.

§ 22.1-79.4. Threat assessment teams and oversight committees.

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (the Center) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement, and, in the case of any school in which a school resource officer is employed, at least one such school resource officer. New threat assessment team members shall complete an initial threat assessment training and all threat assessment team members shall be required to complete refresher threat assessment training every three years. Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and

(iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall collect and report to the Center quantitative data on its activities using the case management tool developed by the Center.

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and

community involvement in the public schools. With such funds as are made available for this purpose, the Department of Education shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Department of Education may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Department of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs, including a summer youth development academy.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

§ 22.1-279.7. Guidelines for student searches.

The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, voluntary and mandatory drug testing, and strip searches, consistent with relevant state and federal laws and constitutional principles.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

8 VAC 20-23-130. Professional studies requirements for early/primary education, elementary education, and middle education endorsements.

Professional studies requirements for early/primary education, elementary education, and middle education: 21 semester hours. These requirements may be taught in integrated coursework or modules.

3. Classroom and behavior management: 3 semester hours.

a. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

8 VAC 20-750-20. General definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Behavioral intervention plan" or "BIP" means a plan that utilizes positive behavioral interventions and supports to address (i) behaviors that interfere with a student's learning or that of others or (ii) behaviors that require disciplinary action.

8 VAC 20-750-70. School division policies and procedures.

A. Each school division that elects to use physical restraint or seclusion shall develop and implement written policies and procedures that meet or exceed the requirements of this chapter and that include, at a minimum, the following:

1. A statement of intention that the school division will encourage the use of positive behavioral interventions and supports to reduce and prevent the need for the use of physical restraint and seclusion.
2. Examples of the positive behavioral interventions and support strategies consistent with the student's rights to be treated with dignity and to be free from abuse that the school division uses to address student behavior, including the appropriate use of effective alternatives to physical restraint and seclusion.

Prevention

LAWS

§ 22.1-279.3:1. Reports of certain acts to school authorities.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

§ 22.1-279.9. Development of programs to prevent crime and violence.

All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events, which shall include prevention of hazing. Activities designed to prevent the recurrence of violence and crime, including hazing, may include such interventions as education relating to Virginia's criminal law, school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 22.1-17.7. Social-emotional learning guidance standards.

The Department shall (i) establish a uniform definition of social-emotional learning and develop guidance standards for social-emotional learning for all public students in grades kindergarten through 12 in the Commonwealth; (ii) make such standards available to each local school division no later than July 1, 2021; and (iii) issue a report no later than November 1, 2021, on the resources needed to successfully support local school divisions with the implementation of a statewide social-emotional learning program.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools. With such funds as are made available for this purpose, the Department of Education shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Department of Education may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Department of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs, including a summer youth development academy.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

§ 22.1-298.1. Regulations governing licensure.

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of Section 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

Chapter 572. Trauma Learning Modules

Section 1. The department of education (the department) shall collaborate with the Virginia tiered systems of supports research and implementation center (VTSS-RIC) to make modifications to the existing trauma learning modules provided by VTSS-RIC. In making such modifications, the department and VTSS-RIC shall incorporate:

1. The Following definitions:

"childhood trauma" means any emotionally disturbing or distressing event or experience occurring during childhood that could have a lasting negative effect on a child's physical, emotional, and behavioral development and health, including adverse childhood experiences, or childhood physical or emotional abuse or neglect, sexual abuse, alcohol or substance abuse in the home, mental illness in the home, incarceration of a family member, witnessing domestic violence, and parental divorce or separation; and

"trauma-informed" means an approach to childhood care and education that includes (i) an understanding of the impact childhood trauma has on a child's physical, emotional, and behavioral development and health; (ii) the ability to recognize signs that a child has experienced childhood trauma; (iii) the skills, knowledge, and resources to provide necessary and timely support to a child who has experienced childhood trauma; and (iv) the knowledge to facilitate a safe, stable, and trauma-sensitive classroom environment;

2. Information or guidance on concepts including:

A. Childhood trauma and the impacts of childhood trauma on a child's physical, emotional, and behavioral development and health;

B. The importance of mental health and wellness for both teachers and students;

C. How to handle childhood trauma in the classroom and foster a trauma-informed classroom environment;

D. How to recognize the signs of childhood trauma in students;

E. How to respond when a student discloses or informs a teacher of a traumatic experience or exhibits signs that such student has had a traumatic experience; and

F. When and how to contact support services or other resources outside the classroom to ensure that any student who has experienced trauma receives the support he needs.

2. The department of education and the Virginia tiered systems of supports research and implementation center shall provide a report on the modification of the trauma learning modules as required by this act to the governor and the general assembly by November 1, 2023.

REGULATIONS

8 VAC 20-23-130. Professional studies requirements for early/primary education, elementary education, and middle education endorsements.

Professional studies requirements for early/primary education, elementary education, and middle education: 21 semester hours. These requirements may be taught in integrated coursework or modules.

1. Human development and learning (birth through adolescence): 3 semester hours.

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and cognitive- should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to, but not limited to, low socioeconomic status; attention deficit disorders; developmental disorders; gifted education, including the use of multiple criteria to identify gifted students; substance abuse; trauma, including child abuse and neglect and other adverse childhood experiences; and family disruptions.

Mental Health Literacy Training

LAWS

§ 2.2-213.5. Dissemination of information about specialized training to prevent and minimize mental health crisis.

The Secretary of Health and Human Resources and the Secretary of Public Safety and Homeland Security shall encourage the dissemination of information about specialized training in evidence-based strategies to prevent and minimize mental health crises in all jurisdictions. This information shall be disseminated to, but not limited to, law-enforcement personnel, other first responders, hospital emergency department personnel, school personnel, and other interested parties, to the extent possible. These strategies shall include (i) crisis intervention team (CIT) training for law-enforcement personnel and other first responders as designated by the community CIT task force and (ii) mental health first aid training for other first responders, hospital emergency department personnel, school personnel, and other interested parties. The Secretary of Health and Human Resources and the Secretary of Public Safety and Homeland Security shall encourage adherence to the models of training and achievement of programmatic goals and standards. The goals for CIT training shall include (i) training participants to recognize the signs and symptoms of behavioral health disorders; (ii) teaching participants the skills necessary to de-escalate crisis situations and how to support individuals in crisis; (iii) educating participants about community-based resources available to individuals in crisis; and (iv) enhancing participants' ability to communicate with health systems about the nature of the crisis to include rules regarding confidentiality and protected health information. The goals for mental health first aid training shall be to teach the public (to include first responders, school personnel, and other interested parties) how to recognize symptoms of mental health problems, how to offer and provide initial help, and how to guide a person toward appropriate treatments and other supportive help.

§ 22.1-298.1. Regulations governing licensure.

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of Section 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

§ 22.1-298.6. Mental health awareness training.

A. Each school board shall adopt and implement policies that require each teacher and other relevant personnel, as determined by the school board, employed on a full-time basis, to complete a mental health awareness training or similar program at least once.

B. Each school board shall provide required personnel the training required by subsection A and may contract with the Department of Behavioral Health and Developmental Services, a community services board, a behavioral health authority, a nonprofit organization, or other certified trainer as defined in § 37.2-312.2 to provide such training. Such training may be provided via an online module.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

3. Student support positions, including (i) social workers and social work administrative positions; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including licensed behavior analysts, licensed assistant behavior analysts, school nurses, and school psychologists.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the board of psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 22.1-276.2. Removal of students from classes.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1- 279.6:

2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult

misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a felony offense and may report to the local law-enforcement agency any incident described in subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident is so reported, that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

F. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-279.3:3. Alternative school discipline process.

A. A school board may establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1 the option to enter into a mutually agreed-upon process between the involved parties. Such process shall be designed to hold the student accountable for a noncriminal offense through a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report pursuant to subsection D of § 22.1-279.3:1 a party who successfully completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.

REGULATIONS

8 VAC 20-750-60. Notification and reporting.

A. When any student has been physically restrained or secluded:

1. The school personnel involved shall report the incident and the use of any related first aid to the school principal or the principal's designee as soon as possible by the end of the school day in which the incident occurred; and
2. The school principal or the principal's designee, or other school personnel shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as email, to notify the parent of the incident and any related first aid on the day the incident occurred.

B. When any student has been physically restrained or secluded after the regular school day, the notifications required by subsection A of this section shall be made as soon as practicable in compliance with the school division's school crisis, emergency management, and medical emergency response plan required by § 22.1-279.8 of the Code of Virginia.

C. As soon as practicable, but no later than two school days after an incident in which physical restraint or seclusion has been implemented, the school personnel involved in the incident or other school personnel, as may be designated by the principal, shall complete and provide to the principal or the principal's designee a written incident report. The school division shall provide the parent with a copy of the incident report within seven calendar days of the incident.

The written incident report shall contain information sufficient to inform the parent about the incident. Such information would typically include the following:

1. Student name, age, gender, grade, and ethnicity;
2. Location of the incident;

3. Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion;
 4. Date of report;
 5. Name of person completing the report;
 6. School personnel involved in the incident, their roles in the use of physical restraint or seclusion, and documentation of their completion of the division's training program;
 7. Description of the incident, including the resolution and process of return of the student to the student's educational setting, if appropriate;
 8. Detailed description of the physical restraint or seclusion method used;
 9. Student behavior that justified the use of physical restraint or seclusion;
 10. Description of prior events and circumstances prompting the student's behavior, to the extent known;
 11. Less restrictive interventions attempted prior to the use of physical restraint or seclusion, and an explanation if no such interventions were employed;
 12. Whether the student has an IEP, a Section 504 plan, a BIP, or other plan;
 13. If a student, school personnel, or any other individual sustained bodily injury, the date and time of nurse or emergency response personnel notification and the treatment administered, if any;
 14. Date, time, and method of parental notification of the incident, as required by this section; and
 15. Date, time, and method of school personnel debriefing.
- D. Following an incident of physical restraint or seclusion, the school division shall ensure that, within two school days, the principal or the principal's designee reviews the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:
1. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and
 2. How to prevent or reduce the future need for physical restraint or seclusion.
- E. As appropriate, depending on the student's age and developmental level, following each incident of physical restraint or seclusion the school division shall ensure that, as soon as practicable, but no later than two school days or upon the student's return to school, the principal or the principal's designee shall review the incident with the student involved to discuss:
1. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and
 2. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint or seclusion.
- F. The principal or the principal's designee shall regularly review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures. When there are multiple incidents within the same classroom or by the same individual, the principal or the principal's designee shall take appropriate steps to address the frequency of use.

Parental Notification

LAWS

§ 16.1-260. Intake; petition; investigation.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

§ 22.1-209.1:2. Regional alternative education programs for certain students.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school; plan; conference; court proceedings.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee shall make a reasonable effort to ensure that direct contact is made with the parent in person, through telephone conversation, or through the use of other communications devices to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent for more than one additional day after direct contact with the pupil's parent, and school personnel have received no indication that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall schedule a conference with the pupil, his parent, and school personnel. Such conference may include the attendance officer and other community service providers to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 10 school days after the tenth absence of the pupil, regardless of whether his parent approves of the conference. The conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns and plan additional interventions if attendance does not improve. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the pupil is resisting parental efforts to comply with compulsory attendance requirements, the principal or his designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) institute proceedings against the parent pursuant to § 18.2-371 or 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

§ 22.1-276.2. Removal of students from classes.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior. [...]

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for 11 to 45 school days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within 30 days.

§ 22.1-277.06. Expulsions; procedures; readmission.

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. [...]

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program.

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended. [...]

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The

decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

§ 22.1-279.3. Parental responsibility and involvement requirements.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal or his designee shall notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation is likely to result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations district court may be filed under certain circumstances to declare the student a child in need of supervision.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

§ 22.1-279.4. Information regarding prosecution for certain crimes.

School boards shall provide information developed by the office of the Attorney General to students regarding laws governing the prosecution of juveniles as adults for the commission of certain crimes. Methods of providing such information may include, but shall not be limited to, public announcements in the schools, written notification to parents, publication in the student conduct manual, and inclusion in those materials distributed to parents pursuant to § 22.1-279.3.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal or his designee to notify the parent of any student involved in an alleged incident of bullying within 24 hours of Learning the allegation of bullying.

REGULATIONS

8 VAC 20-730-20. Unexcused absences intervention process and responsibilities.

C. The following intervention steps shall be implemented to respond to unexcused absences from school and to engage students in regular school attendance.

1. Whenever a student fails to report to school on a regularly scheduled school day and no information has been received by school personnel that the student's parent is aware of and supports the absence, or the parent provides a reason for the absence that is unacceptable to the school administration, the school principal or designee, attendance officer, or other school personnel or volunteer will notify the parent by phone or email or any other electronic means to obtain an explanation. The school staff shall record the student's absence for each day as "excused" or "unexcused." Early intervention with the student and parent or parents shall take place for repeated unexcused absences.

8 VAC 20-750-60. Notification and reporting.

A. When any student has been physically restrained or secluded:

2. The school principal or the principal's designee, or other school personnel shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as email, to notify the parent of the incident and any related first aid on the day the incident occurred.

8 VAC 20-750-70. School division policies and procedures.

A. Each school division that elects to use physical restraint or seclusion shall develop and implement written policies and procedures that meet or exceed the requirements of this chapter and that include, at a minimum, the following:

5. Provisions addressing the:

a. Notification of parents regarding incidents of physical restraint or seclusion, including the manner of such notification.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4.

§ 22.1-279.10. School resource officers; data.

The Department of Criminal Justice Services, in coordination with the Department of Education and the Department of Juvenile Justice, shall annually collect, report, and publish on its website data on the use of force against students, including the use of chemical, mechanical, or other restraints and instances of seclusion; detentions of students; arrests of students; student referrals to court or court service units; and other disciplinary actions by school resource officers involving students. Such data shall (i) be published in a manner that protects the identities of students and (ii) be disaggregated by local school division and by student age, grade, race, ethnicity, gender, and disability, if such data is available.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

REGULATIONS

8 VAC 20-560-10. Reportable incidents.

The principal of each public school shall collect and maintain information on the following events which occur on school property, on a school bus, or at a school-sponsored activity, and shall report the information semi-annually to the division superintendent on dates established by the superintendent. The division superintendent shall submit annually to the Department of Education, on forms provided by the department, an aggregate report of such incidents on or before the last day of October.

1. Incidences of crime and violence.
 - a. Physical battery.
 - (1) On school personnel by students.
 - (2) On students by students.
 - (3) On students by persons other than students.
 - b. Sexual battery.
 - (1) On school personnel by students.
 - (2) On students by students.
 - (3) On students by persons other than students.
 - c. Homicides.
 - (1) On school personnel by students.
 - (2) On students by students.
 - (3) On students by persons other than students.
 - d. Possession of weapons.
 - e. Possession of alcohol.
 - f. Possession of drugs.
 - g. Possession of tobacco products.
2. Students involved in incident of crime and violence.
 - a. Total number of students involved in physical assaults.
 - (1) Perpetrator (categorized by grade and gender).
 - (2) Victims (categorized by grade and gender).
 - b. Total number of students involved in sexual battery.
 - (1) Perpetrator (categorized by grade and gender).
 - (2) Victims (categorized by grade and gender).
 - c. Total number of students involved in homicides.
 - (1) Perpetrator (categorized by grade and gender).
 - (2) Victims (categorized by grade and gender).

- d. Total number of students involved in possession of weapons (categorized by grade and gender).
- e. Total number of students involved in possession of alcohol (categorized by grade and gender).
- f. Total number of students referred (by self or others) for assistance with substance abuse problems (categorized by grade and gender).
- g. Total number of students involved in possession of drugs (categorized by grade and gender).

8 VAC 20-730-30. Data collection and reporting.

Data collection shall begin on the first day students attend for the school year. Each school division shall provide student level attendance data for each student that includes the number of unexcused absences in a manner prescribed by the Virginia Department of Education. A student's attendance is cumulative and begins on the first official day of the school year or the first day the student is officially enrolled. All nonattendance days are cumulative and begin with the first absence. For purposes of this data collection, truancy shall start with the first unexcused absence and will be cumulative. Data shall be reported to the Virginia Department of Education pursuant to § 22.1-258 of the Code of Virginia and 8VAC20-730-20.

8 VAC 20-750-90. Annual reporting.

The principal or the principal's designee shall submit to the division superintendent a report on the use of physical restraint and seclusion in the school based on the individual incident reports completed and submitted to the principal or the principal's designee by school personnel pursuant to 8VAC20-750-60 C. The division superintendent shall annually report the frequency of such incidents to the Superintendent of Public Instruction [] and shall make such information available to the public.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 22.1-279.3:1. Reports of certain acts to school authorities.

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a felony offense and may report to the local law-enforcement agency any incident described in subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident is so reported, that the parents may contact local law enforcement for further information, if they so desire.

§ 22.1-280.2. School crime line defined; development of school crime lines authorized; local school boards' authority; Board of Education to promulgate regulations.

A. As used in this section:

"School crime line" means a confidential, anonymous system providing inducements for students to report any unlawful act occurring in school buildings or on school grounds or during school-sponsored activities to local law-enforcement authorities which is established as a cooperative alliance between the local school board, news media, the community, and law-enforcement officials or through a separate, nonprofit corporation governed by a board of directors or as part of a local "Crime Stoppers" program.

B. In order to reduce crime and violence within the school divisions in the Commonwealth, any local school board may develop a school crime line program as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities to receive, screen, and reward student reports of unlawful acts committed in school buildings or on school grounds or at school functions, when such reports lead to arrests or recovery of contraband or stolen property. Police or other law-enforcement personnel shall staff every school crime line program, receive reported information from anonymous student callers, screen such information, and direct information for further investigation, as may be appropriate.

C. Such programs may be established (i) by a local school board as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities; (ii) through a separate nonprofit corporation initiated jointly by the local school board, news media, the community, and law-enforcement authorities and governed by a board of directors; or (iii) as part of a local "Crime Stoppers" program.

The governing board of any separate nonprofit school crime line corporation shall include broad-based community representation and shall, through its bylaws, set the policy, coordinate fund raising, and formulate a system of rewards. Prior to implementation of any school crime line program and annually thereafter, the local school board shall review and approve, as complying with the Board of Education's regulations for implementation of school crime lines, its regulations or the bylaws of any nonprofit school crime line corporation or the bylaws of any nonprofit "Crime Stoppers" corporation operating a school

crime line. No school crime line program shall be implemented or revised without first obtaining the local school board's approval. Every local school board developing a school crime line program shall also notify all students and their parents or other custodian of the procedures and policies governing the program prior to implementation and annually thereafter.

D. By July 1, 1994, the Board of Education shall promulgate regulations for the implementation of school crime lines, including, but not limited to, appropriate fund raising, and the appropriateness of and limitations on rewards. In developing the regulations, the Board shall, in consultation with the Office of the Attorney General, address issues relating to civil rights, privacy, and any other question of law, including the civic duty to report crime without compensation.

E. Local school boards may establish, as a separate account, a school crime line fund, consisting of private contributions, local appropriations specifically designated for such purposes, and such funds as may be appropriated for this purpose by the Commonwealth pursuant to the appropriation act. No state or local funds appropriated for educational purposes shall be used to implement a school crime line.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation techniques; and (iii) training in the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person. [...]

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, including school security officers described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall be specific to the role and responsibility of school security officers and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent development and brain research. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer

who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment. [...]

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research.

§ 9.1-110. School resource officer grants program and fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers, as defined in § 9.1-101, in middle and high schools within the relevant school division. The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety and prevent truancy and violence in schools.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

§ 9.1-114.1. Compliance with minimum training standards by school resource officers.

Every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, shall comply with the compulsory minimum training standards for school resource officers established by the Board within a period of time fixed by the Board. The Department shall ensure that such required training is available throughout the Commonwealth.

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110. [...]

12. Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school

resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of subsection A of § 22.1-280.2:3.

§ 22.1-280.2:1. Employment of school security officers.

Local school boards and private or religious schools may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board or private or religious school solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board or private or religious school grants him the authority to carry a firearm in the performance of his duties.

REGULATIONS

6 VAC 20-240-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approved instructor" means a person who has been approved by the department to instruct in the school security officer training course.

"Approved training" means training approved by the department to meet compulsory minimum training standards.

"Approved training session" means a training session that is approved by the department for the specific purpose of training school security officers.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Certification" means a method of regulation indicating that qualified persons have met the minimum requirements as school security officers.

"Compulsory minimum training standards" means the performance outcomes and minimum hours approved by the board.

"Date of hire" means the date any employee of a school board or system is hired to provide security services for a school and whom the department must regulate.

"Department" means the Department of Criminal Justice Services or any successor agency.

"Director" means the chief administrative officer of the department or his designee.

"In-service training requirement" means the compulsory in-service training standards adopted by the board for school security officers.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board

policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"This chapter" means the Regulations Relating to School Security Officers (6VAC20-240).

"Training certification" means verification of the successful completion of any training requirement established by this chapter.

"Training requirement" means any entry-level or in-service training or retraining standard established by this chapter.

6 VAC 20-240-20. Initial certification and training requirements for school security officers.

A. In addition to meeting all the hiring requirements of the employing school board, all school security officers who enter upon the duties of such office on or after September 1, 2004, are required to meet the following minimum certification and training requirements. Such person shall:

1. Undergo a background investigation to include fingerprint-based criminal history record inquiry of both the Central Criminal Records Exchange (CCRE) and the Federal Bureau of Investigation (FBI). Results of such inquiries shall be examined by the employing school division within 30 days of date of hire;
2. Have a high school diploma, have passed the General Educational Development exam, or have passed the National External Diploma Program;
3. Be a minimum of 21 years of age;
4. Possess a valid driver's license if required by the duties of office to operate a motor vehicle;
5. Successfully complete basic first aid training. The level and substance of such training shall be at the discretion of the employing school division;
6. Comply with compulsory minimum entry-level training requirements approved by the board:
 - a. Every school security officer hired on or after September 1, 2004, is required to comply with the compulsory minimum training standards within 60 days of the date of hire as a school security officer.
 - b. The compulsory minimum training shall consist of a Department of Criminal Justice Services-approved security officer training course developed by the department. Such training shall include but not be limited to:
 - (1) The role and responsibility of school security officers;
 - (2) Relevant state and federal laws;
 - (3) School and personal liability issues;
 - (4) Security awareness in the school environment;
 - (5) Mediation and conflict resolution;
 - (6) Disaster and emergency response; and
 - (7) Student behavioral dynamics.
 - c. The compulsory minimum training shall include a test for each module approved and provided by the department with a minimum passing grade of 80% on each module; and
7. Submit to the department a properly completed and signed application for certification from the localities in a format provided by the department.

B. All costs associated with the background investigation, submission of fingerprints for criminal history record inquiries, and basic first aid training to meet the hiring requirements are the responsibility of that locality.

C. The department may grant an extension of the time limit for completion of the compulsory minimum training standards under the following documented conditions:

1. Illness or injury;
2. Military service;
3. Special duty required and performed in the public interest;
4. Administrative leave, full-time educational leave or suspension pending investigation or adjudication of a crime; or
5. Any other reasonable situation documented by the employing school division superintendent or designee.

D. The director may grant an exemption or partial exemption from the compulsory minimum training standards set forth in this chapter to a law-enforcement officer of the Commonwealth who has had previous experience and training as provided in § 9.1-114 of the Code of Virginia.

6 VAC 20-240-50. Recertification of school security officers.

A. Applications for recertification shall be received by the department at least 30 days before certification expiration. It is the responsibility of the individual to ensure recertification applications are filed with the department. A valid certification as a school security officer is required in order to remain eligible for employment as a school security officer. If the school security officer recertification application is on file with the department 30 days prior to expiration, the school security officer may continue to operate in the school security officer capacity pending notification by the department.

B. Applicants for recertification must complete 16 hours of in-service training during each two-year period after initial certification. The in-service training must be school security officer related to include a legal update and other relevant topics approved by the department.

C. Individuals whose certification is expired shall comply with the initial certification requirements set forth in this chapter.

D. The department, subject to its discretion, retains the right to grant an extension of the recertification time limit and requirements under the following conditions:

1. Illness or injury;
2. Military service;
3. Special duty required and performed in the public interest;
4. Administrative leave, full-time educational leave or suspension pending investigation or adjudication of a crime; or
5. Any other reasonable situation documented by the employing school division superintendent or designee.

E. Request for extensions shall:

1. Be submitted in writing and signed by the school superintendent or designee prior to the expiration date of the time limit for completion of the requirement;
2. Indicate the projected date for the completion of the requirement.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 9.1-110. School resource officer grants program and fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers, as defined in § 9.1-101, in middle and high schools within the relevant school division. The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety and prevent truancy and violence in schools.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention.

§ 22.1-280.2:1. Employment of school security officers.

Local school boards and private or religious schools may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board or private or religious school solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board or private or religious school grants him the authority to carry a firearm in the performance of his duties.

§ 22.1-280.2:3. School boards; local law-enforcement agencies; memorandums of understanding.

A. The school board in each school division in which the local law-enforcement agency employs school resource officers, as defined in § 9.1-101, shall enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of such school resource officers. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Virginia Center for School and Campus Safety pursuant to subdivision A 12 of § 9.1-184, which may be modified by the parties in accordance with their particular needs. Each such school board and local law-enforcement agency shall review and amend or affirm such memorandum at least once every two years or at any time upon the request of either party. Each school board shall ensure the current division memorandum of understanding is conspicuously published on the division website and provide notice and opportunity for public input during each memorandum of understanding review period.

B. The chief local law-enforcement officer for any local school division in which a public elementary or secondary school does not employ a school resource officer, as defined in Section 9.1-101, shall designate a law-enforcement officer to receive, either in-person or online, the training set forth in subsection E of Section 22.1-279.8. Such officer shall serve as the law-enforcement liaison for the school administrator described in subsection E of Section 22.1-279.8 in each public elementary or secondary school that does not employ a school resource officer.

REGULATIONS

6 VAC 20-240-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approved instructor" means a person who has been approved by the department to instruct in the school security officer training course.

"Approved training" means training approved by the department to meet compulsory minimum training standards.

"Approved training session" means a training session that is approved by the department for the specific purpose of training school security officers.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Certification" means a method of regulation indicating that qualified persons have met the minimum requirements as school security officers.

"Compulsory minimum training standards" means the performance outcomes and minimum hours approved by the board.

"Date of hire" means the date any employee of a school board or system is hired to provide security services for a school and whom the department must regulate.

"Department" means the Department of Criminal Justice Services or any successor agency.

"Director" means the chief administrative officer of the department or his designee.

"In-service training requirement" means the compulsory in-service training standards adopted by the board for school security officers.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"This chapter" means the Regulations Relating to School Security Officers (6VAC20-240).

"Training certification" means verification of the successful completion of any training requirement established by this chapter.

"Training requirement" means any entry-level or in-service training or retraining standard established by this chapter.

8 VAC 20-750-110. Construction and interpretation.

Nothing in this chapter shall be construed to modify or restrict:

2. The authority and duties of school resource officers and school security officers, as defined in § 9.1-101 of the Code of Virginia, except to the extent governed by a memorandum of understanding between the local law enforcement agency and the school division.

8 VAC 20-750-70. School division policies and procedures.

B. School divisions utilizing school resource officers shall enter into a memorandum of understanding with local law enforcement addressing the use of seclusion and restraint by law enforcement personnel in school settings.

Threat Assessment Protocols

LAWS

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4. [...]
7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose.

§ 22.1-79.4. Threat assessment teams and oversight committees.

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (the Center) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement and, in the case of any school in which a school resource officer is employed, at least one such school resource officer. New threat assessment team members shall complete an initial threat assessment training and all threat assessment team members shall be required to complete refresher threat assessment training every three years. Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall collect and report to the Center quantitative data on its activities using the case management tool developed by the Center.

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

§ 22.1-280.2:1. Employment of school security officers.

Local school boards and private or religious schools may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a

local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board or private or religious school solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board or private or religious school grants him the authority to carry a firearm in the performance of his duties.

REGULATIONS

8 VAC 20-131-260. School facilities and safety.

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Statewide Building Code (13VAC5-63). In addition, the school administration shall:

6. Carry out the duties of the threat assessment team established by the division superintendent and implement policies established by the local school board related to threat assessment, pursuant to § 22.1-79.4 of the Code of Virginia.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Virginia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Website		
Bullying Prevention, Virginia Department of Education (VDOE)	Addresses bullying prevention in Virginia schools and includes links to model policies, technical assistance and training, and resources related to internet safety and student conduct.	https://www.doe.virginia.gov/programs-services/student-services/prevention-strategies-programs/bullying-prevention
Office of Student Services, VDOE	Provides professional development and resources for school leaders and specialized instructional support personnel (SISP) such as school counselors, school psychologists, school social workers, school nurses.	https://vastudentservices-clc.org/
School Climate and Working Conditions, VDOE	Provides updates on school climate and working conditions survey, information on school engagement, models for implementation and other related resources to school climate.	https://www.doe.virginia.gov/programs-services/school-operations-support-services/school-climate-working-conditions
Student Support and Conduct, VDOE	Provides links to guidelines and model policies to aid schools in the development and implementation of codes of student conduct and related policies.	https://www.doe.virginia.gov/programs-services/student-services/integrated-student-supports/student-support-conduct
Virginia Tiered Systems of Support (VTSS), VDOE	Provides resources and information supporting implementation of the Virginia Tiered System of Supports (VTSS) to align academics, behavior and social emotional wellness into a single decision-making framework.	https://www.doe.virginia.gov/programs-services/student-services/vulnerable-students-wellbeing-student-success/virginia-tiered-systems-of-supports-vtss

Title	Description	Website address (if applicable)
Documents		
Discipline of Children with Disabilities (Revised 2010), VDOE	Guidance document providing technical assistance to school administrators, parents, teachers as they make decisions about discipline in accordance with IDEA.	www.doe.virginia.gov.docx (live.com)
Guidelines for Conducting Functional Behavioral Assessment and Developing Positive Behavior Intervention and Supports/Strategies (2015), VDOE	Guidance document providing technical assistance on conducting FBA and developing function-based intervention plans.	https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.doe.virginia.gov%2Fhome%2Fshowpublisheddocument%2F41374%2F638096523260720574&wdOrigin=ROWSELINK
Guide to Local Alternative Education Options for Suspended and Expelled Students in the Commonwealth (2008), Virginia Commission on Youth Report	Guidance document identifying alternative education options for suspended and expelled students in the Commonwealth.	https://www.doe.virginia.gov/teaching-learning-assessment/specialized-instruction/alternative-education/alternative-education-programs
Model Policy to Address Bullying in Virginia's Public Schools (October 2013), VDOE	Model policy addressing bullying in Virginia's public schools.	https://www.doe.virginia.gov/home/showpublisheddocument/32839/638047296825297041
Model Guidance for Positive and Preventative Code of Student Conduct Policy and Alternatives to Suspension (June, 2021), Virginia Board of Education	Guidance document assisting school boards in implementing positive and supportive student conduct policies.	www.doe.virginia.gov.docx (live.com)
Student Assistance Programming: Creating Positive Conditions for Learning (January 2013), VDOE	Manual for Student Assistance Programming (SAP), to succeed in school settings. SAP supports social and emotional development among youth.	https://www.doe.virginia.gov/home/showpublisheddocument/1556/637947549908570000
Virginia Community School Framework (VDOE)	Framework providing guidance on establishing a community school with the goal of removing nonacademic barriers to learning to enhance student academic success.	www.doe.virginia.gov.docx (live.com)

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
Attendance & Truancy Among Virginia Students, VDOE	Professional development series to assist schools and divisions in looking at current practice and in looking at ways to improve future practice with the goal of addressing and eliminating chronic absenteeism and boosting student outcomes and success.	Attendance & Truancy Among Virginia Students Virginia Department of Education
School Quality Profile - Learning Climate, VDOE	Interactive data profile on the State of Virginia regarding data on chronic absenteeism, short-term & long-term suspension, and expulsion.	http://schoolquality.virginia.gov/virginia-state-quality-profile#desktopTabs-6



Washington Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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[Title 9A. Washington Criminal Code](#)

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[RCW 28A.150.305.](#) Alternative educational service providers - Student eligibility

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[RCW 28A.155.210.](#) Use of restraint or isolation - Requirement for procedures to notify parent or guardian

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- [RCW 28A.300.042.](#) Collection and submittal of student-level data - Student data-related reports - Disaggregation of data by subgroups - Modification of statewide student data systems
- [RCW 28A.300.046.](#) "Student absence from school" - Rules - Collection of attendance and discipline data
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- [RCW 28A.300.2851.](#) School bullying and harassment - Work group
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- [RCW 28A.320.127.](#) Plan for recognition, screening, and response to emotional or behavioral distress in students, including possible sexual abuse
- [RCW 28A.320.1271.](#) Model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students
- [RCW 28A.320.128.](#) Notice and disclosure policies - Threats of violence - Student conduct - Immunity for good faith notice - Penalty
- [RCW 28A.320.130.](#) Weapons incidents - Reporting
- [RCW 28A.320.140.](#) Schools with special standards - Dress codes
- [RCW 28A.320.211.](#) Discipline policies, procedures, and rules - Dissemination of information - Use of disaggregated data - Review
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- [RCW 28A.410.044.](#) School psychologists and social workers-Domains and roles
- [RCW 28A.410.270.](#) Washington professional educator standards board-Performance standards-Certification levels-Teacher effectiveness evaluations-Requirements for professional certificate and residency teaching certificate-Demonstration of educator preparation programs' outcomes

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- [RCW 28A.415.410.](#) Training to support discipline policies under chapter 28A.600 RCW
- [RCW 28A.415.445.](#) Training in children's mental health topics-Required use of one professional learning day every other year

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- [RCW 28A.600.010.](#) Enforcement of rules of conduct - Due process guarantees - Computation of days for short-term and long-term suspensions
- [RCW 28A.600.015.](#) Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline
- [RCW 28A.600.020.](#) Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion
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- [RCW 28A.600.455.](#) Gang activity - Suspension or expulsion
- [RCW 28A.600.460.](#) Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions
- [RCW 28A.600.477.](#) Prohibition of harassment, intimidation, and bullying
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- [RCW 28A.600.486.](#) District policy on the use of isolation and restraint - Notice to parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973
- [RCW 28A.600.490.](#) Discipline task force - Development of standard definitions - Development of data collection standards - Membership - Statewide student data system revision

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- [RCW 43.06B.060.](#) Public school antiharassment policies and strategies - Lead agency

Washington Regulations

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Title 392. Public Instruction, Superintendent of

Chapter 392-172A. Rules for the provision of special education

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- [WAC 392-172A-01107.](#) Isolation
- [WAC 392-172A-01162.](#) Restraint
- [WAC 392-172A-01163.](#) Restraint device

Other Requirements

- [WAC 392-172A-02076](#). Prohibited practices
- [WAC 392-172A-02105](#). Emergency response protocols
- [WAC 392-172A-02110](#). Isolation and restraint - Conditions

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- [WAC 392-190-048](#). Access to course offerings - Student discipline and corrective action

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- [WAC 392-190-0555](#). Discriminatory harassment
- [WAC 392-190-059](#). Harassment, intimidation, and bullying prevention policy and procedure - School districts
- [WAC 392-190-060](#). Compliance - School district or public charter school - Designation of responsible employee - Notification

Chapter 392-400. Student Discipline

- [WAC 392-400-010](#). Purpose
- [WAC 392-400-015](#). Authority
- [WAC 392-400-020](#). Application
- [WAC 392-400-025](#). Definitions

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- [WAC 392-400-110](#). Discipline policies and procedures - Development, review, and distribution
- [WAC 392-400-115](#). Completing academic requirements

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- [WAC 392-400-330](#). Classroom exclusions - Conditions and limitations.
- [WAC 392-400-335](#). Classroom exclusion - Notice and procedure.

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- [WAC 392-400-430](#). Suspensions and expulsions - General conditions and limitations
- [WAC 392-400-435](#). Short-term and in-school suspensions - Additional conditions and limitations
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- [WAC 392-400-445](#). Expulsions - Additional conditions and limitations
- [WAC 392-400-450](#). Suspensions and expulsions - Initial hearing with student
- [WAC 392-400-455](#). Suspensions and expulsions - Notice to student and parents
- [WAC 392-400-460](#). Suspensions and expulsions - Optional conference with principal
- [WAC 392-400-465](#). Suspensions and expulsions - Appeal
- [WAC 392-400-470](#). Suspensions and expulsions - Review and reconsideration
- [WAC 392-400-475](#). Discipline appeal council
- [WAC 392-400-480](#). Petition to extend expulsion

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- [WAC 392-400-520](#). Emergency expulsions - Optional conference with principal
- [WAC 392-400-525](#). Emergency expulsions - Appeal
- [WAC 392-400-530](#). Emergency expulsions - Review and reconsideration

Educational Services

[WAC 392-400-610.](#) Educational services during suspension, expulsion, or emergency expulsion

Reengagement

[WAC 392-400-710.](#) Student reengagement after long-term suspension or expulsion

Additional Due Process Protections

- [WAC 392-400-805.](#) Fundamental rights
- [WAC 392-400-810.](#) Exceptions for the purpose of protecting victims
- [WAC 392-400-815.](#) Behavior agreements
- [WAC 392-400-820.](#) Firearm exceptions
- [WAC 392-400-825.](#) Corporal punishment, restraint, and isolation

Chapter 392-401. Statewide definition of absence, excused and unexcused

- [WAC 392-401-005.](#) Purpose
- [WAC 392-401-010.](#) Authority
- [WAC 392-401-015.](#) Definition of absent or absence
- [WAC 392-401-020.](#) Excused absences
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Chapter 392-405. Harassment, Intimidation and Bullying

- [WAC 392-405-005.](#) Authority
- [WAC 392-405-010.](#) Purpose
- [WAC 392-405-020.](#) School district rules defining harassment, intimidation and bullying prevention policies and procedures - Distribution of rules

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

RCW 28A.150.300. Corporal punishment prohibited - Adoption of policy.

The use of corporal punishment in the common schools is prohibited. The superintendent of public instruction shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted and implemented in all school districts.

RCW 28A.320.128. Notice and disclosure policies - Threats of violence - Student conduct - Immunity for good faith notice - Penalty.

(1) By September 1, 2020, each school district board of directors shall adopt a policy that addresses the following issues:

- (a) Procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat. The policy shall define "threats of violence or harm"; and
- (b) Procedures for complying with the notification provisions in RCW 28A.320.163.

(2) The Washington state school directors' association, in consultation with educators and representatives of law enforcement, classified staff, organizations with expertise in violence prevention and intervention, and organizations that provide free legal services for youth, shall adopt, and revise as necessary, a model policy that includes the issues listed in subsection (1) of this section. The model policy shall be disseminated by the Washington state school directors' association and made available to the public on its web site. Each school district shall adopt the model policy required by this subsection unless it has a compelling reason to develop and adopt a different policy that also addresses the issues identified in subsection (1) of this section.

(3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.

(4) A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021.

RCW 28A.345.090. Model school district discipline policies - Adoption and enforcement by school districts.

(1) The Washington state school directors' association shall create model school district discipline policies and procedures and post these models publicly by December 1, 2016. In developing these model policies and procedures, the association shall request technical assistance and guidance from the equity and civil rights office within the office of the superintendent of public instruction and the Washington state human rights commission. The model policies and procedures shall be updated as necessary.

(2) School districts shall adopt and enforce discipline policies and procedures consistent with the model policy by the beginning of the 2017-18 school year.

RCW 28A.400.110. Principal to assure appropriate student discipline - Building discipline standards - Classes to improve classroom management skills.

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review

building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3).

School principals and certificated employees shall also confer annually, to establish criteria for determining when certificated employees must complete classes to improve classroom management skills.

RCW 28A.600.010. Enforcement of rules of conduct - Due process guarantees - Computation of days for short-term and long-term suspensions.

Every board of directors, unless otherwise specifically provided by law, shall:

- (1) Enforce the rules prescribed by the superintendent of public instruction for the government of schools, pupils, and certificated employees.
- (2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

- (3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

RCW 28A.600.015. Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline.

- (1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

- (3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for

periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

RCW 28A.600.040. Pupils to comply with rules and regulations.

All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine.

RCW 28A.600.460. Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions.

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

REGULATIONS

WAC 392-190-059. Harassment, intimidation, and bullying prevention policy and procedure - School districts.

(1) Each school district must adopt a harassment, intimidation, and bullying prevention policy and procedure as provided for in RCW 28A.300.285.

WAC 392-400-010. Purpose.

The purpose of this chapter is to ensure that school districts in Washington:

(2) Implement culturally responsive discipline policies and procedures that provide opportunity for all students to achieve personal and academic success;

(3) Engage school personnel, students, parents, families, and the community in decisions related to the development and implementation of discipline policies and procedures.

WAC 392-400-020. Application.

(2) This chapter must be construed in a manner consistent with the following laws and rules:

(a) RCW 28A.600.010 through 28A.600.022 and 28A.320.211, regarding the administration of student discipline.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter.

Scope

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

RCW 28A.320.211. Discipline policies, procedures, and rules - Dissemination of information - Use of disaggregated data - Review.

- (1) School districts shall annually disseminate discipline policies and procedures to students, families, and the community.
- (2) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures.
- (3) School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.

RCW 28A.600.010. Enforcement of rules of conduct - Due process guarantees - Computation of days for short-term and long-term suspensions.

Every board of directors, unless otherwise specifically provided by law, shall:

- (1) Enforce the rules prescribed by the superintendent of public instruction for the government of schools, pupils, and certificated employees.
- (2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

- (3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

RCW 28A.600.477. Prohibition of harassment, intimidation, and bullying.

- (1)(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction. [...]
- (3)(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training

materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center web site, and must also provide the office of the superintendent of public instruction with a link to the school district's web site for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its web site, with a link to the school safety center web site, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment, intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

RCW 28A.600.486. District policy on the use of isolation and restraint - Notice to parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973.

Parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 must be provided a copy of the district policy on the use of isolation and restraint at the time that the program or plan is created.

RCW 28A.642.080. Transgender student policy and procedure.

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction. [...]

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under RCW 28A.600.477, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

REGULATIONS

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(3) Distribution of policies and procedures. A school district must make discipline policies and procedures available to families and the community. The school district must annually provide the district's discipline policies and procedures to all district personnel, students, and parents, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964. The school district must ensure district employees and contractors are knowledgeable of the discipline policies and procedures.

WAC 392-405-010. Purpose.

The purpose of this chapter is to establish the requirements school districts must meet when communicating the district's harassment, intimidation, and bullying policy and procedure to parents, students, employees, and volunteers.

WAC 392-405-020. School district rules defining harassment, intimidation and bullying prevention policies and procedures - Distribution of rules.

- (1) A school district's harassment, intimidation and bullying policy and procedure must be published and made available to all parents or guardians, students, employees, and volunteers on an annual basis.
- (2) A school district must publish, at a minimum, the following materials:
 - (a) The district's policy and procedure;
 - (b) A harassment, intimidation, and bullying incident reporting form; and
 - (c) Current contact information for the district's harassment, intimidation and bullying compliance officer.
- (3) If a school district does not distribute the policy and procedure to all parents or guardians, students, employees, and volunteers, the district must provide notice that describes the contents of the policy and procedure and specifies the person(s) to contact for a copy. The notice must be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

In-School Discipline

Discipline Frameworks

LAWS

RCW 28A.600.460. Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions.

- (1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.
- (2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.
- (3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.
- (4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.
- (5) All school districts must collect data on disciplinary actions taken in each school and must record these actions using the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group. The information shall be made available to the public, but public release of the data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

RCW 28A.345.090. Model school district discipline policies - Adoption and enforcement by school districts.

- (1) The Washington state school directors' association shall create model school district discipline policies and procedures and post these models publicly by December 1, 2016. In developing these model policies and procedures, the association shall request technical assistance and guidance from the equity and civil rights office within the office of the superintendent of public instruction and the Washington state human rights commission. The model policies and procedures shall be updated as necessary.
- (2) School districts shall adopt and enforce discipline policies and procedures consistent with the model policy by the beginning of the 2017-18 school year.

REGULATIONS

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

- (1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures

for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

- (a) Clearly state the types of behaviors for which discipline, including suspension and expulsion, may be administered;
- (b) Have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process that is conducive to learning;
- (c) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations;
- (d) Provide that school personnel make every reasonable attempt to involve parents and students in the resolution of behavioral violations for which discipline may be administered;
- (e) Identify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035;
- (f) Identify school personnel with the authority to administer classroom exclusions, suspensions, expulsions, emergency expulsions, and other forms of discipline;
- (g) Establish appeal and review procedures related to the administration of suspensions, expulsions, and emergency expulsions, consistent with WAC 392-400-430 through 392-400-530;
- (h) Establish grievance procedures to address parents' or students' grievances related to the administration of classroom exclusions and other forms of discipline, including discipline that excludes a student from transportation or extra-curricular activity. The procedures must, at a minimum, include an opportunity for the student to share the student's perspective and explanation regarding the behavioral violation;
- (i) Describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to be followed for the provision of educational services under WAC 392-400-610;
- (j) Provide for reengagement meetings and plans, consistent with WAC 392-400-710;
- (k) Provide a process for students who have been suspended or expelled to petition for readmission; and
- (l) Be consistent with the model policy developed under RCW 28A.345.090.

(2) Development and review. A school district must develop and periodically review discipline policies and procedures with the participation of school personnel, students, parents, families, and the community. During the development and review of discipline policies and procedures, the school district must use disaggregated data collected under RCW 28A.300.042 to:

- (a) Monitor the impact of the school district's discipline policies, procedures, and practices; and
- (b) Update the school district's discipline policies and procedures to improve fairness and equity in the administration of discipline.

(3) Distribution of policies and procedures. A school district must make discipline policies and procedures available to families and the community. The school district must annually provide the district's discipline policies and procedures to all district personnel, students, and parents, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964. The school district must ensure district employees and contractors are knowledgeable of the discipline policies and procedures.

Teacher Authority to Remove Students From Classrooms

LAWS

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

REGULATIONS

WAC 392-400-330. Suspensions and expulsions - General conditions and limitations.

(1) Authority to administer classroom exclusions.

(a) Teacher authority. A teacher may exclude a student from the teacher's classroom or instructional or activity area for behavioral violations that disrupt the educational process while the student is under the teacher's immediate supervision, subject to the requirements in this section and WAC 392-400-335.

(b) Other school personnel authority. A school district may authorize other school personnel to exclude a student from a classroom or instructional or activity area for behavioral violations of the district's discipline policy adopted under WAC 392-400-110 or 392-400-225, subject to the requirements in this section and WAC 392-400-335.

WAC 392-400-335. Short-term and in-school suspensions - Additional conditions and limitations.

Following a classroom exclusion under WAC 392-400-330:

(3) Emergency circumstances. When a teacher or school personnel administers a classroom exclusion on the grounds that the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process:

- (a) The teacher or other school personnel must immediately notify the principal or designee; and
- (b) The principal or designee must meet with the student as soon as reasonably possible and administer appropriate discipline.

Alternatives to Suspension

LAWS

RCW 28A.225.090. Court orders - Penalties - Parents' defense.

(4) If a child continues to be truant after entering into a court-approved order with the community engagement board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may impose alternatives to detention consistent with best practice models for reengagement with school.

RCW 28A.600.010. Enforcement of rules of conduct - Due process guarantees - Computation of days for short-term and long-term suspensions.

Every board of directors, unless otherwise specifically provided by law, shall:

- (1) Enforce the rules prescribed by the superintendent of public instruction for the government of schools, pupils, and certificated employees.
- (2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

- (3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

RCW 28A.600.015. Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline.

- (4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.
- (5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

RCW 28A.600.410. Alternatives to suspension - Encouraged.

School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension.

REGULATIONS

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

- (e) Identify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

WAC 392-400-330. Suspensions and expulsions - General conditions and limitations.

(1) Authority to administer classroom exclusions.

(a) Teacher authority. A teacher may exclude a student from the teacher's classroom or instructional or activity area for behavioral violations that disrupt the educational process while the student is under the teacher's immediate supervision, subject to the requirements in this section and WAC 392-400-335.

(b) Other school personnel authority. A school district may authorize other school personnel to exclude a student from a classroom or instructional or activity area for behavioral violations of the district's discipline policy adopted under WAC 392-400-110 or 392-400-225, subject to the requirements in this section and WAC 392-400-335.

(2) Other forms of discipline. The teacher or other school personnel must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations, unless the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process. In administering other forms of discipline, the teacher or other school personnel may consider using best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

WAC 392-400-435. Short-term and in-school suspensions - Additional conditions and limitations.

(1) Other forms of discipline. Before administering a short-term or in-school suspension, a school district must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

WAC 392-400-440. Long-term suspensions - Additional conditions and limitations.

(1) Other forms of discipline. Before administering a long-term suspension, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

WAC 392-400-445. Expulsions - Additional conditions and limitations.

(1) Other forms of discipline. Before administering an expulsion, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

RCW 28A.150.300. Corporal punishment prohibited - Adoption of policy.

The use of corporal punishment in the common schools is prohibited. The superintendent of public instruction shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted and implemented in all school districts.

REGULATIONS

WAC 392-400-825. Corporal punishment, restraint, and isolation.

(1) Corporal punishment. A school district may not administer corporal punishment, including any act that willfully inflicts or willfully causes the infliction of physical pain on a student. Corporal punishment does not include:

- (a) The use of reasonable physical force by a school administrator, teacher, school personnel or volunteer as necessary to maintain order or to prevent a student from harming themselves, other students, school personnel, or property;
- (b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student; or
- (c) Physical exertion shared by all students in a teacher-directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects.

Search and Seizure

LAWS

RCW 28A.600.210. School locker searches - Findings.

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

RCW 28A.600.220. School locker searches - No expectation of privacy.

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240.

RCW 28A.600.230. School locker searches - Authorization - Limitations.

(1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules. A search is mandatory if there are reasonable grounds to suspect a student has illegally possessed a firearm in violation of RCW 9.41.280.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

- (a) The methods used are reasonably related to the objectives of the search; and
- (b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070.

RCW 28A.600.240. School locker searches - Notice and reasonable suspicion requirements.

(1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2).

REGULATIONS

WAC 392-400-805. Fundamental rights.

When administering discipline under this chapter, the school district must not:

- (3) Deprive a student of the student's constitutional right to be secure in the student's person, papers, and effects against unreasonable searches and seizures.

Restraint and Seclusion

LAWS

RCW 9A.16.100. Use of force on children - Policy - Actions presumed unreasonable.

It is the policy of this state to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. However, the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

RCW 28A.155.210. Use of restraint or isolation - Requirement for procedures to notify parent or guardian.

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint or isolation.

RCW 28A.600.485. Restraint of students-Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973-Procedures-Summary of incidents of isolation or restraint-Publishing to web site.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to safely participate in activities.

(c) "Restraint device" means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. Restraint device does not mean a seat harness used to safely transport students.

This section shall not be construed as encouraging the use of these devices.

(2) The provisions of this section apply to all students, including those who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student is participating in school-sponsored instruction or activities.

(3)(a) An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more specific advanced educational planning and the student's parent or guardian agrees. All other plans may refer to the district policy developed under subsection (3)(b) of this section. Nothing in this section is intended to limit the provision of a free appropriate public education under Part B of the federal individuals with disabilities education improvement act or section 504 of the federal rehabilitation act of 1973.

(b) Restraint or isolation of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm, as defined in *RCW 70.96B.010. Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated. Each school district shall adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances.

(4) Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include: (a) Reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response; and (b) reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

(5) Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information:

- (a) The date and time of the incident;
- (b) The name and job title of the individual who administered the restraint or isolation;
- (c) A description of the activity that led to the restraint or isolation;
- (d) The type of restraint or isolation used on the student, including the duration;
- (e) Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and
- (f) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

(6) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

(7)(a) Beginning January 1, 2016, and by January 1st annually, each school district shall summarize the written reports received under subsection (5) of this section and submit the summaries to the office of the superintendent of public instruction. For each school, the school district shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

(b) No later than ninety days after receipt, the office of the superintendent of public instruction shall publish to its web site the data received by the districts. The office of the superintendent of public instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.

RCW 28A.600.486. District policy on the use of isolation and restraint - Notice to parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973.

Parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 must be provided a copy of the district policy on the use of isolation and restraint at the time that the program or plan is created.

REGULATIONS

WAC 392-172A-01107. Isolation.

Isolation as defined in RCW 28A.600.485 means: Restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

WAC 392-172A-01162. Restraint.

Restraint as defined in RCW 28A.600.485 means: Physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such

as to achieve proper body position, balance, or alignment, or to permit a student to participate in activities safely.

WAC 392-172A-01163. Restraint device.

Restraint device as defined in RCW 28A.600.485 means: A device used to assist in controlling a student including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. This section shall not be construed as encouraging the use of these devices. A restraint device does not include a seat harness used to transport a student safely or other safety devices, including safety belts for wheelchairs, changing tables, booster seats, and other ambulatory or therapeutic devices when used for the purpose intended for the safety of a student.

WAC 392-172A-02076. Prohibited practices.

(1) School district personnel are prohibited from using aversive interventions with a student eligible for special education, and are prohibited from physically restraining or isolating any student, except when the student's behavior poses an imminent likelihood of serious harm as defined in WAC 392-172A-01092 and 392-172A-01109.

(2) There are certain practices that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or their illegality. The purpose of this section is to prohibit the use of certain practices with students eligible for special education as follows:

(c)(i) Force and restraint in general. A district must not use force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law. See RCW 9A.16.100, which prohibits the following uses of force or restraint including:

(A) Throwing, kicking, burning, or cutting a student.

(B) Striking a student with a closed fist.

(C) Shaking a student under age three.

(D) Interfering with a student's breathing.

(E) Threatening a student with a deadly weapon.

(F) Doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

(ii) The statutory listing of worst case uses of force or restraint described in this subsection may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances. [...]

(e) Isolation. A student must not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110. [...]

(i) Physical restraints. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172A-02110.

WAC 392-172A-02105. Emergency response protocols.

(1) If the parent and the school district determine that a student requires advanced educational planning, the parent and the district may develop emergency response protocols to be used in the case of emergencies that pose an imminent likelihood of serious harm, as defined in this section. Emergency response protocols, if developed, must be incorporated into a student's IEP. Emergency response protocols shall not be used as a substitute for the systematic use of a behavioral intervention plan that is

designed to change, replace, modify, or eliminate a targeted behavior. Emergency response protocols are subject to the conditions and limitations as follows:

- (a) The student's parent provides consent, as defined in WAC 392-172A-01040, in advance, to the emergency response protocols to be adopted;
- (b) The emergency response protocols specify:
 - (i) The emergency conditions under which isolation, restraint, or restraint devices, if any, may be used;
 - (ii) The type of isolation, restraint, and/or restraint device, if any, that may be used;
 - (iii) The staff members or contracted positions permitted to use isolation, restraint, or restraint devices with the student, updated annually, and identify any required training associated with the use of isolation, restraint, or restraint device for each staff member or contracted position;
 - (iv) Any other special precautions that must be taken.
- (c) Any use of isolation, restraint, and/or restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.
- (d) Any staff member or other adults using isolation, restraint, or a restraint device must be trained and currently certified by a qualified provider in the use of trauma-informed crisis intervention (including de-escalation techniques) and the safe use of isolation, restraint, or a restraint device.

WAC 392-172A-02110. Isolation and restraint - Conditions.

Any use of isolation, restraint, and/or restraint device shall be used only when a student's behavior poses an imminent likelihood of serious harm. The limited use of isolation, restraint, or restraint device not prohibited in WAC 392-172A-02076 is conditioned upon compliance with the following procedural and substantive safeguards:

- (1) Isolation. The use of isolation as defined by RCW 28A.600.485 is subject to each of the following conditions:
 - (a) The isolation must be discontinued as soon as the likelihood of serious harm has dissipated.
 - (b) The isolation enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.
 - (c) The isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure.
 - (d) An adult responsible for supervising the student shall remain in visual or auditory range of the student at all times.
 - (e) Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
 - (f) Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.
- (2) Restraint. The use of restraint as defined by RCW 28A.600.485 is subject to each of the following conditions:
 - (a) The restraint must be discontinued as soon as the likelihood of serious harm has dissipated.
 - (b) The restraint shall not interfere with the student's breathing.
 - (c) Any staff member or other adults using a restraint must be trained and certified by a qualified provider in the use of such restraints, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

(3) Restraint device. The use of a restraint device as defined by RCW 28A.600.485 is subject to each of the following conditions:

- (a) The restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.
- (b) The restraint device shall not interfere with the student's breathing.
- (c) Either the student shall be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.
- (d) Any staff member or other adults using a restraint device must be trained and certified by a qualified provider in the use of such restraint devices, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

(4) School districts must follow the documentation and reporting requirements for any use of isolation, restraint, or restraint device consistent with RCW 28A.600.485.

WAC 392-400-825. Corporal punishment, restraint, and isolation.

(2) Restraint and isolation. A school district may not use isolation, restraint, or a restraint device on any student, except as provided for in RCW 28A.155.210, 28A.600.485, WAC 392-172A-02105, and 392-172A-02110.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(5)(a) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

- (i) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, or 9.41.280; or
- (ii) Engages in one or more of the offenses listed in RCW 13.04.155.

(b) The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

RCW 28A.600.420. Firearms on school premises, transportation, or facilities - Penalty - Exemptions.

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, or state school for the blind, or the director of the Washington center for deaf and hard of hearing youth, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the Washington center for deaf and hard of hearing youth, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

- (a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or
- (b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or
- (c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appears to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

RCW 28A.600.455. Gang activity - Suspension or expulsion.

(1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.

(2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

RCW 28A.600.460. Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions.

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school and must record these actions using the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group. The information shall be made available to the public, but public release of the data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

RCW 28A.635.060. Defacing or injuring school property - Liability of pupil, parent, or guardian - Withholding grades, diploma, or transcripts - Suspension and restitution - Voluntary work program as alternative - Rights protected.

(1) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, may be subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the diploma, but not the grades or transcripts, of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages. When the student and parent or guardian are unable to pay for the damages, the school district shall provide a program of community service for the student in lieu of the payment of monetary damages. Upon completion of community service the diploma of the student must be released. The parent or guardian of the student shall be liable for damages as otherwise provided by law.

RCW 28A.635.090. Interference by force or violence - Penalty .

(1) It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, person under contract with the school or school district, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. Any such interference by force or violence committed by a student shall be grounds for immediate suspension or expulsion of the student.

REGULATIONS

WAC 392-400-025. Definitions.

As used in this chapter the terms:

- (1) "Behavioral violation" means a student's behavior that violates a school district's discipline policy adopted under WAC 392-400-110.
- (2) "Classroom exclusion" means the exclusion of a student from a classroom or instructional or activity area for behavioral violations, subject to the requirements in WAC 392-400-330 and 392-400-335. Classroom exclusion does not include actions that result in missed instruction for a brief duration when:
 - (a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and
 - (b) The student remains under the supervision of the teacher or other school personnel during such brief duration.
- (3) "Culturally responsive" has the same meaning as "cultural competency" in RCW 28A.410.270.
- (4) "Discipline" means any action taken by a school district in response to behavioral violations.
- (5) "Disruption of the educational process" means the interruption of classwork, the creation of disorder, or the invasion of the rights of a student or group of students.
- (6) "Emergency expulsion" means the removal of a student from school because the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process, subject to the requirements in WAC 392-400-510 through 392-400-530.
- (7) "Expulsion" means a denial of admission to the student's current school placement in response to a behavioral violation, subject to the requirements in WAC 392-400-430 through 392-400-480.
- (8) "Length of an academic term" means the total number of school days in a single trimester or semester, as defined by the school board.
- (9) "Other forms of discipline" means actions used in response to behavioral violations, other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.
- (10) "Parent" has the same meaning as in WAC 392-172A-01125.
- (11) "School business day" means any calendar day, except Saturdays, Sundays, or any federal, state, or school holiday, when the office of the superintendent of a school district is open to the public for business.
- (12) "School board" means the governing board of directors of a local school district.
- (13) "School day" means any day or partial day that students are in attendance at school for instructional purposes.

(14) "Suspension" means a denial of attendance in response to a behavioral violation from any subject or class, or from any full schedule of subjects or classes, but not including classroom exclusions, expulsions, or emergency expulsions.

(a) "In-school suspension" means a suspension in which a student is excluded from the student's regular educational setting but remains in the student's current school placement for up to ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(b) "Long-term suspension" means a suspension in which a student is excluded from school for more than ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(c) "Short-term suspension" means a suspension in which a student is excluded from school for up to ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

(a) Clearly state the types of behaviors for which discipline, including suspension and expulsion, may be administered; [...]

(f) Identify school personnel with the authority to administer classroom exclusions, suspensions, expulsions, emergency expulsions, and other forms of discipline.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

(1) Parent involvement. A school district must:

(a) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations; and

(b) Must make every reasonable attempt to involve the student and parents in the resolution of behavioral violations.

(2) Considerations. Before administering any suspension or expulsion, a school district must consider the student's individual circumstances and the nature and circumstances of the behavioral violation to determine whether the suspension or expulsion, and the length of the exclusion, is warranted.

(3) Opportunity to receive educational services. A school district must provide an opportunity for students to receive educational services during a suspension or expulsion under WAC 392-400-610.

(4) Reporting. The principal or designee must report all suspensions and expulsions, and the behavioral violation that led to each suspension or expulsion, to the school district superintendent or designee within twenty-four hours after the administration of the suspension or expulsion.

(5) Reentry. After suspending or expelling a student, a school district must:

(a) Make reasonable efforts to return the student to the student's regular educational setting as soon as possible.

(b) Allow the student to petition for readmission at any time.

(6) Absences and tardiness. A school district may not suspend or expel a student from school for absences or tardiness.

(7) Access to school district property. When administering a suspension or expulsion, a school district may deny a student admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the district.

(8) End date.

(a) An expulsion or suspension of a student may not be for an indefinite period of time and must have an end date.

(b) If a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, unless:

(i) The school district superintendent or designee grants a petition to extend a student's expulsion under WAC 392-400-480;

(ii) The student is excluded from the student's regular educational setting in accordance with WAC 392-400-810; or

(iii) The student is otherwise precluded under law from returning to the student's regular educational setting.

WAC 392-400-510. Emergency expulsions - Conditions and limitations.

A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

(1) Sufficient cause. The school district must have sufficient cause to believe that the student's presence poses:

(a) An immediate and continuing danger to other students or school personnel; or

(b) An immediate and continuing threat of material and substantial disruption of the educational process.

(2) Determination of immediate and continuing threat of disruption. For purposes of this section, an immediate and continuing threat of material and substantial disruption of the educational process means:

(a) The student's behavior results in an extreme disruption of the educational process that creates a substantial barrier to learning for other students across the school day; and

(b) School personnel have exhausted reasonable attempts at administering other forms of discipline to support the student in meeting behavioral expectations.

(3) Time limit. An emergency expulsion may not exceed ten consecutive school days. An emergency expulsion must end or be converted to another form of discipline within ten school days from the start of the emergency expulsion.

(4) Conversion. If a school district converts an emergency expulsion to a suspension or expulsion, the district must:

(a) Apply any days that the student was emergency expelled before the conversion to the total length of the suspension or expulsion; and

(b) Provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

(5) Reporting. All emergency expulsions, including the reason the student's presence poses an immediate and continuing danger to other students or school personnel, must be reported to the district superintendent or designee within twenty-four hours after the start of the emergency expulsion.

WAC 392-400-820. Firearm exceptions.

As provided under RCW 28A.600.420:

(1) A school district must expel a student for no less than one year if the district has determined that the student has carried or possessed a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools. The school district superintendent may modify the expulsion on a case-by-case basis.

(2) A school district may suspend or expel a student for up to one year if the student acts with malice, as defined under RCW 9A.04.110, and displays an instrument that appears to be a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools.

(3) This section does not apply to:

(a) Any student while engaged in military education authorized by the school district in which rifles are used;

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by the school district in which the rifles of collectors or instructors are handled or displayed; or

(c) Any student while participating in a rifle competition authorized by the school district.

Limitations or Conditions on Exclusionary Discipline

LAWS

RCW 28A.225.023. Youth dependent pursuant to chapter 13.34 RCW - Review of unexpected or excessive absences - Support for youth's school work.

A school district representative or school employee shall review unexpected or excessive absences with a youth who is dependent pursuant to chapter 13.34 RCW and adults involved with that youth, to include the youth's caseworker, educational liaison, attorney if one is appointed, parent or guardians, and foster parents or the person providing placement for the youth. The purpose of the review is to determine the cause of the absences, taking into account: Unplanned school transitions, periods of running from care, inpatient treatment, incarceration, school adjustment, educational gaps, psychosocial issues, and unavoidable appointments during the school day. A school district representative or a school employee must proactively support the youth's school work so the student does not fall behind and to avoid suspension or expulsion based on truancy.

RCW 28A.320.123. School-based threat assessment program.

(1) At a minimum, a school-based threat assessment program must:

(e) Prohibit suspension or expulsion based merely on threat assessment referral or performance.

RCW 28A.600.015. Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(7) Nothing in this section prevents a public school district, educational service district, the Washington center for deaf and hard of hearing youth, or the state school for the blind if it has suspended or expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting or modifying the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

RCW 28A.600.022. Suspended or expelled students - Reengagement plan.

(2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.

REGULATIONS

WAC 392-400-330. Suspensions and expulsions - General conditions and limitations.

(1) Authority to administer classroom exclusions.

(a) Teacher authority. A teacher may exclude a student from the teacher's classroom or instructional or activity area for behavioral violations that disrupt the educational process while the student is under the teacher's immediate supervision, subject to the requirements in this section and WAC 392-400-335.

(b) Other school personnel authority. A school district may authorize other school personnel to exclude a student from a classroom or instructional or activity area for behavioral violations of the district's discipline policy adopted under WAC 392-400-110 or 392-400-225, subject to the requirements in this section and WAC 392-400-335.

(2) Other forms of discipline. The teacher or other school personnel must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations, unless the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process. In administering other forms of discipline, the teacher or other school personnel may consider using best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(3) Limitations on classroom exclusion.

(a) Duration of classroom exclusion. A classroom exclusion may be administered for all or any portion of the balance of the school day in which the student was excluded from the student's classroom or instructional or activity area. When a student is excluded from the student's classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.

(b) Removal from school. A student may not be removed from school during a classroom exclusion unless the school district provides notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

- (2) Considerations. Before administering any suspension or expulsion, a school district must consider the student's individual circumstances and the nature and circumstances of the behavioral violation to determine whether the suspension or expulsion, and the length of the exclusion, is warranted.

WAC 392-400-435. Short-term and in-school suspensions - Additional conditions and limitations.

(3) Grade-level limitations.

- (a) A school district may not administer a short-term or in-school suspension for a student in kindergarten through fourth grade for more than ten cumulative school days during any academic term; and
- (b) A school district may not administer a short-term or in-school suspension for a student in grades five through twelve:
 - (i) For more than fifteen cumulative school days during any single semester; or
 - (ii) For more than ten cumulative school days during any single trimester.

WAC 392-400-440. Long-term suspensions - Additional conditions and limitations.

(1) Other forms of discipline. Before administering a long-term suspension, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) Limitations on long-term suspensions. A school district may only administer a long-term suspension:

- (a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and
- (b) After the school district has determined that, if the student returned to school before completing a long-term suspension:
 - (i) The student would pose an imminent danger to students or school personnel; or
 - (ii) The student would pose an imminent threat of material and substantial disruption of the educational process.

(3) Length of exclusion.

- (a) A long-term suspension may not exceed the length of an academic term.
- (b) A school district may not administer a long-term suspension beyond the school year in which the behavioral violation occurred.

(4) Grade-level limitations. Except for a violation of WAC 392-400-820, a school district may not administer a long-term suspension for any student in kindergarten through fourth grade.

WAC 392-400-445. Expulsions - Additional conditions and limitations.

(1) Other forms of discipline. Before administering an expulsion, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) Limitations on expulsions. A school district may only administer an expulsion:

- (a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and
- (b) After the school district has determined that if the student returned to school before completing an expulsion, the student would pose an imminent danger to students or school personnel.

(3) Length of exclusion. An expulsion may not exceed the length of an academic term, unless the principal or designee petitions the school district superintendent for extension of an expulsion under WAC 392-400-480, and the petition is granted.

(4) Grade-level limitations. Except for violations of WAC 392-400-820, a school district may not administer an expulsion for any student in kindergarten through fourth grade.

WAC 392-400-820. Firearm exceptions.

As provided under RCW 28A.600.420:

(1) A school district must expel a student for no less than one year if the district has determined that the student has carried or possessed a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools. The school district superintendent may modify the expulsion on a case-by-case basis.

(2) A school district may suspend or expel a student for up to one year if the student acts with malice, as defined under RCW 9A.04.110, and displays an instrument that appears to be a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools.

(3) This section does not apply to:

(a) Any student while engaged in military education authorized by the school district in which rifles are used;

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by the school district in which the rifles of collectors or instructors are handled or displayed; or

(c) Any student while participating in a rifle competition authorized by the school district.

Due Process

LAWS

RCW 28A.225.035. Petition to juvenile court - Contents - Court action - Referral to community engagement board or other coordinated intervention - Transfer of jurisdiction upon relocation.

(7)(a) Notwithstanding the provisions in subsection (4)(a) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. Such actions may include referral to an existing community engagement board, use of the Washington assessment of risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, the provision of community-based services, and the provision of evidence-based treatments that have been found to be effective in supporting at-risk youth and their families. When a juvenile court hearing is held, the court shall:

(i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, notice should be provided in a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);

(ii) Notify the parent and the child of their rights to present evidence at the hearing; and

(iii) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(b) If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if eight years old or older, and the parent.

RCW 28A.600.010. Enforcement of rules of conduct - Due process guarantees - Computation of days for short-term and long-term suspensions.

Every board of directors, unless otherwise specifically provided by law, shall:

- (1) Enforce the rules prescribed by the superintendent of public instruction for the government of schools, pupils, and certificated employees.
- (2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

- (3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

RCW 28A.600.015. Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline.

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

(3) Emergency expulsions must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency expulsion is converted to another form of corrective action.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

(6) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

- (a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection (6)(a) through (d) of this section and should first consider alternative actions.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(9) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(6) Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action. Districts shall make reasonable efforts to assist students and parents in returning to an educational setting prior to and no later than the end date of the corrective action. Where warranted based on public health or safety, a school may petition the superintendent of the school district, pursuant to policies and procedures adopted by the office of the superintendent of public instruction, for authorization to exceed the academic term limitation provided in this subsection. The superintendent of public instruction shall adopt rules outlining the limited circumstances in which a school may petition to exceed the academic term limitation, including safeguards to ensure that the school district has made every effort to plan for the student's return to school. School districts shall report to the office of the superintendent of public instruction the number of petitions made to the school board and the number of petitions granted on an annual basis.

RCW 28A.635.060. Defacing or injuring school property - Liability of pupil, parent, or guardian - Withholding grades, diploma, or transcripts - Suspension and restitution - Voluntary work program as alternative - Rights protected.

(1) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, may be subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the diploma, but not the grades or transcripts, of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages. When the student and parent or guardian are unable to pay for the damages, the school district shall provide a program of community service for the student in lieu of the payment of monetary damages. Upon completion of community service the diploma of the student must be released. The parent or guardian of the student shall be liable for damages as otherwise provided by law.

(2) Before the diploma is withheld under this section, a school district board of directors shall adopt procedures which insure that students' rights to due process are protected.

REGULATIONS

WAC 392-400-010. Purpose.

The purpose of this chapter is to ensure that school districts in Washington:

- (1) Provide due process to students.

WAC 392-400-015. Authority.

The authority for this chapter is RCW 28A.600.015 and 28A.600.020, which require the office of superintendent of public instruction to establish rules that prescribe the substantive and procedural due process rights of students served by any program or activity conducted by, or on behalf of, school districts.

WAC 392-400-020. Application.

(1) This chapter establishes the minimum procedural and substantive due process rights of students when they may be subject to discipline in Washington school districts. A school district may establish additional due process protections for students consistent with federal statutes and regulations, state statutes, common law, and rules prescribed by the office of superintendent of public instruction.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

- (g) Establish appeal and review procedures related to the administration of suspensions, expulsions, and emergency expulsions, consistent with WAC 392-400-430 through 392-400-530;
- (h) Establish grievance procedures to address parents' or students' grievances related to the administration of classroom exclusions and other forms of discipline, including discipline that excludes a student from transportation or extra-curricular activity. The procedures must, at a minimum, include an opportunity for the student to share the student's perspective and explanation regarding the behavioral violation.

WAC 392-400-330. Suspensions and expulsions - General conditions and limitations.

(3) Limitations on classroom exclusion.

- (a) Duration of classroom exclusion. A classroom exclusion may be administered for all or any portion of the balance of the school day in which the student was excluded from the student's classroom or instructional or activity area. When a student is excluded from the student's classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.
- (b) Removal from school. A student may not be removed from school during a classroom exclusion unless the school district provides notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

(5) Reentry. After suspending or expelling a student, a school district must:

- (b) Allow the student to petition for readmission at any time. [...]

(8) End date.

(b) If a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, unless:

(i) The school district superintendent or designee grants a petition to extend a student's expulsion under WAC 392-400-480.

WAC 392-400-450. Suspensions and expulsions - Initial hearing with student.

(1) Initial hearing. Before administering any suspension or expulsion, the principal or designee must conduct an informal initial hearing with the student for the purpose of hearing the student's perspective. At the initial hearing, the principal or designee must provide the student:

(a) Notice of the student's violation of the school district's discipline policy adopted under WAC 392-400-110;

(b) An explanation of the evidence regarding the behavioral violation;

(c) An explanation of the discipline that may be administered; and

(d) An opportunity for the student to share the student's perspective and provide explanation regarding the behavioral violation.

(2) Parent participation.

(a) Short-term and in-school suspensions. At an initial hearing in which the principal or designee is considering administering a short-term or in-school suspension, the principal or designee must provide the student an opportunity for the student to contact the student's parents.

(b) Long-term suspensions and expulsions. At an initial hearing in which the principal or designee is considering administering a long-term suspension or expulsion, the principal or designee must make a reasonable attempt to contact the student's parents to provide an opportunity for the parents to participate in the initial hearing in person or by telephone.

(3) Administrative decision. Following the initial hearing, the principal or designee must inform the student of the decision regarding the behavioral violation, including the date on which any suspension or expulsion will begin and end.

(4) Language assistance. The school district must ensure that the initial hearing is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-455. Suspensions and expulsions - Notice to student and parents.

(1) Initial notice. Before administering any suspension or expulsion, a school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the behavioral violation.

(2) Written notice. No later than one school business day following the initial hearing with the student in WAC 392-400-450, a school district must provide written notice of the suspension or expulsion to the student and parents in person, by mail, or by email. The written notice must include:

(a) A description of the student's behavior and how the behavior violated the school district's policy adopted under WAC 392-400-110;

(b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;

(c) The other forms of discipline that the school district considered or attempted, and an explanation of the district's decision to administer the suspension or expulsion;

(d) The opportunity to receive educational services during the suspension or expulsion under WAC 392-400-610;

(e) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-460;

(f) The student's and parents' right to appeal the suspension or expulsion under WAC 392-400-465, including where and to whom the appeal must be requested; and

(g) For a long-term suspension or expulsion, the opportunity for the student and parents to participate in a reengagement meeting under WAC 392-400-710.

(3) Language assistance. The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-460. Suspensions and expulsions - Optional conference with principal.

(1) Requesting a conference. If the student or parents disagree with the school district's decision to suspend or expel the student, the student or parents may request an informal conference with the principal or designee to resolve the disagreement. The request for an informal conference may be made orally or in writing.

(2) Time limit. The principal or designee must hold the conference within three school business days after receiving the request, unless otherwise agreed to by the student and parents.

(3) Conference. During the informal conference, the principal or designee must provide the student and parents the opportunity to:

(a) Share the student's perspective and explanation regarding the behavioral violation;

(b) Confer with the principal or designee and school personnel involved in the incident that led to the suspension or expulsion; and

(c) Discuss other forms of discipline that may be administered.

(4) Language assistance. The school district must ensure the conference is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) Right to appeal. An informal conference must not limit a student's or parents' right to appeal the suspension or expulsion under WAC 392-400-465, participate in a reengagement meeting under WAC 392-400-710, or petition for readmission.

WAC 392-400-465. Suspensions and expulsions - Appeal.

(1) Requesting an appeal. A student or the parents may appeal a suspension or expulsion to the school district superintendent or designee orally or in writing.

(2) Time limit. A school district may establish a time limit to appeal a suspension or expulsion. Appeal time limits must be no less than five school business days from the date the school district provides the written notice under WAC 392-400-455.

(3) Short-term and in-school suspensions.

(a) Appeal. The superintendent or designee must provide the student and parents the opportunity to share the student's perspective and explanation regarding the behavioral violation orally or in writing.

(b) Appeal decision. The superintendent or designee must deliver a written appeal decision to the student and parents in person, by mail, or by email within two school business days after receiving the appeal. The written decision must include:

- (i) The decision to affirm, reverse, or modify the suspension;
- (ii) The duration and conditions of the suspension, including the dates on which the suspension will begin and end;
- (iii) The educational services the school district will offer to the student during the suspension under WAC 392-400-610; and
- (iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request.

(4) Long-term suspensions and expulsions.

(a) Notice. Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

- (i) The time, date, and location of the appeal hearing;
- (ii) The name(s) of the official(s) presiding over the appeal;
- (iii) The student's and parents' rights to inspect the student's education records under (e) of this subsection;
- (iv) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under (e) of this subsection;
- (v) The student's and parents' rights under (f) of this subsection; and
- (vi) Whether the school district will offer to hold a reengagement meeting under WAC 392-400-710 before the appeal hearing.

(b) Reengagement. Before the appeal hearing, the student, parents, and school district may agree to hold a reengagement meeting and develop a reengagement plan under WAC 392-400-710. The student, parents, and school district may mutually agree to postpone the appeal hearing while participating in the reengagement process.

(c) Appeal hearing. The school district must hold an appeal hearing within three school business days from the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student or parents.

(d) Presiding officials. The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to suspend or expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(e) Evidence and witnesses.

(i) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(ii) Upon request, the student and parents may review the student's education records. The district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(iii) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

- (A) The district made a reasonable effort to produce the witness; and
- (B) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

- (f) Student and parent rights. During the appeal hearing, the student and parents have the right to:
 - (i) Be represented by legal counsel;
 - (ii) Question witnesses;
 - (iii) Share the student's perspective and provide explanation regarding the behavioral violation; and
 - (iv) Introduce relevant documentary, physical, or testimonial evidence.
- (g) Recording of hearing. The appeal hearing must be recorded by analog, digital, or other type of recording device. The school district must provide the recording to the student or parents upon request.
- (h) Appeal decision. The presiding official(s) must base the decision solely on the evidence presented at the hearing. The presiding official(s) must provide a written decision to the student and parents in person, by mail, or by email within three school business days after the appeal hearing. The written decision must include:
 - (i) The findings of fact;
 - (ii) A determination whether:
 - (A) The student's behavior violated the school district's discipline policy adopted under WAC 392-400-110;
 - (B) The behavioral violation reasonably warrants the suspension or expulsion and the length of the suspension or expulsion; and
 - (C) The suspension or expulsion is affirmed, reversed, or modified;
 - (iii) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;
 - (iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request; and
 - (v) Notice of the opportunity to participate in a reengagement meeting under WAC 392-400-710 and the contact information for the person who will coordinate scheduling of the reengagement meeting.
- (5) Language assistance. The school district must ensure that the notice, appeal proceedings, and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.
- (6) Pending appeal. If the student or parents request an appeal under this section, the school district may temporarily continue to administer the suspension or expulsion during the appeal period subject to the following requirements:
 - (a) The school district may temporarily continue to administer the suspension or expulsion for no more than ten consecutive school days from the initial hearing under WAC 392-400-450 or until the appeal is decided, whichever is earlier;
 - (b) Any days that the student is temporarily suspended or expelled before the appeal is decided must be applied to the term of the student's suspension or expulsion and may not extend the term of the student's suspension or expulsion;
 - (c) If the student who is temporarily suspended or expelled returns to school before the appeal is decided under this section, the school district must provide the student an opportunity to make up assignments and tests missed during the suspension or expulsion upon the student's return.

WAC 392-400-470. Suspensions and expulsions - Review and reconsideration.

- (1) Requesting review. The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-465. The student or parents may request the review orally or in writing.

(2) Time limit. A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than ten school business days from the date the school district provides the written appeal decision to the student and parents under WAC 392-400-465.

(3) Review procedure.

(a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the behavioral violation, any records from the appeal under WAC 392-400-465, relevant state law, and the school district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the behavioral violation, the decision to suspend or expel the student, or the appeal decision under WAC 392-400-465. If the discipline appeal council presided over the appeal under WAC 392-400-465, the decision must be made by the school board.

(4) Decision. The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within ten school business days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms, reverses, or modifies the suspension or expulsion;

(b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end; and

(c) For long-term suspensions or expulsions, notice of the opportunity to participate in a reengagement meeting under WAC 392-400-710.

(5) Language assistance. The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-475. Discipline appeal council.

A school board may designate a discipline appeal council to hear and decide appeals under WAC 392-400-465 or to review and reconsider the district's appeal decisions under WAC 392-400-470. A discipline appeal council must consist of at least three persons appointed by the school board for fixed terms. All members of the discipline appeal council must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

WAC 392-400-480. Petition to extend expulsion.

(1) Petition. When risk to public health or safety warrants extending a student's expulsion, the principal or designee may petition the school district superintendent or designee for authorization to exceed the academic term limitation on an expulsion. The petition must inform the superintendent or designee of:

(a) The behavioral violation that resulted in the expulsion and the public health or safety concerns;

(b) The student's academic, attendance, and discipline history;

(c) Any nonacademic supports and behavioral services the student was offered or received during the expulsion;

(d) The student's academic progress during the expulsion and the educational services available to the student during the expulsion;

(e) The proposed extended length of the expulsion; and

(f) The student's reengagement plan.

(2) Time limit. The principal or designee may petition to extend an expulsion only after the development of a reengagement plan under WAC 392-400-710 and before the end of the expulsion. For violations of WAC 392-400-820, the principal or designee may petition to extend an expulsion at any time.

(3) Notice. The school district must provide written notice of the petition to the student and parents in person, by mail, or by email within one school business day from the date the superintendent or designee received the petition. The written notice must include:

(a) A copy of the petition;

(b) The student's and parents' right to an informal conference with the school district superintendent or designee to be held within five school business days from the date the district provided written notice to the student and parents; and

(c) The student's and parents' right to respond to the petition orally or in writing to the school district superintendent or designee within five school business days from the date the district provided written notice.

(4) Written decision. The school district superintendent or designee may grant the petition only if there is substantial evidence that, if the student were to return to the student's previous school of placement after the length of an academic term, the student would pose a risk to public health or safety. The school district superintendent or designee must deliver a written decision to the principal, the student, and the student's parents in person, by mail, or by email within ten school business days after receiving the petition.

(a) If the petition is granted, the written decision must include:

(i) The date on which the extended expulsion will end;

(ii) The reason that, if the student were to return before the initial expulsion end date, the student would pose a risk to public health or safety; and

(iii) Notice of the student's or parents' right to request review and reconsideration of the appeal decision under subsection (5) of this section, including where and to whom to make the request.

(b) If the petition is not granted, the written decision must identify the date on which the expulsion will end.

(5) Review and reconsideration.

(a) Requesting review. The students or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the decision to extend the student's expulsion. The student or parents may request the review orally or in writing.

(b) Time limit. A school district may establish a time limit for parents and students to request a review under this subsection. The time limit must be no less than ten school business days from the date the school district superintendent or designee provides the written decision under subsection (4) of this section.

(c) Review procedure.

(i) The school board or discipline appeal council may request to meet with the student or parents or the principal to hear further arguments and gather additional information.

(ii) The decision of the school board or discipline appeal council may be made only by board or council members who were not involved in the behavioral violation, the decision to expel the student, or the appeal decision under WAC 392-400-465.

(d) Decision. The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within ten school business days after receiving the request for review and reconsideration. The written decision must identify:

(i) Whether the school board or discipline appeal council affirms, reverses, or modifies the decision to extend the student's expulsion; and

(ii) The date on which the extended expulsion will end.

(6) Duration. Any extension of an expulsion may not exceed the length of an academic term.

(7) Language assistance. The school district must ensure that any petition proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(8) Annual reporting. The school district must annually report the number of petitions approved and denied to the office of superintendent of public instruction.

WAC 392-400-510. Emergency expulsions - Conditions and limitations.

A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

(4) Conversion. If a school district converts an emergency expulsion to a suspension or expulsion, the district must:

(a) Apply any days that the student was emergency expelled before the conversion to the total length of the suspension or expulsion; and

(b) Provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

WAC 392-400-515. Emergency expulsions - Notice to students and parents.

(1) Initial notice. After an emergency expulsion, the school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the reason the district believes the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process.

(2) Written notice. Within twenty-four hours after an emergency expulsion, a school district must provide written notice of the emergency expulsion to the student and parents in person, by mail, or by email. The written notice must include:

(a) The reason the student's presence poses an immediate and continuing danger to students or school personnel, or poses an immediate and continuing threat of material and substantial disruption of the educational process;

(b) The duration and conditions of the emergency expulsion, including the dates on which the emergency expulsion will begin and end;

(c) The opportunity to receive educational services during the emergency expulsion under WAC 392-400-610;

(d) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-520; and

(e) The student's and parents' right to appeal the emergency expulsion under WAC 392-400-525, including where and to whom the appeal must be requested.

(3) Language assistance. The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-520. Emergency expulsions - Optional conference with principal.

- (1) Requesting a conference. If a student or the parents disagree with the school district's decision to administer an emergency expulsion, the student or parents may request an informal conference with the principal or designee to resolve the disagreement. The request for an informal conference may be made orally or in writing.
- (2) Time limit. The principal or designee must hold the conference within three school business days after receiving the request, unless otherwise agreed to by the student and parents.
- (3) Conference. During the informal conference, the principal or designee must provide students and parents the opportunity to share the student's perspective and explanation regarding the events that led to the emergency expulsion.
- (4) Language assistance. The school district must ensure the conference is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.
- (5) Right to appeal. An informal conference must not limit a student's or parents' right to appeal the emergency expulsion under WAC 392-400-525.

WAC 392-400-525. Emergency expulsions - Appeal.

- (1) Requesting an appeal. A student or the parents may appeal an emergency expulsion to the school district superintendent or designee orally or in writing.
- (2) Time limit. A school district may establish a time limit to appeal an emergency expulsion. Appeal time limits must be no less than three school business days from the date the school district provides the written notice of the emergency expulsion.
- (3) Notice. Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:
 - (a) The time, date, and location of the appeal hearing;
 - (b) The name(s) of the official(s) presiding over the appeal;
 - (c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;
 - (d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and
 - (e) The student's and parents' rights under subsection (7) of this section.
- (4) Appeal hearing. The school district must hold an appeal hearing as soon as reasonably possible, but no later than two school business days after the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student and parents.
- (5) Presiding official(s). The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to emergency expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.
- (6) Evidence and witnesses.
 - (a) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(b) Upon request, the student and parents may review the student's education records. The school district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(c) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

- (i) The district made a reasonable effort to produce the witness; and
- (ii) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(7) Student and parent rights. The student and parents have the right to:

- (a) Be represented by legal counsel;
- (b) Question witnesses;
- (c) Share the student's perspective and provide explanation regarding the events that led to the emergency expulsion; and
- (d) Introduce relevant documentary, physical, or testimonial evidence.

(8) Recording of hearing. The appeal hearing must be recorded by analog, digital, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(9) Appeal decision. The school district must provide a written decision to the student and parents in person, by mail, or by email within one school business day after the appeal hearing. The written decision must include:

- (a) The findings of fact;
- (b) A determination whether the student's presence continues to pose:
 - (i) An immediate and continuing danger to students or school personnel; or
 - (ii) An immediate and continuing threat of material and substantial disruption of the educational process.
- (c) Whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480; and
- (d) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-530, including where and to whom to make the request.

(10) Language assistance. The school district must ensure that any appeal proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-530. Emergency expulsions - Review and reconsideration.

(1) Requesting review. The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-525. The student or parents may request the review orally or in writing.

(2) Time limit. A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than five school business days from the date the school district provided the written appeal decision to the student and parents under WAC 392-400-525.

(3) Review procedure.

- (a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the events that led to the emergency

expulsion, any records from the appeal under WAC 392-400-525, relevant state law, and the district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the events that led to the emergency expulsion, the decision to emergency expel the student, or the appeal decision under WAC 392-400-525. If the discipline appeal council presided over the appeal under WAC 392-400-525, the decision must be made by the school board.

(4) Decision. The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within five school business days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms or reverses the school district's decision that the student's presence posed:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(b) If the emergency expulsion has not yet ended or been converted, whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

(5) Language assistance. The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-805. Fundamental rights.

When administering discipline under this chapter, the school district must not:

(1) Unlawfully discriminate against a student on the basis of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal;

(2) Deprive a student of the student's constitutional right to freedom of speech and press, the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances, the constitutional right to the free exercise of religion and to have the student's school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising the right;

(3) Deprive a student of the student's constitutional right to be secure in the student's person, papers, and effects against unreasonable searches and seizures;

(4) Unlawfully interfere in a student's pursuit of an education while in the custody of the school district; or

(5) Deprive a student of the student's right to an equal educational opportunity, in whole or in part, by a school district without due process of law.

Return to School Following Removal

LAWS

RCW 28A.150.305. Alternative educational service providers - Student eligibility.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190.

RCW 28A.175.074. Definitions.

The definitions in this section apply throughout section 3, chapter 243, Laws of 2010 and RCW 28A.175.075 unless the context clearly requires otherwise.

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(g) Providing retrieval or reentry activities.

RCW 28A.225.090. Court orders - Penalties - Parents' defense.

(4) If a child continues to be truant after entering into a court-approved order with the community engagement board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may impose alternatives to detention consistent with best practice models for reengagement with school.

RCW 28A.300.360. Grants for programs and services - Truant, at-risk, and expelled students.

The superintendent of public instruction shall provide, to the extent funds are appropriated, start-up grants for alternative programs and services that provide instruction and learning for truant, at-risk, and expelled students. Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and services after the grant period.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred. [...]

(6) Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action. Districts shall make reasonable efforts to assist students and parents in returning to an educational setting prior to and no later than the end date of the corrective action. Where warranted based on public health or safety, a school may petition the superintendent of the school district, pursuant to policies and procedures adopted by the office of the superintendent of public instruction, for authorization to exceed the academic term limitation provided in this subsection. The superintendent of public instruction shall adopt rules outlining the limited circumstances in which a school may petition to

exceed the academic term limitation, including safeguards to ensure that the school district has made every effort to plan for the student's return to school. School districts shall report to the office of the superintendent of public instruction the number of petitions made to the school board and the number of petitions granted on an annual basis.

RCW 28A.600.022. Suspended or expelled students - Reengagement plan.

- (1) School districts should make efforts to have suspended or expelled students return to an educational setting as soon as possible. School districts must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's enrollment, to discuss a plan to reengage the student in a school program. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.
- (2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.
- (3) Any reengagement meetings conducted by the school district involving the suspended or expelled student and his or her parents or guardians are not intended to replace a petition for readmission.

REGULATIONS

WAC 392-400-010. Purpose.

The purpose of this chapter is to ensure that school districts in Washington:

- (7) Facilitate collaboration between school personnel, students, and families to ensure successful reentry into the classroom following a suspension or expulsion.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

- (1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:
 - (j) Provide for reengagement meetings and plans, consistent with WAC 392-400-710;
 - (k) Provide a process for students who have been suspended or expelled to petition for readmission.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

- (5) Reentry. After suspending or expelling a student, a school district must:
 - (a) Make reasonable efforts to return the student to the student's regular educational setting as soon as possible.
 - (b) Allow the student to petition for readmission at any time.
- (8) End date.
 - (a) An expulsion or suspension of a student may not be for an indefinite period of time and must have an end date.

(b) If a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, unless:

(i) The school district superintendent or designee grants a petition to extend a student's expulsion under WAC 392-400-480;

(ii) The student is excluded from the student's regular educational setting in accordance with WAC 392-400-810; or

(iii) The student is otherwise precluded under law from returning to the student's regular educational setting.

WAC 392-400-460. Suspensions and expulsions - Optional conference with principal.

(5) Right to appeal. An informal conference must not limit a student's or parents' right to appeal the suspension or expulsion under WAC 392-400-465, participate in a reengagement meeting under WAC 392-400-710, or petition for readmission.

WAC 392-400-465. Suspensions and expulsions - Appeal.

(4) Long-term suspensions and expulsions.

(b) Reengagement. Before the appeal hearing, the student, parents, and school district may agree to hold a reengagement meeting and develop a reengagement plan under WAC 392-400-710. The student, parents, and school district may mutually agree to postpone the appeal hearing while participating in the reengagement process.

WAC 392-400-710. Student reengagement after long-term suspension or expulsion.

(1) Reengagement meeting. When a school district administers a long-term suspension or expulsion, the district must convene a reengagement meeting with the student and parents to discuss a plan to reengage the student. Before convening a reengagement meeting, a school district must communicate with the student and parents to schedule the meeting time and location. The reengagement meeting must occur:

(a) Within twenty calendar days of the start of the student's long-term suspension or expulsion, but no later than five calendar days before the student returns to school; or

(b) As soon as reasonably possible, if the student or parents request a prompt reengagement meeting.

(2) Reengagement plan. The school district must collaborate with the student and parents to develop a culturally sensitive and culturally responsive reengagement plan tailored to the student's individual circumstances to support the student in successfully returning to school. In developing a reengagement plan, the school district must consider:

(a) The nature and circumstances of the incident that led to the student's suspension or expulsion;

(b) As appropriate, students' cultural histories and contexts, family cultural norms and values, community resources, and community and parent outreach;

(c) Shortening the length of time that the student is suspended or expelled;

(d) Providing academic and nonacademic supports that aid in the student's academic success and keep the student engaged and on track to graduate; and

(e) Supporting the student, parents, or school personnel in taking action to remedy the circumstances that resulted in the suspension or expulsion and preventing similar circumstances from recurring.

(3) Documentation. The school district must document the reengagement plan and provide a copy of the plan to the student and parents.

(4) Language assistance. The school district must ensure that the reengagement meeting and plan are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) Student and parent rights. Reengagement meetings do not replace an appeal hearing under WAC 392-400-465 or a petition for readmission.

WAC 392-400-810. Exceptions for the purpose of protecting victims.

In accordance with RCW 28A.600.460, a school district may preclude a student from returning to the student's regular educational setting following the end date of a suspension or expulsion for the purpose of protecting victims of certain offenses, as follows:

(1) Teacher victim. A student committing an offense under RCW 28A.600.460(2), when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned;

(2) Student victim. A student who commits an offense under RCW 28A.600.460(3), when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled.

WAC 392-400-815. Behavior agreements.

(3) Reengagement meetings and educational services. A school district must ensure that a behavior agreement does not waive a student's opportunity to participate in a reengagement meeting under WAC 392-400-710, or receive educational services as provided under WAC 392-400-610.

Alternative Placements

LAWS

RCW 28A.150.305. Alternative educational service providers - Student eligibility.

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

(a) Other schools;

(b) Alternative education programs not operated by the school district;

(c) Education centers;

(d) Skills [Skill] centers;

(e) The Washington national guard youth challenge program;

(f) Dropout prevention programs; or

(g) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

RCW 28A.175.025. Building bridges program - Grants.

Subject to the availability of funds appropriated for this purpose, the office of the superintendent of public instruction shall create a grant program and award grants to local partnerships of schools, families, and communities to begin the phase in of a statewide comprehensive dropout prevention, intervention, and retrieval system. This program shall be known as the building bridges program.

(1) For purposes of RCW 28A.175.025 through 28A.175.075, a "building bridges program" means a local partnership of schools, families, and communities that provides all of the following programs or activities:

(e) Alternative educational programming, including, but not limited to, career and technical education exploratory and preparatory programs and online learning opportunities.

RCW 28A.175.074. Definitions.

The definitions in this section apply throughout section 3, chapter 243, Laws of 2010 and RCW 28A.175.075 unless the context clearly requires otherwise.

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(h) Providing alternative educational programming including, but not limited to, credit retrieval and online learning opportunities.

RCW 28A.225.015. Attendance mandatory - Six or seven years olds - Unexcused absences - Petition.

(2) If a six or seven year old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled shall:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

RCW 28A.225.025. Community engagement boards.

(1) For purposes of this chapter, "community engagement board" means a board established pursuant to a memorandum of understanding between a juvenile court and a school district and composed of members of the local community in which the child attends school. Community engagement boards must include members who receive training regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, cultural responsive interactions, trauma-informed approaches to discipline, evidence-based treatments that have been found effective in supporting at-risk youth and their families, and the specific services and treatment available in the particular school, court, community, and elsewhere. Duties of a community engagement board shall include, but not be limited to: Identifying barriers to school attendance, recommending methods for improving attendance such as connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy, suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program, or recommending to the juvenile court that a juvenile be offered the opportunity for placement in a HOPE center or crisis residential center, if appropriate.

RCW 28A.225.090. Court orders - Penalties - Parents' defense.

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program.

RCW 28A.300.275. Alternative school start-up grants - School safety grants - Report to legislative committees.

The sum of four million dollars, or as much thereof as may be necessary, is appropriated from the general fund to the superintendent of public instruction for the biennium ending June 30, 2001, for:

(1) Alternative school start-up grants which are in addition to the grants funded in the two million dollars alternative school start-up appropriation contained in section 501(2)(l), chapter 309, Laws of 1999, and these grants shall be awarded in the same manner and for the same purposes.

RCW 28A.300.360. Grants for programs and services - Truant, at-risk, and expelled students.

The superintendent of public instruction shall provide, to the extent funds are appropriated, start-up grants for alternative programs and services that provide instruction and learning for truant, at-risk, and expelled students. Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and services after the grant period.

RCW 28A.600.015. Expulsions and suspensions- Rules incorporating due process - Short-term and long-term suspensions- Emergency expulsions- Discretionary discipline.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(7) Nothing in this section prevents a public school district, educational service district, the Washington center for deaf and hard of hearing youth, or the state school for the blind if it has suspended or expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting or modifying the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

RCW 28A.600.420. Firearms on school premises, transportation, or facilities - Penalty - Exemptions.

(4) Nothing in this section prevents a public school district, educational service district, the Washington center for deaf and hard of hearing youth, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

REGULATIONS

WAC 392-400-010. Purpose.

The purpose of this chapter is to ensure that school districts in Washington:

- (6) Provide educational services that students need to complete their education without disruption.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

- (i) Describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to be followed for the provision of educational services under WAC 392-400-610.

WAC 392-400-115. Completing academic requirements.

A school district may not:

- (1) Suspend the provision of educational services to a student in response to behavioral violations; or
- (2) Administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

- (3) Opportunity to receive educational services. A school district must provide an opportunity for students to receive educational services during a suspension or expulsion under WAC 392-400-610.

WAC 392-400-610. Educational services during suspension, expulsion, or emergency expulsion.

- (1) Educational services.

(a) A school district may not suspend the provision of educational services to a student in response to behavioral violations.

(b) During the suspension, expulsion, or emergency expulsion of a student, a school district must provide the student the opportunity to receive educational services. The educational services must enable the student to:

- (i) Continue to participate in the general education curriculum;
- (ii) Meet the educational standards established within the district; and
- (iii) Complete subject, grade-level, and graduation requirements.

(c) When providing a student the opportunity to receive educational services under this section, the school district must consider:

- (i) Meaningful input from the student, parents, and the student's teachers;
- (ii) Whether the student's regular educational services include English language development services, special education, accommodations and related services under Section 504 of the Rehabilitation Act of 1973, or supplemental services designed to support the student's academic achievement; and
- (iii) Access to any necessary technology, transportation, or resources the student needs to participate fully in the educational services.

(d) A school district may provide educational services to the student in an alternative setting or modify the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular educational services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

(2) Notice. As soon as reasonably possible after administering a suspension or expulsion, a school district must provide written notice to the student and parents about the educational services the district will provide. The school district must provide the written notice in person, by mail, or by email. The notice must include:

- (a) A description of the educational services that will be provided; and
- (b) The name and contact information for the school personnel who can offer support to keep the student current with assignments and course work as required under this section.

(3) Exclusions for up to five days. For students subject to suspension or emergency expulsion for up to five consecutive school days, a school district must provide at least the following:

- (a) Course work, including any assigned homework, from all of the student's regular subjects or classes;
- (b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes; and
- (c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency expulsion.

(4) Exclusions for six to ten days. For students subject to suspension or emergency expulsion for six to ten consecutive school days, a school district must provide at least the following:

- (a) Course work, including any assigned homework, from all of the student's regular subjects or classes;
- (b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes. School personnel must make a reasonable attempt to contact the student or parents within three school business days following the start of the suspension or emergency expulsion and periodically thereafter until the suspension or emergency expulsion ends to:

(i) Coordinate the delivery and grading of course work between the student and the student's teacher(s) at a frequency that would allow the student to keep current with assignments and course work for all of the student's regular subjects or classes; and

(ii) Communicate with the student, parents, and the student's teacher(s) about the student's academic progress.

(c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency expulsion.

(5) Long-term suspensions and expulsions. For students subject to expulsion or suspension for more than ten consecutive school days, a school district must provide educational services in accordance with WAC 392-121-107.

(6) Language assistance. The school district must ensure that notices and communications required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

RCW 9.41.280. Possessing dangerous weapons on school facilities - Penalty - Exceptions.

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

- (a) Any firearm;
- (b) Any other dangerous weapon as defined in RCW 9.41.250;
- (c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;
- (d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;
- (e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or
- (f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or
 - (ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

RCW 28A.320.130. Weapons incidents - Reporting.

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

RCW 28A.600.210. School locker searches - Findings.

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority

to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

RCW 28A.600.220. School locker searches - No expectation of privacy.

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240.

RCW 28A.600.230. School locker searches - Authorization - Limitations.

(1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules. A search is mandatory if there are reasonable grounds to suspect a student has illegally possessed a firearm in violation of RCW 9.41.280.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070.

RCW 28A.600.420. Firearms on school premises, transportation, or facilities - Penalty - Exemptions.

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, or state school for the blind, or the director of the Washington center for deaf and hard of hearing youth, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the Washington center for deaf and hard of hearing youth, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appears to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

REGULATIONS

WAC 392-400-820. Firearm exceptions.

As provided under RCW 28A.600.420:

(1) A school district must expel a student for no less than one year if the district has determined that the student has carried or possessed a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools. The school district superintendent may modify the expulsion on a case-by-case basis.

(2) A school district may suspend or expel a student for up to one year if the student acts with malice, as defined under RCW 9A.04.110, and displays an instrument that appears to be a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools.

(3) This section does not apply to:

(a) Any student while engaged in military education authorized by the school district in which rifles are used;

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by the school district in which the rifles of collectors or instructors are handled or displayed; or

(c) Any student while participating in a rifle competition authorized by the school district.

Students with Chronic Disciplinary Issues

LAWS

RCW 28A.150.305. Alternative educational service providers - Student eligibility.

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

(a) Other schools;

(b) Alternative education programs not operated by the school district;

(c) Education centers;

(d) Skills [Skill] centers;

(e) The Washington national guard youth challenge program;

(f) Dropout prevention programs; or

(g) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

RCW 28A.600.020. Exclusion of student from classroom - Written disciplinary procedures - Long-term suspension or expulsion.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

RCW 28A.225.005. Information for students and parents.

(1) Each school within a school district shall inform the students and the parents of the students enrolled in the school about: The benefits of regular school attendance; the potential effects of excessive absenteeism, whether excused or unexcused, on academic achievement, and graduation and dropout rates; the school's expectations of the parents and guardians to ensure regular school attendance by the child; the resources available to assist the child and the parents and guardians; the role and responsibilities of the school; and the consequences of truancy, including the compulsory education requirements under this chapter. The school shall provide access to the information before or at the time of enrollment of the child at a new school and at the beginning of each school year. If the school regularly and ordinarily communicates most other information to parents online, providing online access to the information required by this section satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form. Reasonable efforts must be made to enable parents to request and receive the information in a language in which they are fluent. A parent

must date and acknowledge review of this information online or in writing before or at the time of enrollment of the child at a new school and at the beginning of each school year.

RCW 28A.225.015. Attendance mandatory - Six or seven years olds - Unexcused absences - Petition.

(1) If a parent enrolls a child who is six or seven years of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. An exception shall be made to this requirement for children whose parents formally remove them from enrollment if the child is less than eight years old and a petition has not been filed against the parent under subsection (3) of this section. The requirement to attend school under this subsection does not apply to a child enrolled in a public school part-time for the purpose of receiving ancillary services. A child required to attend school under this subsection may be temporarily excused upon the request of his or her parent for purposes agreed upon by the school district and parent.

(2) If a six or seven year old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled shall:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(3) If a child is required to attend public school under subsection (1) of this section, after the child's seventh unexcused absence within any month during the current school year and not later than the 15th unexcused absence during the current school year, the school district shall file a petition for civil action as provided in RCW 28A.225.035 against the parent of the child.

(4) This section does not require a six or seven year old child to enroll in a public or private school or to receive home-based instruction. This section only applies to six or seven year old children whose parents enroll them full time in public school and do not formally remove them from enrollment as provided in subsection (1) of this section.

RCW 28A.225.018. Conferences to identify barriers to child's school attendance.

(1) Except as provided in subsection (2) of this section, in the event that a child in elementary school is required to attend school under RCW 28A.225.010 or 28A.225.015(1) and has five or more excused absences in a single month during the current school year, or ten or more excused absences in the current school year, the school district shall schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of identifying the barriers to the child's regular attendance, and the supports and resources that may be made available to the family so that the child is able to regularly attend school. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the absences, the school district may schedule this conference on that day. To satisfy the requirements of this section, the conference must include at least one school

district employee such as a nurse, counselor, social worker, teacher, or community human services provider, except in those instances regarding the attendance of a child who has an individualized education program or a plan developed under section 504 of the rehabilitation act of 1973, in which case the reconvening of the team that created the program or plan is required.

(2) A conference pursuant to subsection (1) of this section is not required in the event of excused absences for which prior notice has been given to the school or a doctor's note has been provided and an academic plan is put in place so that the child does not fall behind.

RCW 28A.225.020. School's duties upon child's failure to attend school.

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall:

(a) Inform the child's parent by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the parent is not fluent in English, the school must make reasonable efforts to provide this information in a language in which the parent is fluent;

(b) Schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence; and

(c) At some point after the second and before the seventh unexcused absence, take data-informed steps to eliminate or reduce the child's absences.

(i) In middle school and high school, these steps must include application of the Washington assessment of the risks and needs of students (WARNS) or other assessment by a school district's designee under RCW 28A.225.026.

(ii) For any child with an existing individualized education plan or 504 plan, these steps must include the convening of the child's individualized education plan or 504 plan team, including a behavior specialist or mental health specialist where appropriate, to consider the reasons for the absences. If necessary, and if consent from the parent is given, a functional behavior assessment to explore the function of the absence behavior shall be conducted and a detailed behavior plan completed. Time should be allowed for the behavior plan to be initiated and data tracked to determine progress.

(iii) With respect to any child, without an existing individualized education plan or 504 plan, reasonably believed to have a mental or physical disability or impairment, these steps must include informing the child's parent of the right to obtain an appropriate evaluation at no cost to the parent to determine whether the child has a disability or impairment and needs accommodations, related services, or special education services. This includes children with suspected emotional or behavioral disabilities as defined in WAC 392-172A-01035. If the school obtains consent to conduct an evaluation, time should be allowed for the evaluation to be completed, and if the child is found to be eligible for special education services, accommodations, or related services, a plan developed to address the child's needs.

(iv) These steps must include, where appropriate, providing an available approved best practice or research-based intervention, or both, consistent with the WARNS profile or other assessment, if an assessment was applied, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or

work experience, referring the child to a community engagement board, requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school.

(2) For purposes of this chapter, an "unexcused absence" means that a child:

(a)(i) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

(ii) Has failed to meet the school district's policy for excused absences; or

(b) Has failed to comply with alternative learning experience program attendance requirements as described by the superintendent of public instruction.

(3) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW 28A.225.030, and 28A.225.015. The sending school district shall provide this information to the receiving school, together with a copy of any previous assessment as required under subsection (1)(c) of this section, history of any best practices or researched-based intervention previously provided to the child by the child's sending school district, and a copy of the most recent truancy information including any online or written acknowledgment by the parent and child, as provided for in RCW 28A.225.005. All school districts must use the standard choice transfer form for releasing a student to a nonresident school district for the purposes of accessing an alternative learning experience program.

RCW 28A.225.023. Youth dependent pursuant to chapter 13.34 RCW - Review of unexpected or excessive absences - Support for youth's school work.

A school district representative or school employee shall review unexpected or excessive absences with a youth who is dependent pursuant to chapter 13.34 RCW and adults involved with that youth, to include the youth's caseworker, educational liaison, attorney if one is appointed, parent or guardians, and foster parents or the person providing placement for the youth. The purpose of the review is to determine the cause of the absences, taking into account: Unplanned school transitions, periods of running from care, inpatient treatment, incarceration, school adjustment, educational gaps, psychosocial issues, and unavoidable appointments during the school day. A school district representative or a school employee must proactively support the youth's school work so the student does not fall behind and to avoid suspension or expulsion based on truancy.

RCW 28A.225.025. Community engagement boards.

(1) For purposes of this chapter, "community engagement board" means a board established pursuant to a memorandum of understanding between a juvenile court and a school district and composed of members of the local community in which the child attends school. Community engagement boards must include members who receive training regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, cultural responsive interactions, trauma-informed approaches to discipline, evidence-based treatments that have been found effective in supporting at-risk youth and their families, and the specific services and treatment available in the particular school, court, community, and elsewhere. Duties of a community engagement board shall include, but not be limited to: Identifying barriers to school attendance, recommending methods for improving attendance such as connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy, suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program, or

recommending to the juvenile court that a juvenile be offered the opportunity for placement in a HOPE center or crisis residential center, if appropriate.

(2) The legislature finds that utilization of community engagement boards is the preferred means of intervention when preliminary methods to eliminate or reduce unexcused absences as required by RCW 28A.225.020 have not been effective in securing the child's attendance at school. The legislature intends to encourage and support the development and expansion of community engagement boards. Operation of a school engagement board does not excuse a district from the obligation of filing a petition within the requirements of RCW 28A.225.015(3).

RCW 28A.225.026. Community engagement boards - Memoranda of understanding with juvenile courts

- Designation of school district coordinators to address absenteeism and truancy - Community-wide partnerships.

(1) By the beginning of the 2017-18 school year, juvenile courts must establish, through a memorandum of understanding with each school district within their respective counties, a coordinated and collaborative approach to address truancy through the establishment of a community engagement board or, with respect to certain small districts, through other means as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, each school district must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to the operation of a community engagement board. A community engagement board may be operated by a juvenile court, a school district, or a collaboration between both entities, so long as the agreement is memorialized in a memorandum of understanding. For a school district that is located in more than one county, the memorandum of understanding shall be with the juvenile court in the county that acts as the school district's treasurer.

(3) A school district with fewer than three hundred students must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to: (a) The operation of a community engagement board; or (b) addressing truancy through other coordinated means of intervention aimed at identifying barriers to school attendance, and connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy. School districts with fewer than three hundred students may work cooperatively with other school districts or the school district's educational service district to ensure access to a community engagement board or to provide other coordinated means of intervention.

(4) All school districts must designate, and identify to the local juvenile court and to the office of the superintendent of public instruction, a person or persons to coordinate school district efforts to address excessive absenteeism and truancy, including tasks associated with: Outreach and conferences pursuant to RCW 28A.225.018; entering into a memorandum of understanding with the juvenile court; establishing protocols and procedures with the court; coordinating trainings; sharing evidence-based and culturally appropriate promising practices; identifying a person within every school to serve as a contact with respect to excessive absenteeism and truancy; and assisting in the recruitment of community engagement board members.

(5) As has been demonstrated by school districts and county juvenile courts around the state that have worked together and led the way with community engagement boards, success has resulted from involving the entire community and leveraging existing dollars from a variety of sources, including public and private, local and state, and court, school, and community. In emulating this coordinated and collaborative approach statewide pursuant to local memoranda of understanding, courts and school districts are encouraged to create strong community-wide partnerships and to leverage existing dollars and resources.

RCW 28A.225.0261. Community engagement boards - Effect of diversion from truancy petitions - Evaluation by Washington state institute for public policy- Reports.

(1) By requiring an initial stay of truancy petitions for diversion to community engagement boards, the legislature intends to achieve the following outcomes:

- (a) Increased access to community engagement boards and other truancy early intervention programs for parents and children throughout the state;
- (b) Increased quantity and quality of truancy intervention and prevention efforts in the community;
- (c) A reduction in the number of truancy petitions that result in further proceedings by juvenile courts, other than dismissal of the petition, after the initial stay and diversion to a community engagement board;
- (d) A reduction in the number of truancy petitions that result in a civil contempt proceeding or detention order; and
- (e) Increased school attendance.

(2) No later than January 1, 2021, the Washington state institute for public policy is directed to evaluate the effectiveness of chapter 205, Laws of 2016. An initial report scoping of the methodology to be used to review chapter 205, Laws of 2016 shall be submitted to the fiscal committees of the legislature by January 1, 2018. The initial report must identify any data gaps that could hinder the ability of the institute to conduct its review.

RCW 28A.225.027. Community engagement boards - Grants for training - Grants for services and treatment.

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate to community engagement boards grant funds that may be used to supplement existing funds in order to pay for training for board members or the provision of services and treatment to children and their families.

(2) The superintendent of public instruction must select grant recipients based on the criteria in this section. This is a competitive grant process. A prerequisite to applying for either or both grants is a memoranda of understanding, between a school district and a court, to institute a new or maintain an existing community engagement board that meets the requirements of RCW 28A.225.025.

(3) Successful applicants for an award of grant funds to supplement existing funds to pay for the training of community engagement board members must commit to the provision of training to board members regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, trauma-informed approaches to discipline, research about adverse childhood experiences, evidence-based treatments and culturally appropriate promising practices, as well as the specific academic and community services and treatments available in the school, court, community, and elsewhere. This training may be provided by educational service districts.

(4) Successful applicants for an award of grant funds to supplement existing funds to pay for services and treatments provided to children and their families must commit to the provision of academic services such as tutoring, credit retrieval and school reengagement supports, community services, and evidence-based treatments that have been found to be effective in supporting at-risk youth and their families, such as functional family therapy, or those that have been shown to be culturally appropriate promising practices.

RCW 28A.225.030. Petition to juvenile court for violations by a parent or child - School district responsibilities.

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an

enrolled student's absences from public school, after the child's seventh unexcused absence within any month during the current school year and not later than the 15th unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. The petition must include a list of all interventions that have been attempted as set forth in RCW 28A.225.020, include a copy of any previous truancy assessment completed by the child's current school district, the history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district, and a copy of the most recent truancy information document provided to the parent, pursuant to RCW 28A.225.005. Except as provided in this subsection, no additional documents need be filed with the petition. Nothing in this subsection requires court jurisdiction to terminate when a child turns seventeen or precludes a school district from filing a petition for a child that is seventeen years of age.

(2) The district shall not later than the seventh unexcused absence in a month:

- (a) Enter into an agreement with a student and parent that establishes school attendance requirements;
- (b) Refer a student to a community engagement board as defined in RCW 28A.225.025. The community engagement board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or
- (c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with seven or more unexcused absences in any month during the current school year or upon the 15th unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

RCW 28A.225.035. Petition to juvenile court - Contents - Court action - Referral to community engagement board or other coordinated intervention - Transfer of jurisdiction upon relocation.

(1) A petition for a civil action under RCW 28A.225.030 or 28A.225.015 shall consist of a written notification to the court alleging that:

- (a) The child has unexcused absences as described in RCW 28A.225.030(1) during the current school year;
- (b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and
- (c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, date of birth, school, address, gender, race, and ethnicity of the child and the names and addresses of the child's parents, and shall set forth the languages in which the child and parent are fluent, whether there is an existing individualized education program, and the child's current academic status in school.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter and provide information about what the court might order under RCW 28A.225.090.

(4)(a) When a petition is filed under RCW 28A.225.030 or 28A.225.015, it shall initially be stayed by the juvenile court, and the child and the child's parent must be referred to a community engagement board or other

coordinated means of intervention as set forth in the memorandum of understanding under RCW 28A.225.026. The community engagement board must provide to the court a description of the intervention and prevention efforts to be employed to substantially reduce the child's unexcused absences, along with a timeline for completion.

(b) If a community engagement board or other coordinated means of intervention is not in place as required by RCW 28A.225.026, the juvenile court shall schedule a hearing at which the court shall consider the petition.

(5) When a referral is made to a community engagement board, the engagement board must meet with the child, a parent, and the school district representative and enter into an agreement with the petitioner and respondent regarding expectations and any actions necessary to address the child's truancy within twenty days of the referral. If the petition is based on RCW 28A.225.015, the child shall not be required to attend and the agreement under this subsection shall be between the engagement board, the school district, and the child's parent. The court may permit the engagement board or truancy prevention counselor to provide continued supervision over the student, or parent if the petition is based on RCW 28A.225.015.

(6) If the community engagement board fails to reach an agreement, or the parent or student does not comply with the agreement within the timeline for completion set by the community engagement board, the community engagement board shall return the case to the juvenile court. The stay of the petition shall be lifted, and the juvenile court shall schedule a hearing at which the court shall consider the petition.

(7)(a) Notwithstanding the provisions in subsection (4)(a) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. Such actions may include referral to an existing community engagement board, use of the Washington assessment of risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, the provision of community-based services, and the provision of evidence-based treatments that have been found to be effective in supporting at-risk youth and their families. When a juvenile court hearing is held, the court shall:

(i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, notice should be provided in a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);

(ii) Notify the parent and the child of their rights to present evidence at the hearing; and

(iii) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(b) If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if eight years old or older, and the parent.

(8)(a) The court may require the attendance of the child if eight years old or older, the parents, and the school district at any hearing on a petition filed under RCW 28A.225.030.

(b) The court may not issue a bench warrant for a child for failure to appear at a hearing on an initial truancy petition filed under RCW 28A.225.030. If there has been proper service, the court may instead enter a default order assuming jurisdiction under the terms specified in subsection (12) of this section.

(9) A school district is responsible for determining who shall represent the school district at hearings on a petition filed under RCW 28A.225.030 or 28A.225.015.

(10) The court may permit the first hearing to be held without requiring that either party be represented by legal counsel, and to be held without a guardian ad litem for the child under RCW 4.08.050. At the request of the school district, the court shall permit a school district representative who is not an attorney to represent the school district at any future hearings.

(11) If the child is in a special education program or has a diagnosed mental or emotional disorder, the court shall inquire as to what efforts the school district has made to assist the child in attending school.

(12) If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the court, after considering the facts alleged in the petition and the circumstances of the juvenile, to most likely cause the juvenile to return to and remain in school while the juvenile is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered.

(13)(a) If the court assumes jurisdiction, the school district shall periodically report to the court any additional unexcused absences by the child, actions taken by the school district, and an update on the child's academic status in school at a schedule specified by the court.

(b) The first report under this subsection (13) must be received no later than three months from the date that the court assumes jurisdiction.

(14) Community engagement boards and the courts shall coordinate, to the extent possible, proceedings and actions pertaining to children who are subject to truancy petitions and at-risk youth petitions in RCW 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

(15) If after a juvenile court assumes jurisdiction in one county the child relocates to another county, the juvenile court in the receiving county shall, upon the request of a school district or parent, assume jurisdiction of the petition filed in the previous county.

RCW 28A.225.060. Custody and disposition of child absent from school without excuse.

Any school district official, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, may take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school and is absent from school without an approved excuse, and shall deliver the child to: (1) The custody of a person in parental relation to the child; (2) the school from which the child is absent; or (3) a program designated by the school district.

RCW 28A.225.090. Court orders - Penalties - Parents' defense.

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the

unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may impose:

(a) Community restitution;

(b) Nonresidential programs with intensive wraparound services;

(c) A requirement that the child meet with a mentor for a specified number of times; or

(d) Other services and interventions that the court deems appropriate.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the community engagement board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may impose alternatives to detention consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

RCW 28A.225.151. Student-level truancy data - Reports - Data protocols and guidance for school districts.

(1) As required under subsection (2) of this section, the office of superintendent of public instruction shall collect and school districts shall submit student-level truancy data in order to allow a better understanding of actions taken under RCW 28A.225.030. The office shall prepare an annual report to the legislature by December 15th of each year.

(2) The reports under subsection (1) of this section shall include, disaggregated by student group:

(a) The number of enrolled students and the number of unexcused absences;

(b) The number of enrolled students with 15 or more unexcused absences in a school year or seven or more unexcused absences in a month during a school year;

(c) A description of any programs or schools developed to serve students who have had seven or more unexcused absences in a month or 15 in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation

in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090;

(d) The number of petitions filed by a school district with the juvenile court and, beginning in the 2018-19 school year, whether the petition results in:

- (i) Referral to a community engagement board;
- (ii) Other coordinated means of intervention;
- (iii) A hearing in the juvenile court; or
- (iv) Other less restrictive disposition (e.g., change of placement, home school, alternative learning experience, residential treatment); and

(e) Each instance of imposition of detention for failure to comply with a court order under RCW 28A.225.090, with a statement of the reasons for each instance of detention.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data to provide a clearer understanding of actions taken under RCW 28A.225.030.

RCW 28A.300.046. "Student absence from school" - Rules - Collection of attendance and discipline data.

(1)(a) The superintendent of public instruction shall adopt rules establishing a standard definition of student absence from school. In adopting the definition, the superintendent shall review current practices in Washington school districts, definitions used in other states, and any national standards or definitions used by the national center for education statistics or other national groups. The superintendent shall also consult with the building bridges work group established under RCW 28A.175.075.

(b) Using the definition of student absence adopted under this section, the superintendent shall establish an indicator for measuring student attendance in high schools for purposes of the PASS program under *RCW 28A.175.130.

(2)(a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of:

- (i) Student attendance data using the definitions of student absence adopted under this section; and
- (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) Student suspension and expulsion data collected for the purposes of this subsection (2) must be:

- (i) Made publicly available and easily accessible on the superintendent of public instruction's web site; and
- (ii) Disaggregated and cross-tabulated as established under RCW 28A.300.042.

(c) School districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

REGULATIONS

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

(6) Absences and tardiness. A school district may not suspend or expel a student from school for absences or tardiness.

Substance Use

LAWS

RCW 28A.170.050. Advisory committee - Members - Duties.

The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and classified staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.

RCW 28A.170.075. Findings - Intent.

- (1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.
- (2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.
- (3) Substance abuse awareness programs funded under this chapter do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.
- (4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk.

RCW 28A.170.080. Grants - Substance abuse intervention.

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

- (a) Individual and family counseling, including preventive counseling;
- (b) Assessment and referral for treatment;
- (c) Referral to peer support groups;
- (d) Aftercare;
- (e) Development and supervision of student mentor programs;
- (f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under Washington professional educator standards board rules adopted pursuant to RCW 28A.410.210;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

RCW 28A.170.090. Selection of grant recipients - Program rules.

(1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall include provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts. School districts shall, to the maximum extent feasible, coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW 28A.170.080 and 28A.170.090.

RCW 28A.210.310. Prohibition on use of tobacco products on school property.

(1) To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall have a written policy mandating a prohibition on the use of all tobacco products on public school property.

(2) The policy in subsection (1) of this section shall include, but not be limited to, a requirement that students and school personnel be notified of the prohibition, the posting of signs prohibiting the use of tobacco products, sanctions for students and school personnel who violate the policy, and a requirement that school district personnel enforce the prohibition. Enforcement policies adopted in the school board policy shall be in addition to the enforcement provisions in RCW 70.160.070.

RCW 28A.320.127. Plan for recognition, screening, and response to emotional or behavioral distress in students, including possible sexual abuse.

(1) Beginning in the 2014-15 school year, each school district must adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, youth suicide, and sexual abuse. The school district must annually provide the plan to all district staff.

(2) At a minimum the plan must address:

(d) Identification and development of partnerships with community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the district and such an entity in the community or region.

RCW 28A.320.1271. Model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students.

The office of the superintendent of public instruction's school safety center, established in RCW 28A.300.630, shall develop a model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. The model plan must incorporate research-based best practices, including practices and protocols used in schools and school districts in other states. The model plan must be posted by February 1, 2014, on the school safety center web site, along with relevant resources and information to support school districts in developing and implementing the plan required under RCW 28A.320.127.

RCW 28A.600.210. School locker searches - Findings.

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

RCW 28A.600.220. School locker searches - No expectation of privacy.

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

RCW 28A.300.490. Task force on gangs in schools - Reports.

- (1) A task force on gangs in schools is created to examine current adult and youth gang activities that are affecting school safety. The task force shall work under the guidance of the office of the superintendent of public instruction's school safety center, the school safety and student well-being advisory committee established in RCW 28A.300.635, and the Washington association of sheriffs and police chiefs.
- (2) The task force shall be comprised of representatives, selected by the superintendent of public instruction, who possess expertise relevant to gang activity in schools. The task force shall outline methods for preventing new gangs, eliminating existing gangs, gathering intelligence, and sharing information about gang activities.
- (3) Beginning December 1, 2007, the task force shall annually report its findings and recommendations to the education committees of the legislature.

RCW 28A.320.140. Schools with special standards - Dress codes.

- (5) School district boards of directors may adopt dress and grooming code policies which prohibit students from wearing gang-related apparel. If a dress and grooming code policy contains this provision, the school board must also establish policies to notify students and parents of what clothing and apparel is considered to be gang-related apparel. This notice must precede any disciplinary action resulting from a student wearing gang-related apparel.

RCW 28A.600.455. Gang activity - Suspension or expulsion.

- (1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.
- (2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

RCW 28A.300.2851. School bullying and harassment - Work group.

- (1) The office of the superintendent of public instruction and the office of the education ombuds shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.
- (2) The work group shall:
 - (a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;
 - (b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;
 - (c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;

(d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;

(e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under *RCW 28A.300.285 and involving parents in improving school climate;

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

RCW 28A.300.479. Social-emotional learning resources.

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social-emotional learning committee created under RCW 28A.300.477.

RCW 28A.320.127. Plan for recognition, screening, and response to emotional or behavioral distress in students, including possible sexual abuse.

(3) The plan under this section may be a separate plan or a component of another district plan or policy, such as the harassment, intimidation, and bullying prevention policy under RCW 28A.300.2851 or the comprehensive safe school plan required under RCW 28A.320.125.

RCW 28A.410.270. Washington professional educator standards board-Performance standards-Certification levels-Teacher effectiveness evaluations-Requirements for professional certificate and residency teaching certificate-Demonstration of educator preparation programs' outcomes.

(1)(c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies,

such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

RCW 28A.415.445. Training in children's mental health topics-Required use of one professional learning day every other year.

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, or culturally sustaining practices.

RCW 28A.600.477. Prohibition of harassment, intimidation, and bullying.

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section.

(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying. In addition to other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policy and procedure prohibiting harassment, intimidation, and bullying;

(B) Receive copies of all formal and informal complaints relating to harassment, intimidation, or bullying;

(C) Communicate with the school district employees responsible for monitoring school district compliance with chapter 28A.642 RCW prohibiting discrimination in public schools, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on the policy and procedure prohibiting harassment, intimidation, and bullying.

(ii) The primary contact from each school district must attend at least one training class as provided in subsection (4) of this section, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policies and procedures relating to transgender students under RCW 28A.642.080.

(2) School districts are encouraged to adopt and update the policy and procedure prohibiting harassment, intimidation, and bullying through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center web site, and must also provide the office of the superintendent of public instruction with a link to the school district's web site for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by

August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its web site, with a link to the school safety center web site, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment, intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

(4) By December 31, 2020, the office of the superintendent of public instruction must develop a statewide training class for those people in each school district who act as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (1) of this section. The training class must be offered on an annual basis by educational service districts in collaboration with the office of the superintendent of public instruction. The training class must be based on the model policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (3) of this section and include materials related to hazing and the Washington state school directors' association model transgender student policy and procedure as provided in RCW 28A.642.080.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Electronic" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

(b)(i) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act including, but not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(A) Physically harms a student or damages the student's property;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(ii) Nothing in (b)(i) of this subsection requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

RCW 28A.600.480. Reporting of harassment, intimidation, or bullying - Retaliation prohibited - Immunity.

(1) No school employee, student, or volunteer may engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(2) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, is encouraged to report such incident to an appropriate school official.

(3) A school employee, student, or volunteer who promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official, and who makes this report in compliance with the procedures in the district's policy prohibiting bullying, harassment, or intimidation, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

RCW 28A.642.080. Transgender student policy and procedure.

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection. In addition to any other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection;

(B) Receive copies of all formal and informal complaints relating to transgender students;

(C) Communicate with the school district employees responsible for monitoring school district compliance with this chapter, and the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on policies and procedures relating to transgender students that meet the requirements of (a) of this subsection.

(ii) The primary contact from each school district must attend at least one training class as provided in RCW 28A.600.477, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477.

(2) As required by the office of the superintendent of public instruction, each school district must provide to the office of the superintendent of public instruction its policies and procedures relating to transgender students that meet the requirements of subsection (1)(a) of this section.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under RCW 28A.600.477, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

(4)(a) By December 31, 2020, the office of the superintendent of public instruction must develop online training material available to all school staff based on the model transgender student policy and procedure described in subsection (3) of this section and the office of the superintendent of public instruction's rules and guidance as provided under this chapter.

(b) The online training material must describe the role of school district primary contacts for monitoring school district compliance with this chapter prohibiting discrimination in public schools, RCW 28A.600.477 related to the policies and procedures prohibiting harassment, intimidation, and bullying, and this section related to policies and procedures relating to transgender students.

(c) The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

(d) The office of the superintendent of public instruction must annually notify school districts of the availability of the online training material.

RCW 43.06B.060. Public school antiharassment policies and strategies - Lead agency.

In addition to duties assigned under RCW 43.06B.020, the office of the education ombuds shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies.

REGULATIONS

WAC 392-190-0555. Discriminatory harassment.

(1) For purposes of administrative enforcement of this chapter under WAC 392-190-060 through 392-190-081, a school district or public charter school violates a student's rights regarding discriminatory harassment, including sexual harassment as defined under WAC 392-190-056, when the following conditions are met:

(a) The alleged conduct is based on a student's sex, race, creed, religion, color, national origin, sexual orientation, gender expression, gender identity, honorably discharged veteran or military status, presence of any sensory, mental, or physical disability, or use of a trained dog guide or service animal;

(b) The alleged conduct is sufficiently severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the school district's or public charter school's course offerings, including any educational program or activity (i.e., creates a hostile environment); and

(c) The school district or public charter school, upon notice, fails to take prompt and appropriate action to investigate or fails to take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

(2) For purposes of administrative enforcement of this chapter under WAC 392-190-060 through 392-190-081, the office of superintendent of public instruction deems a school district or public charter school to have notice of discriminatory harassment if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment.

(3) Nothing in this chapter is intended to diminish or otherwise modify an individual's right to bring an action under state or federal law alleging that the individual has been harmed by conduct or communication related to the individual's sex, race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, presence of any sensory, mental, or physical disability, or use of a trained dog guide or service animal that creates a hostile or abusive educational or workplace environment.

WAC 392-190-059. Harassment, intimidation, and bullying prevention policy and procedure - School districts.

(1) Each school district must adopt a harassment, intimidation, and bullying prevention policy and procedure as provided for in RCW 28A.300.285.

(2) If the allegations in a written report of harassment, intimidation, or bullying pursued under the school district's procedure adopted under RCW 28A.300.285 indicate a potential violation of this chapter or the guidelines adopted under WAC 392-190-005, the school district's harassment, intimidation, and bullying compliance officer, designated under RCW 28A.300.285, must promptly notify the district employee designated under WAC 392-190-060. Or, if during the course of an investigation of harassment, intimidation, or bullying, the district becomes aware of a potential violation of this chapter or the guidelines adopted under WAC 392-190-005, the school district staff member investigating the report must promptly notify the district employee designated under WAC 392-190-060. Upon receipt of this information, the designated employee must notify the complainant that their complaint will also proceed under the discrimination complaint procedure in WAC 392-190-065 through 392-190-075, in addition to the

procedures adopted under RCW 28A.300.285. School districts must provide this notice in a language that the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964. In these cases, the investigation and response timeline set forth in WAC 392-190-065 begins when the school district knows or should have known that a written report of harassment, intimidation, or bullying involves allegations that the school district has violated this chapter or the guidelines adopted under WAC 392-190-005.

(3) This section is not intended to limit the scope of RCW 28A.300.285 or the use of a school district's procedures adopted under RCW 28A.300.285.

WAC 392-190-060. Compliance - School district or public charter school - Designation of responsible employee - Notification.

(1) The superintendent of each school district or the public charter school governing board must designate at least one employee who is responsible for monitoring and coordinating the district's or charter school's compliance with this chapter and the guidelines adopted under WAC 392-190-005. The employee designated under this section is also responsible for ensuring that all complaints communicated to the school district or public charter school under WAC 392-190-065 are promptly investigated and resolved.

(2) Each school district and public charter school must, once each year or more often as deemed necessary, publish notice in a manner that is reasonably calculated to inform all students, students' parents and guardians, and employees of the complaint procedure set forth in WAC 392-190-065, 392-190-070 and 392-190-075. School districts and public charter schools must provide this notice in a language that each parent and guardian can understand, which may require language assistance for parents and guardians with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

(3) Each school district and public charter school must include a nondiscrimination statement in written announcements, notices, recruitment materials, employment application forms, and other publications made available to all students, parents, or employees. The statement must include:

(a) Notice that the district or public charter school may not discriminate in any programs or activities on the basis of sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal;

(b) The name or title, office address, and telephone number of the employee or employees designated under this section, as well as the employees designated to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972; and

(c) Pursuant to the Boy Scouts of America Equal Access Act, notice that the school district or public charter school provides equal access to the Boy Scouts of America and any other youth group listed in Title 36 of the United States Code as a patriotic society.

(4) School districts and public charter schools must not adopt any policy, procedure, or practice that would limit a person's right to file a complaint under this chapter or have the effect of discouraging any person from utilizing the complaint procedure in WAC 392-190-065 through 392-190-075. School districts and public charter schools must not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by this chapter or the guidelines adopted under WAC 392-190-005 or because the individual has made a complaint or participated in an investigation under this chapter.

WAC 392-405-005. Authority.

The authority for this chapter is RCW 28A.300.285, which provides that the superintendent of public instruction shall adopt rules regarding school districts' communication of a model harassment, intimidation, and bullying policy and procedure to parents, students, employees, and volunteers.

WAC 392-405-010. Purpose.

The purpose of this chapter is to establish the requirements school districts must meet when communicating the district's harassment, intimidation, and bullying policy and procedure to parents, students, employees, and volunteers.

WAC 392-405-020. School district rules defining harassment, intimidation and bullying prevention policies and procedures - Distribution of rules.

- (1) A school district's harassment, intimidation and bullying policy and procedure must be published and made available to all parents or guardians, students, employees, and volunteers on an annual basis.
- (2) A school district must publish, at a minimum, the following materials:
 - (a) The district's policy and procedure;
 - (b) A harassment, intimidation, and bullying incident reporting form; and
 - (c) Current contact information for the district's harassment, intimidation and bullying compliance officer.
- (3) If a school district does not distribute the policy and procedure to all parents or guardians, students, employees, and volunteers, the district must provide notice that describes the contents of the policy and procedure and specifies the person(s) to contact for a copy. The notice must be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

Dating and Relationship Violence

LAWS

RCW 28A.300.185. Family preservation education program.

The office of the superintendent of public instruction shall develop a family preservation education program model curriculum that is available to each of the school district boards of directors. The model curriculum shall be posted on the superintendent of public instruction's web site. The model curriculum shall include, but is not limited to, instruction on developing conflict management skills, communication skills, domestic violence and dating violence, financial responsibility, and parenting responsibility.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

RCW 28A.170.050. Advisory committee - Members - Duties.

The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and classified staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.

RCW 28A.225.151. Student-level truancy data - Reports - Data protocols and guidance for school districts.

(4) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data to provide a clearer understanding of actions taken under RCW 28A.225.030.

RCW 28A.300.042. Collection and submittal of student-level data - Student data-related reports - Disaggregation of data by subgroups - Modification of statewide student data systems.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

RCW 28A.300.2851. School bullying and harassment - Work group.

(1) The office of the superintendent of public instruction and the office of the education ombuds shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

- (a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;
- (b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;
- (c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;
- (d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;
- (e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under *RCW 28A.300.285 and involving parents in improving school climate;

- (f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;
- (g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;
- (h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and
- (i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

RCW 28A.300.477. Social-emotional learning committee.

(1) Subject to the availability of amounts appropriated for this specific purpose, the social-emotional learning committee is created to promote and expand social-emotional learning. Social-emotional learning will help students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

(2) At a minimum, the committee shall:

- (a) Develop and implement a statewide framework for social-emotional learning that is trauma-informed, culturally sustaining, and developmentally appropriate;
- (b) Review and update as needed the standards and benchmarks for social-emotional learning and the developmental indicators for grades kindergarten through twelve and confirm they are evidence-based;
- (c) Align the standards and benchmarks for social-emotional learning with other relevant standards and guidelines including the health and physical education K-12 learning standards and the early learning and development guidelines;
- (d) Advise the office of the superintendent of public instruction's duty under RCW 28A.300.478;
- (e) Identify best practices or guidance for schools implementing the standards, benchmarks, and developmental indicators for social-emotional learning;
- (f) Identify professional development opportunities for teachers and educational staff and review, update, and align as needed the social-emotional learning online education module;
- (g) Consider systems for collecting data about social-emotional learning and monitoring implementation efforts;
- (h) Identify strategies to improve coordination between early learning, K-12 education, youth-serving community partners and culturally-based providers, and higher education regarding social-emotional learning; and
- (i) Engage with stakeholders and seek feedback.

(3) The committee must consist of the following members:

- (a) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans; and
 - (b) One representative from the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.
- (4) The governor and the tribes are encouraged to jointly designate a total of two members to serve on the committee who have experience working in and with schools: One member from east of the crest of the Cascade mountains; and one member from west of the crest of the Cascade mountains.
- (5) Additional members of the committee must be appointed by the office of the superintendent of public instruction to serve on the committee. Additional members must include:
- (a) One representative from the department of children, youth, and families;
 - (b) Two representatives from the office of the superintendent of public instruction: One with expertise in student support services; and one with expertise in curriculum and instruction;
 - (c) One representative from the office of the education ombuds;
 - (d) One representative from the state board of education;
 - (e) One representative from the health care authority's division of behavioral health and recovery;
 - (f) One higher educational faculty member with expertise in social-emotional learning;
 - (g) One currently employed K-12 educator;
 - (h) One currently employed K-12 administrator;
 - (i) One school psychologist;
 - (j) One school social worker;
 - (k) One school counselor;
 - (l) One school nurse;
 - (m) One mental health counselor;
 - (n) One representative from a school parent organization;
 - (o) One member from a rural school district;
 - (p) One representative from the educational service districts;
 - (q) One representative from a coalition of members who educate about and advocate for access to social-emotional learning and skill development;
 - (r) One representative from a statewide expanded learning opportunities intermediary;
 - (s) One representative from a nonprofit organization with expertise in developing social-emotional curricula;
 - (t) One representative from a foundation that supports social-emotional learning; and
 - (u) One representative from a coalition of youth-serving organizations working together to improve outcomes for young people.
- (6) The members of the committee shall select the chairs or cochairs of the committee.
- (7) In addition to other meetings, the committee shall have a joint meeting once a year with the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.
- (8) The office of the superintendent of public instruction shall provide staff support for the committee.
- (9) Members of the committee shall serve without compensation but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(10) Beginning June 1, 2021, and annually thereafter, the committee shall provide a progress report, in compliance with RCW 43.01.036, to the governor and appropriate committees of the legislature. The report must include accomplishments, state-level data regarding implementation of social-emotional learning, identification of systemic barriers or policy changes necessary to promote and expand social-emotional learning, and recommendations.

RCW 28A.300.478. Social-emotional learning standards and benchmarks.

(1) The office of the superintendent of public instruction shall review the recommendations of the social-emotional learning work group convened as directed in the 2017 omnibus appropriations act and the recommendations of the social-emotional learning committee created in RCW 28A.300.477. The office of the superintendent of public instruction shall adopt social-emotional learning standards and benchmarks by January 1, 2020, and revise the social-emotional learning standards and benchmarks as appropriate.

(2) The office of the superintendent of public instruction shall align the programs it oversees with the standards for social-emotional learning and integrate the standards where appropriate.

RCW 28A.300.479. Social-emotional learning resources.

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social-emotional learning committee created under RCW 28A.300.477.

RCW 28A.300.640. School-based threat assessment program - Model policy and procedure.

(1) The Washington state school directors' association, in collaboration with the office of the superintendent of public instruction, shall develop a model policy and procedure to establish a school-based threat assessment program that meets the requirements of RCW 28A.320.123. The model policy and procedure must be posted on the web site of the state school safety center, established in RCW 28A.300.630, by January 1, 2020.

(2) In developing the model policy and procedure, the Washington state school directors' association and the office of the superintendent of public instruction must:

(a) Consult with the school safety and student well-being advisory committee, established under RCW 28A.300.635, and other organizations with expertise in school safety, behavioral health, the rights of students with disabilities, and protecting civil liberties; and

(b) Consider multilevel threat assessment programs implemented in schools in Washington.

RCW 28A.320.123. School-based threat assessment program.

(2) By the beginning of the 2020-21 school year, each school district shall adopt a policy and procedure to establish a school-based threat assessment program that meets the requirements of subsection (1) of this section. The school district policy and procedure must be consistent with the model policy and procedure developed under RCW 28A.300.640, and with other school district policies, procedures, and plans addressing safe and supportive learning environments.

RCW 28A.320.1271. Model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students.

The office of the superintendent of public instruction's school safety center, established in RCW 28A.300.630, shall develop a model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. The model plan must incorporate research-based best practices, including practices and protocols used in schools and school districts in other states. The model plan must be posted by February 1, 2014, on the school safety center web site, along with relevant resources and information to support school districts in developing and implementing the plan required under RCW 28A.320.127.

RCW 28A.320.128. Notice and disclosure policies - Threats of violence - Student conduct - Immunity for good faith notice - Penalty.

(2) The Washington state school directors' association, in consultation with educators and representatives of law enforcement, classified staff, organizations with expertise in violence prevention and intervention, and organizations that provide free legal services for youth, shall adopt, and revise as necessary, a model policy that includes the issues listed in subsection (1) of this section. The model policy shall be disseminated by the Washington state school directors' association and made available to the public on its web site. Each school district shall adopt the model policy required by this subsection unless it has a compelling reason to develop and adopt a different policy that also addresses the issues identified in subsection (1) of this section.

RCW 28A.345.085. Model policy and procedure for nurturing a positive social and emotional school and classroom climate - Adoption by school districts.

(1) The Washington state school directors' association shall develop a model policy and procedure for nurturing a positive social and emotional school and classroom climate. The goal of the policy and procedure is to support and promote school and school district action plans that create, maintain, and nurture physically, emotionally, and intellectually safe, respectful, and positive school and classroom environments that foster equitable, ethical, social, emotional, and academic education for all students. The association shall update the model policy and procedure periodically to align with the work of the social-emotional learning committee created under RCW 28A.300.477.

(2) The model policy and procedure must include the following elements:

- (a) Recognize that there is not one best way to create, maintain, and nurture a positive social and emotional school and classroom climate and consider each school's history, strengths, needs, and goals;
- (b) Define and describe the essential elements of a positive social and emotional school and classroom climate, which must align with the social-emotional learning standards and benchmarks adopted by the office of the superintendent of public instruction under RCW 28A.300.478;
- (c) Recognize the important role that students' families play in collaborating with the school and school district in creating, maintaining, and nurturing a positive social and emotional school and classroom climate; and
- (d) Describe a framework for an effective and informed positive social and emotional school and classroom climate improvement process that includes a continuous cycle of planning and preparation, evaluation, action planning, and implementation.

(3)(a) The model policy and procedure must also protect the integrity of learning environments with the following elements:

(i) School districts must provide information to the parents and guardians of enrolled students regarding students' rights to a free public education, regardless of immigration status or religious beliefs.

(ii) School districts must provide meaningful access to this information for families with limited English proficiency.

(b) The elements described in this subsection (3) may be included in a separate model policy and procedure.

(4) In developing the model policy and procedure described in this section, the Washington state school directors' association must:

(a) Consult with staff at the office of the superintendent of public instruction and organizations with expertise in social and emotional health and in equity, race, and inclusive learning environments;

(b) Work with the social-emotional learning committee created under RCW 28A.300.477 to align the climate improvement framework with the statewide framework for social-emotional learning;

(c) Consider the relationship between the model policy and procedure and policies related to student behaviors and student discipline; and

(d) Review research on, and examples of effective implementation of, restorative practices, collaborative and proactive practices, trauma-sensitive and trauma-informed practices, classroom management, and other topics related to the goal of the policy as identified in subsection (1) of this section.

(5) The model policy and procedure developed under this section must be posted publicly on the Washington state school directors' association's web site by March 1, 2021. Updates to the model policy and procedure must be posted publicly within a reasonable time of development.

(6)(a) By the beginning of the 2021-22 school year, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements described in subsection (3) of this section. School districts must periodically review their policies and procedures for consistency with updated versions of the model policy.

(b) By the beginning of the 2021-22 school year, each school district may adopt or amend if necessary policies and procedures that incorporate the elements described in subsection (2) of this section. School districts may periodically review their policies and procedures for consistency with updated versions of the model policy.

RCW 28A.345.090. Model school district discipline policies - Adoption and enforcement by school districts.

(1) The Washington state school directors' association shall create model school district discipline policies and procedures and post these models publicly by December 1, 2016. In developing these model policies and procedures, the association shall request technical assistance and guidance from the equity and civil rights office within the office of the superintendent of public instruction and the Washington state human rights commission. The model policies and procedures shall be updated as necessary.

(2) School districts shall adopt and enforce discipline policies and procedures consistent with the model policy by the beginning of the 2017-18 school year.

RCW 28A.415.410. Training to support discipline policies under chapter 28A.600 RCW.

(1) The office of the superintendent of public instruction, subject to the availability of amounts appropriated for this specific purpose, shall develop a training program to support the implementation of discipline policies and procedures under chapter 28A.600 RCW.

- (2) School districts are strongly encouraged to provide the trainings to all school and district staff interacting with students, including instructional staff and noninstructional staff, as well as within a reasonable time following any substantive change to school discipline policies or procedures.
- (3) To the maximum extent feasible, the trainings must incorporate or adapt existing online training or curriculum, including securing materials or curriculum under contract or purchase agreements within available funds.
- (4) The trainings must be developed in modules that allow:
- (a) Access to material over a reasonable number of training sessions;
 - (b) Delivery in person or online; and
 - (c) Use in a self-directed manner.

RCW 28A.415.445. Training in children's mental health topics-Required use of one professional learning day every other year.

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, or culturally sustaining practices.

RCW 28A.600.477. Prohibition of harassment, intimidation, and bullying.

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section. [...]

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

RCW 28A.600.490. Discipline task force - Development of standard definitions - Development of data collection standards - Membership - Statewide student data system revision.

(1) The office of the superintendent of public instruction shall convene a discipline task force to develop standard definitions for causes of student disciplinary actions taken at the discretion of the school district. The task force must also develop data collection standards for disciplinary actions that are discretionary and for disciplinary actions that result in the exclusion of a student from school. The data collection standards must include data about education services provided while a student is subject to a disciplinary action, the status of petitions for readmission to the school district when a student has been excluded from school, credit retrieval during a period of exclusion, and school dropout as a result of disciplinary action.

(2) The discipline task force shall include representatives from the K-12 data governance group, the educational opportunity gap oversight and accountability committee, the state ethnic commissions, the governor's office of Indian affairs, the office of the education ombuds, school districts, tribal representatives, and other education and advocacy organizations.

(3) The office of the superintendent of public instruction and the K-12 data governance group shall revise the statewide student data system to incorporate the student discipline data collection standards recommended by the discipline task force, and begin collecting data based on the revised standards in the 2015-16 school year.

RCW 28A.642.080. Transgender student policy and procedure.

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section. [...]

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under RCW 28A.600.477, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

RCW 43.06B.060. Public school antiharassment policies and strategies - Lead agency.

In addition to duties assigned under RCW 43.06B.020, the office of the education ombuds shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies.

REGULATIONS

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(1) School district policies and procedures beginning in the 2019-20 school year. Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

(l) Be consistent with the model policy developed under RCW 28A.345.090.

WAC 392-405-005. Authority.

The authority for this chapter is RCW 28A.300.285, which provides that the superintendent of public instruction shall adopt rules regarding school districts' communication of a model harassment, intimidation, and bullying policy and procedure to parents, students, employees, and volunteers.

Multi-tiered Frameworks and Systems of Support

LAWS

RCW 28A.175.074. Definitions.

The definitions in this section apply throughout section 3, chapter 243, Laws of 2010 and RCW 28A.175.075 unless the context clearly requires otherwise.

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(d) Timely academic and nonacademic group and individual interventions for vulnerable students based on a response to intervention model, including planning and sharing of information at critical academic transitions.

RCW 28A.300.139. Washington integrated student supports protocol.

(1) The Washington integrated student supports protocol is established. The protocol shall be developed by the center for the improvement of student learning, established in RCW 28A.300.130, based on the framework described in this section. The purposes of the protocol include:

- (a) Supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;
- (b) Fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;
- (c) Encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;
- (d) Increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and
- (e) Supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

(2)(a) The Washington integrated student supports protocol must be sufficiently flexible to adapt to the unique needs of schools and districts across the state, yet sufficiently structured to provide all students with the individual support they need for academic success.

(b) The essential framework of the Washington integrated student supports protocol includes:

- (i) Needs assessments: A system-level needs assessment with resource mapping must be conducted in order to identify academic and nonacademic supports that are currently available or lacking in schools, school districts, and the community. A student-level needs assessment must be conducted for all at-risk students in order to develop or identify the needed academic and nonacademic supports within the students' school and community. These supports must be coordinated to provide students with a package of mutually reinforcing supports designed to meet the individual needs of each student.
- (ii) Integration and coordination: The school and district leadership and staff must establish clear, cooperative policies and procedures with community-based and other out-of-school providers of academic and nonacademic supports to enhance the effectiveness of the protocol.
- (iii) Community partnerships: Community partners must be engaged to provide academic, nonacademic, and social-emotional supports to reduce barriers to students' academic success, including supports to students' families.
- (iv) Data driven: Students' needs and outcomes must be tracked over time to determine student progress and evolving needs.

(c) The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including, but not limited to: Out-of-school providers, social workers, mental health counselors, physicians, dentists, speech therapists, and audiologists.

RCW 28A.320.280. School counselors, social workers, and psychologists - Priorities.

The school counselor works with developing and leading a comprehensive guidance and counseling program to focus on the academic, career, personal, and social needs of all students. School

psychologists carry out special education evaluation duties, among other things. School social workers promote and support students' health, academic, and social success with counseling and support, and by providing and coordinating specialized services and resources. All of these professionals are also involved in multitiered systems of support for academic and behavioral skills. These professionals focus on student mental health, work with at-risk and marginalized students, perform risk assessments, and collaborate with mental health professionals to promote student achievement and create a safe learning environment. In order that school counselors, social workers, and psychologists have the time available to prioritize these functions, in addition to other activities requiring direct student contact, responsibilities such as data input and data tracking should be handled by nonlicensed, noncertified staff, where possible.

RCW 28A.345.085. Model policy and procedure for nurturing a positive social and emotional school and classroom climate - Adoption by school districts.

(1) The Washington state school directors' association shall develop a model policy and procedure for nurturing a positive social and emotional school and classroom climate. The goal of the policy and procedure is to support and promote school and school district action plans that create, maintain, and nurture physically, emotionally, and intellectually safe, respectful, and positive school and classroom environments that foster equitable, ethical, social, emotional, and academic education for all students. The association shall update the model policy and procedure periodically to align with the work of the social-emotional learning committee created under RCW 28A.300.477.

(2) The model policy and procedure must include the following elements:

(a) Recognize that there is not one best way to create, maintain, and nurture a positive social and emotional school and classroom climate and consider each school's history, strengths, needs, and goals;

(b) Define and describe the essential elements of a positive social and emotional school and classroom climate, which must align with the social-emotional learning standards and benchmarks adopted by the office of the superintendent of public instruction under RCW 28A.300.478;

(c) Recognize the important role that students' families play in collaborating with the school and school district in creating, maintaining, and nurturing a positive social and emotional school and classroom climate; and

(d) Describe a framework for an effective and informed positive social and emotional school and classroom climate improvement process that includes a continuous cycle of planning and preparation, evaluation, action planning, and implementation.

(3)(a) The model policy and procedure must also protect the integrity of learning environments with the following elements:

(i) School districts must provide information to the parents and guardians of enrolled students regarding students' rights to a free public education, regardless of immigration status or religious beliefs.

(ii) School districts must provide meaningful access to this information for families with limited English proficiency.

(b) The elements described in this subsection (3) may be included in a separate model policy and procedure.

(4) In developing the model policy and procedure described in this section, the Washington state school directors' association must:

(a) Consult with staff at the office of the superintendent of public instruction and organizations with expertise in social and emotional health and in equity, race, and inclusive learning environments;

- (b) Work with the social-emotional learning committee created under RCW 28A.300.477 to align the climate improvement framework with the statewide framework for social-emotional learning;
- (c) Consider the relationship between the model policy and procedure and policies related to student behaviors and student discipline; and
- (d) Review research on, and examples of effective implementation of, restorative practices, collaborative and proactive practices, trauma-sensitive and trauma-informed practices, classroom management, and other topics related to the goal of the policy as identified in subsection (1) of this section.

(5) The model policy and procedure developed under this section must be posted publicly on the Washington state school directors' association's web site by March 1, 2021. Updates to the model policy and procedure must be posted publicly within a reasonable time of development.

(6)(a) By the beginning of the 2021-22 school year, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements described in subsection (3) of this section. School districts must periodically review their policies and procedures for consistency with updated versions of the model policy.

(b) By the beginning of the 2021-22 school year, each school district may adopt or amend if necessary policies and procedures that incorporate the elements described in subsection (2) of this section. School districts may periodically review their policies and procedures for consistency with updated versions of the model policy.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

RCW 28A.300.270. Violence prevention training.

The superintendent of public instruction shall, to the extent funding is available, contract with school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics. The training shall be developmentally and culturally appropriate for the school populations being served and be research based. The training shall not be based solely on providing materials, but also shall include techniques on imparting these skills to students. The training sessions shall be developed in coordination with school districts, the superintendent of public instruction, parents, law enforcement agencies, human services providers, and other interested parties. The training shall be offered to school districts and school staff requesting the training, and shall be made available at locations throughout the state.

RCW 28A.300.275. Alternative school start-up grants - School safety grants - Report to legislative committees.

The sum of four million dollars, or as much thereof as may be necessary, is appropriated from the general fund to the superintendent of public instruction for the biennium ending June 30, 2001, for:

- (2) School safety programs for prevention and intervention. School districts may apply for and administer these grants independently or jointly with other school districts or educational service districts. The funds may be expended for proven-effective programs to improve safety in schools, including: Security assessments of school facilities; violence prevention and reporting training for staff

as appropriate to the particular duties and responsibilities of the specific staff, including administrators; nonviolence and leadership training for staff and students; and school safety plans. The educational service districts and school districts may contract for any services under this subsection.

RCW 28A.300.2851. School bullying and harassment - Work group.

(1) The office of the superintendent of public instruction and the office of the education ombuds shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

(a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;

(b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;

(c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;

(d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;

(e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under *RCW 28A.300.285 and involving parents in improving school climate;

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

RCW 28A.320.128. Notice and disclosure policies - Threats of violence - Student conduct - Immunity for good faith notice - Penalty.

(2) The Washington state school directors' association, in consultation with educators and representatives of law enforcement, classified staff, organizations with expertise in violence prevention and intervention, and organizations that provide free legal services for youth, shall adopt, and revise as necessary, a model

policy that includes the issues listed in subsection (1) of this section. The model policy shall be disseminated by the Washington state school directors' association and made available to the public on its web site. Each school district shall adopt the model policy required by this subsection unless it has a compelling reason to develop and adopt a different policy that also addresses the issues identified in subsection (1) of this section.

RCW 28A.345.085. Model policy and procedure for nurturing a positive social and emotional school and classroom climate - Adoption by school districts.

(1) The Washington state school directors' association shall develop a model policy and procedure for nurturing a positive social and emotional school and classroom climate. The goal of the policy and procedure is to support and promote school and school district action plans that create, maintain, and nurture physically, emotionally, and intellectually safe, respectful, and positive school and classroom environments that foster equitable, ethical, social, emotional, and academic education for all students. The association shall update the model policy and procedure periodically to align with the work of the social-emotional learning committee created under RCW 28A.300.477.

(2) The model policy and procedure must include the following elements:

- (a) Recognize that there is not one best way to create, maintain, and nurture a positive social and emotional school and classroom climate and consider each school's history, strengths, needs, and goals;
- (b) Define and describe the essential elements of a positive social and emotional school and classroom climate, which must align with the social-emotional learning standards and benchmarks adopted by the office of the superintendent of public instruction under RCW 28A.300.478;
- (c) Recognize the important role that students' families play in collaborating with the school and school district in creating, maintaining, and nurturing a positive social and emotional school and classroom climate; and
- (d) Describe a framework for an effective and informed positive social and emotional school and classroom climate improvement process that includes a continuous cycle of planning and preparation, evaluation, action planning, and implementation.

(3)(a) The model policy and procedure must also protect the integrity of learning environments with the following elements:

- (i) School districts must provide information to the parents and guardians of enrolled students regarding students' rights to a free public education, regardless of immigration status or religious beliefs.
- (ii) School districts must provide meaningful access to this information for families with limited English proficiency.

(b) The elements described in this subsection (3) may be included in a separate model policy and procedure.

(4) In developing the model policy and procedure described in this section, the Washington state school directors' association must:

- (a) Consult with staff at the office of the superintendent of public instruction and organizations with expertise in social and emotional health and in equity, race, and inclusive learning environments;
- (b) Work with the social-emotional learning committee created under RCW 28A.300.477 to align the climate improvement framework with the statewide framework for social-emotional learning;
- (c) Consider the relationship between the model policy and procedure and policies related to student behaviors and student discipline; and

(d) Review research on, and examples of effective implementation of, restorative practices, collaborative and proactive practices, trauma-sensitive and trauma-informed practices, classroom management, and other topics related to the goal of the policy as identified in subsection (1) of this section.

(5) The model policy and procedure developed under this section must be posted publicly on the Washington state school directors' association's web site by March 1, 2021. Updates to the model policy and procedure must be posted publicly within a reasonable time of development.

(6)(a) By the beginning of the 2021-22 school year, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements described in subsection (3) of this section. School districts must periodically review their policies and procedures for consistency with updated versions of the model policy.

(b) By the beginning of the 2021-22 school year, each school district may adopt or amend if necessary policies and procedures that incorporate the elements described in subsection (2) of this section. School districts may periodically review their policies and procedures for consistency with updated versions of the model policy.

REGULATIONS

WAC 392-400-020. Application.

(2) This chapter must be construed in a manner consistent with the following laws and rules:

(e) RCW 28A.165.035, regarding the state menu of best practices and strategies for behavior.

Social-emotional Learning (SEL)

LAWS

RCW 28A.300.477. Social-emotional learning committee.

(1) Subject to the availability of amounts appropriated for this specific purpose, the social-emotional learning committee is created to promote and expand social-emotional learning. Social-emotional learning will help students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

(2) At a minimum, the committee shall:

(a) Develop and implement a statewide framework for social-emotional learning that is trauma-informed, culturally sustaining, and developmentally appropriate;

(b) Review and update as needed the standards and benchmarks for social-emotional learning and the developmental indicators for grades kindergarten through twelve and confirm they are evidence-based;

(c) Align the standards and benchmarks for social-emotional learning with other relevant standards and guidelines including the health and physical education K-12 learning standards and the early learning and development guidelines;

(d) Advise the office of the superintendent of public instruction's duty under RCW 28A.300.478;

(e) Identify best practices or guidance for schools implementing the standards, benchmarks, and developmental indicators for social-emotional learning;

(f) Identify professional development opportunities for teachers and educational staff and review, update, and align as needed the social-emotional learning online education module;

(g) Consider systems for collecting data about social-emotional learning and monitoring implementation efforts;

(h) Identify strategies to improve coordination between early learning, K-12 education, youth-serving community partners and culturally-based providers, and higher education regarding social-emotional learning; and

(i) Engage with stakeholders and seek feedback.

(3) The committee must consist of the following members:

(a) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans; and

(b) One representative from the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.

(4) The governor and the tribes are encouraged to jointly designate a total of two members to serve on the committee who have experience working in and with schools: One member from east of the crest of the Cascade mountains; and one member from west of the crest of the Cascade mountains.

(5) Additional members of the committee must be appointed by the office of the superintendent of public instruction to serve on the committee. Additional members must include:

(a) One representative from the department of children, youth, and families;

(b) Two representatives from the office of the superintendent of public instruction: One with expertise in student support services; and one with expertise in curriculum and instruction;

(c) One representative from the office of the education ombuds;

(d) One representative from the state board of education;

(e) One representative from the health care authority's division of behavioral health and recovery;

(f) One higher educational faculty member with expertise in social-emotional learning;

(g) One currently employed K-12 educator;

(h) One currently employed K-12 administrator;

(i) One school psychologist;

(j) One school social worker;

(k) One school counselor;

(l) One school nurse;

(m) One mental health counselor;

(n) One representative from a school parent organization;

(o) One member from a rural school district;

(p) One representative from the educational service districts;

(q) One representative from a coalition of members who educate about and advocate for access to social-emotional learning and skill development;

(r) One representative from a statewide expanded learning opportunities intermediary;

(s) One representative from a nonprofit organization with expertise in developing social-emotional curricula;

(t) One representative from a foundation that supports social-emotional learning; and

(u) One representative from a coalition of youth-serving organizations working together to improve outcomes for young people.

(6) The members of the committee shall select the chairs or cochairs of the committee.

- (7) In addition to other meetings, the committee shall have a joint meeting once a year with the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.
- (8) The office of the superintendent of public instruction shall provide staff support for the committee.
- (9) Members of the committee shall serve without compensation but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.
- (10) Beginning June 1, 2021, and annually thereafter, the committee shall provide a progress report, in compliance with RCW 43.01.036, to the governor and appropriate committees of the legislature. The report must include accomplishments, state-level data regarding implementation of social-emotional learning, identification of systemic barriers or policy changes necessary to promote and expand social-emotional learning, and recommendations.

RCW 28A.300.478. Social-emotional learning standards and benchmarks.

- (1) The office of the superintendent of public instruction shall review the recommendations of the social-emotional learning work group convened as directed in the 2017 omnibus appropriations act and the recommendations of the social-emotional learning committee created in RCW 28A.300.477. The office of the superintendent of public instruction shall adopt social-emotional learning standards and benchmarks by January 1, 2020, and revise the social-emotional learning standards and benchmarks as appropriate.
- (2) The office of the superintendent of public instruction shall align the programs it oversees with the standards for social-emotional learning and integrate the standards where appropriate.

RCW 28A.300.479. Social-emotional learning resources.

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social-emotional learning committee created under RCW 28A.300.477.

RCW 28A.410.044. School psychologists and social workers-Domains and roles.

(2) A school social worker is a professional in the fields of social work and education who holds a valid school social worker certification as defined by the professional educator standards board. The purpose and role of the school social worker is to provide an integral link between school, home, and community in helping students achieve academic and social success. This is accomplished by removing barriers and providing services that include: Mental health and academic counseling, support for students and parents, crisis prevention and intervention, professional case management, collaboration with other professionals, organizations, and community agencies, and advocacy for students and parents. School social workers work directly with school administrators as well as students and families, at various levels and as part of an interdisciplinary team in the educational system, including at the building, district, and state level. School social workers provide leadership and professional expertise regarding the formation of school discipline policies and procedures, and through school-based mental health services, crisis management, the implementation of social-emotional learning, and other support services that impact student academic and social-emotional success. School social workers also facilitate community involvement in the schools while advocating for student success.

RCW 28A.410.270. Washington professional educator standards board-Performance standards-Certification levels-Teacher effectiveness evaluations-Requirements for professional certificate and residency teaching certificate-Demonstration of educator preparation programs' outcomes.

(1)(c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies, such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

RCW 28A.415.445. Training in children's mental health topics-Required use of one professional learning day every other year.

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, or culturally sustaining practices.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

RCW 28A.225.027. Community engagement boards - Grants for training - Grants for services and treatment.

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate to community engagement boards grant funds that may be used to supplement existing funds in order to pay for training for board members or the provision of services and treatment to children and their families.

(2) The superintendent of public instruction must select grant recipients based on the criteria in this section. This is a competitive grant process. A prerequisite to applying for either or both grants is a memoranda of understanding, between a school district and a court, to institute a new or maintain an existing community engagement board that meets the requirements of RCW 28A.225.025.

(3) Successful applicants for an award of grant funds to supplement existing funds to pay for the training of community engagement board members must commit to the provision of training to board members regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, trauma-informed approaches to discipline, research about adverse childhood experiences, evidence-based treatments and culturally appropriate promising practices, as well as the specific academic and community services and treatments available in the school, court, community, and elsewhere. This training may be provided by educational service districts.

(4) Successful applicants for an award of grant funds to supplement existing funds to pay for services and treatments provided to children and their families must commit to the provision of academic services such as tutoring, credit retrieval and school reengagement supports, community services, and evidence-based treatments that have been found to be effective in supporting at-risk youth and their families, such as functional family therapy, or those that have been shown to be culturally appropriate promising practices.

RCW 28A.300.477. Social-emotional learning committee.

(1) Subject to the availability of amounts appropriated for this specific purpose, the social-emotional learning committee is created to promote and expand social-emotional learning. Social-emotional learning will help students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

(2) At a minimum, the committee shall:

(a) Develop and implement a statewide framework for social-emotional learning that is trauma-informed, culturally sustaining, and developmentally appropriate.

RCW 28A.300.479. Social-emotional learning resources.

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social-emotional learning committee created under RCW 28A.300.477.

RCW 28A.410.270. Washington professional educator standards board-Performance standards-Certification levels-Teacher effectiveness evaluations-Requirements for professional certificate and residency teaching certificate-Demonstration of educator preparation programs' outcomes.

(1)(c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies, such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

RCW 28A.415.445. Training in children's mental health topics-Required use of one professional learning day every other year.

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, or culturally sustaining practices.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

RCW 28A.300.273. Annual school safety summits.

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction and the school safety and student well-being advisory committee shall hold annual school safety summits. Each annual summit must focus on establishing and monitoring the progress of a statewide plan for funding cost-effective methods for school safety that meet local needs. Other areas of focus may include planning and implementation of school safety planning efforts, training of school safety professionals, and integrating mental health and security measures.

RCW 28A.300.479. Social-emotional learning resources.

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social-emotional learning committee created under RCW 28A.300.477.

RCW 28A.310.500. Youth suicide screening and referral - Response to emotional or behavioral distress in students - Training for educators and staff - Suicide prevention training.

(1) Each educational service district shall develop and maintain the capacity to offer training for educators and other school district staff on youth suicide screening and referral, and on recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. An educational service district may demonstrate capacity by employing staff with sufficient expertise to offer the training or by contracting with individuals or organizations to offer the training. Training may be offered on a fee-for-service basis, or at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources.

RCW 28A.320.127. Plan for recognition, screening, and response to emotional or behavioral distress in students, including possible sexual abuse.

(1) Beginning in the 2014-15 school year, each school district must adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, youth suicide, and sexual abuse. The school district must annually provide the plan to all district staff.

(2) At a minimum the plan must address:

(a) Identification of training opportunities in recognition, screening, and referral that may be available for staff.

RCW 28A.320.290. School counselors, social workers, and psychologists - Professional collaboration.

(1) Within existing resources, beginning in the 2019-20 school year, first-class school districts must provide a minimum of six hours of professional collaboration per year, preferably in person, for school counselors, social workers, and psychologists that focuses on the following: Recognizing signs of emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide, screening, accessing current resources, and making appropriate referrals. Teachers may also participate in this professional collaboration, as deemed appropriate and allowed by their building administrators. School districts that have mental health centers in their area shall collaborate with local licensed mental health service providers under chapter 71.24 RCW. Those districts without a mental health center in their area shall collaborate via telephone or other remote means that allow for dialogue and discussion. By collaborating with local providers in this manner, educational staff associates get to collaborate in short but regular segments, in their own schools or near school district facilities, and school districts are not put in a position that they must obtain substitutes or otherwise expend additional funds. This local connection will also help foster a connection between school personnel and the mental health professionals in the community to whom school personnel may make referrals, in line with the legislative intent expressed throughout Engrossed Substitute House Bill No. 1336, chapter 197, Laws of 2013, to form partnerships with qualified health, mental health, and social services agencies in the community to coordinate and improve support for youth in need and the directive to the department of social and health services with respect to the provision of funds for mental health first-aid training targeted at teachers and educational staff.

(2) Second-class districts are encouraged, but not required, to collaborate and provide the professional collaboration as provided in subsection (1) of this section.

RCW 28A.410.035. Qualifications - Coursework on issues of abuse; sexual abuse and exploitation of a minor; and emotional or behavioral distress in students, including possible substance abuse, violence, and youth suicide.

(2) The professional educator standards board shall incorporate into the content required for the course under this section, knowledge and skill standards pertaining to recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. To receive initial certification after August 31, 2014, an applicant must have successfully completed a course that includes the content of this subsection. The board shall consult with the office of the superintendent of public instruction and the department of health in developing the standards.

RCW 28A.410.270. Washington professional educator standards board-Performance standards-Certification levels-Teacher effectiveness evaluations-Requirements for professional certificate and residency teaching certificate-Demonstration of educator preparation programs' outcomes.

(1)(c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies, such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

RCW 28A.415.445. Training in children's mental health topics-Required use of one professional learning day every other year.

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, or culturally sustaining practices.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

RCW 28A.300.630. School safety center.

- (1) Subject to the availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall establish a school safety center as provided in this section.
- (2) The center, working in conjunction with the regional school safety centers established in RCW 28A.310.510, forms a statewide network for school safety.
- (3) The center, in collaboration with staff in the office of the superintendent of public instruction, must:
 - (d) Serve as the lead school safety center, and work in conjunction with the regional school safety centers, to support school districts efforts to meet state requirements regarding school safety including the development and implementation of:
 - (ii) Plans for recognition, initial screening, and response to emotional or behavioral distress in students as required by RCW 28A.320.127.

RCW 28A.300.645. Monitoring and data collection - Comprehensive safe school plans, student distress, and school-based threat assessment programs.

- (1) Subject to the availability of amounts appropriated for this specific purpose, in order to ensure that public schools and school districts are meeting the requirements of RCW 28A.320.125 relating to comprehensive safe school plans, RCW 28A.320.127 related to plans for recognition, initial screening, and response to emotional or behavioral distress in students, and RCW 28A.320.123 relating to school-based threat assessment programs, the superintendent of public instruction shall monitor these programs no less than once every five years.
- (2) The superintendent of public instruction must consult with interested stakeholders to develop data collection and submission requirements for school districts as they relate to RCW 28A.320.125 relating to comprehensive safe school plans, RCW 28A.320.127 related to plans for recognition, initial screening, and response to emotional or behavioral distress in students, and RCW 28A.320.123 relating to school-based threat assessment programs.

RCW 28A.310.510. Regional school safety centers.

- (1) Subject to the availability of amounts appropriated for this specific purpose, each educational service district must establish a regional school safety center as provided in this section.
- (2) The regional school safety centers working in collaboration with one another and the state school safety center, established in RCW 28A.300.630, form a statewide network for school safety. The purpose

of this statewide network is to provide coordination of school safety efforts throughout the state and to provide school safety resources to the school districts in each educational service district region.

(3) Working in collaboration with the office of the superintendent of public instruction and the statewide network, each regional school safety center must provide to the school districts in its region:

(a) Behavioral health coordination that, at a minimum, includes:

(i) Providing support for school district development and implementation of plans for recognition, initial screening, and response to emotional or behavioral distress in students as required by RCW 28A.320.127;

(ii) Suicide prevention training for school counselors, school psychologists, and school social workers;

(iii) Facilitating partnerships and coordination between school districts, public schools, and existing regional and local systems of behavioral health care services and supports in order to increase student and family access to the services and supports;

(iv) Assisting school districts and public schools in building capacity to identify and support students in need of behavioral health care services and to link students and families with community-based behavioral health care services;

(v) Identifying, sharing, and integrating, to the extent practicable, behavioral and physical health care service delivery models;

(vi) Providing medicaid billing related training, technical assistance, and coordination between school districts; and

(vii) Guidance in implementing best practices in response to, and to recover from, the suicide or attempted suicide of a student.

RCW 28A.320.127. Plan for recognition, screening, and response to emotional or behavioral distress in students, including possible sexual abuse.

(1) Beginning in the 2014-15 school year, each school district must adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, youth suicide, and sexual abuse. The school district must annually provide the plan to all district staff.

(2) At a minimum the plan must address:

(d) Identification and development of partnerships with community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the district and such an entity in the community or region.

RCW 28A.320.1271. Model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students.

The office of the superintendent of public instruction's school safety center, established in RCW 28A.300.630, shall develop a model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. The model plan must incorporate research-based best practices, including practices and protocols used in schools and school districts in other states. The model plan must be posted by February 1, 2014, on the school safety center web site, along with relevant resources and information to support school districts in developing and implementing the plan required under RCW 28A.320.127.

RCW 28A.320.280. School counselors, social workers, and psychologists - Priorities.

The school counselor works with developing and leading a comprehensive guidance and counseling program to focus on the academic, career, personal, and social needs of all students. School psychologists carry out special education evaluation duties, among other things. School social workers promote and support students' health, academic, and social success with counseling and support, and by providing and coordinating specialized services and resources. All of these professionals are also involved in multitiered systems of support for academic and behavioral skills. These professionals focus on student mental health, work with at-risk and marginalized students, perform risk assessments, and collaborate with mental health professionals to promote student achievement and create a safe learning environment. In order that school counselors, social workers, and psychologists have the time available to prioritize these functions, in addition to other activities requiring direct student contact, responsibilities such as data input and data tracking should be handled by nonlicensed, noncertified staff, where possible.

RCW 28A.410.044. School psychologists and social workers-Domains and roles.

(1) A school psychologist is a professional educator who holds a valid school psychologist certification as defined by the professional educator standards board. Pursuant to the national association of school psychologists' model for comprehensive and integrated school psychological services, school psychologists deliver services across ten domains of practice. Two domains permeate all areas of service delivery: Data-based decision making; and consultation and collaboration. Five domains encompass direct and indirect services to children and their families: Student-level services, interventions, and instructional supports to develop academic skills; student-level interventions and mental health services to develop social and life skills; systems-level school-wide practices to promote learning; systems-level preventive and responsive services; and systems-level family school collaboration services. The three foundational domains include: Knowledge and skills related to diversity in development and learning; research and program evaluation; and legal and ethical practice.

(2) A school social worker is a professional in the fields of social work and education who holds a valid school social worker certification as defined by the professional educator standards board. The purpose and role of the school social worker is to provide an integral link between school, home, and community in helping students achieve academic and social success. This is accomplished by removing barriers and providing services that include: Mental health and academic counseling, support for students and parents, crisis prevention and intervention, professional case management, collaboration with other professionals, organizations, and community agencies, and advocacy for students and parents. School social workers work directly with school administrators as well as students and families, at various levels and as part of an interdisciplinary team in the educational system, including at the building, district, and state level. School social workers provide leadership and professional expertise regarding the formation of school discipline policies and procedures, and through school-based mental health services, crisis management, the implementation of social-emotional learning, and other support services that impact student academic and social-emotional success. School social workers also facilitate community involvement in the schools while advocating for student success.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

RCW 28A.600.480. Reporting of harassment, intimidation, or bullying - Retaliation prohibited - Immunity.

- (1) No school employee, student, or volunteer may engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.
- (2) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, is encouraged to report such incident to an appropriate school official.
- (3) A school employee, student, or volunteer who promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official, and who makes this report in compliance with the procedures in the district's policy prohibiting bullying, harassment, or intimidation, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

RCW 28A.600.485. Restraint of students-Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973- Procedures-Summary of incidents of isolation or restraint-Publishing to web site.

- (5) Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information:
 - (a) The date and time of the incident;
 - (b) The name and job title of the individual who administered the restraint or isolation;
 - (c) A description of the activity that led to the restraint or isolation;
 - (d) The type of restraint or isolation used on the student, including the duration;
 - (e) Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and
 - (f) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

REGULATIONS

WAC 392-190-059. Harassment, intimidation, and bullying prevention policy and procedure - School districts.

- (2) If the allegations in a written report of harassment, intimidation, or bullying pursued under the school district's procedure adopted under RCW 28A.300.285 indicate a potential violation of this chapter or the guidelines adopted under WAC 392-190-005, the school district's harassment, intimidation, and bullying compliance officer, designated under RCW 28A.300.285, must promptly notify the district employee designated under WAC 392-190-060. Or, if during the course of an investigation of harassment, intimidation, or bullying, the district becomes aware of a potential violation of this chapter or the guidelines adopted under WAC 392-190-005, the school district staff member investigating the report must promptly notify the district employee designated under WAC 392-190-060. Upon receipt of this information, the designated employee must notify the complainant that their complaint will also proceed under the discrimination complaint procedure in WAC 392-190-065 through 392-190-075, in addition to the procedures adopted under RCW 28A.300.285. School districts must provide this notice in a language that

the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964. In these cases, the investigation and response timeline set forth in WAC 392-190-065 begins when the school district knows or should have known that a written report of harassment, intimidation, or bullying involves allegations that the school district has violated this chapter or the guidelines adopted under WAC 392-190-005.

WAC 392-400-335. Short-term and in-school suspensions - Additional conditions and limitations.

Following a classroom exclusion under WAC 392-400-330:

- (1) Notice to principal. The teacher or other school personnel must report the classroom exclusion, including the behavioral violation that led to the classroom exclusion, to the principal or designee as soon as reasonably possible.

WAC 392-400-430. Suspensions and expulsions - General conditions and limitations.

A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

- (4) Reporting. The principal or designee must report all suspensions and expulsions, and the behavioral violation that led to each suspension or expulsion, to the school district superintendent or designee within twenty-four hours after the administration of the suspension or expulsion.

WAC 392-400-510. Emergency expulsions - Conditions and limitations.

A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

- (5) Reporting. All emergency expulsions, including the reason the student's presence poses an immediate and continuing danger to other students or school personnel, must be reported to the district superintendent or designee within twenty-four hours after the start of the emergency expulsion.

Parental Notification

LAWS

RCW 28A.155.210. Use of restraint or isolation - Requirement for procedures to notify parent or guardian.

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint or isolation.

RCW 28A.225.015. Attendance mandatory - Six or seven years olds - Unexcused absences - Petition.

(2) If a six or seven year old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled shall:

- (a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;
- (b) Request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day; and
- (c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative

schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

RCW 28A.225.018. Conferences to identify barriers to child's school attendance.

(1) Except as provided in subsection (2) of this section, in the event that a child in elementary school is required to attend school under RCW 28A.225.010 or 28A.225.015(1) and has five or more excused absences in a single month during the current school year, or ten or more excused absences in the current school year, the school district shall schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of identifying the barriers to the child's regular attendance, and the supports and resources that may be made available to the family so that the child is able to regularly attend school. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the absences, the school district may schedule this conference on that day. To satisfy the requirements of this section, the conference must include at least one school district employee such as a nurse, counselor, social worker, teacher, or community human services provider, except in those instances regarding the attendance of a child who has an individualized education program or a plan developed under section 504 of the rehabilitation act of 1973, in which case the reconvening of the team that created the program or plan is required.

(2) A conference pursuant to subsection (1) of this section is not required in the event of excused absences for which prior notice has been given to the school or a doctor's note has been provided and an academic plan is put in place so that the child does not fall behind.

RCW 28A.225.020. School's duties upon child's failure to attend school.

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall:

- (a) Inform the child's parent by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the parent is not fluent in English, the school must make reasonable efforts to provide this information in a language in which the parent is fluent;
- (b) Schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence.

RCW 28A.225.035. Petition to juvenile court - Contents - Court action - Referral to community engagement board or other coordinated intervention - Transfer of jurisdiction upon relocation.

(7)(a) Notwithstanding the provisions in subsection (4)(a) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. Such actions may include referral to an existing community engagement board, use of the Washington assessment of risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, the provision of community-based services, and the provision of evidence-based treatments that have been found to be effective in supporting at-risk youth and their families. When a juvenile court hearing is held, the court shall:

- (i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, notice should be provided in a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);
- (ii) Notify the parent and the child of their rights to present evidence at the hearing; and

(iii) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(b) If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if eight years old or older, and the parent.

RCW 28A.600.022. Suspended or expelled students - Reengagement plan.

(1) School districts should make efforts to have suspended or expelled students return to an educational setting as soon as possible. School districts must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's enrollment, to discuss a plan to reengage the student in a school program. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.

(2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.

(3) Any reengagement meetings conducted by the school district involving the suspended or expelled student and his or her parents or guardians are not intended to replace a petition for readmission.

RCW 28A.600.460. Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions.

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school and must record these actions using the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group. The information shall be made available to the public, but public release of the data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

RCW 28A.600.485. Restraint of students-Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973- Procedures-Summary of incidents of isolation or restraint-Publishing to web site.

(6) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

REGULATIONS

WAC 392-400-335. Short-term and in-school suspensions - Additional conditions and limitations.

Following a classroom exclusion under WAC 392-400-330:

(2) Notice to parents. The teacher, principal, or designee must notify the student's parents regarding the classroom exclusion as soon as reasonably possible. The school district must ensure that this notification is in a language the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-450. Suspensions and expulsions - Initial hearing with student.

(2) Parent participation.

(a) Short-term and in-school suspensions. At an initial hearing in which the principal or designee is considering administering a short-term or in-school suspension, the principal or designee must provide the student an opportunity for the student to contact the student's parents.

(b) Long-term suspensions and expulsions. At an initial hearing in which the principal or designee is considering administering a long-term suspension or expulsion, the principal or designee must make a reasonable attempt to contact the student's parents to provide an opportunity for the parents to participate in the initial hearing in person or by telephone.

WAC 392-400-455. Suspensions and expulsions - Notice to student and parents.

(1) Initial notice. Before administering any suspension or expulsion, a school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the behavioral violation.

(2) Written notice. No later than one school business day following the initial hearing with the student in WAC 392-400-450, a school district must provide written notice of the suspension or expulsion to the student and parents in person, by mail, or by email. The written notice must include:

(a) A description of the student's behavior and how the behavior violated the school district's policy adopted under WAC 392-400-110;

(b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;

(c) The other forms of discipline that the school district considered or attempted, and an explanation of the district's decision to administer the suspension or expulsion;

(d) The opportunity to receive educational services during the suspension or expulsion under WAC 392-400-610;

(e) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-460;

(f) The student's and parents' right to appeal the suspension or expulsion under WAC 392-400-465, including where and to whom the appeal must be requested; and

(g) For a long-term suspension or expulsion, the opportunity for the student and parents to participate in a reengagement meeting under WAC 392-400-710.

(3) Language assistance. The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-510. Emergency expulsions - Conditions and limitations.

A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

- (4) Conversion. If a school district converts an emergency expulsion to a suspension or expulsion, the district must:
 - (a) Apply any days that the student was emergency expelled before the conversion to the total length of the suspension or expulsion; and
 - (b) Provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

WAC 392-400-515. Emergency expulsions - Notice to students and parents.

(1) Initial notice. After an emergency expulsion, the school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the reason the district believes the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process.

(2) Written notice. Within twenty-four hours after an emergency expulsion, a school district must provide written notice of the emergency expulsion to the student and parents in person, by mail, or by email. The written notice must include:

- (a) The reason the student's presence poses an immediate and continuing danger to students or school personnel, or poses an immediate and continuing threat of material and substantial disruption of the educational process;
- (b) The duration and conditions of the emergency expulsion, including the dates on which the emergency expulsion will begin and end;
- (c) The opportunity to receive educational services during the emergency expulsion under WAC 392-400-610;
- (d) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-520; and
- (e) The student's and parents' right to appeal the emergency expulsion under WAC 392-400-525, including where and to whom the appeal must be requested.

(3) Language assistance. The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

WAC 392-400-525. Emergency expulsions - Appeal.

(3) Notice. Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

- (a) The time, date, and location of the appeal hearing;
- (b) The name(s) of the official(s) presiding over the appeal;
- (c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;

- (d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and
- (e) The student's and parents' rights under subsection (7) of this section.

WAC 392-400-610. Educational services during suspension, expulsion, or emergency expulsion.

(2) Notice. As soon as reasonably possible after administering a suspension or expulsion, a school district must provide written notice to the student and parents about the educational services the district will provide. The school district must provide the written notice in person, by mail, or by email. The notice must include:

- (a) A description of the educational services that will be provided; and
- (b) The name and contact information for the school personnel who can offer support to keep the student current with assignments and course work as required under this section.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

RCW 28A.225.151. Student-level truancy data - Reports - Data protocols and guidance for school districts.

- (1) As required under subsection (2) of this section, the office of superintendent of public instruction shall collect and school districts shall submit student-level truancy data in order to allow a better understanding of actions taken under RCW 28A.225.030. The office shall prepare an annual report to the legislature by December 15th of each year.
- (2) The reports under subsection (1) of this section shall include, disaggregated by student group:
 - (a) The number of enrolled students and the number of unexcused absences;
 - (b) The number of enrolled students with 15 or more unexcused absences in a school year or seven or more unexcused absences in a month during a school year;
 - (c) A description of any programs or schools developed to serve students who have had seven or more unexcused absences in a month or 15 in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090;
 - (d) The number of petitions filed by a school district with the juvenile court and, beginning in the 2018-19 school year, whether the petition results in:
 - (i) Referral to a community engagement board;
 - (ii) Other coordinated means of intervention;
 - (iii) A hearing in the juvenile court; or
 - (iv) Other less restrictive disposition (e.g., change of placement, home school, alternative learning experience, residential treatment); and
 - (e) Each instance of imposition of detention for failure to comply with a court order under RCW 28A.225.090, with a statement of the reasons for each instance of detention.
- (3) A report required under this section shall not disclose the name or other identification of a child or parent.
- (4) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data to provide a clearer understanding of actions taken under RCW 28A.225.030.

RCW 28A.300.042. Collection and submittal of student-level data - Student data-related reports - Disaggregation of data by subgroups - Modification of statewide student data systems.

(1) Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

- (a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;
- (b) Further disaggregation of countries of origin for Asian students;
- (c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and
- (d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

- (a) Gender;
- (b) Foster care;
- (c) Homeless, if known;
- (d) School district;
- (e) School;
- (f) Grade level;
- (g) Behavior infraction code, including:
 - (i) Bullying;
 - (ii) Tobacco;
 - (iii) Alcohol;
 - (iv) Illicit drug;
 - (v) Fighting without major injury;
 - (vi) Violence without major injury;
 - (vii) Violence with major injury;
 - (viii) Possession of a weapon; and
 - (ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;
- (h) Intervention applied, including:
 - (i) Short-term suspension;
 - (ii) Long-term suspension;

- (iii) Emergency expulsion;
- (iv) Expulsion;
- (v) Interim alternative education settings;
- (vi) No intervention applied; and
- (vii) Other intervention applied that is not described in this subsection (4)(h);

- (i) Number of days a student is suspended or expelled, to be counted in half or full days; and
- (j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

- (a) School and district;
- (b) Race, low income, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;
- (c) Behavior infraction code; and
- (d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

RCW 28A.300.046. "Student absence from school" - Rules - Collection of attendance and discipline data.

(2)(a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

- (b) Student suspension and expulsion data collected for the purposes of this subsection (2) must be:
 - (i) Made publicly available and easily accessible on the superintendent of public instruction's web site; and
 - (ii) Disaggregated and cross-tabulated as established under RCW 28A.300.042.

(c) School districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

RCW 28A.300.2851. School bullying and harassment - Work group.

(2) The work group shall:

- (a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data.

RCW 28A.300.490. Task force on gangs in schools - Reports.

(1) A task force on gangs in schools is created to examine current adult and youth gang activities that are affecting school safety. The task force shall work under the guidance of the office of the superintendent of public instruction's school safety center, the school safety and student well-being advisory committee established in RCW 28A.300.635, and the Washington association of sheriffs and police chiefs.

(2) The task force shall be comprised of representatives, selected by the superintendent of public instruction, who possess expertise relevant to gang activity in schools. The task force shall outline methods for preventing new gangs, eliminating existing gangs, gathering intelligence, and sharing information about gang activities.

(3) Beginning December 1, 2007, the task force shall annually report its findings and recommendations to the education committees of the legislature.

RCW 28A.300.645. Monitoring and data collection - Comprehensive safe school plans, student distress, and school-based threat assessment programs.

(3) By December 1, 2020, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction must report to the appropriate committees of the legislature regarding the office's plans for data collection and monitoring under this section and describing any implementation issues that could be fixed through legislation.

RCW 28A.320.130. Weapons incidents - Reporting.

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

RCW 28A.320.211. Discipline policies, procedures, and rules - Dissemination of information - Use of disaggregated data - Review.

(2) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures.

RCW 28A.400.110. Principal to assure appropriate student discipline - Building discipline standards - Classes to improve classroom management skills.

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3).

School principals and certificated employees shall also confer annually, to establish criteria for determining when certificated employees must complete classes to improve classroom management skills.

RCW 28A.600.460. Classroom discipline - Policies - Classroom placement of student offenders - Data on disciplinary actions.

(5) All school districts must collect data on disciplinary actions taken in each school and must record these actions using the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group. The information shall be made available to the public, but public release of the data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

RCW 28A.600.485. Restraint of students-Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973-Procedures-Summary of incidents of isolation or restraint-Publishing to web site.

(7)(a) Beginning January 1, 2016, and by January 1st annually, each school district shall summarize the written reports received under subsection (5) of this section and submit the summaries to the office of the superintendent of public instruction. For each school, the school district shall include the number of

individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

(b) No later than ninety days after receipt, the office of the superintendent of public instruction shall publish to its web site the data received by the districts. The office of the superintendent of public instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.

RCW 28A.600.490. Discipline task force - Development of standard definitions - Development of data collection standards - Membership - Statewide student data system revision.

(1) The office of the superintendent of public instruction shall convene a discipline task force to develop standard definitions for causes of student disciplinary actions taken at the discretion of the school district. The task force must also develop data collection standards for disciplinary actions that are discretionary and for disciplinary actions that result in the exclusion of a student from school. The data collection standards must include data about education services provided while a student is subject to a disciplinary action, the status of petitions for readmission to the school district when a student has been excluded from school, credit retrieval during a period of exclusion, and school dropout as a result of disciplinary action.

(2) The discipline task force shall include representatives from the K-12 data governance group, the educational opportunity gap oversight and accountability committee, the state ethnic commissions, the governor's office of Indian affairs, the office of the education ombuds, school districts, tribal representatives, and other education and advocacy organizations.

(3) The office of the superintendent of public instruction and the K-12 data governance group shall revise the statewide student data system to incorporate the student discipline data collection standards recommended by the discipline task force, and begin collecting data based on the revised standards in the 2015-16 school year.

REGULATIONS

WAC 392-190-048. Access to course offerings - Student discipline and corrective action.

At least annually, each school district and public charter school must review data on corrective and disciplinary actions taken against students within each school disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. This review must include, but is not limited to, short-term suspensions, long-term suspensions, expulsions, and emergency expulsions. In reviewing this data, each school district or public charter school must determine whether it has disciplined or applied corrective action to a substantially disproportionate number of students within any of the categories identified in this section. If a school district or public charter school finds that it has disciplined or applied corrective action to a substantially disproportionate number of students who are members of one of the categories identified in this section, the school district or charter school must take prompt action to ensure that the disproportion is not the result of discrimination.

WAC 392-400-020. Application.

(2) This chapter must be construed in a manner consistent with the following laws and rules:

(b) RCW 28A.300.042, regarding the collection, reporting, and disaggregation of student-level discipline data;

(c) Chapter 392-190 WAC, prohibiting unlawful discrimination in Washington public schools, including the requirement under WAC 392-190-048 that school districts annually review disaggregated discipline data to identify and address disproportionality in the administration of discipline on the basis of sex, race, limited-English proficiency (i.e., English learners), and disability, including students protected

under Section 504 of the Rehabilitation Act of 1973 and Part B of the Individuals with Disabilities Education Act.

WAC 392-400-110. Discipline policies and procedures - Development, review, and distribution.

(2) Development and review. A school district must develop and periodically review discipline policies and procedures with the participation of school personnel, students, parents, families, and the community. During the development and review of discipline policies and procedures, the school district must use disaggregated data collected under RCW 28A.300.042 to:

- (a) Monitor the impact of the school district's discipline policies, procedures, and practices; and
- (b) Update the school district's discipline policies and procedures to improve fairness and equity in the administration of discipline.

WAC 392-401-005. Purpose.

The purpose of this chapter is to provide a definition of absence to districts that supports accurate and consistent attendance data collection across the state. This effort will support the state and districts to address the challenge of chronic absenteeism, in an effort to improve learning outcomes and success in school for all students and to support the whole child.

WAC 392-401-010. Authority.

The authority for this chapter is RCW 28A.300.046, which requires the superintendent of public instruction to adopt rules establishing a standard definition of student absence from school.

WAC 392-401-015. Definition of absent or absence.

(1) A student is absent when they are:

- (a) Not physically present on school grounds; and
- (b) Not participating in the following activities at an approved location:
 - (i) Instruction;
 - (ii) Any instruction-related activity; or
 - (iii) Any other district or school approved activity that is regulated by an instructional/academic accountability system, such as participation in district-sponsored sports.

(2) Students shall not be absent if:

- (a) They have been suspended, expelled, or emergency expelled pursuant to chapter 392-400 WAC;
- (b) Are receiving educational services as required by RCW 28A.600.015 and chapter 392-400 WAC; and
- (c) The student is enrolled in qualifying "course of study" activities as defined in WAC 392-121-107.

(3) A full day absence is when a student is absent for fifty percent or more of their scheduled day.

(4) A school or district shall not convert or combine tardies into absences that contribute to a truancy petition.

WAC 392-401-020. Excused absences.

Absences due to the following reasons must be excused:

- (1) Physical health or mental health symptoms, illness, health condition or medical appointment for the student or person for whom the student is legally responsible. Examples of symptoms, illness, health conditions, or medical appointments include, but are not limited to, medical, counseling, dental, optometry, pregnancy, and behavioral health treatment (which can include in-patient or out-patient treatment for chemical dependency or mental health);
- (2) Family emergency including, but not limited to, a death or illness in the family;

- (3) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;
- (4) Court, judicial proceeding, court-ordered activity, or jury service;
- (5) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;
- (6) State-recognized search and rescue activities consistent with RCW 28A.225.055;
- (7) Absence directly related to the student's homeless or foster care/dependency status;
- (8) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;
- (9) Absences due to suspensions, expulsions or emergency expulsions imposed pursuant to chapter 392-400 WAC if the student is not receiving educational services and is not enrolled in qualifying "course of study" activities as defined in WAC 392-121-107;
- (10) Absences due to student safety concerns, including absences related to threats, assaults, or bullying;
- (11) Absences due to a student's migrant status; and
- (12) An approved activity that is consistent with district policy and is mutually agreed upon by the principal or designee and a parent, guardian, or emancipated youth.

A school principal or designee has the authority to determine if an absence meets the above criteria for an excused absence. Districts may define additional categories or criteria for excused absences.

WAC 392-401-030. Unexcused absences.

Any absence from school is unexcused unless it meets one of the criteria provided in WAC 392-401-020.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

RCW 28A.225.025. Community engagement boards.

(1) For purposes of this chapter, "community engagement board" means a board established pursuant to a memorandum of understanding between a juvenile court and a school district and composed of members of the local community in which the child attends school. Community engagement boards must include members who receive training regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, cultural responsive interactions, trauma-informed approaches to discipline, evidence-based treatments that have been found effective in supporting at-risk youth and their families, and the specific services and treatment available in the particular school, court, community, and elsewhere. Duties of a community engagement board shall include, but not be limited to: Identifying barriers to school attendance, recommending methods for improving attendance such as connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy, suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program, or recommending to the juvenile court that a juvenile be offered the opportunity for placement in a HOPE center or crisis residential center, if appropriate.

RCW 28A.225.026. Community engagement boards - Memoranda of understanding with juvenile courts

- Designation of school district coordinators to address absenteeism and truancy - Community-wide partnerships.

(1) By the beginning of the 2017-18 school year, juvenile courts must establish, through a memorandum of understanding with each school district within their respective counties, a coordinated and collaborative approach to address truancy through the establishment of a community engagement board or, with respect to certain small districts, through other means as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, each school district must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to the operation of a community engagement board. A community engagement board may be operated by a juvenile court, a school district, or a collaboration between both entities, so long as the agreement is memorialized in a memorandum of understanding. For a school district that is located in more than one county, the memorandum of understanding shall be with the juvenile court in the county that acts as the school district's treasurer.

(3) A school district with fewer than three hundred students must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to: (a) The operation of a community engagement board; or (b) addressing truancy through other coordinated means of intervention aimed at identifying barriers to school attendance, and connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy. School districts with fewer than three hundred students may work cooperatively with other school districts or the school district's educational service district to ensure access to a community engagement board or to provide other coordinated means of intervention.

(4) All school districts must designate, and identify to the local juvenile court and to the office of the superintendent of public instruction, a person or persons to coordinate school district efforts to address excessive absenteeism and truancy, including tasks associated with: Outreach and conferences pursuant to RCW 28A.225.018; entering into a memorandum of understanding with the juvenile court; establishing protocols and procedures with the court; coordinating trainings; sharing evidence-based and culturally appropriate promising practices; identifying a person within every school to serve as a contact with respect to excessive absenteeism and truancy; and assisting in the recruitment of community engagement board members.

(5) As has been demonstrated by school districts and county juvenile courts around the state that have worked together and led the way with community engagement boards, success has resulted from involving the entire community and leveraging existing dollars from a variety of sources, including public and private, local and state, and court, school, and community. In emulating this coordinated and collaborative approach statewide pursuant to local memoranda of understanding, courts and school districts are encouraged to create strong community-wide partnerships and to leverage existing dollars and resources.

RCW 28A.225.0261. Community engagement boards - Effect of diversion from truancy petitions - Evaluation by Washington state institute for public policy- Reports.

(1) By requiring an initial stay of truancy petitions for diversion to community engagement boards, the legislature intends to achieve the following outcomes:

- (a) Increased access to community engagement boards and other truancy early intervention programs for parents and children throughout the state;
- (b) Increased quantity and quality of truancy intervention and prevention efforts in the community;
- (c) A reduction in the number of truancy petitions that result in further proceedings by juvenile courts, other than dismissal of the petition, after the initial stay and diversion to a community engagement board;
- (d) A reduction in the number of truancy petitions that result in a civil contempt proceeding or detention order; and
- (e) Increased school attendance.

(2) No later than January 1, 2021, the Washington state institute for public policy is directed to evaluate the effectiveness of chapter 205, Laws of 2016. An initial report scoping of the methodology to be used to review chapter 205, Laws of 2016 shall be submitted to the fiscal committees of the legislature by January 1, 2018. The initial report must identify any data gaps that could hinder the ability of the institute to conduct its review.

RCW 28A.225.027. Community engagement boards - Grants for training - Grants for services and treatment.

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate to community engagement boards grant funds that may be used to supplement existing funds in order to pay for training for board members or the provision of services and treatment to children and their families.

(2) The superintendent of public instruction must select grant recipients based on the criteria in this section. This is a competitive grant process. A prerequisite to applying for either or both grants is a memorandum of understanding, between a school district and a court, to institute a new or maintain an existing community engagement board that meets the requirements of RCW 28A.225.025.

(3) Successful applicants for an award of grant funds to supplement existing funds to pay for the training of community engagement board members must commit to the provision of training to board members regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of

individual children, trauma-informed approaches to discipline, research about adverse childhood experiences, evidence-based treatments and culturally appropriate promising practices, as well as the specific academic and community services and treatments available in the school, court, community, and elsewhere. This training may be provided by educational service districts.

(4) Successful applicants for an award of grant funds to supplement existing funds to pay for services and treatments provided to children and their families must commit to the provision of academic services such as tutoring, credit retrieval and school reengagement supports, community services, and evidence-based treatments that have been found to be effective in supporting at-risk youth and their families, such as functional family therapy, or those that have been shown to be culturally appropriate promising practices.

RCW 28A.225.030. Petition to juvenile court for violations by a parent or child - School district responsibilities.

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, after the child's seventh unexcused absence within any month during the current school year and not later than the 15th unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. The petition must include a list of all interventions that have been attempted as set forth in RCW 28A.225.020, include a copy of any previous truancy assessment completed by the child's current school district, the history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district, and a copy of the most recent truancy information document provided to the parent, pursuant to RCW 28A.225.005. Except as provided in this subsection, no additional documents need be filed with the petition. Nothing in this subsection requires court jurisdiction to terminate when a child turns seventeen or precludes a school district from filing a petition for a child that is seventeen years of age.

(2) The district shall not later than the seventh unexcused absence in a month:

- (a) Enter into an agreement with a student and parent that establishes school attendance requirements;
- (b) Refer a student to a community engagement board as defined in RCW 28A.225.025. The community engagement board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or
- (c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with seven or more unexcused absences in any month during the current school year or upon the 15th unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

RCW 28A.225.035. Petition to juvenile court - Contents - Court action - Referral to community engagement board or other coordinated intervention - Transfer of jurisdiction upon relocation.

(1) A petition for a civil action under RCW 28A.225.030 or 28A.225.015 shall consist of a written notification to the court alleging that:

- (a) The child has unexcused absences as described in RCW 28A.225.030(1) during the current school year;
- (b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and

(c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, date of birth, school, address, gender, race, and ethnicity of the child and the names and addresses of the child's parents, and shall set forth the languages in which the child and parent are fluent, whether there is an existing individualized education program, and the child's current academic status in school.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter and provide information about what the court might order under RCW 28A.225.090.

(4)(a) When a petition is filed under RCW 28A.225.030 or 28A.225.015, it shall initially be stayed by the juvenile court, and the child and the child's parent must be referred to a community engagement board or other coordinated means of intervention as set forth in the memorandum of understanding under RCW 28A.225.026. The community engagement board must provide to the court a description of the intervention and prevention efforts to be employed to substantially reduce the child's unexcused absences, along with a timeline for completion.

(b) If a community engagement board or other coordinated means of intervention is not in place as required by RCW 28A.225.026, the juvenile court shall schedule a hearing at which the court shall consider the petition.

(5) When a referral is made to a community engagement board, the engagement board must meet with the child, a parent, and the school district representative and enter into an agreement with the petitioner and respondent regarding expectations and any actions necessary to address the child's truancy within twenty days of the referral. If the petition is based on RCW 28A.225.015, the child shall not be required to attend and the agreement under this subsection shall be between the engagement board, the school district, and the child's parent. The court may permit the engagement board or truancy prevention counselor to provide continued supervision over the student, or parent if the petition is based on RCW 28A.225.015.

(6) If the community engagement board fails to reach an agreement, or the parent or student does not comply with the agreement within the timeline for completion set by the community engagement board, the community engagement board shall return the case to the juvenile court. The stay of the petition shall be lifted, and the juvenile court shall schedule a hearing at which the court shall consider the petition.

(7)(a) Notwithstanding the provisions in subsection (4)(a) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. Such actions may include referral to an existing community engagement board, use of the Washington assessment of risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, the provision of community-based services, and the provision of evidence-based treatments that have been found to be effective in supporting at-risk youth and their families. When a juvenile court hearing is held, the court shall:

(i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, notice should be provided in a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);

(ii) Notify the parent and the child of their rights to present evidence at the hearing; and

(iii) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(b) If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if eight years old or older, and the parent.

(8)(a) The court may require the attendance of the child if eight years old or older, the parents, and the school district at any hearing on a petition filed under RCW 28A.225.030.

(b) The court may not issue a bench warrant for a child for failure to appear at a hearing on an initial truancy petition filed under RCW 28A.225.030. If there has been proper service, the court may instead enter a default order assuming jurisdiction under the terms specified in subsection (12) of this section.

(9) A school district is responsible for determining who shall represent the school district at hearings on a petition filed under RCW 28A.225.030 or 28A.225.015.

(10) The court may permit the first hearing to be held without requiring that either party be represented by legal counsel, and to be held without a guardian ad litem for the child under RCW 4.08.050. At the request of the school district, the court shall permit a school district representative who is not an attorney to represent the school district at any future hearings.

(11) If the child is in a special education program or has a diagnosed mental or emotional disorder, the court shall inquire as to what efforts the school district has made to assist the child in attending school.

(12) If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the court, after considering the facts alleged in the petition and the circumstances of the juvenile, to most likely cause the juvenile to return to and remain in school while the juvenile is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered.

(13)(a) If the court assumes jurisdiction, the school district shall periodically report to the court any additional unexcused absences by the child, actions taken by the school district, and an update on the child's academic status in school at a schedule specified by the court.

(b) The first report under this subsection (13) must be received no later than three months from the date that the court assumes jurisdiction.

(14) Community engagement boards and the courts shall coordinate, to the extent possible, proceedings and actions pertaining to children who are subject to truancy petitions and at-risk youth petitions in RCW 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

(15) If after a juvenile court assumes jurisdiction in one county the child relocates to another county, the juvenile court in the receiving county shall, upon the request of a school district or parent, assume jurisdiction of the petition filed in the previous county.

RCW 28A.225.060. Custody and disposition of child absent from school without excuse.

Any school district official, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, may take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school and is absent from school without an approved excuse, and shall deliver the child to: (1) The custody of a person in parental relation to the child; (2) the school from which the child is absent; or (3) a program designated by the school district.

RCW 28A.225.090. Court orders - Penalties - Parents' defense.

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may impose:

(a) Community restitution;

(b) Nonresidential programs with intensive wraparound services;

(c) A requirement that the child meet with a mentor for a specified number of times; or

(d) Other services and interventions that the court deems appropriate.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the community engagement board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may impose alternatives to detention consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

RCW 28A.300.2851. School bullying and harassment - Work group.

(1) The office of the superintendent of public instruction and the office of the education ombuds shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel.

RCW 28A.300.650. School resource officer training - Materials- Grant program- Report.

(1) Subject to the availability of amounts appropriated for this specific purpose, by January 1, 2020, the state school safety center, established in RCW 28A.300.630, in collaboration with the school safety and student well-being advisory committee, established in RCW 28A.300.635, and law enforcement entities interested in providing training to school resource officers, shall identify and make publicly available training materials that are consistent with the requirements in RCW 28A.320.124.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must establish and implement a grant program to fund training for school resource officers as described in RCW 28A.320.124. Eligible grantees include school districts, educational service districts, law enforcement agencies, and law enforcement training organizations. Training under this section may be developed by schools in partnership with local law enforcement and organizations that have expertise in topics such as juvenile brain development; restorative practices or restorative justice; social-emotional learning; civil rights; and student rights, including free speech and search and seizure. This training may be provided by the criminal justice training commission.

(b) By December 1st of each year the program is funded, the office of the superintendent of public instruction must submit an annual report to the governor and appropriate committees of the legislature on the program.

RCW 28A.320.124. School resource officer programs.

(1) By the beginning of the 2021-22 school year, school districts that have safety and security staff working on school property when students are expected to be present must adopt, and periodically update, a policy and procedure that:

(a) Includes a clear statement regarding safety and security staff duties and responsibilities related to student behavior and discipline that:

(i) Prohibits a school resource officer from becoming involved in formal school discipline situations that are the responsibility of school administrators; and

(ii) Recognizes that trained safety and security staff know when to informally interact with students to reinforce school rules and when to enforce the law;

(b) Clarifies the circumstances under which teachers and school administrators may ask safety and security staff to intervene with a student;

(c) Explains how safety and security staff will be engaged in creating a positive school climate and positive relationships with students; and

(d) Describes the process for families to file complaints with the school and, when applicable, the local law enforcement agency or the company that provides the safety and security staff on contract related to safety and security staff and a process for investigating and responding to complaints.

(2) At the beginning of each school year, school districts that have safety and security staff working on school property must present to and discuss with students, and distribute to students' families, information about the role and responsibilities of safety and security staff.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Safety and security staff" means a school resource officer, a school security officer, a campus security officer, and any other commissioned or noncommissioned employee or contractor, whose primary job duty is to provide safety or security services for a public school, as defined in RCW 28A.150.010.

(b) "School resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to make arrests, deployed in community-oriented policing, and assigned by the employing police department or sheriff's office to work in schools to build positive relationships with students and address crime and disorder problems, gangs, and drug activities affecting or occurring in or around K-12 schools. School resource officers should focus on keeping students out of the criminal justice system when possible and should not be used to attempt to impose criminal sanctions in matters that are more appropriately handled within the educational system.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

RCW 28A.320.124. School resource officer programs.

(1) By the beginning of the 2021-22 school year, school districts that have safety and security staff working on school property when students are expected to be present must adopt, and periodically update, a policy and procedure that:

(a) Includes a clear statement regarding safety and security staff duties and responsibilities related to student behavior and discipline that:

(i) Prohibits a school resource officer from becoming involved in formal school discipline situations that are the responsibility of school administrators; and

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(c) Explains how safety and security staff will be engaged in creating a positive school climate and positive relationships with students; and

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RCW 28A.605.010. Removing child from school grounds during school hours.

The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child may be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal custody thereof, except that a student may leave secondary school grounds only in accordance with the school district's open campus policy under RCW 28A.600.035. Such rules shall be applicable to school employees or their designees who may not remove, cause to be removed, or allow to be removed, any student from school grounds without authorization from the student's parent or legal guardian unless the employee is: The student's parent, legal guardian, or immediate family member, a school employee providing school bus transportation services in accordance with chapter 28A.160 RCW, a school employee supervising an extracurricular activity in which the student is participating and the employee is providing transportation to or from the activity; or, the student is in need of emergent medical care, and the employee is unable to reach the parent for transportation of the student. School security personnel may remove a student from school grounds without parental authorization for disciplinary reasons.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

RCW 28A.300.640. School-based threat assessment program - Model policy and procedure.

(1) The Washington state school directors' association, in collaboration with the office of the superintendent of public instruction, shall develop a model policy and procedure to establish a school-based threat assessment program that meets the requirements of RCW 28A.320.123. The model policy

and procedure must be posted on the web site of the state school safety center, established in RCW 28A.300.630, by January 1, 2020.

(2) In developing the model policy and procedure, the Washington state school directors' association and the office of the superintendent of public instruction must:

(a) Consult with the school safety and student well-being advisory committee, established under RCW 28A.300.635, and other organizations with expertise in school safety, behavioral health, the rights of students with disabilities, and protecting civil liberties; and

(b) Consider multilevel threat assessment programs implemented in schools in Washington.

RCW 28A.300.645. Monitoring and data collection - Comprehensive safe school plans, student distress, and school-based threat assessment programs.

(1) Subject to the availability of amounts appropriated for this specific purpose, in order to ensure that public schools and school districts are meeting the requirements of RCW 28A.320.125 relating to comprehensive safe school plans, RCW 28A.320.127 related to plans for recognition, initial screening, and response to emotional or behavioral distress in students, and RCW 28A.320.123 relating to school-based threat assessment programs, the superintendent of public instruction shall monitor these programs no less than once every five years.

(2) The superintendent of public instruction must consult with interested stakeholders to develop data collection and submission requirements for school districts as they relate to RCW 28A.320.125 relating to comprehensive safe school plans, RCW 28A.320.127 related to plans for recognition, initial screening, and response to emotional or behavioral distress in students, and RCW 28A.320.123 relating to school-based threat assessment programs.

(3) By December 1, 2020, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction must report to the appropriate committees of the legislature regarding the office's plans for data collection and monitoring under this section and describing any implementation issues that could be fixed through legislation.

(4) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

RCW 28A.310.510. Regional school safety centers.

(1) Subject to the availability of amounts appropriated for this specific purpose, each educational service district must establish a regional school safety center as provided in this section.

(2) The regional school safety centers working in collaboration with one another and the state school safety center, established in RCW 28A.300.630, form a statewide network for school safety. The purpose of this statewide network is to provide coordination of school safety efforts throughout the state and to provide school safety resources to the school districts in each educational service district region.

(3) Working in collaboration with the office of the superintendent of public instruction and the statewide network, each regional school safety center must provide to the school districts in its region:

(b) School-based threat assessment coordination that, at a minimum, includes:

(i) Providing training and technical assistance regarding the use of the model policy and procedure to establish a school-based threat assessment program, developed under RCW 28A.300.640;

(ii) Assisting with ongoing identification and implementation of best practices for school-based threat assessment programs, described under RCW 28A.320.123; and

(iii) Building partnerships with community partners, such as behavioral health providers, law enforcement agencies, emergency responders, juvenile justice organizations, and child welfare

agencies, for the purpose of implementing school-based threat assessment programs that comply with best practices.

RCW 28A.320.123. School-based threat assessment program.

- (1) At a minimum, a school-based threat assessment program must:
 - (a) Provide for timely and methodical school-based threat assessment and management;
 - (b) Be prompted by the behavior of a student rather than some combination of a student's demographic and personal characteristics;
 - (c) Convene a multidisciplinary, multiagency team, including special education teachers and practicing educational staff associates, to:
 - (i) Identify and assess the behavior of a student that is threatening, or potentially threatening, to self, other students, staff, school visitors, or school property;
 - (ii) Gather and analyze information about the student's behavior to determine a level of concern for the threat that focuses on situational variables, rather than the student's demographic or personal characteristics;
 - (iii) Depending on the determined level of concern, develop and implement intervention strategies to manage the student's behavior in ways that promote a safe, supportive teaching and learning environment, without excluding the student from the school; and
 - (iv) In the case of the threatening, or potentially threatening, behavior of a student with disabilities, align intervention strategies with the student's individualized education program or plan developed under section 504 of the rehabilitation act of 1973 by coordinating with the student's individualized education program or section 504 plan team;
 - (d) Create guidelines for each threat assessment team to collect, report, and review quantitative data on its activities; and
 - (e) Prohibit suspension or expulsion based merely on threat assessment referral or performance.
- (2) By the beginning of the 2020-21 school year, each school district shall adopt a policy and procedure to establish a school-based threat assessment program that meets the requirements of subsection (1) of this section. The school district policy and procedure must be consistent with the model policy and procedure developed under RCW 28A.300.640, and with other school district policies, procedures, and plans addressing safe and supportive learning environments.
- (3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.
 - (a) "School-based threat assessment" means the formal process, established by a school district, of evaluating the threatening, or potentially threatening, behavior of a student, and the circumstances surrounding the threat, to uncover any facts or evidence that the threat is likely to be carried out.
 - (b) "School-based threat management" means the development and implementation of a plan to manage or reduce the threatening, or potentially threatening, behavior of a student in a way that increases the physical and psychological safety of students, staff, and visitors, while providing for the education of all students.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Washington provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Attendance, Chronic Absenteeism, and Truancy, Washington Office of Superintendent of Public Instruction (WA OSPI)	Provides information and resources related to attendance, absences, and truancy in Washington schools.	https://www.k12.wa.us/student-success/support-programs/attendance-chronic-absenteeism-and-truancy
Harassment, Intimidation, and Bullying (HIB), WA OSPI	Provides information for policies, data, documents and related resources addressing bullying in Washington schools.	https://www.k12.wa.us/student-success/health-safety/school-safety-center/school-safety-security-related-rcws-wacs/harassment-intimidation-and-bullying-hib
Health & Safety, WA OSPI	Provides an overview of health and safety topics such as school safety and mental, social, and behavioral health which includes in each section research, data, laws and policies, and other resources.	https://www.k12.wa.us/student-success/health-safety
Multi-Tiered System of Supports (MTSS), WA OSPI	Presents an overview of the multi-tiered system of supports and the essential components of an MTSS framework in Washington schools.	https://www.k12.wa.us/student-success/support-programs/multi-tiered-system-supports-mtss
Restraint and Isolation, WA OSPI	Provides information and resources related to restraint and isolation in Washington schools.	https://www.k12.wa.us/student-success/health-safety/school-safety-center/school-safety-resource-library/restraint-and-isolation

Title	Description	Website address (if applicable)
School Safety Center, WA OSPI	Provides resources to districts and schools to help in the development of high-quality emergency operations and safety plans, including safety planning toolkits, trainings and professional development, data and reports, and state laws.	https://www.k12.wa.us/student-success/health-safety/school-safety-center
Student Discipline, WA OSPI	Provides information and resources related to discipline laws, data, and training - including parent and family resources and guidance for school districts.	https://www.k12.wa.us/student-success/support-programs/student-discipline
Social and Emotional Learning (SEL), WA OSPI	Presents the history of SEL and provides links to SEL implementation tools, legislative reports, research-supporting work, and other resources to related topics such as trauma informed.	https://www.k12.wa.us/student-success/health-safety/mental-social-behavioral-health/social-and-emotional-learning-sel
Documents		
2010 Model Policy and Procedures on Harassment, Intimidation and Bullying to Model Policy and Procedures 3207/3207P-Prohibition of Harassment, Intimidation and Bullying, Washington State School Directors' Association (WSSDA)	Model policy prohibiting harassment, intimidation and bullying in WA schools. This policy and procedure is developed and periodically updated by WSSDA so the latest versions are publicly available on the WSSDA website. They were last revised in 2019.	https://www.wssda.org/policy-legal/featured-policies/
Behavior Menu of Best Practices and Strategies (2020), WA OSPI	Document guidance contains best practices and strategies for student behavior and foundational concept describing Washington state's approach to school discipline and other initiatives designed to improve social-emotional learning for all students.	https://www.k12.wa.us/student-success/support-programs/learning-assistance-program-lap/menus-best-practices-strategies/behavior-menu-best-practices-strategies
Model Policy and Procedures 3241/3241P-Student Discipline	Model policy and procedure on student discipline, developed in accordance with RCW 28A.345.090	https://www.wssda.org/policy-legal/featured-policies/

Title	Description	Website address (if applicable)
Preventing & Addressing Discrimination in Student Discipline (October 2019), WA OSPI	Guidelines describing how school districts can meet their obligations under state law to administer student discipline without discrimination.	https://www.k12.wa.us/sites/default/files/public/equity/2019_Discipline_Equity_Guidelines_Final.pdf
Student Discipline Rules Questions & Answers: A Technical Guide, (September 2019) WA OSPI	Guide presents questions and answers relevant to Washington's student discipline rules to help assist school districts with implementation of state laws regarding discipline.	https://www.k12.wa.us/sites/default/files/public/studentdiscipline/publicdocs/Student%20Discipline%20Rules%20Technical%20Guide%202019.pdf .
Washington State Common School Manual (Revised and published February 2021), WA OSPI	Manual compilation of most of the laws enacted by the state legislature governing common school system operations and other titles containing laws affecting school operations.	http://www.k12.wa.us/ProfPractice/adminresources/CSM.aspx
Other Resources		
SEL Online Education Module, WA State OSPI	Online training module for school leaders and educators to assist in building and improving students' knowledge and understanding of social emotional skills.	https://www.k12.wa.us/student-success/health-safety/mental-social-behavioral-health/social-and-emotional-learning-sel/sel-online-education-module
Washington State Report Card, WA State OSPI	Discipline data regarding overall out-of-school exclusion rates by state, district, and school level. Rates by race/ethnicity, gender, special education, English Learner, and other student characteristics such as grade-level.	https://washingtonstaterreportcard.ospi.k12.wa.us/



West Virginia Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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- [§18-9F-3.](#) School access safety plan
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- [§18A-5-1a.](#) Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education

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Series 42. Assuring the Quality of Education: Regulations for Education Programs (2510)

- §126-42-7. County board of education responsibilities

Series 67. Comprehensive School Counseling Programs (2315)

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- §126-99-1. General
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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§18-2-33. Rules for antihazing.

(a) The Legislature hereby finds that hazing has become a problem in a limited number of public school-sponsored student organizations and that legal liability has already resulted from some of those activities. It is the intent of this section that problems with hazing in public school-sponsored student organizations be addressed.

(b) The State Board shall promulgate legislative rules in accordance with article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code that addresses hazing in the public school system. The rules shall include at least the following:

- (1) A definition of hazing;
- (2) A definition of a public school-sponsored student organization that includes both cocurricular and extracurricular activities;
- (3) A method to advise students and employees of the problems associated with hazing;
- (4) Appropriate penalties or procedures for establishing penalties for students who haze while engaged in the activities of a public school-sponsored student organization; and
- (5) Methods to prevent hazing in public school-sponsored organizations.

(c) The State Board shall consider the antihazing law set forth in article sixteen [§§ 18-16-1 et seq.], chapter eighteen in drafting the rules required by this section.

(d) Nothing in this section or in the policy promulgated in accordance with this section may be construed to prevent a suspension or expulsion executed in accordance with section one-a [§ 18A-5-1a], article five, chapter eighteen-a of this code.

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(a) Each county board shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

§18-9F-9. Crisis Response Plan.

(a) The state board in conjunction with the Division of Homeland Security and Emergency Management shall promulgate by December 31, 2011, a legislative rule in accordance with article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of an up-to-date, school specific crisis response plan at every school in the state. In developing the rule, the state board shall consider plans currently being developed as part of the safe schools initiative currently underway by the School Building Authority and the Division of Homeland Security and Emergency Management. In addition, those portions of a school's access safety plan created pursuant to section three [§ 18-9F-3] of this article may be used as a portion of the school's school specific crisis response plan if there are any overlapping requirements. The rule shall provide for at least the following:

(1) A model school crisis response plan for use by each school in the state, including a uniform template which shall be used by each school to file the plan, including at least the following information, in a secure electronic system identified by the Division of Homeland Security and Emergency Management:

(F) Policies and procedures for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, provide for the training of school personnel in alternatives to discipline practices and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

REGULATIONS

§126-42-7. County board of education responsibilities.

7.1. Schools shall implement WVBE and county policies as well as county and school procedures to ensure high quality delivery of their education program. In meeting this responsibility, schools shall address the following components of a high quality education program.

§126-81-4. Definitions.

4.3. Each county board of education shall:

4.3.a. establish an attendance policy as described in section 6.

§126-81-5. Responsibilities.

5.1. County central office staff shall:

5.1.a. provide opportunities for input from teachers, principals, attendance directors, parents/guardians/custodians, and community leaders when developing or revising the attendance policy.

§126-99-1. General.

1.1. Scope. - This rule sets the requirements for the development of safe and supportive schools that provide optimal learning conditions for both students and staff. Safety and order is the foundation of a positive school climate/culture that supports student academic achievement and personal-social development. This rule also establishes disciplinary guidelines for student conduct in West Virginia schools in order to assure an orderly, safe, drug-free, violence- and harassment-free learning environment.

§126-99-2. Purpose.

2.1. The West Virginia Board of Education (WVBE) recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. Public schools should undertake proactive, preventive approaches to ensure a positive school climate and culture that fosters learning and personal-social development. This rule requires county boards of education to design and implement procedures to create and support continuous school climate and culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning.

Scope

LAWS

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(b) Each county board policy shall, at a minimum, include the following components:

(1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(b)(1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in § 17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof;

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(e) Notice of the county board's policy shall appear in any student handbook, and in any county board publication that sets forth the comprehensive rules, procedures and standards of conduct for the school.

§18-2C-5. Policy training and education.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

- (1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and
- (2) Develop a process for educating students on the harassment, intimidation or bullying policy.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher, may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee.

(d) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and if excluded may not re-enter that teacher's classroom for at least the remainder of the instructional day;

(2) If the student is excluded pursuant to subdivision (1) of this subsection;

(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System (WVEIS), without any repercussion to the teacher; and

(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive as determined by the principal an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center if one is available within the school district.

REGULATIONS

§126-99-5. Severability.

Section 2. Guidelines for Specific Responses to Inappropriate Behavior Exclusion. According to W. Va. Code § 18A-5-1, a teacher or bus driver may exclude from a classroom or bus any student who is guilty of disorderly conduct; interferes with the orderly educational process; threatens, abuses, or otherwise intimidates a school employee or student; willfully disobeys a school employee; or directs abusive or profane language at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee.

Alternatives to Suspension

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings. [...]

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, , provide for the training of school personnel in alternatives to discipline practices and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in- service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

§18A-5-8. Authority of certain aides to exercise control over students; compensation; transfers.

(b) The authority provided for in subsection (a) of this section does not extend to suspending or expelling any student, participating in the administration of corporal punishment or performing instructional duties as a teacher or substitute teacher. However, the authority extends to supervising students undergoing in-school suspension if the instructional duties required by the supervision are limited solely to handing out class work and collecting class work. The authority to supervise students undergoing in-school suspension does not include actual instruction.

§49-4-717. Sexting educational diversion program; requirements.

(a) Before a juvenile petition is filed for activity proscribed by article eight-a [§§ 61-8A-1 et seq.] or eight-c [§§ 61-8C-1 et seq.], chapter sixty-one of this code, or after probable cause has been found to believe a juvenile has committed a violation thereof, but before an adjudicatory hearing on the petition, the court or a prosecuting attorney may direct or allow a minor who engaged in the activity to participate in an educational diversion program which meets the requirements of subsection (b) of this section. The prosecutor or court may refer the minor to the educational diversion program, as part of a prepetition intervention pursuant to section seven hundred two [§ 49-4-702] of this article.

(b) The West Virginia Supreme Court of Appeals may develop an educational diversion program for minors who are accused of activity proscribed by article eight-a or eight-c, chapter sixty-one of this code. As a part of any specialized educational diversion program so developed, the following issues and topics should be included:

- (1) The legal consequences of and penalties for sharing sexually suggestive or explicit materials, including applicable federal and state statutes;
- (2) The nonlegal consequences of sharing sexually suggestive or explicit materials including, but not limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities;
- (3) How the unique characteristics of cyberspace and the Internet, including searchability, replicability and an infinite audience, can produce long-term and unforeseen consequences for sharing sexually suggestive or explicit materials; and
- (4) The connection between bullying and cyber-bullying and minors sharing sexually suggestive or explicit materials.

REGULATIONS

§126-81-3. Policy development.

3.2. Allowable Deductions for Schools. Beginning with the 2016-2017 school year, absences that result from school approved curricular/co-curricular activities, failure of the bus to run/hazardous conditions,

students not in attendance due to disciplinary measures, and school/county directed placements outside the traditional classroom environment including but not limited to homebound placement and in-school suspension.

§126-81-5. Responsibilities.

5.2. Each county's attendance policy shall address the following components:

5.2.b. County school systems are responsible for:

5.2.b.7. assuring that a student may not be suspended solely for failure to attend class. Other methods of discipline may include, but are not limited to, detention, extra class time, or alternative class settings.

§126-99-5. Severability.

Suspension. The purpose of suspension is to protect the students, school personnel and property, the educational environment, and the orderly process of the school. Suspension is considered a temporary solution to an inappropriate behavior until the problem that caused the suspension is corrected. The length of a suspension should be short, usually one to three school days, but may extend to ten school days.

Suspension typically takes one of two forms:

-In-School Suspension. Student is temporarily removed from the classroom(s) for disciplinary reasons but remains under the direct supervision of school personnel and continues to receive instructional support. Direct supervision means school personnel are physically in the same location as the student(s) under their supervision. Settings may include other locations within the school building or removal to another school, such as an alternative school, provided the student remains under direct supervision of school personnel.

-Out-of-School Suspension. Student is temporarily removed from the school for disciplinary reasons to another setting pursuant to W. Va. Code § 18A-5-1a (e.g., home, community setting). This includes both removals in which no Individual Education Plan (IEP) services are provided because the removal is 10 days or less, as well as removals in which the student continues to receive services according to his/her IEP. The student is not under direct supervision of school personnel as defined under in-school suspension.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(f) Corporal punishment of any student by a school employee is prohibited.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal discipline practices, provide for the training of school personnel in alternatives to discipline practices, and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

§18A-5-8. Authority of certain aides to exercise control over students; compensation; transfers.

(a) Within the limitations provided in this section, any aide who agrees to do so shall stand in the place of the parent or guardian and shall exercise such authority and control over students as is required of a teacher as provided in section one [§ 18A-5-1] of this article. The principal shall designate aides in the school who agree to exercise that authority on the basis of seniority as an aide and shall enumerate the instances in which the authority shall be exercised by an aide when requested by the principal, assistant principal or professional employee to whom the aide is assigned.

(b) The authority provided for in subsection (a) of this section does not extend to suspending or expelling any student, participating in the administration of corporal punishment or performing instructional duties as a teacher or substitute teacher. However, the authority extends to supervising students undergoing in-school suspension if the instructional duties required by the supervision are limited solely to handing out class work and collecting class work. The authority to supervise students undergoing in-school suspension does not include actual instruction.

REGULATIONS

§126-99-5. Severability.

Section 4. Use of Physical Punishment Prohibited

W. Va. Code § 18A-5-1(e) prohibits school employees from using corporal (bodily) punishment on any student. No physical punishment of any kind can be inflicted upon a student. This includes:

- . hitting or striking a student on their physical person;

- . requiring physical activity as a punishment (this does not apply to physical activity within the structure and context of extracurricular activities);
- . use of noxious stimuli (e.g., pepper spray), denial of food or water, or other negative physical actions to control behavior; and
- . seclusion - a removal in which a student is left unsupervised in any space as an intervention or consequence to inappropriate behavior.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

§126-99-5. Severability.

Section 3. Protection from Unreasonable Searches and Seizures and Self-Incrimination Federal and state constitutions and statutes provide protection for all citizens from unreasonable searches and seizures.

Although school personnel have more latitude than police officers in this regard, because they do not need search warrants, search and seizures of lockers or students by school officials must be reasonable and based upon the information known by them at the time of the search. Personal property may be searched by those authorized where there is reasonable suspicion to believe that student property contains stolen articles, illegal items, or other contraband as defined by law or by local board or school policy.

Students also have a right under federal and state constitutions not to incriminate themselves about a crime when questioned on school grounds by an individual acting in the capacity of a law enforcement official. The students are entitled to be informed of their right against self-incrimination if they are in a custodial setting, in other words, the students are not at liberty to terminate the interrogation and leave. Students do not have a constitutional right against self-incrimination when being questioned by school officials or Prevention Resource Officers (PRO) acting under the supervision of school officials who are investigating school-related misconduct.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

§126-99-5. Severability.

Section 5. Use of Restraint

Restraint, reasonable force, may be used to prevent a student from hurting himself/herself or any other person or property. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the student and others. When the use of physical restraint is necessary, the following guidelines must be followed:

- shall be limited to the use of such reasonable force as is necessary to address the emergency;
- shall not restrict breathing (e.g. prone restraint); place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat; or cause physical harm;
- shall be discontinued at the point at which the emergency no longer exists;

- shall be implemented in such a way as to protect the health and safety of the student and others; and
- shall not deprive the student of basic human necessities.

Appropriate (intended use) utilization of mechanical restraints, such as seat belts or feeding tables, when applied for their intended purpose is not prohibited. The application of mechanical restraint is prohibited as an intervention or consequence for inappropriate behavior.

A core team of personnel in each school, including an administrator designee and any general or special education personnel likely to use restraint, must be trained annually in the use of:

- nationally recognized restraint process, and
- current professionally accepted practices and standards regarding behavior interventions and supports including prevention and de-escalation techniques.

Any non-trained personnel called upon to use restraint in an emergency must receive training within 30 days following the use of restraint if the principal determines the situation is likely to reoccur.

Comprehensive documentation and immediate notification of restraint usage is required. [...]

Section 6. Collaboration with Law Enforcement

Police Conducting an Investigation in the School. When a student is questioned by the police or by school officials in the presence of the police, the school administration and police must cooperate to ensure the privacy of the student is protected. It is the police officer's responsibility to ensure the student's constitutional rights are not violated and to determine if the student's parent or guardian, or lawyer should be contacted prior to questioning. The officer must also determine when the use of restraints is necessary to control an unruly student to prevent the student from harming him/herself or others during questioning.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen [§ 61-2-15], article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a [§ 61-7-11a], article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one [§ 60A-1-101], article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a [§§ 60A-1-101 et seq.] of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student

committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

REGULATIONS

§126-99-5. Severability.

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

Expulsion. The county superintendent, upon recommendation by the principal, may recommend that a county board of education expel a student from school if the student's conduct is judged to be detrimental to the progress and general conduct of the school. In all cases involving expulsion, the student is entitled to formal due process procedures. These procedures are outlined in W. Va. Code § 18A-5-1 and § 18A-5-1a.

W. Va. Code § 18A-5-1 and § 18A-5-1a requires mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than twelve consecutive months by the county board of education for: possession of a deadly weapon, battery of a school employee, or sale of a narcotic drug.

Limitations or Conditions on Exclusionary Discipline

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen [§ 61-2-15], article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a [§ 61-7-11a], article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one [§ 60A-1-101], article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to

subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a [§§ 60A-1-101 et seq.] of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The student and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the student as to whether he or she admits or denies the charges. If the student does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the student for a maximum of ten school days, including the time prior to the hearing, if any, for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one [§ 18A-1-

1], article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the student should be reinstated or should, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the student reinstated immediately at the end of his or her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one [§ 29A-5-1], article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when

a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A student remains under suspension until after the hearing in any case where a postponement occurs.

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(A) The extent of the student's malicious intent;

(B) The outcome of the student's misconduct;

(C) The student's past behavior history;

(D) The likelihood of the student's repeated misconduct; and

(E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U. S. C. §§ 1400, et seq.

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six [§ 18-2-26], article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f [§ 18-5-15f], article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

(m) Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the state board.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

(o) For the purpose of this section, principal means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

§18A-5-1d. Return to school through Juvenile Drug Court for certain students.

(a) When a student is expelled from school pursuant to §18A-5-1a of this code, the county board, county superintendent, or principal for the school from which the student was expelled or the parent, guardian, or custodian may refer the student to a Juvenile Drug Court, operated pursuant to §49-4-703 of this code. Upon referral, the judge assigned to Juvenile Drug Court shall determine whether the student is an appropriate candidate for Juvenile Drug Court.

(b) If the judge determines the student is an appropriate candidate for Juvenile Drug Court, then the court has jurisdiction over the student in the same manner as it has jurisdiction over all other persons in Juvenile Drug Court. Jurisdiction over students includes the ability to issue any of the various sanctions available to the Juvenile Drug Court, including temporary detention.

(c)(1) Successful completion of Juvenile Drug Court or certification by the Juvenile Drug Court judge that the student is making satisfactory progress toward successful completion of Juvenile Drug Court warrants consideration for reduction of the expulsion period, pursuant to §18A-5-1a of this code.

(2) The Juvenile Drug Court shall notify the county superintendent of the completion or certification. The county superintendent shall arrange a meeting with the Juvenile Drug Court treatment team, the court, and the student assistance team of the school from which the student was expelled to discuss the student's history, progress, and potential for improvement.

(3) The student assistance team shall evaluate and recommend whether the student's expulsion period should be reduced, and the student reinstated in school.

(4) The student assistance team's recommendation shall be presented to the superintendent, who shall make the final determination. The superintendent shall prepare a statement detailing reasons for or against school reinstatement and submit the statement to the county board. If the superintendent determines to reduce the expulsion period, he or she shall submit the statement required by §18A-5-1a(i) of this code and place the student in an appropriate school within the district.

(5) A student to be reinstated shall be permitted to return to school no later than the 10th regular school day following notice by the court to the superintendent regarding the student's successful completion or satisfactory progress toward successful completion of Juvenile Drug Court.

REGULATIONS

§126-99-5. Severability.

Out-of-school suspension strategies should be used sparingly and shall never deny students access to instructional material and information necessary to maintain their academic progress. Out-of-school suspension should only be considered when all other interventions and consequences have not proven to correct the behavior. The determination of interventions and consequences is at the discretion of the school administrator, with input considered from teachers/service personnel. W. Va. Code requires that the principal shall suspend a student who commits a behavior classified as Level 4 in this policy. Level 3 and 4 behaviors are to be referred directly to the appropriate administrator because of the serious and/or unlawful nature of the misconduct. [...]

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

A student is entitled to an informal hearing when faced with an out-of-school suspension of 10 days or less. At this hearing, the principal must explain why the student is being suspended, and the student must be given the opportunity to present reasons why she/he should not be suspended. However, a student

whose conduct is detrimental to the safety of the school may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures the school must follow when dealing with out-of-school suspensions are outlined in W. Va. Code § 18A-5-1 and § 18A-5-1a and include:

-student may not be suspended from school solely for not attending class.

Due Process

LAWS

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

(e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time and place of the hearing.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen [§ 61-2-15], article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a [§ 61-7-11a], article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one [§ 60A-1-101], article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a [§§ 60A-1-101 et seq.] of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or

other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The student and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the student as to whether he or she admits or denies the charges. If the student does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the student for a maximum of ten school days, including the time prior to the hearing, if any, for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one [§ 18A-1-1], article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the student should be reinstated or should, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the

student but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the student reinstated immediately at the end of his or her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one [§ 29A-5-1], article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A student remains under suspension until after the hearing in any case where a postponement occurs.

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the

student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

- (A) The extent of the student's malicious intent;
- (B) The outcome of the student's misconduct;
- (C) The student's past behavior history;
- (D) The likelihood of the student's repeated misconduct; and
- (E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U. S. C. §§ 1400, et seq.

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six [§ 18-2-26], article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f [§ 18-5-15f], article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

(m) Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the state board.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

(o) For the purpose of this section, principal means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

§18A-5-1b. Alternative procedures for expulsion hearings by county boards.

The county boards may employ a hearing examiner to conduct the expulsion hearings required by this article. The hearing examiner shall be an attorney, duly licensed to practice law in the State of West Virginia and shall not be employed by the State or county boards for any other reason.

The hearing examiner shall conduct hearings in compliance with the guidelines of section one-a [§ 18A-5-1a] of this article. All hearings shall be recorded by mechanical means, unless recorded by a certified court reporter. The hearing examiner shall issue a decision and written findings of fact and conclusions of law within five days of the conclusion of the hearing. Hearings by a hearing examiner shall have the same

force and effect as a decision made by a county board. Upon the written request of a parent, guardian, or custodian of the student, or the county superintendent, the county board shall review the decision of the hearing examiner. Within ten calendar days from the date of the request of the review, the county board shall enter an order affirming, reversing, or modifying the decision of the hearing examiner. A county board may, in its own discretion, hold a hearing to determine any issues in question.

The authority of the county superintendent shall be the same as contained in section one-a of this article.

REGULATIONS

§126-81-4. Definitions.

4.3.c.6. The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in W. Va. Code §50-1-8, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days advance notice of the date, time, and place of the hearing.

§126-81-5. Responsibilities.

5.2.c. County school systems are responsible for:

5.2.c.4. developing an attendance appeal process for students and parents/guardians/ custodians.

§126-99-5. Severability.

A student is entitled to an informal hearing when faced with an out-of-school suspension of 10 days or less. At this hearing, the principal must explain why the student is being suspended, and the student must be given the opportunity to present reasons why she/he should not be suspended. However, a student whose conduct is detrimental to the safety of the school may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures the school must follow when dealing with out-of-school suspensions are outlined in W. Va. Code § 18A-5-1 and § 18A-5-1a and include:

- parent or guardian must be notified promptly in all cases of suspension;
- county superintendent or designee must be notified, preferably in writing, of the time and conditions pertaining to the suspension;
- student may not participate in any school-sponsored activities and is not permitted on school grounds during the period of suspension; or
- student may not be suspended from school solely for not attending class.

An out-of-school suspension of more than 10 days requires a formal hearing before the county board of education. The school and county must adhere to the following procedures as outlined in W. Va. Code § 18A-5-1 and § 18A-5-1a when dealing with suspensions of more than 10 days:

- parents or guardian must be informed in writing of the charges against their child, including a summary of the evidence upon which the charges are based;
- upon the student's parent or guardian's request, a formal hearing must be scheduled before the county board of education;
- students are entitled to be represented or advised during the proceedings by a person or persons of their choosing, including legal counsel; and
- students are entitled to be given reasonable time to prepare for the hearing.

Return to School Following Removal

LAWS

§18-5-15f. Affirmation regarding the suspension or expulsion of a pupil from school.

(d) Notwithstanding any other provision of this code to the contrary, any pupil who has been suspended or expelled from school pursuant to section one-a [§ 18A-5-1a], article five, chapter eighteen-a of this code, or who has been suspended or expelled from a public or private school in another state, due to actions described in section one-a, article five, chapter eighteen-a of this code, may not be admitted to any public school within the State of West Virginia until the period of suspension or expulsion has expired.

§18-8-8. Child suspended for failure to comply with requirements and regulations treated as unlawfully absent.

If a child be suspended from school because of improper conduct or refusal of such child to comply with the requirements of the school, the school shall immediately notify the county superintendent of such suspension, and specify the time or conditions of such suspension. Further admission of the child to school may be refused until such requirements and regulations be complied with. Any such child shall be treated by the school as being unlawfully absent from the school during the time he refuses to comply with such requirements and regulations, and any person having legal or actual control of such child shall be liable to prosecution under the provisions of this article for the absence of such child from school: Provided, That the county board of education does not exclude or expel the suspended child from school.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher, may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

§18A-5-1d. Return to school through Juvenile Drug Court for certain students.

(c)(3) The student assistance team shall evaluate and recommend whether the student's expulsion period should be reduced, and the student reinstated in school.

(4) The student assistance team's recommendation shall be presented to the superintendent, who shall make the final determination. The superintendent shall prepare a statement detailing reasons for or against school reinstatement and submit the statement to the county board. If the superintendent determines to reduce the expulsion period, he or she shall submit the statement required by §18A-5-1a(i) of this code and place the student in an appropriate school within the district.

(5) A student to be reinstated shall be permitted to return to school no later than the 10th regular school day following notice by the court to the superintendent regarding the student's successful completion or satisfactory progress toward successful completion of Juvenile Drug Court.

REGULATIONS

§126-99-5. Severability.

The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent or guardian.

When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent or guardian of the student have held a conference to discuss the student's disruptive behavior patterns and agree on a course of action. If they are not present at the conference then the parent or guardian must be notified of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. [...]

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent or guardian.

When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent or guardian of the student have held a conference to discuss the student's disruptive behavior patterns and agree on a course of action. If they are not present at the conference then the parent or guardian must be notified of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting.

Alternative Placements

LAWS

§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.

(d) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure.

(1) This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation.

(2) This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

(e) The state board shall establish up to five pilot projects at the elementary or middle school levels, or both, that employ alternative schools or other placements for disruptive students to learn appropriate behaviors so they can return to the regular classroom without further disrupting the learning environment. The state board shall report to the Legislative Oversight Commission on Education Accountability by December 1, 2010, on its progress in establishing the pilot projects and by December 1 in each year after that for the duration of the pilot projects on the effect of the projects on maintaining student discipline.

(f) If a student attends an approved alternative education program or the Mountaineer Challenge Academy, which is designated as a special alternative education program pursuant to §15-1B-24 of this code, and the student graduates or passes the high school equivalency tests within five years of beginning ninth grade, that student shall be considered graduated for the purposes of calculating the high school graduation rate used for school accreditation and school system approval, subject to the following:

(1) The student shall be considered graduated only to the extent that this is not in conflict with any provision of federal law relating to graduation rates;

(2) If the state board determines that this is in conflict with a provision of federal law relating to graduation rates, the state board shall request a waiver from the United States Department of Education; and

(3) If the waiver is granted, notwithstanding the provisions of §18-2-6(f)(1) of this code, the student graduating or passing the high school equivalency tests within five years shall be considered graduated.

(g) The state board shall promulgate a rule to support the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the Mountaineer Challenge Academy which is designated as a special alternative education program pursuant to §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school structure. The rule shall set forth policies and procedures applicable only to the Mountaineer Challenge Academy that provide for, but are not limited to, the following:

(1) Implementation of provisions set forth in §15-1B-24 of this code;

(2) Precedence of the policies and procedures designated by the National Guard Bureau for the operation of the Mountaineer Challenge Academy special alternative education program;

(3) Consideration of a student participating in the Mountaineer Challenge Academy special alternative education program at full enrollment status in the referring county for the purposes of funding and calculating attendance and graduation rates, subject to the following:

(A) The student shall be considered at full enrollment status only for the purposes of calculating attendance and graduation rates to the extent that this is not in conflict with any provision of federal law relating to attendance or graduation rates;

(B) If the state board determines that this is in conflict with a provision of federal law relating to attendance or graduation rates, the state board shall request a waiver from the United States Department of Education;

(C) If the waiver is granted, notwithstanding the provisions of §18-2-6(g)(3)(A) of this code, the student shall be considered at full enrollment status in the referring county for the purposes of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose, a student participating in the academy is considered withdrawn from the public school system;

(4) Articulation of the knowledge, skills, and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or may attain the standards for graduation without duplication;

(5) Consideration of eligibility to take the high school equivalency tests by qualifying within the extraordinary circumstances provisions established by state board rule for a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility; and

(6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each student graduating from the academy with a high school diploma that resides in that county board's school district. For purposes of this subdivision, "tuition" means an amount equal to 75 percent of the amount allotted per pupil under the school aid formula.

(h) Nothing in this section or the rules promulgated under this section compels the Mountaineer Challenge Academy to be operated as a special alternative education program or to be subject to any other laws governing the public schools except by its consent.

(i) The Legislature makes the following findings regarding students at risk:

(1) Defeated and discouraged learners. -

(A) Any child who is unlikely to graduate on schedule with both the skills and self-esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs, and personal relationships may be defined as being an at-risk student;

(B) Problems associated with students at risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing, and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, inattentiveness, negative attitudes, and acting out in class. These patterns are both symptoms of and added catalysts for students to become increasingly defeated and discouraged learners;

(D) By the middle grades, students with growing skill deficits usually know they are behind other students and have good reason to feel discouraged. A growing lack of self-confidence and self-worth, limited optimism for the future, avoidance of school and adults, and a dimming view of the relationship between effort and achievement are among the characteristics of defeated and discouraged learners;

(E) Public schools are expected to address the needs of all students, minimizing the likelihood that they will become at risk and giving additional attention to those who do; however, the circumstances involved with a becoming at risk often are complex and may include influences both within and outside of the school environment; and

(F) In fragile homes, a child who is at risk and is becoming a discouraged and defeated learner often lacks adequate support and may develop peer relationships that further exacerbate the difficulty of reengaging him or her in learning, school, and responsible social behavior.

(2) The Legislature further finds that the public schools should not be deterred from seeking and assisting with enrollment of students in an alternative program that helps remedy the discouragement, lessens skill deficits, and facilitates a successful return to public school.

(j) For this purpose, subject to approval of the county superintendent, a student enrolled in the public schools of the county may continue to be enrolled while also enrolled in an alternative program subject to the following conditions:

(1) The alternative program is approved by the state board;

(2) The student meets the general description of an at-risk student and exhibits behaviors and characteristics associated with a discouraged and defeated learner;

(3) The alternative program complies with all requests of the county superintendent for information on the educational program and progress of the student;

(4) The alternative program includes a family involvement component in its program. This component shall include, but is not limited to, providing for student and parent participation in activities that help address the challenging issues that have hindered the student's engagement and progress in learning;

(5) The alternative program includes an on-site boarding option for students;

(6) The alternative program provides an individualized education program for students that is designed to prepare them for a successful transition back into the public schools; and

(7) The parents or legal guardian of the student make application for enrollment of the student in the alternative program, agree to the terms and conditions for enrollment, and enroll the student in the program.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher, may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior. [...]

(e)The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

§18A-5-1c. Bill of rights and responsibilities for students and school personnel.

(a) The Legislature finds that:

- (1) The mission of public schools is to prepare students for equal and responsible citizenship and productive adulthood;
- (2) Democratic citizenship and productive adulthood begin with standards of conduct in schools;
- (3) Schools should be safe havens for learning with high standards of conduct for students; and
- (4) Rights necessarily carry responsibilities.

(b) In recognition of the findings in this section, the following Bill of Rights and Responsibilities for Students and School Personnel is established:

- (3) The right to learn and work in a school that has alternative educational placements for violent or chronically disruptive students.

REGULATIONS

§126-42-7. County board of education responsibilities.

7.1.f. Alternate Delivery of Education Programs. The school shall follow county policies and procedures when providing for alternative delivery of education and service programs for students. A thorough and efficient education must be available to all students, whether they are placed in regular or alternative programs.

§126-81-5. Responsibilities.

5.2. Each county's attendance policy shall address the following components:

5.2.b. County school systems are responsible for:

5.2.b.7. assuring that a student may not be suspended solely for failure to attend class. Other methods of discipline may include, but are not limited to, detention, extra class time, or alternative class settings.

§126-99-5. Severability.

Chapter 4 Procedures for Taking Action on Substantiated Inappropriate Behaviors

Section 1. Interventions and Consequences of Inappropriate Behavior

When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent or guardian of the student have held a conference to discuss the student's disruptive behavior patterns and agree on a course of action. If they are not present at the conference then the parent or guardian must be notified of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. [...]

Chapter 5 Alternative Education Requirements for Disruptive Students

W. Va. Code § 18-5-19 provides for the creation of alternative education programs to allow for the provision of a free and appropriate education to students whose disruptive behavior has caused them to be removed from the regular classroom/school setting. Nothing in this manual precludes county boards of education from operating alternative education programs for non-disruptive students. The guidelines in this manual apply solely to alternative education programs for disruptive students. The State Superintendent of School's approval of the county alternative education policies and procedures is required for authorization to operate an alternative education program under these regulations.

Alternative education program is a temporarily authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions. These programs provide a safe and orderly learning environment for the education of all students in West Virginia public schools and meet the educational needs of disruptive students.

Alternative education programs for disruptive students encompass a range of program options such as:

- . in-school suspension;
- . a separate part-time or full-time alternative education classroom;
- . a school-within-a-school;
- . a school at an alternative site;
- . an afterschool class/night school program; or
- . a combination academic/work-based program.

County boards of education shall have flexibility in developing the type or types of alternative education program options needed to meet the needs of disruptive students in the county. County boards of education may request a waiver of State Board of Education policies and regulations in the development and operation of alternative education programs. Such a waiver request does not have to be submitted in accordance with the procedures for requesting waivers stipulated under W. Va. Code § 18-5A-3, but may be submitted directly to the State Superintendent of Schools.

Program flexibility does not extend to modifying the provisions of Policy 2419 in providing alternative education programs for students with exceptionalities or Section 504 of the Rehabilitation Act of 1973.

Section 1. Policies and Procedure County boards of education policies and procedures shall include, but are not limited to the:

- . goals of the program;
- . eligibility criteria and process for placement of students in the program as determined by Student Assistance Team as defined by W. Va. 126CSR42, WVBE Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510);

- . involvement of parent or guardian and community agencies;
- . length and time of day the after-hours/night school program operates, if applicable;
- . plan for awarding of grades and/or credits;
- . behavioral management plan as an alternative to the county's discipline policy, if applicable;
- . staffing plan, personnel qualifications, and class size limits;
- . criteria for completion of the alternative education program or re-entry into general education; and
- . performance measures and process for program evaluation.

Section 2. Eligibility and Placement A student may be placed in alternative education programs for:

- . violations of the W. Va. Code § 18A-5-1a;
- . repeated violations of the county's discipline policy following documented multiple behavioral interventions by the Student Assistance Team at the referring school; or
- . continuation of educational services during periods of suspension.

A student who has been expelled must be placed in an alternative education program unless found to be a "dangerous student" under the procedures set forth in W. Va. Code § 18A-5-1a.

A student who has been suspended or expelled from a public or private school in West Virginia or another state, currently residing within the county, may not be denied enrollment unless determined to be a "dangerous student" under the procedures set forth in W. Va. Code § 18A-5-1a.

Upon placement, the Student Assistant Team shall develop a student's written plan which includes academic courses and behavioral components, criteria for re-entry to the regular school program, and provisions for periodic review of the student's progress at least on an annual basis. The team for all students with disabilities shall be the IEP team and the written plan shall be the IEP.

Section 3. County Alternative Education Requirements Curriculum. The curriculum will be based upon state-approved standards and include a component for teaching responsible behavior in a climate/culture conducive to teaching and learning.

Instruction. The instruction shall be personalized in a developmentally and age appropriate delivery.

Units of Credit. Units of credit are granted based upon proficiency of state-approved content standards.

Program Completion. A student may complete an alternative education program in one of the following manners:

- . fulfillment of the criteria for re-entry into the referral school;
- . completion of high school graduation requirements and awarding of a high school diploma from the referral school; or
- . completion of a high school equivalency exam in accordance with W. Va. 126CSR32, WVBE Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma and Option Pathway.

State Assessment. A student shall participate in the appropriate assessment according to W. Va. 126CSR14, WVBE Policy 2340, West Virginia Measures of Academic Progress Program. The test scores for these students shall be counted in the results of the referral school.

Support Services. A student shall receive counseling and/or other support services as indicated in the student's written plan.

Special Education. A student's IEP shall comply with applicable state and federal laws and regulations.

Licensure. A teacher assigned to deliver the state-approved content standards within an alternative education program must possess a West Virginia professional teaching certificate in any area. A Temporary Authorization valid for one year shall be granted to the successful candidate for the alternative education program position. The employing county superintendent must verify that the applicant

possesses the required competencies. The Temporary Authorization may be renewed each year based on the applicant's continued employment in an alternative education program.

Personnel Selection Criteria. A certified classroom teacher shall be selected on the basis of the teacher's demonstration of competence in meeting the following standards:

- . ability to effect positive behavior in disruptive students;
- . effective leadership and/or mentoring skills in working with youth;
- . successful experience in providing education to troubled or disruptive youth;
- . specialized training or experience in non-traditional programs; and
- . specialized training in behavior management skills.

Section 4. Optional Alternative Education Settings Day-School Programs. Absent expulsion, a student attending an alternative education day school program shall have the opportunity to receive a full-time instructional program and full instructional day.

After-Hours/Night School Classes. County boards of education are authorized to provide alternative education programs after regular school hours for expelled students and for students who have repeated serious violations of the county's discipline policy following documented multiple behavioral interventions and out-of-school suspensions. After-hour/night school programs shall include the provision of academic coursework and development of social skills/and appropriate behavior. Unless otherwise required by law, regulation, or court order, transportation services for such programs are at the discretion of the county board of education.

Home-Based Programs for Disruptive Students. County boards of education may provide home-based programs solely for students expelled under the Productive and Safe Schools Act (W. Va. Code § 18A-5-1a) or for disruptive students who meet the eligibility criteria for home/hospital instruction under Policy 2510.

Program Evaluation. County boards of education shall conduct an annual evaluation of the effectiveness of the programs. The evaluation shall focus upon the impact on student performance and results using indicators such as:

- . academic gains;
- . reduction in dropout rates;
- . reduction in incidences requiring disciplinary action;
- . improvement in attendance rates;
- . rates of successful program completion and return to the regular school program;
- . rates of successful completion of career and technical training programs;
- . rates of successful completion of high school graduation or attainment of a high school equivalency diploma; and
- . rates of successful job placement and job retention.

The WVDE shall review compliance with alternative education requirements and the effectiveness of alternative education programs through monitoring and review of the application received annually. The alternative education program shall be evaluated on the basis of its stated goals and the provisions of this policy.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen [§ 61-2-15], article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a [§ 61-7-11a], article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one [§ 60A-1-101], article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student. [...]

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(A) The extent of the student's malicious intent;

(B) The outcome of the student's misconduct;

(C) The student's past behavior history;

(D) The likelihood of the student's repeated misconduct; and

(E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(b)(1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in § 17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof;

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring. [...]

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of § 61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

§61-7-2. Definitions.

As used in this article, unless the context otherwise requires:

(10) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of "knife" set forth in subdivision (3) of this section, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term "deadly weapon" includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term "deadly weapon" does not include pepper spray as defined in subdivision (9) of this section when used by any person over the age of 16 solely for self-defense purposes.

(12) "Firearm" means any weapon which will expel a projectile by action of an explosion.

REGULATIONS

§126-99-5. Severability.

Level 4: Safe Schools Act Behaviors are defined in W. Va. Code § 18A-5-1 and § 18A-5-1a. These laws require that the principal, county superintendent, and county board of education address Level 4 behaviors in a specific manner as outlined in W. Va. Code § 18A-5-1a and paraphrased in this chapter. W. Va. Code §§ 18A-5-1 and 18A-5-1a require mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than twelve (12) consecutive months by the county board of education for possession of a deadly weapon, battery on a school employee, or sale of a narcotic drug. [...]

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

W. Va. Code § 18A-5-1 and § 18A-5-1a requires mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than twelve consecutive months by the county board of education for: possession of a deadly weapon, battery of a school employee, or sale of a narcotic drug.

Students with Chronic Disciplinary Issues

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher, may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing

in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

§18A-5-1c. Bill of rights and responsibilities for students and school personnel.

(a) The Legislature finds that:

- (1) The mission of public schools is to prepare students for equal and responsible citizenship and productive adulthood;
- (2) Democratic citizenship and productive adulthood begin with standards of conduct in schools;
- (3) Schools should be safe havens for learning with high standards of conduct for students; and
- (4) Rights necessarily carry responsibilities.

(b) In recognition of the findings in this section, the following Bill of Rights and Responsibilities for Students and School Personnel is established:

- (3) The right to learn and work in a school that has alternative educational placements for violent or chronically disruptive students.

REGULATIONS

§126-99-5. Severability.

When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent or guardian of the student have held a conference to discuss the student's disruptive behavior patterns and agree on a course of action. If they are not present at the conference then the parent or guardian must be notified of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting.

Chronic Absenteeism and Truancy

LAWS

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

- (1) Ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article;
- (2) Take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so;
- (3) For the purposes of this article, the following definitions apply:
 - (A) "Excused absence" includes:
 - (i) Personal illness or injury of the student;

- (ii) Personal illness or injury of the student's parent, guardian, custodian, or family member: Provided, That the excuse must provide a reasonable explanation for why the student's absence was necessary and caused by the illness or injury in the family;
- (iii) Medical or dental appointment with written excuse from physician or dentist;
- (iv) Chronic medical condition or disability that impacts attendance;
- (v) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;
- (vi) Calamity, such as a fire or flood;
- (vii) Death in the family;
- (viii) School-approved or county-approved curricular or extra-curricular activities;
- (ix) Judicial obligation or court appearance involving the student;
- (x) Military requirement for students enlisted or enlisting in the military;
- (xi) Personal or academic circumstances approved by the principal; and
- (xii) Such other situations as may be further determined by the county board: Provided, That absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith; and

(B) "Unexcused absence" means any absence not specifically included in the definition of "excused absence"; and

(4) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, assistant, or principal shall make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant or principal shall again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time and place of the hearing.

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director and assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

- (1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;
- (2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;
- (3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;
- (4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 et seq. of this code that set forth student absences that are excluded for accountability purposes. The absences that are excluded by rule shall include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;
- (5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;
- (6) Participate in school teachers' conferences with parents and students;
- (7) Assist in such other ways as the county superintendent may direct for improving school attendance;
- (8) Make home visits of students who have excessive unexcused absences, as provided in subsection-a of this section, or if requested by the chief administrator, principal or assistant principal; and
- (9) Serve as the liaison for homeless children and youth.

§18-8-5. Duties of principal, administrative head or other chief administrator.

It shall be the duty of the principal, administrative head or other chief administrator of each school, whether public or private, to make prompt reports to the county attendance director, or proper assistant, of all cases of unexcused absences arising within the school which require the services of an attendance worker. Such reports shall be on the form prescribed for such purpose, by telephone, or in person, and shall include essential information about the child and the name and residence of any parent, guardian or custodian of a child.

It shall also be the duty of each principal, administrative head or other chief administrator of each public school to ascertain the report promptly the name of any parent, guardian or custodian of any child of

compulsory school age as defined in this article who was or should be enrolled in the school reporting and who has not enrolled in any school that year. By way of ascertaining the status of school attendance, each principal, administrative head or other chief administrator shall compare the school census with the school enrollment at the opening of the school term and each month thereafter, or as directed by the county superintendent of schools, and report the same to the county attendance director: Provided, That any child who was or should be enrolled in a particular school, but who is at the time enrolled in another school shall be considered as attending the school in which enrolled and shall be included only in the report of attendance from the school in which the child is enrolled at the time.

If the principal, administrative head or other chief administrator of a school determines that an enrolled pupil has accumulated unexcused absences from attendance at such school for five instructional days during any one half of the instructional term, the principal, administrative head or other chief administrator shall contact any parent, guardian or custodian of the pupil and shall hold a meeting with any person so contacted, and the pupil, and any other person that the administrator deems a relevant participant in such meeting.

§18-8-6a. Incentive for county board participation in circuit court juvenile probation truancy programs.

A county board that enters into a truancy program agreement with the circuit court of the county that (1) provides for the referral of truant juveniles for supervision by the court's probation office pursuant to § 49-4-711 of this code and (2) requires the county board to pay for the costs of the probation officer or officers assigned to supervise truant juveniles, shall be reimbursed for one half of the costs of the probation officer or officers, subject to appropriation of the Legislature for this purpose to the West Virginia Department of Education. For any year in which the funds appropriated are insufficient to cover the reimbursement costs, the county's costs shall be reimbursed pro rata.

§18-8-8. Child suspended for failure to comply with requirements and regulations treated as unlawfully absent.

If a child be suspended from school because of improper conduct or refusal of such child to comply with the requirements of the school, the school shall immediately notify the county superintendent of such suspension, and specify the time or conditions of such suspension. Further admission of the child to school may be refused until such requirements and regulations be complied with. Any such child shall be treated by the school as being unlawfully absent from the school during the time he refuses to comply with such requirements and regulations, and any person having legal or actual control of such child shall be liable to prosecution under the provisions of this article for the absence of such child from school: Provided, That the county board of education does not exclude or expel the suspended child from school.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

REGULATIONS

§126-42-7. County board of education responsibilities.

7.1. Schools shall implement WVBE and county policies as well as county and school procedures to ensure high quality delivery of their education program. In meeting this responsibility, schools shall address the following components of a high quality education program.

7.1.a. Administrative Practices.

7.1.a.6. Implement a system to monitor absences and dropout rates and, when appropriate, developing plans to reduce the student absenteeism and dropout rates.

§126-81-1. General.

1.1. Scope. - This legislative rule establishes guidelines for the development of county attendance policies.

§126-81-2. Rationale.

2.1. The WVBE recognizes that a direct relationship exists between students' daily school attendance and academic performance, graduation, and the development of good work habits. This attendance policy promotes students' daily school attendance. Each county shall be required to develop and implement a county attendance policy in accordance with this policy. Daily attendance is necessary for students to meet their schools' academic program standards as each day's learning builds on the work previously completed. While students and parents/guardians/custodians have the ultimate responsibility for daily school attendance, the laws of West Virginia require school administrators to enforce regular attendance of compulsory school aged students, and to provide a school environment conducive to, and encouraging of, attendance.

§126-81-3. Policy development.

3.2. Allowable Deductions for Schools. Beginning with the 2016-2017 school year, absences that result from school approved curricular/co-curricular activities, failure of the bus to run/hazardous conditions, students not in attendance due to disciplinary measures, and school/county directed placements outside the traditional classroom environment including but not limited to homebound placement and in-school suspension.

§126-81-4. Definitions.

4.1. The WVBE shall encourage daily attendance and mandate that county school systems adequately address student absences including tardiness.

4.2. The WVBE shall define allowable deductions for purposes of state attendance reports and statistics. Schools shall not be held accountable for absences resulting from allowable deductions. These absences shall not be calculated in the school's/county's attendance rate.

4.3. Each county board of education shall:

4.3.a. establish an attendance policy as described in section 6.

4.3.b. employ a certified county director of school attendance as required by W. Va. Code §18-8-3.

4.3.c. support and require the county attendance director to implement and execute the duties as defined in W. Va. Code §18-8-4:

4.3.c.1. The attendance director and assistant director shall diligently promote regular school attendance through meaningful contact. They shall ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age. They shall take such steps as are, in their discretion, best calculated to

encourage the attendance of students and to impart upon the parents/guardians/custodians the importance of attendance and the seriousness of failing to attend school regularly.

4.3.c.2. In the case of three total Unexcused Absences of a student during a school year, the attendance director, assistant director, or principal shall make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending and not incurring any additional Unexcused Absences.

4.3.c.3. In the case of five total Unexcused Absences, the attendance director or assistant director or principal shall again make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending school and not incurring any additional Unexcused Absences.

4.3.c.4. In the case of 10 total Unexcused Absences of a student during a school year, the attendance director or assistant director may make complaint against the parent/guardian/custodian before a magistrate of the county. If it appears from the complaint that there is a probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent/guardian/custodian may be charged in a complaint. Initial service of the summons or warrant issued pursuant to the provisions of W. Va. Code §18-8-4 shall be attempted within 10 calendar days of the receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

4.3.c.5. When calculating Unexcused Absences for the purpose of making complaints against a parent/guardian/custodian before a magistrate, Unexcused Absences resulting from suspensions or expulsions from school shall not be considered.

4.3.c.6. The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in W. Va. Code §50-1-8, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days advance notice of the date, time, and place of the hearing.

4.3.c.7. When any doubt exists as to the age of a student absent from school, the attendance director or assistant director has authority to require a properly attested birth certificate or an affidavit from the parent/guardian/custodian of the student, stating age of the student. In the performance of their duties, the attendance director or assistant director has authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which the student is or should be enrolled.

4.3.c.8. All attendance directors and assistant directors hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the superintendent for efficiently administering school attendance in the county.

4.3.c.9. In addition to those duties directly relating to the administration of attendance, the attendance director and assistant director shall:

4.3.c.9.A. assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

4.3.c.9.B. confer with principals and teachers on the comparison of school census and enrollment for the detection of possible non-enrollees;

- 4.3.c.9.C. cooperate with existing state and federal agencies charged with enforcing child labor laws;
 - 4.3.c.9.D. promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through media, or in such manner as the superintendent may direct;
 - 4.3.c.9.E. participate in teachers' conferences with parents/guardians/custodians and students;
 - 4.3.c.9.F. assist in such other ways as the superintendent may direct for improving school attendance; and
 - 4.3.c.9.G. make home visits of students who have excessive Unexcused Absences or if requested by the chief administrator, principal, or assistant principal.
- 4.3.c.10. The attendance director shall serve as the liaison for homeless children and youth as defined in W. Va. Code §18-8-4 and defined in McKinney-Vento Act. The attendance director shall:
- 4.3.c.10.A. ensure that public notice of the educational rights of students in homeless situations is disseminated where children and youth receive services;
 - 4.3.c.10.B. ensure that parents/guardians/custodians are informed of educational and related opportunities available to their children, and are provided with meaningful opportunities to participate in the education of their children;
 - 4.3.c.10.C. ensure that parents/guardians/custodians are informed of, and assisted in accessing, all transportation services for their children, including to the school of origin;
 - 4.3.c.10.D. help unaccompanied youth choose and enroll in a school, after considering the youth's wishes, and provide the youth with notice of the right to appeal the county's decision;
 - 4.3.c.10.E. immediately assist in obtaining immunizations or record of immunizations or other medical records for those students who do not have them, and assure that students are enrolled in school while the records are being obtained;
 - 4.3.c.10.F. ensure that homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;
 - 4.3.c.10.G. ensure that homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that county;
 - 4.3.c.10.H. ensure that homeless families, children, and youth receive educational services for which such families, children, and youths are eligible including Head Start and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services; and
 - 4.3.c.10.I. ensure that enrollment disputes are mediated as outlined in Paragraph (3)(E) of the McKinney-Vento Act.
- 4.3.c.11. The attendance director shall file with the superintendent and county board of education, at the close of each month, a report showing activities of the attendance office and the status of attendance in the county at the time due to provisions in W. Va. Code §18-8-4.
- 4.3.d. support and require the principal to implement and execute the duties as defined in W. Va. Code §18-8-5:
- 4.3.d.1. The principal shall compare school numbers with school enrollment monthly.
 - 4.3.d.2. In the case of five total Unexcused Absences, the attendance director or assistant director or principal shall make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending and not incurring any additional Unexcused Absences.

4.3.d.3. It shall be the duty of the principal of each school, whether public or private, to make meaningful contact and provide prompt reports to the attendance director, or proper assistant director, of all cases of Unexcused Absences arising within the school which require the services of an attendance worker.

4.3.d.4. A student whose educational services are guided by an existing SAT Plan, IEP, or Section 504 Plan may warrant special consideration when a pattern of single, multiple, or chronic absences exist. The student's current status should be reviewed by the SAT, IEP, or Section 504 Plan team as deemed appropriate and in accordance with state and federal laws.

4.4. Each parent/guardian/custodian is responsible for fully cooperating in and completing the enrollment process by providing:

4.4.a. immunization documentation (W. Va. Code §16-3-4),

4.4.b. copy of a certified birth certificate or affidavit (W. Va. Code §18-2-5c),

4.4.c. signed suspension and expulsion document (W. Va. Code §18-5-15), and

4.4.d. any other documents required by federal, state, and/or local policies or code.

4.5. Jurisdiction to enforce compulsory school attendance law lies in the county in which a student resides and in the county where the school in which the student is enrolled is located. When the county of residence and enrollment are different, an action to enforce compulsory school attendance may be brought in either county and the magistrates and circuit courts of either county have noncurrent jurisdiction for the trial of offenses arising under W. Va. Code §18-8-4.

4.6. Nothing in this policy is intended to limit the ability of a person having knowledge of a student's habitual absence from school from filing a petition with the circuit court pursuant to W. Va. Code §49-4-704.

§126-81-5. Responsibilities.

5.2. Each county's attendance policy shall address the following components:

5.2.a. a philosophy declaring the county board's intent to increase attendance by:

5.2.a.1. creating a positive safe environment conducive to learning and committed to helping students develop responsibility, self-discipline, and other good work habits.

5.2.a.2. developing a system enlisting parent/guardian/custodian support for daily school attendance by students.

5.2.b. County school systems are responsible for:

5.2.b.1. appointing a designated school attendance coordinator (principal or designee) who collects classroom attendance data and makes appropriate referrals to the attendance director.

5.2.b.2. reporting student attendance information which reflects the allowable deductions as defined by the WVBE.

5.2.b.3. defining excused and unexcused absences in compliance with W. Va. Code §18-8-1 and §18-8-2, and attendance in W. Va. 126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510); provided, however, that no county may require more than a parent/guardian/custodian excuse for absences resulting from a documented chronic medical condition or a documented disability as defined in section 3.10.e and section 3.10.g.

5.2.b.4. defining extenuating circumstances for absences which may require homebound/ hospital instruction as outlined in Policy 2510.

5.2.b.5. setting reasonable preventive measures and consequences for student tardiness.

5.2.b.6. ensuring that the county attendance policy will be posted on the county school system's website and readily available to the public.

5.2.b.7. assuring that a student may not be suspended solely for failure to attend class. Other methods of discipline may include, but are not limited to, detention, extra class time, or alternative class settings.

5.2.b.8. reporting all school dropouts to the WVDE.

5.2.c. County school systems are responsible for:

5.2.c.1. developing a process to notify students and their parents/guardians/custodians of the county attendance policy and their responsibility and accountability for regular school attendance.

5.2.c.2. developing, implementing, and monitoring procedures and reasonable timelines requiring students with Excused and Unexcused Absences and to make up school work.

5.2.c.3. requiring a student maintain satisfactory attendance (satisfactory being defined as no Unexcused Absences) during one complete semester following the revocation of the student's driver's license.

5.2.c.4. developing an attendance appeal process for students and parents/guardians/ custodians.

5.2.d. Maintenance of Records: Accurate attendance records and related documentation shall be maintained for every student enrolled in public school.

5.2.d.1. An up-to-date daily record of attendance for every student shall be maintained.

5.2.d.2. There shall be written procedures for: 1) notifying parents/guardians/custodians about absences; 2) monitoring absences; and 3) notifying the attendance director of an Unexcused Absence.

5.2.d.3. Students who are physically absent from school must be documented as absent. This record may become a legal document.

5.2.e. Preventive and Corrective Measures: To meet the developmental needs of students, preventive and corrective measures should include developing:

5.2.e.1. preventive and educational procedures including incentives to maintain and improve attendance and reduce tardiness.

5.2.e.2. procedures for notification of parents/guardians/custodians of absences and procedures for securing parent/guardian/custodian involvement to improve student attendance.

5.2.e.3. procedures for providing adequate counseling for issues related to attendance.

5.2.e.4. procedures for interagency involvement.

5.2.e.5. alternative plans and programs that are positive in nature and encourage improved school attendance.

5.2.e.6. assurances that students with a pattern of excessive absenteeism are referred to appropriate SAT/programs (Policy 2510) for appropriate intervention(s), and that these interventions have been reviewed to determine effectiveness.

§126-81-6. County attendance policy components.

6.1. If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.

§126-81-7. Severability.

7.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

Substance Use

LAWS

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen [§ 61-2-15], article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a [§ 61-7-11a], article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one [§ 60A-1-101], article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a [§§ 60A-1-101 et seq.] of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

REGULATIONS

§126-99-5. Severability.

Appendix B: Sample Interventions and Consequences Interventions

The selection of appropriate interventions and consequences for substance abuse must be considered very carefully depending upon the severity of the behavior and potential safety concern for others in the school. The first action must be to conference with the parent or guardian and appropriate law enforcement representatives in an effort to direct the student to appropriate addiction services. Referral to tobacco cessation services/treatment and substance abuse treatment services shall be a priority intervention strategy for these behaviors.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

§126-99-5. Severability.

Appendix A: Behaviors and Definitions

Gang-Related Activity

Using violence, force, coercion, threat of violence or gang activity that causes disruption or obstruction to the educational process. Gangs are defined as organized groups of students and/or adults who engage in activities that threaten the safety of the general populace, compromise the general community order, and/or interfere with the school district's educational mission. Gang activity includes:

- . Wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member or otherwise symbolizes support of a gang.
- . Using any word, phrase, written symbol, or gesture that intentionally identifies a student as a member, or otherwise symbolizes support of a gang.
- . Gathering of two or more persons for purposes of engaging in activities or discussions promoting gangs.
- . Recruiting student(s) for gangs.

Bullying, Harassment, or Hazing

LAWS

§18-2-33. Rules for antihazing.

(a) The Legislature hereby finds that hazing has become a problem in a limited number of public school-sponsored student organizations and that legal liability has already resulted from some of those activities. It is the intent of this section that problems with hazing in public school-sponsored student organizations be addressed.

(b) The State Board shall promulgate legislative rules in accordance with article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code that addresses hazing in the public school system. The rules shall include at least the following:

- (1) A definition of hazing;

- (2) A definition of a public school-sponsored student organization that includes both cocurricular and extracurricular activities;
- (3) A method to advise students and employees of the problems associated with hazing;
- (4) Appropriate penalties or procedures for establishing penalties for students who haze while engaged in the activities of a public school-sponsored student organization; and
- (5) Methods to prevent hazing in public school-sponsored organizations.

(c) The State Board shall consider the antihazing law set forth in article sixteen [§§ 18-16-1 et seq.], chapter eighteen in drafting the rules required by this section.

(d) Nothing in this section or in the policy promulgated in accordance with this section may be construed to prevent a suspension or expulsion executed in accordance with section one-a [§ 18A-5-1a], article five, chapter eighteen-a of this code.

§18-2C-1. Legislative findings.

The Legislature finds that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe, nonthreatening environment.

The Legislature further finds that students learn by example. The Legislature charges school administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

§18-2C-2. Definitions.

(a) As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

(1) A reasonable person under the circumstances should know will have the effect of any one or more of the following:

- (A) Physically harming a student;
- (B) Damaging a student's property;
- (C) Placing a student in reasonable fear of harm to his or her person; or
- (D) Placing a student in reasonable fear of damage to his or her property;

(2) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or

(3) Disrupts or interferes with the orderly operation of the school.

(b) As used in this article, an electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(a) Each county board shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

(b) Each county board policy shall, at a minimum, include the following components:

- (1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events;
 - (2) A definition of harassment, intimidation or bullying no less inclusive than that in section two [§ 18-2C-2] of this article;
 - (3) A procedure for reporting prohibited incidents;
 - (4) A requirement that school personnel report prohibited incidents of which they are aware;
 - (5) A requirement that parents or guardians of any student involved in an incident prohibited pursuant to this article be notified;
 - (6) A procedure for documenting any prohibited incident that is reported;
 - (7) A procedure for responding to and investigating any reported incident;
 - (8) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;
 - (9) A disciplinary procedure for any student guilty of harassment, intimidation or bullying;
 - (10) A requirement that any information relating to a reported incident is confidential, and exempt from disclosure under the provisions of chapter twenty-nine-b [§§ 29B-1-1 et seq.] of this code; and
 - (11) A requirement that each county board shall input into the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in section twenty-six [§ 18-2-26], article two of this chapter, and compile an annual report regarding the means of harassment, intimidation or bullying that have been reported to them, and the reasons therefor, if known. The West Virginia Department of Education shall compile the information and report it annually beginning July 1, 2012, to the Legislative Oversight Committee on Education Accountability.
- (c) Each county board shall adopt the policy and submit a copy to the State Superintendent of Schools by December 1, 2011.
- (d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, 2011.
- (e) Notice of the county board's policy shall appear in any student handbook, and in any county board publication that sets forth the comprehensive rules, procedures and standards of conduct for the school.

§18-2C-4. Immunity.

A school employee, student or volunteer is individually immune from a cause of action for damages arising from reporting said incident, if that person:

- (1) In good faith promptly reports an incident of harassment, intimidation or bullying;
- (2) Makes the report to the appropriate school official as designated by policy; and
- (3) Makes the report in compliance with the procedures as specified in policy.

§18-2C-5. Policy training and education.

- (a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.
- (b) To the extent state or federal funds are appropriated for these purposes, each school district shall:
 - (1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and
 - (2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program.

§18-2C-6. Liability.

Except as provided in section four [§ 18-2C-4] of this article, nothing in this article prohibits a victim from seeking redress under any other provision of civil or criminal law.

§18A-5-1c. Bill of rights and responsibilities for students and school personnel.

(b) In recognition of the findings in this section, the following Bill of Rights and Responsibilities for Students and School Personnel is established:

(5) The right to attend a school and ride on a bus that is free from bullying.

§49-4-717. Sexting educational diversion program; requirements.

(b) The West Virginia Supreme Court of Appeals may develop an educational diversion program for minors who are accused of activity proscribed by article eight-a or eight-c, chapter sixty-one of this code. As a part of any specialized educational diversion program so developed, the following issues and topics should be included:

(1) The legal consequences of and penalties for sharing sexually suggestive or explicit materials, including applicable federal and state statutes;

(2) The nonlegal consequences of sharing sexually suggestive or explicit materials including, but not limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities;

(3) How the unique characteristics of cyberspace and the Internet, including searchability, replicability and an infinite audience, can produce long-term and unforeseen consequences for sharing sexually suggestive or explicit materials; and

(4) The connection between bullying and cyber-bullying and minors sharing sexually suggestive or explicit materials.

REGULATIONS

§126-99-5. Severability.

Section 1. Addressing Inappropriate Behavior with Meaningful Interventions and Consequences The purpose of this policy is to provide schools with guidance that creates and ensures an orderly and safe environment that is conducive to teaching and learning. Inappropriate behaviors include but are not limited to harassment, intimidation, bullying, substance abuse, and/or violence. All interventions and consequences are in effect on all school property and at all school-sanctioned events, including extracurricular activities. Each county will implement proactive, preventative, and responsive programs, outline investigatory and reporting procedures, and delineate meaningful interventions and consequences in response to inappropriate behavior.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§18-2-13. Character education integration.

(d) The state board shall assist county boards in developing in-service training regarding integrated character education as provided in this section.

(e) The State Department of Education is encouraged to utilize any existing moneys available to the department for existing character development programs, along with any new funds appropriated for the purposes of this section, to secure the maximum amount of any federal funding available for which the state department is eligible to receive for implementing character development in the schools.

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, 2011.

§18-9F-9. Crisis Response Plan.

(a) The state board in conjunction with the Division of Homeland Security and Emergency Management shall promulgate by December 31, 2011, a legislative rule in accordance with article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of an up-to-date, school specific crisis response plan at every school in the state. In developing the rule, the state board shall consider plans currently being developed as part of the safe schools initiative currently underway by the School Building Authority and the Division of Homeland Security and Emergency Management. In addition, those portions of a school's access safety plan created pursuant to section three [§ 18-9F-3] of this article may be used as a portion of the school's school specific crisis response plan if there are any overlapping requirements. The rule shall provide for at least the following:

(1) A model school crisis response plan for use by each school in the state, including a uniform template which shall be used by each school to file the plan, including at least the following information, in a secure electronic system identified by the Division of Homeland Security and Emergency Management:

(F) Policies and procedures for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

§126-67-3. Comprehensive school counseling program description.

3.1. The CSCP is an integral part of the total school program and is aligned with the school's mission. The CSCP is a proactive, systemic approach to assist students with the acquisition of attitudes, knowledge, skills, and behaviors necessary to maximize student success and preparation for a variety of postsecondary options. The CSCP provides universal prevention for all students, targeted interventions for at-risk students, and intensive interventions for the most at-risk students. The CSCP is standards-based and designed to developmentally and sequentially address the WVSSS within each programmatic level. The CSCP utilizes school and community data to identify student needs in relation to the CSCP and to set annual priorities for the WVSSS. A certified school counselor, in collaboration with school and community stakeholders, will develop an Annual CSCP Plan in order to coordinate and implement a CSCP designed to address student needs. The CSCP contains four distinct delivery systems.

§126-67-4. Counties board responsibilities.

4.1. Each county board of education shall ensure that the CSCP:

4.1.e. is aligned with the West Virginia School Counseling Model, a three-tiered system of student support that provides universal prevention, targeted interventions, and intensive interventions.

§126-67-5. Delivery components of comprehensive school counseling program.

5.1. This section defines components of a standards-focused and evidence-based CSCP to be addressed by county policy and monitored by county and school leadership. Delivery components include:

5.1.c. Responsive Services are provided when events and situations in students' lives or in the school climate and culture impedes student success. Responsive services offer preventive activities and programs to address the identified needs of students in each school, as well as evidence-based interventions to address targeted student needs. The services include working with at-risk students to provide the help and support needed to ensure grade level success. Usually short-term in nature, responsive services include individual and small group counseling, academic and behavior intervention plans, crisis prevention and response, consultation with parents/guardians and other school staff, and referrals to school and community resources. Some students may require an immediate and expert response to assist with an academic, emotional, or behavioral crisis. In cases where students require ongoing support or therapy, the counselor makes appropriate referrals and works with families to secure appropriate resources within the school or community. Schools identify who will coordinate and follow-up on each referral. The school counselor collaborates with stakeholders to create a school-wide, prevention-based approach to individual and school crises and has a crisis plan in place to address the mental health component of common school-wide crises. The school crisis team educates other stakeholders to assist with school-wide crisis preparedness, prevention, intervention, and response, outlining responsibilities and best practices in the school crisis planning and response.

Prevention

LAWS

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary

actions. These policies shall encourage the use of alternatives to discipline practices,, provide for the training of school personnel in alternatives to discipline practices and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in- service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

REGULATIONS

§126-99-2. Purpose.

2.1. The West Virginia Board of Education (WVBE) recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. Public schools should undertake proactive, preventive approaches to ensure a positive school climate and culture that fosters learning and personal-social development. This rule requires county boards of education to design and implement procedures to create and support continuous school climate and culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning.

Social-emotional Learning (SEL)

LAWS

§18-2-13. Character education integration.

- (a) The state board shall establish a comprehensive approach to integrate character education into all aspects of school culture, school functions and existing curriculum.
- (b) The state board shall require all public schools that operate from preschool to grade twelve to develop and integrate components of character development into their existing curriculum. The schools may incorporate such programs as "life skills", "responsible students", or any other program encompassing any of the following components:
- (1) Honesty;
 - (2) Caring;
 - (3) Citizenship;
 - (4) Justice;
 - (5) Fairness;

- (6) Respect;
- (7) Responsibility;
- (8) Voting;
- (9) Academic achievement;
- (10) Completing homework assignments;
- (11) Improving daily attendance;

- (12) Avoiding and resolving conflicts;
- (13) Alternatives to violence;
- (14) Contributing to an orderly positive school environment;
- (15) Participating in class;
- (16) Resisting social peer pressures to smoke, drink and use drugs;
- (17) Developing greater self-esteem and self-confidence;
- (18) Effectively coping with social anxiety;
- (19) Increasing knowledge of the immediate consequences of substance abuse;
- (20) Increasing knowledge of the consequences of ones actions;
- (21) The corrupting influence and chance nature of gambling; and
- (22) The value of decent, honest work.

(c) Character education shall be integrated into each public school curriculum by September 1, 2001.

(d) The state board shall assist county boards in developing in-service training regarding integrated character education as provided in this section.

(e) The State Department of Education is encouraged to utilize any existing moneys available to the department for existing character development programs, along with any new funds appropriated for the purposes of this section, to secure the maximum amount of any federal funding available for which the state department is eligible to receive for implementing character development in the schools.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

§126-99-5. Severability.

Section 6. Preventing Child Sexual Abuse

WVDE shall establish standards, effective July 1, 2019, for Preventing Child Sexual Abuse (PCSA) training requirements of all public school employees focused on developing skills, knowledge, and capabilities related to preventing child sexual abuse and recognizing and responding to suspected abuse and neglect.

The required PCSA training shall include comprehensive instruction and information to better equip schools and their employees to recognize and prevent child sexual abuse, including: • recognizing effects of Adverse Childhood Experiences (ACEs) and providing trauma-informed care. Public school employees shall be required to complete a PCSA training beginning July 1, 2019. The training shall be at least a cumulative four hours of instruction on the elements identified in this section and shall occur during non-instructional time. Training will not be assigned during teachers' planning time. A skills renewal training is required every two years thereafter. The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules. The WVBE will provide e-learning modules that cover the required standards and certificates of satisfactory completion. Should the county boards of education choose to provide in-person training, the standards stated above shall be covered, and the county boards of education shall provide the WVBE with a list of employees who have completed the required training. The WVBE shall provide certificates of satisfactory completion for the employee and the employer documenting that the employee completed the required training.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

§126-42-7. County board of education responsibilities.

7.1.h. Health and Psychological Services. School health services are coordinated through the certified school nurse to provide early identification of educational deficits and communicable disease, daily support and care for students with specialized health care needs during the instructional day with linkage, and follow-up care to services as required in W. Va. 126CSR25A, Policy 2422.7, Standards for Basic and Specialized Health Care Procedures (Policy 2422.7), and W. Va. 126CSR51, Policy 2423, Health Promotion and Disease Prevention. Emphasis is placed on preventive services, health promotion, and education to support academic success, reduce absenteeism, and promote lifetime health and wellness.

7.1.h.1. School psychological services facilitate the interpersonal and academic development of all students and foster the social/emotional health and the academic success of students. School psychologists assist teachers and other school personnel with assessment information, academic and behavior intervention plans, and understanding student implications in relation to school performance and safe school considerations.

§126-67-5. Delivery components of comprehensive school counseling program.

5.1. This section defines components of a standards-focused and evidence-based CSCP to be addressed by county policy and monitored by county and school leadership. Delivery components include:

5.1.c. Responsive Services are provided when events and situations in students' lives or in the school climate and culture impedes student success. Responsive services offer preventive activities and programs to address the identified needs of students in each school, as well as evidence-based interventions to address targeted student needs. The services include working with at-risk students to provide the help and support needed to ensure grade level success. Usually short-term in nature, responsive services include individual and small group counseling, academic and behavior intervention plans, crisis prevention and response, consultation with parents/guardians and other school staff, and referrals to school and community resources. Some students may require an immediate and expert response to assist with an academic, emotional, or behavioral crisis. In cases where students require ongoing support or therapy, the counselor makes appropriate referrals and works with families to secure appropriate resources within the school or community. Schools identify who will coordinate and follow-up on each referral. The school counselor collaborates with stakeholders to create a school-wide, prevention-based approach to individual and school crises and has a crisis plan in place to address the mental health component of common school-wide crises. The school crisis team educates other stakeholders to assist with school-wide crisis preparedness, prevention, intervention, and response, outlining responsibilities and best practices in the school crisis planning and response.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(b) Each county board policy shall, at a minimum, include the following components:

- (3) A procedure for reporting prohibited incidents;
- (4) A requirement that school personnel report prohibited incidents of which they are aware;
- (5) A requirement that parents or guardians of any student involved in an incident prohibited pursuant to this article be notified;
- (6) A procedure for documenting any prohibited incident that is reported.

§18-8-5. Duties of principal, administrative head or other chief administrator.

It shall be the duty of the principal, administrative head or other chief administrator of each school, whether public or private, to make prompt reports to the county attendance director, or proper assistant, of all cases of unexcused absences arising within the school which require the services of an attendance worker. Such reports shall be on the form prescribed for such purpose, by telephone, or in person, and shall include essential information about the child and the name and residence of any parent, guardian or custodian of a child.

It shall also be the duty of each principal, administrative head or other chief administrator of each public school to ascertain the report promptly the name of any parent, guardian or custodian of any child of compulsory school age as defined in this article who was or should be enrolled in the school reporting and who has not enrolled in any school that year. By way of ascertaining the status of school attendance, each principal, administrative head or other chief administrator shall compare the school census with the school enrollment at the opening of the school term and each month thereafter, or as directed by the county superintendent of schools, and report the same to the county attendance director: Provided, That any child who was or should be enrolled in a particular school, but who is at the time enrolled in another school shall be considered as attending the school in which enrolled and shall be included only in the report of attendance from the school in which the child is enrolled at the time.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of § 61-7-11a(b) of this code shall report the violation as soon as possible to:

- (1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and
- (2) The appropriate local office of the State Police, county sheriff or municipal police agency.

REGULATIONS

§126-99-5. Severability.

Chapter 3 Procedures for Addressing Allegations of Inappropriate Behaviors

Section 1. Procedures for Reporting Complaints of Inappropriate Behavior School employees are responsible for assuring a safe and supportive school climate and culture. When incidents of inappropriate behavior are witnessed by school staff, the behavior shall be addressed consistently as outlined in this policy.

Inappropriate behaviors observed by students or guests must be reported to the appropriate personnel for action to be taken according to county policy.

County boards of education shall develop procedures to assure that any person who believes he or she is a victim or witness to a violation of Policy 4373 has an identified mechanism to report the alleged acts immediately to the appropriate official(s) designated by the county. These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action, or seeking redress under the state criminal statutes and/or federal law.

County boards of education shall develop appropriate procedures for investigating, reporting, responding, and determining consequences for the failure of an employee to appropriately respond to violations of Policy 4373, in accordance with W. Va. § 126CSR142, Policy 5310, Performance Evaluation of School Personnel, in a manner that promotes understanding and respect.

County boards of education and the WVDE shall develop procedures to assure that any person who believes he or she has been the victim or a witness of religious, ethnic, racial or sexual harassment, or violence by a student, teacher, administrator, or other school personnel toward a student, teacher, administrator, or other school personnel has an identified mechanism to report the alleged acts immediately to an appropriate official(s) designated in county policy. These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action, or seeking redress under the state criminal statutes and/or federal law.

All alleged incidents of harassment or violence observed by faculty or staff must be reported to the appropriate official(s) and appropriate action should be taken as specified in Section 2 of this chapter.

Parental Notification

LAWS

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, assistant, or principal shall make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant or principal shall again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

§18-8-5. Duties of principal, administrative head or other chief administrator.

If the principal, administrative head or other chief administrator of a school determines that an enrolled pupil has accumulated unexcused absences from attendance at such school for five instructional days during any one half of the instructional term, the principal, administrative head or other chief administrator shall contact any parent, guardian or custodian of the pupil and shall hold a meeting with any person so contacted, and the pupil, and any other person that the administrator deems a relevant participant in such meeting.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher, may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to

discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

REGULATIONS

§126-81-4. Definitions.

4.3.c.2. In the case of three total Unexcused Absences of a student during a school year, the attendance director, assistant director, or principal shall make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending and not incurring any additional Unexcused Absences.

4.3.c.3. In the case of five total Unexcused Absences, the attendance director or assistant director or principal shall again make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending school and not incurring any additional Unexcused Absences. [...]

4.3.d.2. In the case of five total Unexcused Absences, the attendance director or assistant director or principal shall make meaningful contact with the parent/guardian/custodian of the student to ascertain the reasons for the Unexcused Absences and what measures the school may employ to assist the student in attending and not incurring any additional Unexcused Absences.

§126-81-5. Responsibilities.

5.2.c. County school systems are responsible for:

5.2.c.1. developing a process to notify students and their parents/guardians/custodians of the county attendance policy and their responsibility and accountability for regular school attendance. [...]

5.2.d. Maintenance of Records: Accurate attendance records and related documentation shall be maintained for every student enrolled in public school.

5.2.d.2. There shall be written procedures for: 1) notifying parents/guardians/custodians about absences; 2) monitoring absences; and 3) notifying the attendance director of an Unexcused Absence. [...]

5.2.e. Preventive and Corrective Measures: To meet the developmental needs of students, preventive and corrective measures should include developing:

5.2.e.2. procedures for notification of parents/guardians/custodians of absences and procedures for securing parent/guardian/custodian involvement to improve student attendance.

§126-99-5. Severability.

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

A student is entitled to an informal hearing when faced with an out-of-school suspension of 10 days or less. At this hearing, the principal must explain why the student is being suspended, and the student must be given the opportunity to present reasons why she/he should not be suspended. However, a student whose conduct is detrimental to the safety of the school may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures the school must follow when dealing with out-of-school suspensions are outlined in W. Va. Code § 18A-5-1 and § 18A-5-1a and include:

-parent or guardian must be notified promptly in all cases of suspension.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(b) Each county board policy shall, at a minimum, include the following components:

(11) A requirement that each county board shall input into the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in section twenty-six [§ 18-2-26], article two of this chapter, and compile an annual report regarding the means of harassment, intimidation or bullying that have been reported to them, and the reasons therefor, if known. The West Virginia Department of Education shall compile the information and report it annually beginning July 1, 2012, to the Legislative Oversight Committee on Education Accountability.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 et seq. of this code that set forth student absences that are excluded for accountability purposes. The absences that are excluded by rule shall include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six [§ 18-2-26], article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f [§ 18-5-15f], article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of § 61-7-11a(b) of this code shall report the violation as soon as possible to:

- (1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and
- (2) The appropriate local office of the State Police, county sheriff or municipal police agency.

REGULATIONS

§126-42-7. County board of education responsibilities.

7.1. Schools shall implement WVBE and county policies as well as county and school procedures to ensure high quality delivery of their education program. In meeting this responsibility, schools shall address the following components of a high quality education program.

7.1.a. Administrative Practices.

7.1.a.5. Participate in the West Virginia Education Information System (WVEIS) and other WVDE data collections through adherence to data collection calendars and guidance documentation, which are developed and maintained through the WVDE data governance structure per W. Va. 126CSR94, Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data, to ensure compliance with state and federal reporting requirements and to support the population and sustainability of the state's longitudinal data system for educational decision making.

§126-99-5. Severability.

Section 5. Procedures for Reporting Action on Substantiated Incidents Schools shall accurately track incidents of inappropriate behavior in order to utilize data for school climate/culture improvement efforts and to create documentation to support actions taken to intervene in inappropriate behavior patterns. The WVEIS provides schools with the platform to report all incidents of inappropriate behavior at the classroom level and above. The primary value of this data rests at the school and county level and is necessary for development and monitoring of Policy 4373. All inappropriate behaviors as described in Chapter 2 Section 2, Levels 1, 2, 3, and 4 shall be reported through:

- teacher-level documentation of inappropriate behavior leading to interventions, consequences, and/or referrals to the principal;
- Principal-level WVEIS data entry of teacher level documentation and administrative disciplinary actions. This data shall be entered by the principal and/or other authorized staff; or
- county superintendent-level WVEIS data entry of county board of education actions resulting from expulsion hearings. This data shall be entered by the county superintendent and/or other authorized staff.

Incidents of inappropriate behaviors reported into WVEIS in accordance with this policy will be used by the WVDE to comply with federal and state reporting requirements.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§18-8-6a. Incentive for county board participation in circuit court juvenile probation truancy programs.

A county board that enters into a truancy program agreement with the circuit court of the county that (1) provides for the referral of truant juveniles for supervision by the court's probation office pursuant to § 49-4-711 of this code and (2) requires the county board to pay for the costs of the probation officer or officers assigned to supervise truant juveniles, shall be reimbursed for one half of the costs of the probation officer or officers, subject to appropriation of the Legislature for this purpose to the West Virginia Department of Education. For any year in which the funds appropriated are insufficient to cover the reimbursement costs, the county's costs shall be reimbursed pro rata.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of § 61-7-11a(b) of this code shall report the violation as soon as possible to:

- (1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and
- (2) The appropriate local office of the State Police, county sheriff or municipal police agency.

REGULATIONS

§126-99-5. Severability.

Section 6. Collaboration with Law Enforcement

Police can enter schools if they suspect a crime has been committed, have a warrant for an arrest or search, or if their assistance has been requested by school officials. It is the duty of the school officials, teachers, and students to cooperate with the police and each other to ensure that the rights of all involved persons are respected.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§18-5-48. Safety and security measures for school facilities; Safe Schools Fund created.

(b) As used in this section, "safety and security measures" means action taken by a county board of education or multicounty vocational center that improves the security of a school facility and the safety of the students within such facility, including, but not limited to, hiring a school resource officer, installing weapon detection systems, upgrading facility doors or windows.

§18-9F-3. School access safety plan.

(b) The safety plan shall include at least the following:

(3) Recommendations for effective communication and coordination between school facilities, local law-enforcement agencies and local emergency services agencies in the county.

REGULATIONS

§126-99-5. Severability.

Section 6. Collaboration with Law Enforcement Police can enter schools if they suspect a crime has been committed, have a warrant for an arrest or search, or if their assistance has been requested by school officials. It is the duty of the school officials, teachers, and students to cooperate with the police and each other to ensure that the rights of all involved persons are respected.

Prevention Resource Officers (PRO). PRO are certified police officers, working fulltime within a public school. The PRO duties, salary, and responsibilities should be determined through an agreement with the county board of education and the authorized police department. The principal is the immediate supervisor while the PRO officer is present in the school. There may be a time during the course of PRO duties when the officer's position as law enforcement would take precedence.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by West Virginia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Website		
Bullying Prevention, West Virginia Department of Education (WVDE)	Provides an overview of bullying prevention in West Virginia schools and links to training resources for teachers and outside sources for bullying prevention.	https://wvde.us/wv-school-counselors/mental-behavioral-health-resources-and-initiatives/bullying-prevention/
Leadership Support, WVDE	Provides an overview of the Officer of Leadership Support with descriptions and links to subtopics such as safe and supportive schools and other related resources.	https://wvde.us/leadership-system-support/
Safe and Supportive Schools, WVDE	Addresses school culture and climate, positive behavioral interventions and supports (PBIS), bullying prevention, and trauma sensitive schools with related resources.	https://wvde.us/leadership-system-support/safe-supportive-schools/safe-schools-toolkit/safe-and-supportive-schools/
Safe Schools Toolkit, WVDE	Provides resources for school safety and violence prevention including policy and laws, crisis prevention and response plan template, crisis planning resources, safe schools helpline, and training resources.	https://wvde.us/leadership-system-support/safe-supportive-schools/safe-schools-toolkit/
West Virginia Tiered System of Supports (WVTSS), WVDE	Provides information and resources regarding WVTSS including an overview, reference guide, framework toolkit, and additional resources.	https://wvde.us/west-virginia-tiered-system-of-support-wvtss/

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Documents		
Data Analysis, Research, and Program Evaluation, WVDE	Reports and research briefs on harassments, intimidation or bullying, school climate, and student discipline referrals and interventions.	https://wvde.us/data-analysis
Response to Intervention: An Introduction (2012), WVDE	Brief research review provides an introduction to response to intervention (RTI), including how it is defined, reasons for its growing popularity, an introduction to an emerging body of research, a brief discussion of what it all means, and suggestions about directions for future research.	https://wvde.us/wp-content/uploads/2018/01/LitReview_ResponseToIntervention2012.pdf
Manual for Expected Behavior in Safe and Supportive Schools (Policy 4373), WVDE	Electronic Manual of Policy 4373 including overview presentations on policy.	http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=51038&Format=PDF
West Virginia Standards for Effective Schools, WVDE	Guidance document consists of seven standards with individual function statements and indicators that outlines expectations for excellence, provides rubrics for self-reflection and drive continuous improvement for all schools in the state.	https://wvde.us/wp-content/uploads/2019/12/StandardsEffectiveSchool-Revision-8.19.19.pdf
Other Resources		
Addressing Chronic Absenteeism in Our Schools (March 2020), WVDE	PowerPoint presentation developed to train educators for guidance on best practices to prevent student chronic absenteeism.	https://wvde.us/wp-content/uploads/2020/03/2020-WVDE-SC-Conf.-Attendance-presentation.pdf
Discipline Management System; WOW Training Guide, WVDE	Webinars, PowerPoints, and trainings regarding the Discipline Management System (DMS).	https://wveis.k12.wv.us/WVEIS_Documents/training/West%20Virginia%20Discipline%20Management%20System.pdf



Wisconsin Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

118.46. Policy on bullying.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1)(a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

1. A specification of what constitutes dangerous, disruptive or unruly behavior or behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).
2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).
3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.
4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

REGULATIONS

No relevant regulations found.

Scope

LAWS

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

8. An identification of the school-related events at which the policy applies.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b) 2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2)(c), for not more than a total of 15 consecutive school days for any of the following reasons:

a. Noncompliance with rules adopted under subd. 1. or school board rules.

b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.

c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.

d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site. [...]

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1)(a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

REGULATIONS

No relevant regulations found.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

118.164. Removal of pupils from the class.

(1) In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

(2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1)(a) or is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

(3)(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7)(e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

(b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

118.31. Corporal punishment.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2)(a) 1. and 4., or from school-sponsored activities.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

118.16. School attendance enforcement.

(4)(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

118.164. Removal of pupils from the class.

(3)(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7)(e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

Corporal punishment.

- (1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.
- (2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.
- (3) Subsection (2) does not prohibit an official, employee or agent of a school board from:
 - (a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.
 - (b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.
 - (c) Using reasonable and necessary force for the purpose of self-defense or the defense of others under s. 939.48.
 - (d) Using reasonable and necessary force for the protection of property under s. 939.49.
 - (e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2)(a) 1. and 4., or from school-sponsored activities.
 - (f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.
 - (g) Using reasonable and necessary force to protect the safety of others.
 - (h) Using incidental, minor or reasonable physical contact designed to maintain order and control.
- (4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3)(a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.
- (5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.
- (6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.
- (7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

Strip search by school employee.

Any official, employee or agent of any school or school district is prohibited under s. 948.50 from conducting a strip search of any pupil.

118.325. Locker searches.

An official, employee or agent of a school or school district may search a pupil's locker as determined necessary or appropriate without the consent of the pupil, without notifying the pupil and without obtaining a search warrant if the school board has adopted a written policy specifying that the school board retains ownership and possessory control of all pupil lockers and designating the positions of the officials, employees or agents who may conduct searches, and has distributed a copy of the policy to pupils enrolled in the school district.

948.50. Strip search by school employee.

(1) The legislature intends, by enacting this section, to protect pupils from being strip searched. By limiting the coverage of this section, the legislature is not condoning the use of strip searches under other circumstances.

(2) In this section:

- (a) "School" means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between kindergarten and grade 12 and which is commonly known as a kindergarten, elementary school, middle school, junior high school, senior high school, or high school.
- (b) "Strip search" means a search in which a person's genitals, pubic area, buttock or anus, or a female person's breast, is uncovered and either is exposed to view or is touched by a person conducting the search.

(3) Any official, employee or agent of any school or school district who conducts a strip search of any pupil is guilty of a Class B misdemeanor.

(4) This section does not apply to a search of any person who:

- (a) Is serving a sentence, pursuant to a conviction, in a jail, state prison or house of correction.
- (b) Is placed in or transferred to a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g).
- (c) Is committed, transferred or admitted under ch. 51, 971 or 975.

(5) This section does not apply to any law enforcement officer conducting a strip search under s. 968.255.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

118.305. Use of seclusion and physical restraint.

(1) Definitions. In this section:

- (a) "Child" has the meaning given in s. 115.76 (3).
- (b) "Child with a disability" has the meaning given in s. 115.76 (5).
- (c)1. "Covered individual" means all of the following, except as provided in subd. 2.:

- a. An individual who is employed by a governing body, or under contract with a governing body as an independent contractor, to provide services for the benefit of the school governed by the governing body.
 - b. An individual who is employed by a person under contract with a governing body to provide services for the benefit of the school governed by the governing body.
 - c. An individual who is engaged in student teaching under the supervision of an individual described in subd. 1. a.
2. "Covered individual" does not include any of the following:
- a. A member of a governing body.
 - b. A law enforcement officer who is authorized or designated by a governing body to perform any duty under s. 118.125 (1)(bL) 1. or 2. in a school governed by the governing body.
- (d) "Governing body" means the governing body in charge of any of the following:
- 1. A school.
 - 2. A private school at which an LEA placed pupil is placed by a local educational agency.
- (dm) "Incident" means an occurrence of a covered individual or a law enforcement officer using seclusion or physical restraint on a pupil. It is considered one incident if immediately following the use of seclusion or physical restraint on a pupil, the pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others, and a covered individual or law enforcement officer resumes the use of seclusion or physical restraint.
- (e) "Individualized education program" has the meaning given in s. 115.76
- (9). (ek) "LEA placed pupil" means all of the following:
- 1. A pupil placed at a private school by a local educational agency under s. 118.15 (1)(d) 4. or 119.235.
 - 2. A child with a disability placed at a private school by a local educational agency to satisfy the requirements under subch. V of ch. 115 or applicable federal law.
- (em) "Local educational agency" has the meaning given in s. 115.76 (10).
- (f) "Parent" means a parent of a pupil, including a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.
- (g) "Physical restraint" means a restriction that immobilizes or reduces the ability of a pupil to freely move his or her torso, arms, legs, or head.
- (h) "School" means a public school, including a charter school, and a private school participating in the program under s. 115.7915.
- (i) "Seclusion" means the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving.
- (2) Seclusion; conditions for use. A covered individual may use seclusion on a pupil at school only if all of the following apply:
- (a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.
 - (b) A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.
 - (c) The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.
 - (d) The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.

(e) The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(f) No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked or has a lock on it.

(3) Physical restraint; conditions for use. A covered individual may use physical restraint on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) There are no medical contraindications to its use.

(c) The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(d) None of the following maneuvers or techniques are used:

1. Those that do not give adequate attention and care to protecting the pupil's head.

2. Those that cause chest compression by placing pressure or weight on the pupil's chest, lungs, sternum, diaphragm, back, or abdomen.

3. Those that place pressure or weight on the pupil's neck or throat, on an artery, or on the back of the pupil's head or neck, or that otherwise obstruct the pupil's circulation or breathing.

4. Those that place the pupil in a prone position.

(e) It does not constitute corporal punishment, as defined in s. 118.31 (1).

(f) The covered individual does not use a mechanical or chemical restraint on the pupil. None of the following constitutes the use of a mechanical restraint:

1. The use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff.

2. The use of vehicle safety restraints when used as intended during the transport of a pupil in a moving vehicle.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:

a. The pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals and any law enforcement officers present during the incident.

3. Meet with the covered individuals who participated in the incident to discuss all of the following:

a. The events preceding, during, and following the use of the seclusion or physical restraint.

b. How to prevent the need for seclusion or physical restraint, including the factors that may have contributed to the escalation of behaviors; alternatives to physical restraint, such as de-

escalation techniques and possible interventions; and other strategies that the school principal or designee determines are appropriate.

(b) The school principal or his or her designee shall retain a report prepared under par. (a) 2. and shall, within 3 business days of the incident, do one of the following:

1. Send the report to the pupil's parent by 1st class mail or by electronic transmission.
2. Hand deliver the report to the pupil's parent.

(c) Annually by October 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:

1. The number of incidents of seclusion in the school during the previous school year.
2. The total number of pupils who were involved in the incidents of seclusion reported under subd. 1.
3. The number of children with disabilities who were involved in the incidents of seclusion reported under subd. 1.
4. The number of incidents of physical restraint in the school during the previous school year.
5. The total number of pupils who were involved in the incidents of physical restraint reported under subd. 4.
6. The number of children with disabilities who were involved in the incidents of physical restraint reported under subd. 4.

(cm) Annually by December 1, each governing body that receives a report under par. (c) shall submit to the state superintendent a report that contains the information under par. (c) for each school under the governing body's charge.

(d) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on an LEA placed pupil at a private school, the administrator of the private school or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the LEA placed pupil's parent and the local educational agency of the incident and of the availability of the written report under subd. 2.
2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:
 - a. The LEA placed pupil's name.
 - b. The date, time, and duration of the use of seclusion or physical restraint.
 - c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.
 - d. The names and titles of the covered individuals and any law enforcement officers who were present during the incident.

(e) An administrator of a private school or his or her designee shall retain a report prepared under par.

(d) 2. and shall within 3 business days of the incident do one of the following:

1. Send the report by 1st class mail or by electronic transmission to the LEA placed pupil's parent and to the local educational agency.
2. Hand deliver the report to the LEA placed pupil's parent and to the local educational agency.

(5) Child with a disability. The 2nd time that seclusion or physical restraint is used on a child with a disability within the same school year, the child's individualized education program team shall convene in the manner provided in s. 115.787 (4) as soon as practicable after the incident but no later than 10 school days after the incident. The child's individualized education program team shall review the child's

individualized education program and revise it as the individualized education program team determines necessary to ensure all of the following:

- (a) The individualized education program includes appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern.
- (b) That the interventions, supports, and other strategies included in the individualized education program related to a behavior that resulted in the use of seclusion or physical restraint on the child are based on a functional behavioral assessment of that behavior.

(6) Physical restraint; training.

(a) Except as provided in par. (c), no covered individual may use physical restraint on a pupil at school unless he or she has received training that includes all of the following components:

1. [Repealed]

1f. Evidence-based instruction related to positive behavioral supports and interventions, safe physical escort, understanding antecedents, de-escalation, conflict prevention, and conflict management.

1m. Evidence-based techniques, including debriefing, that have been shown to prevent or reduce the use of physical restraint.

2. An identification and description of dangerous behavior that may indicate the need for physical restraint and methods of evaluating risk of harm in order to determine whether physical restraint is warranted.

3. [Repealed]

4. Instruction regarding the effects of physical restraint on the person restrained, in monitoring signs of physical distress, and in obtaining medical assistance.

5. Instruction in documenting and reporting incidents of physical restraint.

6. A requirement that the trainee demonstrate his or her ability to identify prohibited techniques in administering physical restraint.

(b) The governing body shall ensure that all of the following apply in each school that it operates in which physical restraint is used:

1. At least one covered individual has received training under par. (a).

2. The school maintains a record of the training received by the covered individual under par. (a), including the period during which the training is considered valid by the entity that trained the covered individual.

(c) A covered individual who has not received training under par. (a) may use physical restraint on a pupil at school only in an emergency and only if a covered individual who has received training under par. (a) is not immediately available due to the unforeseen nature of the emergency.

(7) Construction. Nothing in this section prohibits a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving:

(a) Directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order.

(b) Directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom.

(c) Briefly touching or holding a pupil's hand, arm, shoulder, or back to calm, comfort, or redirect the pupil.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

119.25. Expulsion of pupils.

(1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1)(c):

- (a) An independent hearing panel appointed by the board.
- (b) An independent hearing officer appointed by the board.

(2)(a) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board:

1. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1)(c) 1. or 2.
2. Shall commence proceedings under par. (b) and expel a pupil from school for not less than one year whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1)(c) 2m.

(b) No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section 152 of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the state superintendent. If the board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court for the county in which the school is located.

(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1)(e) 4.(d)1. In this paragraph:

a. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par.

(b).

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

2. An independent hearing panel or independent hearing officer appointed by the board may specify one or more early reinstatement conditions in the expulsion order under par. (b) if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the board. The decision of the board regarding that determination is final and not subject to appeal.

3. If the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the superintendent of schools or designee may grant the pupil early reinstatement. The determination of the superintendent of schools or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the superintendent of schools or a principal or teacher designated by the superintendent of schools may revoke the pupil's early reinstatement as provided in s. 120.13 (1)(h) 4.

5. Except as provided in subd. 6., if the pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b) 1. In addition to rule-making authority granted school boards under par. (a), the school district administrator, or any principal or teacher designated by the school district administrator, may make rules with the consent of the school board.

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2)(c), for not more than a total of 15 consecutive school days for any of the following reasons:

- a. Noncompliance with rules adopted under subd. 1. or school board rules.
- b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.
- c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.
- d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

2m. In subd. 2. c. and d., conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

4. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. The administrator, or the administrator's designee, shall make a finding within 15 days of the conference.

5. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4)(a).

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a)(3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(c) 1. The school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or finds that the pupil engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, or finds that a pupil while not at school or while not under the supervision of a school authority engaged in conduct which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled,

and is satisfied that the interest of the school demands the pupil's expulsion. In this subdivision, conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

2. In addition to the grounds for expulsion under subd. 1., the school board may expel from school a pupil who is at least 16 years old if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1., and is satisfied that the interest of the school demands the pupil's expulsion.

2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a)(3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d)(1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

3. Prior to expelling a pupil, the school board shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
- f. That the school board shall keep written minutes of the hearing.
- g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
- h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
- i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

- j. That the decision of the school board shall be enforced while the department reviews the school board's decision.
 - k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
 - L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).
- (d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy.
- (e) 1. The school board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under subd. 2. instead of using the procedure under par. (c) 3.:
- a. An independent hearing panel appointed by the school board.
 - b. An independent hearing officer appointed by the school board.
2. During any school year in which a resolution adopted under subd. 1. is effective, the independent hearing officer or independent hearing panel appointed by the school board:
- a. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2.
 - b. Shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever that hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 2m.
3. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.
4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:
- a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
 - b. The time and place of the hearing.
 - c. That the hearing may result in the pupil's expulsion.

- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
 - e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
 - f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.
 - g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
 - h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.
 - i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.
 - j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
 - k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.
 - L. That the decision of the school board shall be enforced while the department reviews the school boards decision.
 - m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
 - n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).
- (f) 1. No school board is required to enroll a pupil during the term of his or her expulsion from another school district. Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from one school district seeks to enroll in another school district during the term of his or her expulsion, upon request the school board of the former school district shall provide the school board of the latter school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion.
- 2. No school board is required to enroll a pupil during the term of his or her expulsion from a public school in another state if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m.
 - 3. No school board is required to enroll a pupil during the term of his or her expulsion from a charter school established under s. 118.40 (2r) or (2x) if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m. If a pupil who has been expelled from a charter school established under s. 118.40 (2r) or (2x) seeks to enroll in a school district during the term of his or her expulsion, upon request of the pupil or, if the pupil is a minor, the pupil's parent or guardian, the governing body of the charter school shall provide the school board of the school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled, and the term of the expulsion.
- (g) The school board may modify the requirement under pars. (c) 2m. and (e) 2. b. on a case-by-case basis.

REGULATIONS

PI 33.07. Habitual truancy and expulsion.

(1) EXPULSION. If a district of attendance issues an order under s. 120.13 (1), Stats., to expel a participating pupil, it shall immediately notify the district of residence.

(2) HABITUAL TRUANCY. The district of attendance shall notify the district of residence if a participating pupil is a habitual truant.

Limitations or Conditions on Exclusionary Discipline

LAWS

118.16. School attendance enforcement.

(4)(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

118.125. Pupil records.

(5) Use for suspension or expulsion.

(a) Except as provided in par. (b), nothing in this section prohibits a school district from using a pupil's records in connection with the suspension or expulsion of the pupil or the use of such records by a multidisciplinary team under ch. 115.

(b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may be used as the sole basis for taking action against a pupil under the school district's athletic code.

118.127. Law enforcement agency information

A school district, private school, or tribal school may disclose information from law enforcement officers' records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, to persons employed by the private school or tribal school as teachers, and to other school district, private school, or tribal school officials who have been determined by the school board or governing body of the private school or tribal school to have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district, private school, or tribal school, the school district, private school, or tribal school may also disclose that information to those employees of the school district, private school, or tribal school who have been designated by the school board or governing body of the private school or tribal school to receive that information for the purpose of providing treatment programs for pupils enrolled in the school district, private school, or tribal school. A school district may not use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for taking action against a pupil under the school district's athletic code.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b) 2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2)(c), for not more than a total of 15 consecutive school days for any of the following reasons:

- a. Noncompliance with rules adopted under subd. 1. or school board rules.
- b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.
- c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.
- d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

(d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy. [...]

(g) The school board may modify the requirement under pars. (c) 2m. and (e) 2. b. on a case-by-case basis.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

119.25. Expulsion of pupils.

(1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1)(c):

- (a) An independent hearing panel appointed by the board.
- (b) An independent hearing officer appointed by the board.

(2)(a) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board:

1. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1)(c) 1. or 2.
2. Shall commence proceedings under par. (b) and expel a pupil from school for not less than one year whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1)(c) 2m.

(b) No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section 152 of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the state superintendent. If the board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court for the county in which the school is located.

(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1)(e) 4.(d)1. In this paragraph:

- a. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).
- b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his

or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

2. An independent hearing panel or independent hearing officer appointed by the board may specify one or more early reinstatement conditions in the expulsion order under par. (b) if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the board. The decision of the board regarding that determination is final and not subject to appeal.

3. If the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the superintendent of schools or designee may grant the pupil early reinstatement. The determination of the superintendent of schools or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the superintendent of schools or a principal or teacher designated by the superintendent of schools may revoke the pupil's early reinstatement as provided in s. 120.13 (1)(h) 4.

5. Except as provided in subd. 6., if the pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b) 1. In addition to rule-making authority granted school boards under par. (a), the school district administrator, or any principal or teacher designated by the school district administrator, may make rules with the consent of the school board.

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2)(c), for not more than a total of 15 consecutive school days for any of the following reasons:

a. Noncompliance with rules adopted under subd. 1. or school board rules.

- b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.
- c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.
- d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

2m. In subd. 2. c. and d., conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

4. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. The administrator, or the administrator's designee, shall make a finding within 15 days of the conference.

5. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4)(a).

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921(a)(3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(c) 1. The school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or finds that the pupil engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, or finds that a pupil while not at school or while not under the supervision of a school authority engaged in conduct which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled, and is satisfied that the interest of the school demands the pupil's expulsion. In this subdivision, conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

2. In addition to the grounds for expulsion under subd. 1., the school board may expel from school a pupil who is at least 16 years old if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an

activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1., and is satisfied that the interest of the school demands the pupil's expulsion.

2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a)(3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d)(1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

3. Prior to expelling a pupil, the school board shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
- f. That the school board shall keep written minutes of the hearing.
- g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
- h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
- i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.
- j. That the decision of the school board shall be enforced while the department reviews the school board's decision.
- k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
- L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy.

(e) 1. The school board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under subd. 2. instead of using the procedure under par. (c) 3.:

- a. An independent hearing panel appointed by the school board.
- b. An independent hearing officer appointed by the school board.

2. During any school year in which a resolution adopted under subd. 1. is effective, the independent hearing officer or independent hearing panel appointed by the school board:

- a. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2.
- b. Shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever that hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 2m.

3. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
- f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.

- g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
- h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.
- i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.
- j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
- k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.
- L. That the decision of the school board shall be enforced while the department reviews the school boards decision.
- m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
- n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

118.16. School attendance enforcement.

(4)(cm)1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7)(e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

- a. An assessment for problems with alcohol or other drugs.
- b. An assessment of individual educational needs.

- c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.
- d. A vocational assessment, which may include career counseling.
- e. A medical assessment.

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

118.164. Removal of pupils from the class.

(3)(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7)(e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

119.25. Expulsion of pupils.

(2)(d)1. In this paragraph:

a. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par.

(b).

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

2. An independent hearing panel or independent hearing officer appointed by the board may specify one or more early reinstatement conditions in the expulsion order under par. (b) if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the board. The decision of the board regarding that determination is final and not subject to appeal.

3. If the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the superintendent of schools or designee may grant the pupil early reinstatement. The determination of the superintendent of schools or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the superintendent of schools or a principal or teacher designated by the superintendent of schools may revoke the pupil's early reinstatement as provided in s. 120.13 (1)(h) 4.

5. Except as provided in subd. 6., if the pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term specified in the expulsion order unless

the pupil or, if the pupil is a minor, the pupil's parent or guardian and the board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(h)1. In this paragraph:

ag. "Conditional enrollment" means enrollment of an expelled pupil in a school district other than the school district or out-of-state public school that expelled the pupil before the expiration of the term of expulsion specified in the pupil's expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school.

am. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (c) 3. or (e) 3.

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (c) 3. or (e) 3.

c. "Enrollment condition" means a condition that a pupil is required to meet before he or she may be granted conditional enrollment or a condition that a pupil is required to meet after his or her conditional enrollment but before the expiration of the term of expulsion specified in the pupil's expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school.

2. A school board, or an independent hearing panel or independent hearing officer acting under par. (e), may specify one or more early reinstatement conditions in the expulsion order under par. (c) 3.

or (e) 3. if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which an expulsion order is issued by an independent hearing panel or independent hearing officer, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the school board. The decision of a school board regarding that determination is final and not subject to appeal.

2m. A school board other than the school board or out-of-state public school that expelled a pupil may specify in a written order one or more enrollment conditions instead of or in addition to the early reinstatement conditions, if any, imposed under subd. 2. by the school board, or independent

hearing panel or independent hearing officer acting under par. (e), that expelled the pupil or instead of or in addition to any conditions imposed, if any, by the out-of-state public school that expelled the pupil. Any enrollment conditions established under this subdivision shall relate to the reasons for the pupil's expulsion and may not extend the term of expulsion specified in the expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school. The school district clerk of the school district other than the school district from which the pupil was expelled shall mail 2 copies of the order to the pupil or, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian shall sign and return one copy of the order to the school board other than the school board that expelled the pupil. Within 15 days after the date on which the order under this subdivision is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an enrollment condition specified in the order is related to the reasons for the pupil's expulsion to the school board that specified the enrollment condition. The decision of the school board under this subdivision regarding that determination is final and not subject to appeal.

3. If the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the school district administrator or designee may grant the pupil early reinstatement. The determination of the school district administrator or designee is final.

3m. If the school district administrator, or his or her designee, of a school district other than the school district or out-of-state public school from which a pupil was expelled determines that the pupil has met the enrollment conditions established in a written order under subd. 2m., the school district administrator or designee may grant the pupil conditional enrollment in a school in the school district. The determination of the school district administrator or designee under this subdivision is final.

4. If a pupil granted early reinstatement under subd. 3. violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil's early reinstatement. Before revoking the pupil's early reinstatement, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil's early reinstatement is appropriate. If the school district administrator or designee revokes the pupil's early reinstatement, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

4m. If a pupil granted conditional enrollment under subd. 3m. violates an enrollment condition that the pupil was required to meet after his or her conditional enrollment but before the expiration of the term of expulsion, the school district administrator of the school district in which the pupil is enrolled, or a principal or teacher designated by the school district administrator, may revoke the pupil's conditional enrollment. Before revoking the pupil's conditional enrollment, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the enrollment condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the enrollment condition and that revocation of the pupil's conditional enrollment is appropriate. If the school district administrator or designee revokes the pupil's conditional enrollment, the school district administrator or designee shall give prompt written notice of the

revocation and the reason for the revocation, including the enrollment condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

5. Except as provided in subd. 6., if a pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

5m. Except as provided in subd. 6m., if a pupil's conditional enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board that expelled the pupil, or the independent hearing panel or independent hearing officer, or the out-of-state public school, agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

6m. Within 5 school days after the revocation of a pupil's conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the administrator of the school district in which the pupil is enrolled, or his or her designee, who shall be someone other than a principal, administrator, or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an enrollment condition or that the revocation was inappropriate, the pupil shall be enrolled in school under the same enrollment conditions as in the order issued under subd. 2m. and the conditional enrollment revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an enrollment condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

115.28. General duties.

The state superintendent shall:

(7) Licensing of teachers.

(e) 1. In this paragraph, "alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching

techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school, a tribal school, or a home-based private educational program.

2. Promulgate rules establishing requirements for licensure as an alternative education program teacher and for the approval of teacher education programs leading to licensure as an alternative education program teacher. The rules shall encompass the teaching of multiple subjects or grade levels or both, as determined by the state superintendent. The rules may require teacher education programs to grant credit towards licensure as an alternative education program teacher for relevant experience or demonstrated proficiency in relevant skills and knowledge.

118.153. Children at risk of not graduating from high school.

(5)(a) In this subsection:

1. "Alternative school" means a public school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and offers a nontraditional curriculum.
2. "School within a school" means a school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and is housed in a space specifically dedicated to it in a public school.

(b) Subject to sub. (3)(c) 3., a school board receiving funds under this section shall provide a specific sum to each program for children at risk in which pupils enrolled in the school district are enrolled based on the ability of the program to meet the objectives under sub. (4)(c).

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3)(c) 1.

118.164. Removal of pupils from the class.

(1) In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

(2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1)(a) or is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

(3)(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7)(e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

(b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

119.82. Alternative educational programs for learnfare pupils.

(1m) Upon the request of the child or the child's parent or guardian, the board shall provide an alternative educational program for any child who resides in the city and satisfies all of the following:

- (a) Is at least 13 years of age but not more than 18 years of age.
- (b) Is receiving aid to families with dependent children under s. 49.19 or is a member of a Wisconsin works group, as defined in s. 49.141 (1)(s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5).
- (c) Has been or is being sanctioned under s. 49.26 (1)(h).

(2m) Programs under sub. (1m) shall be designed to meet the high school graduation requirements under s. 118.33.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

- (1) School government rules; suspension; expulsion.
 - (a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:
 - 3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.

REGULATIONS

PI 25.03. Identification of children at risk of not graduating from high school and children at risk plan.

(2) As part of the district plan developed under sub. (1), each board shall describe how the board will identify and meet the needs of the children identified to be at risk. A board, when developing a plan under this section, may consider the following:

- (d) What accommodations can be made to support pupils' achievement and success in school through any of the following:
 - 3. Alternative education programs.

PI 25.04. General requirements for school boards.

Each board that has identified children at risk under s. PI 25.03 shall provide for all of the following:

(4) Ensure that in grades 9 through 12 curriculum modifications and alternative education programs provided for children at risk are designed to allow pupils to meet the high school graduation requirements under s. 118.33, Stats., and ch. PI 18.

PI 25.06. Special provisions applicable to a first class city school system.

The school board of the school district operating under ch. 119, Stats., shall ensure all of the following:

(1) If there is no space for a pupil in a specific children at risk program provided under the board's plan, the board shall place the pupil's name on a waiting list for that program and offer the pupil a comparable alternative education program for children at risk until space in the requested program becomes available.

PI 25.05. Provisions applicable to private contracting.

(1) The board of a school district may contract with private, nonprofit, nonsectarian agencies to provide programs for children at risk if the board determines that the agencies can adequately serve such children. A board contracting under this section shall take all of the following actions:

(d) Establish procedures with each contracting agency for the agency to provide all of the following information:

2. Curriculum modifications and alternative education programs to be provided.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

118.31. Corporal punishment.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3).

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a)(3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).
[...]

(c)2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a)(3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d)(1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

49.26. Learnfare program.

(1)(a) In this subsection:

1. "Habitual truant" has the meaning given in s. 118.16 (1)(a).
2. "School" means any one of the following:
 - a. A public school, as described in s. 115.01 (1).
 - b. A private school, as defined in s. 115.001 (3r).
 - bm. A tribal school, as defined in s. 115.001 (15m).
 - c. A technical college pursuant to a contract under s. 118.15 (2).
 - d. A course of study meeting the standards established by the state superintendent of public instruction under s. 115.29 (4) for the granting of a declaration of equivalency of high school graduation.

(c) A county department or Wisconsin works agency may provide services under this subsection directly or may contract with a nonprofit agency or a school district to provide the services.

(d) A county department or Wisconsin Works agency that provides services under this subsection directly shall develop a plan, in coordination with the school districts located in whole or in part in the county, describing the assistance that the county department or Wisconsin Works agency and school districts will provide to individuals receiving services under this subsection, the number of individuals that will be served and the estimated cost of the services. The county department or Wisconsin Works agency shall submit the plan to the department and the department of public instruction by January 15, annually.

(e) For an individual who is a recipient of aid under s. 49.19, or whose custodial parent is a participant under s. 49.147 (3) to (5), who is the parent with whom a dependent child lives and who is subject to the school attendance requirement under par. (ge), the department shall make a monthly payment to the individual or the child care provider for the month's child care costs in an amount based on need with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 49.155 (6) if the individual demonstrates the need to purchase child care services in order to attend school and those services are available from a child care provider.

(g) An individual who is a dependent child in a Wisconsin Works group that includes a participant under s. 49.147 (3), (4), or (5) or who is a recipient of aid under s. 49.19 is subject to the school attendance requirement under par. (ge) if all of the following apply:

1. Before the first day of the fall 1994 school term, as defined in s. 115.001 (12), the individual is 13 to 17 years of age. Beginning on the first day of the fall 1997 school term, as defined in s. 115.001 (12), the individual is 6 to 17 years of age.

2. The individual has not graduated from a public, private, or tribal high school or obtained a declaration of equivalency of high school graduation under s. 115.29 (4).
3. The individual is not excused from attending school under s. 118.15 (3).
4. The individual is a parent or is residing with his or her natural or adoptive parent.
5. If the individual is the caretaker of a child, the child is at least 45 days old and child care is available for the child at the school or the school provides an instruction program for the caretaker at home.
6. If child care services are necessary in order for the individual to attend school, child care from a child care provider is available for the child and transportation to and from child care is also available.
7. The individual is not prohibited from attending school while an expulsion under s. 119.25 or 120.13 (1) is pending.
8. If the individual was expelled from a school under s. 119.25 or 120.13 (1), there is another school available which the individual can attend.
10. The individual does not have good cause for failing to attend school, as defined by the department by rule.
11. If the individual is the mother of a child, a physician has not determined that the individual should delay her return to school after giving birth.
12. If the individual is on a waiting list for a children-at-risk program under s. 118.153, a children-at-risk program that is appropriate for the individual is not available.

(ge) 1.(intro.) An individual fails to meet the school attendance requirement if the individual meets at least one of the following conditions:

- a. The individual is either not enrolled in school or is a habitual truant.
- b. During the immediately preceding semester, the individual was either not enrolled in school or was a habitual truant.

2. The Wisconsin Works agency or county department shall verify school enrollment and attendance.

(gm) 1. The following individuals who are subject to the school attendance requirement under the learnfare program are required to participate in case management under sub. (2)(b):

- a. Minor parents.
- b. Habitual truants.
- c. Dropouts, as defined in s. 118.153 (1)(b), including individuals who were dropouts and reenrolled in school in the same or immediately succeeding semester in which they dropped out of school.
- d. A child whose Wisconsin Works group includes a participant under s. 49.147 (3), (4), or (5) who has been unable to participate in activities required under s. 49.147 (3), (4), or (5) due to the child's school-related problems.

2. The department may, in accordance with rules promulgated by the department, sanction any individual specified under subd. 1. who fails to cooperate with case management efforts.

(h) 1. An individual who fails to cooperate with case management efforts under par. (gm) is subject to sanctions as provided under subd. 1s. only if all of the following apply:

- as. The individual has failed to request a hearing or has failed to show good cause for not cooperating with case management efforts in a hearing. The hearing shall be requested and held under s. 49.152. The department shall determine by rule the criteria for good cause.
- b. The individual's family fails to cooperate with the case manager or fails to engage in the activities identified by the case manager as being necessary to improve the individual's school attendance.

c. The individual continues to fail to meet the school attendance requirement under par. (ge).

1s.a. Except as provided under subd. 1s. b., an individual who fails to meet the school attendance requirement under par. (ge) is subject to sanctions determined by the department by rule.

b. An individual who is a dependent child in a Wisconsin Works group that includes a participant under s. 49.147 (3), (4), or (5) and who fails to meet the school attendance requirement under par. (ge) is subject to a monthly sanction.

2. If, as a result of the application of sanctions under this paragraph, no child in a family receives payment under s. 49.19, the department shall make a payment to meet only the needs of the parent or parents who would otherwise be eligible for aid under s. 49.19.

(hm) The department may require consent to the release of school attendance records, under s. 118.125 (2)(e), as a condition of eligibility for benefits under s. 49.147 (3) to (5) or aid under s. 49.19.

(hr) If an individual subject to the school attendance requirement under par. (ge) is enrolled in a public school, communications between the school district and the department, a county department under s. 46.215, 46.22, or 46.23 or a Wisconsin works agency concerning the individual's school attendance may only be made by a school attendance officer, as defined under s. 118.16 (1)(b).

(2) Services for learnfare pupils.

(a) In this subsection, "county department" means a county department under s. 46.215, 46.22 or 46.23.

(b) County departments or Wisconsin works agencies shall provide case management services to individuals who are subject to the school attendance requirement under the learnfare program under sub. (1) and their families to improve the school attendance and achievement of those individuals.

118.153. Children at risk of not graduating from high school.

(1) In this section:

(a) "Children at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are 2 or more of the following:

1m. One or more years behind their age group in the number of high school credits attained.

2. Two or more years behind their age group in basic skill levels. 2m. Habitual truants, as defined in s. 118.16 (1)(a).

3. Parents.

4. Adjudicated delinquents.

5. Eighth grade pupils whose score in each subject area on the examination administered under s. 118.30 (1m) (am) 1. or 118.301 (3) was below the basic level, 8th grade pupils who failed the examination administered under s. 118.30 (1m)(am) 2. or 118.301 (3), and 8th grade pupils who failed to be promoted to the 9th grade.

(b) "Dropout" means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under s. 118.15 (1)(b) to (d) or (3).

(2)(a) Every school board shall identify the children at risk who are enrolled in the school district and annually by August 15 develop a plan describing how the school board will meet their needs.

(b) If in the previous school year a school district had 30 or more dropouts or a dropout rate exceeding 5 percent of its total high school enrollment, the school board may apply to the state superintendent for aid under this section.

118.16. School attendance enforcement.

(1) In this section:

(a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for part or all of 5 or more days on which school is held during a school semester.

(b) "School attendance officer" means an employee designated by the school board to deal with matters relating to school attendance and truancy. "School attendance officer" does not include an individual designated under sub. (2m)(a) to take into custody a child who is absent from school without an acceptable excuse under s. 118.15 unless that individual has also been designated by the school board to deal with matters relating to school attendance and truancy.

(c) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15.

(1m) The period during which a pupil is absent from school due to a suspension or expulsion under s. 120.13 or 119.25 is neither an absence without an acceptable excuse for the purposes of sub. (1)(a) nor an absence without legal cause for the purposes of sub. (1)(c).

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(c) Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by electronic communication, personal contact, 1st class mail, or telephone call of which a written record is kept. The school attendance officer shall attempt to give notice by personal contact, telephone call, or, unless the parent or guardian has refused to receive electronic communication, electronic communication before notice by 1st class mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail or by 1st class mail, when the child initially becomes a habitual truant. The school attendance officer may simultaneously notify the parent or guardian of the habitually truant child by an electronic communication. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1)(a) and (am), to cause the child to attend school regularly.
2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1)(d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).
3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.
4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1)(a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162
(4)(a). After the notice required under par. (cg) has been given, par. (c) does not apply.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of workforce development.

(e) Except as provided in par. (f), shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

(2m)

(a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s.

118.15 into custody under s. 938.19 (1m):

1. An employee of the school district who is directly involved in the provision of educational programs to the truant child.
2. An employee of the school district who is directly involved in the provision of a modified program or curriculum under s. 118.15 (1)(d), a program for children at risk under s. 118.153 or an alternative educational program under s. 119.82 or any other alternative educational program to children who attend the school attended by the truant child, if the school district administrator believes that the program or curriculum may be appropriate for the truant child.
3. A school social worker employed by the school district who provides services to children attending the school attended by the truant child, if the school district administrator believes that the services provided by the social worker may be appropriate for the truant child.
4. An employee of a social services agency who is directly involved in the provision of social services to the truant child or the child's family.
5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subds. 1., 2. or 3.

(b) A designation under par. (a) shall be in writing and shall specifically identify the child whom the individual is authorized to take into custody.

(c) A school district administrator may not designate an individual under par. (a) unless the individual agrees to the designation in writing.

(d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. 938.19 (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. 938.19 (1m).

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not

required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

(3) All private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of school attendance officers at all reasonable times. When called upon by any school attendance officer, the school shall furnish, on forms supplied by the school attendance officer, the information required under ss. 115.30 (2) and 120.18 in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at the school.

(4)(a) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge.

(b) No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The attendance policy under par. (a) shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension.

(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

(cm) 1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7)(e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

- a. An assessment for problems with alcohol or other drugs.
- b. An assessment of individual educational needs.

- c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.
- d. A vocational assessment, which may include career counseling.
- e. A medical assessment.

(d) The school board shall provide each pupil enrolled in the public schools in the district with a copy of the policies established under this subsection and shall file a copy of the policies in each school in the district. In addition, the school board shall make copies available upon request.

(e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1)(d) 10. for being absent from school without an acceptable excuse under s. 118.15.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

- (a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.
- (b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1)(d).
- (c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.
- (d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(5m) Subsection (5)(a) does not apply if a meeting under sub. (2)(cg) 3. is not held within 10 school days after the date that the notice under sub. (2)(cg) is sent. Subsection (5)(b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6)(a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).
2. Refer the child to a teen court program if all of the following conditions apply:
 - a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.
 - b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub.

(5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

(7) Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than \$5 nor more than \$25.

Truancy committee and plan.

(1) At least once every 4 years, in each county, the school district administrator of the school district which contains the county seat designated under s. 59.05, or his or her designee, shall convene a committee to review and make recommendations to the school boards of all of the school districts in the county on revisions to the school districts' truancy plans under sub. (4m). The committee shall consist of the following members:

(a) A representative from each school district in the county, designated by the school board of the school district that he or she represents, who may be a school board member, school administrator, teacher, pupil services professional or parent of a child enrolled in the school district. If the territory of a school district lies in more than one county, the school district shall have a representative on the committee for the county in which the largest portion of the school district's equalized valuation is located.

(am) A representative from each tribal school in the county, designated by the governing body of the tribal school that he or she represents, who may be a member of the tribal school governing body, school administrator, teacher, pupil services professional, or parent of a child enrolled in that tribal school.

(b) A representative of the office of the district attorney, designated by the district attorney.

(c) A representative of the sheriff's department, designated by the sheriff.

(d) A representative of the local law enforcement agency, other than the sheriff's department, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

(e) A representative of the circuit court for the county, designated by the chief judge of the judicial administrative district.

(f) A representative of the county department of social services under s. 46.22, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, a representative of the county department of human services under s. 46.23, designated by the county human services director.

(g) A representative of the juvenile court intake unit, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, designated by the county human services director, or designated by the chief judge of the judicial administrative district.

- (h) If a county department of human services has not been established under s. 46.23, a representative of a county department established under s. 51.42 or 51.437, designated by the director of the department established under s. 51.42 or 51.437.
 - (i) Any other member as determined by the committee.
 - (j) A parent of a pupil enrolled in a private school, who resides in a school district in the county, designated by the county board.
 - (k) A parent of a pupil enrolled in a public school, who resides in a school district in the county, designated by the county board.
 - (L) A parent of a pupil enrolled in a home-based private educational program, who resides in a school district in the county, designated by the county board.
 - (m) A parent of a pupil enrolled in a tribal school located in the county, who resides in the county, designated by the county board.
- (2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4)(e).
- (3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. A copy of the report shall be submitted to each of the entities identified in sub. (1)(b) to (h) and any other entity designating members on the committee under sub. (1)(i).
- (4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:
- (a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2)(cr) and for meeting and conferring with such parents or guardians.
 - (b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.
 - (c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.
 - (d) The immediate response to be made by school personnel when a truant child is returned to school.
 - (e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.
 - (f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1)(a), with public and private social services agencies.
 - (g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.
- (4m) At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan adopted by the school board under sub. (4).

Municipal truancy and school dropout ordinances.

- (1) In this section:
- (a) "Dropout" has the meaning given in s. 118.153 (1)(b).
 - (b) "Habitual truant" has the meaning given in s. 118.16 (1)(a).
 - (c) "Operating privilege" has the meaning given in s. 340.01 (40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(1m) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d)(c).

(2) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d) An order for the person to attend an educational program as described in s. 938.34 (7d).

(e) An order for the department of workforce development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the person.

(f) An order for the person to be placed in a teen court program as described in s. 938.342 (1g)(f).

(g) An order for the person to attend school.

(h) A forfeiture of not more than \$500 plus costs, subject to s. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(L) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g)(k).

(2m)(a) A county, city, village or town may enact an ordinance permitting a court to suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The ordinance shall provide that the court may suspend the person's operating privilege until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the department of transportation shall assist the court to determine which dropouts have operating privileges.

(3) An ordinance enacted by a county under sub. (1m), (2) or (2m) is applicable and may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under sub. (1m), (2) or (2m).

(4) A person who is under 17 years of age on the date of disposition is subject to s. 938.342.

118.18. Teacher reports.

Every teacher shall record the names, ages and studies of all pupils under his or her charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires.

119.55. Youth service centers, truancy abatement and burglary suppression.

(1)(a) The board shall establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1)(d) 10. for being absent from school without an acceptable excuse under s. 118.15. The board shall contract with the boys and girls clubs of Greater Milwaukee for the operation of the centers.

(b) The board shall establish 2 youth service centers under par. (a).

(2) The board shall pay the city a sum sufficient to pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on truancy abatement and burglary suppression on a full-time basis.

REGULATIONS

PI 25.02. Definitions.

In this chapter:

(6) "Children at risk" or "at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts, or are two or more of the following:

(c) Habitual truants as defined in s. 118.16 (1)(a), Stats.

PI 25.03. Identification of children at risk of not graduating from high school and children at risk plan.

(2) As part of the district plan developed under sub. (1), each board shall describe how the board will identify and meet the needs of the children identified to be at risk. A board, when developing a plan under this section, may consider the following:

- (a) How pupils will be identified and enrolled in programs or provided services to meet their needs.
- (b) How pupils may be identified in early childhood and kindergarten through grade 4 and what programs may be offered to prevent pupils from becoming at risk.
- (c) How parents will be informed and involved in the programs or services made available under par. (a).
- (d) What accommodations can be made to support pupils' achievement and success in school through any of the following:
 - 1. Curriculum modifications.
 - 2. Adaptive instructional strategies.
 - 3. Alternative education programs.
 - 4. Pupil support services.
 - 5. School to work programs.
 - 6. Community services.
 - 7. Coordinating services provided by the district, community, agencies, and other organizations.
 - 8. Eliminating systemic barriers that may cause pupils' success at school to become at risk.

PI 33.07. Habitual truancy and expulsion.

- (1) Expulsion. If a district of attendance issues an order under s. 120.13 (1), Stats., to expel a participating pupil, it shall immediately notify the district of residence.
- (2) Habitual truancy. The district of attendance shall notify the district of residence if a participating pupil is a habitual truant.

Substance Use

LAWS

20.255. Public instruction, department of.

There is appropriated to the department of public instruction for the following programs:

- (1) Educational leadership.
 - (kd) Alcohol and other drug abuse program. The amounts in the schedule for the purpose of s. 115.36
 - (2) and the administration of s. 115.36 (3). All moneys transferred from the appropriation account under s. 20.455 (2)(i) 4. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3)(a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.455 (2)(i). [...]
- (2) Aids for local educational programming.
 - (kd) Aid for alcohol and other drug abuse programs. The amounts in the schedule for the purpose of s. 115.36 (3). All moneys transferred from the appropriation account under s. 20.455 (2)(i) 5. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3)(a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.455 (2)(i).

115.36. Assistance to schools for alcohol and other drug abuse programs.

(1) The purpose of this section is to enable and encourage public, private, and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.
2. The establishment of a central depository and loan program for high cost informational resources.
3. The systematic dissemination of information concerning available resources to appropriate public, private, and tribal school staff.

(e) Create a council under s. 15.04 (1)(c) to advise the department concerning the administration of this section.

(3)(a) The department shall, from the appropriation under s. 20.255 (2)(kd), fund school district projects designed to assist minors experiencing problems resulting from the use of alcohol or other drugs or to prevent alcohol or other drug abuse by minors. The department shall:

1. Administer grant application and disbursement of funds.
2. Monitor program implementation.
3. Assist in and ensure evaluation of projects.
4. Report biennially in its report under s. 15.04 (1)(d) on program progress and project evaluation.
5. Promulgate necessary rules for the implementation of this subsection.

(b) Grants under this subsection may not be used to replace funding available from other sources.

(c) Grants under this subsection may be made only where there is a matching fund contribution from the local area in which a program is designed to operate of 20 percent of the amount of the grant obtained under this subsection. Private funds and in-kind contribution may be applied to meet the requirement of this paragraph.

(d) A school district applying for aid under this subsection shall submit a copy of the application to the county department under s. 51.42 for its advisory review. The county department under s. 51.42 may, and the council established under sub. (2)(e) shall, submit an advisory recommendation with respect to the application to the department prior to the approval or denial of the application.

118.24. School district administrator.

(2)(f) The school district administrator shall ensure that the administrative and pupil service staff in the district cooperate with the county department under s. 51.42 in the dissemination of information regarding the availability of alcohol and drug abuse services and to jointly establish procedures for the referral to appropriate agencies of students experiencing problems resulting from the use of alcohol or other drugs.

118.257. Liability for referral to police.

(1) In this section:

(a) "Controlled substance" has the meaning specified in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m). (at)

"Delivery" has the meaning given in s. 961.01 (6).

(b) "Distribute" has the meaning specified in s. 961.01 (9).

(c) "Pupil services professional" means a school counselor, school social worker, school psychologist or school nurse.

(d) "School" means a public, parochial, private, or tribal school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(2) A school administrator, principal, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

118.45. Tests for alcohol use.

A school board employee or agent, or law enforcement officer, as defined in s. 102.475 (8)(c), authorized by a public school board may require a public school pupil, including a charter school pupil, to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath whenever the authorized employee, agent or officer has reasonable suspicion that the pupil is under the influence of alcohol while the pupil is in any of the circumstances listed in s. 125.09 (2)(b) 1. to 3. The authorized employee, agent or officer shall use a breath screening device approved by the department of transportation for the purpose of determining the presence of alcohol in a person's breath to determine if alcohol is present in the pupil's breath. The results of the breath screening device or the fact that a pupil refused to submit to breath testing shall be made available for use in any hearing or proceeding regarding the discipline, suspension or expulsion of a student due to alcohol use. No school board may require a pupil to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath until the school board has adopted written policies regarding disciplines or treatments that will result from being under the influence of alcohol while on school premises or from refusing to submit to breath testing to determine the presence of alcohol in the pupil's breath.

120.12. School board duties.

The school board of a common or union high school district shall:

(20) Prohibition of tobacco. Prohibit the use of all tobacco products on premises owned or rented by, or under the control of, a school board, except that the school board may allow the use of tobacco products on premises owned by the school district and rented to another person for noneducational purposes.

255.15. Statewide tobacco use control program.

(3) Use of funds.

(b) From the appropriation account under s. 20.435 (1)(fm), the department may award grants for any of the following:

3. School-based programs relating to tobacco use cessation and prevention.

REGULATIONS

PI 38.11. Purpose.

- (1) Under s. 115.36 (1), Stats ., public and private schools are encouraged to develop comprehensive kindergarten through grade 12 programs to prevent or ameliorate alcohol and other drug abuse among minors.
- (2) Under s. 115.36 (3), Stats ., the department shall fund school district projects designed to assist minors experiencing problems resulting from alcohol or other drug use or to prevent alcohol and drug use by minors.
- (3) This subchapter sets forth characteristics of a comprehensive kindergarten through grade 12 program including criteria and procedures in awarding grants under s. 115.36, Stats.

PI 38.12. Definitions.

In this subchapter:

- (1) "AODA program" means a comprehensive kindergarten through grade 12 alcohol and other drug abuse program as described in s. PI 38.13 . [...]
- (7) "Intervention" means efforts to respond to and provide appropriate assistance to students experiencing health and safety problems including alcohol and other drug abuse. [...]
- (9) "Prevention" means efforts to provide pupils appropriate information and developmental experiences necessary to make personally and socially responsible decisions regarding their own alcohol and other drug use and non-use and other health and safety factors and to cope effectively with the personal and social results of health and safety decisions made by others. Prevention includes efforts to develop assets which can be used to overcome challenges and set-backs and to help students become positive, caring, responsible and productive citizens.
- (10) "Pupil assistance program," also referred to as a student assistance program, means an alcohol and other drug abuse support program involving pupils with health and safety problems and concerns in individual or group settings operating under conditions established by school board policy, rules and responsibilities.

PI 38.13. Comprehensive kindergarten through grade 12 AODA programs, application requirements, and awarding of grants.

- (1) AODA Program Policies. Except projects funded under s. PI 38.14 , a school board conducting an AODA program shall establish policies and procedures that clearly articulate how the program will operate. In developing policies under this section, a school board shall consider requiring any of the following:
 - (a) That administrators and teachers designated to engage in AODA programs under s. 118.126, Stats ., have received appropriate training and are aware of the requirements of s. 118.126, Stats .
 - (b) Provide for cooperative arrangements with the county department of community programs regarding the availability of AODA services as specified under s. 118.24 (2)(f), Stats .
 - (c) That school administrators, principals, pupil services professionals and teachers employed by the school board are aware of the provisions under s. 118.257, Stats ., pertaining to liability for referral to police, when referring pupils to law enforcement authorities for removal from school grounds or school sponsored activities as a result of suspicion of possession or consumption of an alcoholic beverage or controlled substance.
 - (d) That school administrators, principals, pupil services professionals and teachers employed by the school board are aware of the provisions of s. 118.258, Stats ., pertaining to the prohibition of electronic

communications devices and that pupils are annually provided with a copy of the board's rules pertaining to this prohibition.

(e) That school administrators, principals, pupil services professionals and teachers employed by the school board are aware of the provisions of s. 120.12 (20), Stats., pertaining to prohibiting the use of all tobacco products on school premises.

(f) That school administrators, principals, pupil service professionals and teachers employed by the school board are aware of the provisions of s. 125.09, Stats., pertaining to the prohibition of alcohol beverages on school grounds.

(g) That school administrators, principals, pupil service professionals and teachers employed by the school board are aware of the provisions of s. 118.125, Stats., pertaining to the maintenance and confidentiality of certain types of pupil records.

(h) That school administrators, principals, pupil service professionals and teachers employed by the school board are aware of the provisions of s. 118.45, Stats., pertaining to use of portable breath testing devices with pupils suspected of consuming alcohol or being under the influence of alcohol at school or a school sponsored event.

(2) AODA Program Content. Under s. 115.36 (1), Stats., every public and private school is encouraged to develop AODA programs to prevent or ameliorate alcohol and other drug abuse among minors.

Section

115.36 (3), Stats., provides for grants to assist school districts in developing or supplementing AODA programs. An AODA program under this section may include any of the following:

(a) Curriculum and instruction that meets all of the requirements of s. 118.01 (2)(d) 2. c. and 6., Stats., and which does all of the following:

1. Provides accurate and up-to-date information on health promotion and risk behaviors.
2. Provides accurate information about youth attitudes and behaviors about AODA and related youth risk behaviors.
3. Provides a strong focus on life skill development, such as decision making, goal setting and communication skills.
4. Emphasizes key concepts that cut across many health and safety issues.
5. Provides multiple instructional strategies.
6. Is developmentally appropriate and builds on a pupil's prior knowledge.
7. Provides a sense of safety and community in the classroom.
8. Provides clear and consistent messages.
9. Involves parents and guardians in instructional programs.

(b) A written school district policy which supports comprehensive alcohol and other drug abuse programming including pupil assistance programs, curriculum, instruction, staff development and youth oriented activities. The policies shall be widely publicized and be in accordance with appropriate state and federal laws.

(c) Programs for pupils including pupil assistance programs, peer programs, student clubs, and drug free alternatives.

(d) Programs for adults including staff development, employee assistance and wellness programs, and parent and community education.

(e) Integration of community resources and support services including, but not limited to, human services providers, private treatment providers, law enforcement officers, and judicial personnel.

(f) Access to a collaborative pupil service team made up of school counselors, social workers, nurses and psychologists.

- (g) An AODA program coordinator who is provided with appropriate time and training.
 - (h) Ongoing monitoring, assessment and evaluation of AODA program activities.
 - (i) Strategies to develop comprehensive school health programs which include, but are not limited to, a police-school partnership project, a family support project providing parenting skills and family cohesion building strategies, after school and summer school tutorial services, student assistance programs, youth-led prevention activities, any other strategy approved by the state superintendent to meet the statutory objectives of prevention or amelioration of alcohol and drug use by minors. A school district may enter into contracts with public or private non-profit agencies to collaborate on family support programs that include parenting skills and family cohesion building strategies.
- (3) Grant Application Requirements. A school board or a school board in cooperation with another school board under an agreement under s. 66.0301, Stats .; or a CESA board under s. 116.032, Stats .; may apply for a grant under this section. Maximum awards for consortium projects shall be determined by the state superintendent as described under sub. (4)(a). Annually, an applicant under this section shall submit all of the following information to the department in its grant application:
- (a) Evidence of the need for the grant.
 - (b) The name of the AODA program coordinator, and evidence that the AODA program coordinator holds a current license issued by the department under ch. PI 34.
 - (c) A description of how the proposed program activities will be integrated with the school district's current AODA program as specified in this section, as well as other school improvement strategies.
 - (d) An outline of the proposed program objectives, activities, and related timelines. The program's objectives shall be measurable.
 - (e) A description of how the proposed program will be evaluated. The description shall contain outcome evaluations.
 - (f) A description of how the program activities will continue after the grant period is completed.
 - (g) A description of how the strategies and activities contained in the proposal contribute to the prevention or amelioration of alcohol, tobacco, and other drug abuse.
 - (h) A description of the collaborative development of the proposal, including the individuals that participated in the process.
 - (i) A description of the resources and funds necessary to implement the project and how the matching fund contribution of 20% will be met. Private and in-kind contributions may be applied to meet this requirement.
 - (j) An assurance that the grant applicant will not use the funds to supplant any funds which are otherwise available for the proposed project.
 - (k) Evidence that the grant applicant submitted a copy of the proposed project to the county department of community programs for advisory review.
- (4) Review of Applications and Awarding of Grants. (a) The state superintendent, annually, shall establish funding limits for programs under this section based on the amount appropriated for the program under s. 20.255 (2)(kd), Stats ., using the criteria specified under par. (c) 2. The state superintendent shall inform school districts of the funding limits by letter which will accompany application materials.
- (b) The council shall review the applications submitted under this section and make recommendations to the state superintendent regarding the funding of school district applications. These recommendations shall be based on the criteria specified in par. (c).
 - (c)1. The state superintendent shall review the applications submitted under this section and consider the recommendations made by the council under par. (b) to determine which of the applications eligible

for funding will receive grants. The state superintendent shall make this determination based on the following primary criteria:

- a. The extent to which the goals, objectives and activities relate to the purpose of the proposed program.
 - b. The extent to which the proposed program activities will assist the district in meeting the requirements of this section.
 - c. The local capacity to sustain program activities.
 - d. The extent to which programs are innovative or exemplary and may serve as a model for other school districts.
2. Secondary criteria in awarding grants shall, to the extent possible, include the following:
- a. The grants shall be distributed equally throughout the state.
 - b. The grants shall be awarded to school districts of varying sizes, as determined by membership.

PI 38.14. Student mini grants.

(1) Grant Application Requirements. (a) A school district may apply for a grant for an AODA education and related youth risk behaviors education, prevention and intervention activities program designed by the pupils enrolled in the school district. A grant under this section may not exceed \$ 1,000. Annually, an applicant under this section shall submit all of the following information to the department in its grant application:

1. A description of the program to be developed and implemented by pupils and whether the program is being implemented at a building, district, or community level.
2. An outline of the proposed program goals, objectives, activities, personnel involved, material to be developed or needed, and related timelines.
3. A description on how the proposed activities will be evaluated to determine the extent to which the objectives were met.
4. A budget that describes how grant funds will be used.

(2) Review of Applications and Awarding of Grants. The state superintendent shall review applications submitted under this section and determine which of the applications eligible for funding will receive grants. The state superintendent shall make this determination based on all of the following criteria.

- (a) The extent to which the goals, objectives and activities relate to the purpose of the proposed program.
- (b) The extent to which program activities have an educational focus.
- (c) Evidence that the proposal was developed and will be implemented by youth.

Note: PI-2391, Application - Student Alcohol and Other Drug Abuse Mini-Grant, may be obtained at no charge from the Department of Public Instruction, P. O. Box 7841, Madison, WI 53707-7841.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

115.28. General duties.

The state superintendent shall:

(45) Grants for bullying prevention. From the appropriation under s. 20.255 (3)(eb), award grants to a nonprofit organization, as defined in s. 108.02 (19), to provide training and an online bullying prevention curriculum for pupils in grades kindergarten to 8.

118.02. Special observance days.

On the following days when school is held or, if the day falls on a Saturday or Sunday, on a school day immediately preceding or following the respective day, the day shall be appropriately observed:

(9t) Wednesday of the 4th week in September, Bullying Awareness Day.

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.
8. An identification of the school-related events at which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1)(a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

118.51. Full-time open enrollment.

(3m) Alternative application procedures under certain circumstances.

(a) Notwithstanding sub. (3), the parent of a pupil who wishes to attend a public school in a nonresident school district under this section may, in lieu of applying under sub. (3), submit an application under this subsection, on a form provided by the department under sub. (15)(a), to the school board of the

nonresident school district that the pupil wants to attend if the pupil satisfies at least one of the criteria under par. (b). Applications may be submitted to no more than 3 nonresident school boards in any school year. For purposes of determining whether applications have been submitted to more than 3 nonresident school boards, the department may not count an application submitted to a nonresident school board for a pupil to attend a virtual charter school.

(b) The parent of a pupil may apply under this subsection only if the pupil meets one of the following criteria, and shall describe the criteria that the pupil meets in the application:

3. The pupil has been the victim of repeated bullying or harassment and all of the following apply:
 - a. The pupil's parent has reported the bullying or harassment to the resident school board.
 - b. Despite action taken under subd. 3. a., the repeated bullying and harassment continues.

948.51. Hazing.

(1) In this section "forced activity" means any activity which is a condition of initiation or admission into or affiliation with an organization, regardless of a student's willingness to participate in the activity.

(2) No person may intentionally or recklessly engage in acts which endanger the physical health or safety of a student for the purpose of initiation or admission into or affiliation with any organization operating in connection with a school, college or university. Under those circumstances, prohibited acts may include any brutality of a physical nature, such as whipping, beating, branding, forced consumption of any food, liquor, drug or other substance, forced confinement or any other forced activity which endangers the physical health or safety of the student.

(3) Whoever violates sub. (2) is guilty of:

- (a) A Class A misdemeanor if the act results in or is likely to result in bodily harm to another.
- (b) A Class H felony if the act results in great bodily harm to another.
- (c) A Class G felony if the act results in the death of another.

REGULATIONS

PI 23 Appendix. List of violent criminal offenses under the ESEA intradistrict safe school transfer options.

Class H Felonies

Hazing (if the act results in great bodily harm) under s. 948.51 (3)(b), Stats.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

115.36. Assistance to schools for alcohol and other drug abuse programs.

(1) The purpose of this section is to enable and encourage public, private, and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.
2. The establishment of a central depository and loan program for high cost informational resources.
3. The systematic dissemination of information concerning available resources to appropriate public, private, and tribal school staff.

115.368. Assistance to schools for protective behaviors programs.

(1) The purpose of this section is to enable and encourage public, private, and tribal schools to develop protective behaviors programs and anti-offender behavior programs designed to assist minors and their parents or guardians in recognizing, avoiding, preventing, and halting physically or psychologically intrusive or abusive situations that may be harmful to minors.

(2) The department, in conjunction with the department of health services and the department of children and families, and after consulting with established organizations providing services with a focus on children of risk, shall:

(a) Develop and conduct protective behaviors training programs for the professional staff of public, private, and tribal schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437. The training programs shall include information on how to assist a minor and his or her parent or guardian in recognizing, avoiding, preventing, and halting physically or psychologically intrusive or abusive situations that may be harmful to the minor, including child abuse, sexual abuse, and child enticement. The training programs shall emphasize how to help minors to develop positive psychological, emotional, and problem-solving responses to such situations, and to avoid relying on negative, fearful, or solely reactive methods of dealing with such situations. The training programs shall also include information on the detection, by other minors, their parents or guardians, and school staff, of conditions that indicate that a minor is being or has been subjected to such situations; the proper action to take when there is reason to believe that a minor is being or has been subjected to such situations; and the coordination of school protective behaviors programs and activities with programs and activities of other state and local agencies. Persons other than the professional staff of public, private, and tribal schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437 may attend the training programs. The department may charge such persons a fee sufficient to cover the increased costs of materials, but

not personnel cost, to the department of their participation in the programs. The department may not deny any resident of Wisconsin the opportunity to participate in a program if the person is unable to pay any fee.

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of protective behaviors programs and the coordination of those programs with programs of other state and local agencies.

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.
8. An identification of the school-related events at which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1)(a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

165.28. Office of school safety.

The office of school safety shall do all of the following:

(1) In conjunction with the department of public instruction, create model practices for school safety. The department of public instruction shall provide any resources or staff requested by the office to create the model practices. The office shall also consult the Wisconsin School Safety Coordinators Association and the Wisconsin Safe and Healthy Schools Training and Technical Assistance Center.

(2) Coordinate with schools under s. 118.07 (4)(cf) and the department of administration to compile blueprints or critical incident mapping data for all schools. The office shall keep all blueprints and critical incident mapping data confidential unless a law enforcement agency requests access.

(3) Offer, or contract with another party to offer, training to school staff on school safety. Training subjects may include trauma informed care and how adverse childhood experiences have an impact on a child's development and increase needs for counseling or support. If a school receives under s.

165.88 (2)(b) a grant for the training under this subsection, the office may charge a fee for the training.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

118.42. Low-performing school districts and schools; state superintendent interventions.

(1) If the state superintendent determines that a school district has been in need of improvement for 4 consecutive school years, the school board shall do all of the following:

- (c) Implement for all pupils a system of academic and behavioral supports and early interventions, including diagnostic assessments, instruction in core academic subjects, different instructional strategies for different pupils, and strategies to improve reading and mathematics instruction and promote positive behavior.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

115.28. General duties.

The state superintendent shall:

- (63) Mental health training program. Establish a mental health training support program under which the department provides training on all of the following evidence-based strategies related to addressing mental health issues in schools to school district staff and instructional staff of charter schools under s.

118.40 (2r) or (2x):

- (a) The screening, brief intervention, and referral to treatment program.
- (b) Trauma sensitive schools.
- (c) Youth mental health first aid.

165.28. Office of school safety.

The office of school safety shall do all of the following:

- (1) In conjunction with the department of public instruction, create model practices for school safety. The department of public instruction shall provide any resources or staff requested by the office to create the model practices. The office shall also consult the Wisconsin School Safety Coordinators Association and the Wisconsin Safe and Healthy Schools Training and Technical Assistance Center.
- (2) Coordinate with schools under s. 118.07 (4)(cf) and the department of administration to compile blueprints and or critical mapping data for all schools. The office shall keep all blueprints and critical incident mapping data confidential unless a law enforcement agency requests access.
- (3) Offer, or contract with another party to offer, training to school staff on school safety. Training subjects may include trauma informed care and how adverse childhood experiences have an impact on a child's development and increase needs for counseling or support. If a school receives under s. 165.88 (2)(b) a grant for the training under this subsection, the office may charge a fee for the training.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

20.255. Public instruction, department of.

There is appropriated to the department of public instruction for the following programs:

- (1) Educational leadership.
 - (ep) Mental health training program. The amounts in the schedule for the mental health training program under s. 115.28 (63).

115.28. General duties.

The state superintendent shall:

- (63) Mental health training program. Establish a mental health training support program under which the department provides training on all of the following evidence-based strategies related to addressing mental health issues in schools to school district staff and instructional staff of charter schools under s. 118.40 (2r) or (2x):
 - (a) The screening, brief intervention, and referral to treatment program.
 - (b) Trauma sensitive schools.
 - (c) Youth mental health first aid.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

20.255. Public instruction, department of.

There is appropriated to the department of public instruction for the following programs:

(2) Aids for local educational programming.

(da) Aid for school mental health programs. The amounts in the schedule for aid to school districts and independent charter schools under s. 115.364.

115.367. School-based mental health services grants.

(1) Grant program. The department shall establish and administer a competitive program to award grants to school boards and operators of charter schools under s. 118.40 (2r) or (2x) for the purpose of collaborating with community mental health agencies to provide mental health services to pupils. School boards and operators of charter schools under s. 118.40 (2r) and (2x) may apply for a grant under this section individually or as a consortium of school boards, charter schools, or both. For purposes of this subsection, a "consortium of school boards" includes a cooperative educational service agency.

(2) Eligibility criteria. The department shall establish by rule the criteria the department will use to award grants under this section.

(3) Awards. The department shall award grants under this section beginning in the 2018-19 school year. From the appropriation under s. 20.255 (2)(dt), the department shall award at least \$3,250,000 in grants under this section each school year.

(4) Rules. The department shall promulgate rules to implement and administer this section.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(26r) Contracts for mental health and developmental disabilities services. Contract with the department of health services for services under s. 46.043.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

118.18. Teacher reports.

Every teacher shall record the names, ages and studies of all pupils under his or her charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires.

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.

118.305. Use of seclusion and physical restraint.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:

a. The pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals and any law enforcement officers present during the incident.

3. Meet with the covered individuals who participated in the incident to discuss all of the following:

a. The events preceding, during, and following the use of the seclusion or physical restraint.

b. How to prevent the need for seclusion or physical restraint, including the factors that may have contributed to the escalation of behaviors; alternatives to physical restraint, such as de-escalation techniques and possible interventions; and other strategies that the school principal or designee determines are appropriate.

(b) The school principal or his or her designee shall retain a report prepared under par. (a) 2. and shall, within 3 business days of the incident, do one of the following:

1. Send the report to the pupil's parent by 1st class mail or by electronic transmission.

2. Hand deliver the report to the pupil's parent.

REGULATIONS

No relevant regulations found.

Parental Notification

LAWS

118.16. School attendance enforcement.

(2) The school attendance officer:

(c) Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by electronic communication, personal contact, 1st class mail, or telephone call of which a written record is kept. The school attendance officer shall attempt to give notice by personal contact, telephone call, or, unless the parent or guardian has refused to receive electronic communication, electronic communication before notice by 1st class mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail or by 1st class mail, when the child initially becomes a habitual truant. The school attendance officer may simultaneously notify the parent or guardian of the habitually truant child by an electronic communication. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1)(a) and (am), to cause the child to attend school regularly.
2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1)(d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).
3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.
4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1)(a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162

(4)(a). After the notice required under par. (cg) has been given, par. (c) does not apply. [...]

(2m)(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

- (a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2)(cr) and for meeting and conferring with such parents or guardians. [...]

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

118.305. Use of seclusion and physical restraint.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2. [...]

(d) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on an LEA placed pupil at a private school, the administrator of the private school or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the LEA placed pupil's parent and the local educational agency of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:

- a. The LEA placed pupil's name.
- b. The date, time, and duration of the use of seclusion or physical restraint.
- c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.
- d. The names and titles of the covered individuals and any law enforcement officers who were present during the incident.

119.25. Expulsion of pupils.

(2)(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1)(e) 4.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

(b)3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

4. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. The administrator, or the administrator's designee, shall make a finding within 15 days of the conference.

(c)4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
- f. That the school board shall keep written minutes of the hearing.
- g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
- h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
- i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

- j. That the decision of the school board shall be enforced while the department reviews the school board's decision.
 - k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
 - L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1). [...]
- (e)4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:
- a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
 - b. The time and place of the hearing.
 - c. That the hearing may result in the pupil's expulsion.
 - d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
 - e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
 - f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.
 - g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
 - h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.
 - i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.
 - j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
 - k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.
 - L. That the decision of the school board shall be enforced while the department reviews the school boards decision.
 - m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.
 - n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

REGULATIONS

PI 25.04. General requirements for school boards.

Each board that has identified children at risk under s. PI 25.03 shall provide for all of the following:

- (5) Notify each pupil and his or her parent in writing whenever the pupil has been identified as a child at risk. The notice shall include all of the following:
 - (a) The name and telephone number of a person the parent or pupil can contact regarding the school district's program.

- (b) A description of the district's plan.
- (c) A statement that the pupil is eligible to be enrolled under the district plan to serve children at risk.
- (d) A description of the at risk programs available and how the pupil may participate in a specific program if more than one program is offered as part of the district plan.
- (e) A statement to inform the parent that he or she may select one or more programs in which the pupil will be enrolled, if the pupil meets the prerequisites for the specific program requested.
- (f) Describe the procedure for requesting that the pupil be enrolled in the specific at risk program selected by the parent. The request shall be in writing, by signature on a district-provided form, or be given verbally to the person responsible for enrolling the pupil in the program. This person shall record the date and time of a verbal request and whether this request was made in person or by phone.
- (g) Identify the process that a parent may use if the parent disagrees with the planned services.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

115.38. School performance report; educational program review.

- (1) The state superintendent shall develop a school and school district performance report for use by school districts under sub. (2). The report shall include all of the following by school and by school district:
- (b) 1. Other indicators of school and school district performance, including dropout, attendance, retention in grade and graduation rates; percentage of habitual truants, as defined in s. 118.16 (1)(a); percentage of pupils participating in extracurricular and community activities and advanced placement courses; percentage of graduates enrolled in postsecondary educational programs; and percentage of graduates entering the workforce.
 - 2. The numbers of suspensions and expulsions; the reasons for which pupils are suspended or expelled, reported according to categories specified by the state superintendent; the length of time for which pupils are expelled, reported according to categories specified by the state superintendent; whether pupils return to school after their expulsion; the educational programs and services, if any, provided to pupils during their expulsions, reported according to categories specified by the state superintendent; the schools attended by pupils who are suspended or expelled; and the grade, sex and ethnicity of pupils who are suspended or expelled and whether the pupils are children with disabilities, as defined in s. 115.76 (5).

118.305. Use of seclusion and physical restraint.

- (4) Notification and reporting following use of seclusion or physical restraint.
- (c) Annually by October 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:
 1. The number of incidents of seclusion in the school during the previous school year.
 2. The total number of pupils who were involved in the incidents of seclusion reported under subd. 1.
 3. The number of children with disabilities who were involved in the incidents of seclusion reported under subd. 1.
 4. The number of incidents of physical restraint in the school during the previous school year.

5. The total number of pupils who were involved in the incidents of physical restraint reported under subd. 4.

6. The number of children with disabilities who were involved in the incidents of physical restraint reported under subd. 4.

(cm) Annually by December 1, each governing body that receives a report under par. (c) shall submit to the state superintendent a report that contains the information under par. (c) for each school under the governing body's charge.

119.44. Board report.

(1) The board shall file its annual financial report with the city clerk and shall send a copy of the report to the state superintendent.

(2) Annually at such times as the department prescribes but on or before September 1, the board shall file a verified annual report with the department, on forms supplied by the department. The annual report shall contain all of the following:

(a) Prior school year attendance data, including all of the following categorized by school, grade, gender and ethnicity:

1. The number of children:

a. Attending a technical college under s. 118.15 (1)(b) or (cm).

b. Excused from school attendance under s. 118.15 (1)(c).

c. Provided each of the program or curriculum modifications under s. 118.15 (1)(d).

2.a. The number of pupils suspended, the number of suspensions and the total number of school days missed as a result of suspensions under s. 120.13 (1)(b).

b. The number of pupils expelled, the number of expulsions and the total number of school days missed as a result of expulsions under s. 120.13 (1)(c).

3. The number of pupils transferred by the school board to a different school in the same school district.

4. The high school graduation rate.

5.a. The number of pupils enrolled in each school transferred to the superintendent of schools opportunity schools and partnership program under s. 119.33, as reported by the superintendent of schools in the enrollment report submitted under s. 119.33 (2)(b) 5.

b. The number of pupils enrolled in each school transferred to the opportunity schools and partnership program under subch. II, as reported by the commissioner in the enrollment report submitted under s. 119.9002 (2)(f).

(b) Scores of the standardized reading tests administered to pupils during the prior school year under s. 121.02 (1)(r), categorized by school, gender and ethnicity.

(c) The information specified under s. 120.18 (1)(gm) and (i).

(d) The information specified under s. 120.18 (1)(a).

(3) Rules promulgated under s. 120.18 (3) apply to the information reported under sub. (2).

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

118.16. School attendance enforcement.

(2m)(a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s.

118.15 into custody under s. 938.19 (1m):

5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subds. 1., 2. or 3.

118.257. Liability for referral to police.

(1) In this section:

(a) "Controlled substance" has the meaning specified in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m). (at)

"Delivery" has the meaning given in s. 961.01 (6).

(b) "Distribute" has the meaning specified in s. 961.01 (9).

(c) "Pupil services professional" means a school counselor, school social worker, school psychologist or school nurse.

(d) "School" means a public, parochial, private, or tribal school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(2) A school administrator, principal, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

REGULATIONS

PI 38.13. Comprehensive kindergarten through grade 12 AODA programs, application requirements, and awarding of grants.

(1) AODA PROGRAM POLICIES. Except projects funded under s. PI 38.14 , a school board conducting an AODA program shall establish policies and procedures that clearly articulate how the program will operate. In developing policies under this section, a school board shall consider requiring any of the following:

(c) That school administrators, principals, pupil services professionals and teachers employed by the school board are aware of the provisions under s. 118.257, Stats ., pertaining to liability for referral to police, when referring pupils to law enforcement authorities for removal from school grounds or school sponsored activities as a result of suspicion of possession or consumption of an alcoholic beverage or controlled substance.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

119.55. Youth service centers, truancy abatement and burglary suppression.

(1)(a) The board shall establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1)(d) 10. for being absent from school without an acceptable excuse under s. 118.15. The board shall contract with the boys and girls clubs of Greater Milwaukee for the operation of the centers.

(b) The board shall establish 2 youth service centers under par. (a).

(2) The board shall pay the city a sum sufficient to pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on truancy abatement and burglary suppression on a full-time basis.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

175.32. School violence.

(1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b) and includes a tribal law enforcement agency, as defined in s. 165.83 (1) (e).

(b) "Member of the clergy" has the meaning given in s. 48.981 (1) (cx).

(c) "School" means a public, private, or tribal elementary or secondary school.

(2) (a) Any person listed under s. 48.981 (2) (a) shall report as provided in sub. (3) if the person believes in good faith, based on a threat made by an individual seen in the course of professional duties regarding violence in or targeted at a school, that there is a serious and imminent threat to the health or safety of a student or school employee or the public.

(b) A court-appointed special advocate under s. 48.236 shall report as provided under sub. (3) if he or she believes in good faith, based on a threat made by a child seen in the course of activities under s. 48.236 (3) regarding violence in or targeted at a school, that there is a serious and imminent threat to the health or safety of a student or school employee or the public.

(c) 1. Except as provided in subd. 2., a member of the clergy shall report as provided in sub. (3) if the member of the clergy believes in good faith, based on a threat of violence in or targeted at a school made by an individual seen in the course of professional duties, that there is a serious and imminent threat to the health or safety of a student or school employee or the public.

2. A member of the clergy is not required to report a threat of violence that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.

(3) A person required to report under sub. (2) shall immediately inform, by telephone or personally, a law enforcement agency of the facts and circumstances contributing to the belief that there is a serious and imminent threat to the health or safety of a student or school employee or the public.

(4) Any person or institution participating in good faith in the making of a report under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. Any health care provider, as defined in s. 146.81 (1), who believes in good faith and in his or her professional judgment that a report is not required under this section shall have immunity from any civil liability or criminal penalty for not making such a report. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed.

(5) Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Wisconsin provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
A Comprehensive Approach to Bullying Prevention, Wisconsin Department of Public Instruction (WI DPI)	Defines bullying and provides links to the information and resources, including the Bullying Prevention Program Assessment tool, Comprehensive Bullying Prevention Resource map, DPI's Model Bullying policy, and resources related to bullying prevention.	https://dpi.wi.gov/sspw/safe-schools/bullying-prevention
Discipline and Expulsion	Provides links to resources that support educators in their efforts to reduce the use of exclusionary discipline practices.	https://dpi.wi.gov/sspw/pupil-services/school-social-work/contents/behavior/discipline-suspension-expulsion
Safe Schools for Lesbian, Gay, Bisexual, and Transgender Students, WI DPI	Provides information and resources on how to foster a safe and welcoming school environment for LGBTQ youth.	https://dpi.wi.gov/sspw/safe-schools/lgbt
Safe Schools, WI DPI	Provides links to a range of school safety-related resources, including information on safe and supportive schools, chronic absenteeism, violence and bullying prevention, school resource officers, and online and internet safety.	http://dpi.wi.gov/sspw/safe-schools
School Resource Officers, WI DPI	Provides links to the model framework used to develop a Memorandum of Understanding (MOU), guidelines for best practices, training opportunities, and additional resources related to school resource officers.	https://dpi.wi.gov/sspw/safe-schools/school-resource-officers
Special Education Subjects Reference-Seclusion and Physical Restraint, WI DPI	Provides information on appropriate seclusion and restraint procedures for students with special needs.	http://dpi.wi.gov/sped/topics/seclusion-restraint
Student Services/Prevention and Wellness (SSPW), WI DPI	Presents an overview of student services, prevention and wellness in Wisconsin schools. Provides links to resources regarding safe schools, pupil services, school mental health, alcohol and other drug abuse prevention.	http://dpi.wi.gov/sspw

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
Wisconsin's Framework for Equitable Multi-Level Systems of Supports, WI DPI	Provides information and resources on frameworks of support including links to the Wisconsin Response to Intervention (RtI) Center and Wisconsin Positive Behavioral Interventions Supports (PBIS) websites to support the behavioral and academic needs of all students.	https://dpi.wi.gov/rti
Wisconsin Safe and Healthy Schools Center	Provides training, technical assistance and resources to assist Wisconsin schools in maintaining safe, disciplined and drug-free schools. Implemented through a collaborative partnership between the Wisconsin Department of Public Instruction (DPI) and the CESA State Network (CSN).	www.wishschools.org
Documents		
Answers to Frequently Asked Compulsory School Attendance Questions (Updated October 2020), WI DPI	FAQ resource outlining rights and responsibilities related to attendance in Wisconsin public schools.	https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/schlattendqa.pdf
Best Practices for School Resource Officer Programs, WI DPI	Guidance document identifying best practices for stakeholders including students, families, law enforcement, school staff, and community partners to use as a model for developing School Resource Officer programs.	https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/srobestpractices.pdf
Model Bullying Policy, WI DPI	Model policy addressing the prohibition of bullying in Wisconsin schools.	https://dpi.wi.gov/sites/default/files/imce/sspw/doc/modelbullyingpolicy.doc
Model Memorandum of Understanding for School Resource Officer Program, WI DPI	Model document for law enforcement, school officials, and communities to establish a School Resource Officer program.	https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/sromodelmou.pdf
Wisconsin's Framework for Equitable Multi-Level Systems of Support, WI DPI	Guidance document developed for school administrators and educators to assist in the adaptation and implementation of student support systems to ensure quality, equitable support for students.	https://dpi.wi.gov/sites/default/files/imce/rti/pdf/rti-emlss-framework.pdf
Other Resources		
No relevant resources found.		



Wyoming Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Wyoming State Codes Cited

Wyoming Revised Statutes

The State of Wyoming contracts with LexisNexis to provide free public access to the Wyoming Statutes Annotated (<http://www.lexisnexis.com/hottopics/wy statutes/>). Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 9. Administration of the Government Chapter 1. State Officers

Article 6. Attorney General

9-1-603. Duties generally; retention of qualified practicing attorneys; matters in which county or state is party or has interest; assistance to county and district attorneys in felony trials; coordination of county and school safety activities

Title 21. Education

Chapter 2. The Administration of the State System of Education at the State Level

Article 2. Superintendent of Public Instruction and Department of Education

21-2-202. Duties of the state superintendent
21-2-204. Wyoming Accountability in Education Act; statewide education accountability system created

Article 3. State Board of Education

21-2-304. Duties of the state board of education

Chapter 3. School Districts in General

Article 1. In General

21-3-110. Duties of boards of trustees
21-3-132. Possession of firearms on school property

Chapter 4. Pupils

Article 1. Compulsory Attendance

21-4-101. Definitions
21-4-104. Duties of attendance officers
21-4-106. List of children of school age to be furnished; notice of unexcused absences
21-4-107. Notice to district attorney of habitual truancy; duty of district attorney

Article 3. Right to Attend School

21-4-305. Suspension or expulsion; authority; procedure
21-4-306. Suspension or expulsion; grounds
21-4-308. Punishment and disciplinary measures; denial of diploma or credit
21-4-311. Safe school climate act; short title
21-4-312. Definitions
21-4-313. Prohibition against harassment, intimidation or bullying; reporting to school officials
21-4-314. School district implementation; state policies, training and technical assistance

Chapter 13. School Finance

Article 3. State Financial Support

21-13-309. Determination of amount to be included in foundation program for each district

Wyoming Regulations

[Wyoming Administrative Code](#)

Department of Education

General Agency, Board or Commission

Rules [Chapter 6. District and School](#)

[Accreditation](#)

Section 5. Accreditation Criteria

[Chapter 42. Seclusion and Restraint in Schools](#)

Section 1. Authority

Section 2. Scope

Section 3. Definitions

Section 4. Policy requirements

Section 5. Enforcement of policy

Section 6. Publication of policy

Section 7. Data collection requirements

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 21-4-308. Punishment and disciplinary measures; denial of diploma or credit.

(a) Each board of trustees in each school district within the state may adopt rules for reasonable forms of punishment and disciplinary measures. Subject to such rules, teachers, principals, and superintendents in such district may impose reasonable forms of punishment and disciplinary measures for insubordination, disobedience, and other misconduct.

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

REGULATIONS

No relevant regulations found.

Scope

LAWS

§ 21-4-306. Suspension or expulsion; grounds.

(b) As used in paragraph (a)(iii) of this section, "habitually disruptive behavior" means overt behavior willfully initiated by a student causing disruption in the classroom, on school grounds, on school vehicles or at school activities or events, which requires the attention of a teacher or other school personnel.

§ 21-4-312. Definitions.

(a) As used in this act:

- (ii) "School" includes a classroom or other location on school premises, a school bus or other school-related vehicle, a school bus stop, an activity or event sponsored by a school, whether or not it is held on school premises, and any other program or function where the school is responsible for the child.

REGULATIONS

No relevant regulations found.

Communication of Policy

LAWS

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(b) The policy prohibiting harassment, intimidation or bullying shall include, without limitation:

- (x) A statement of how the policy is to be publicized, including notice that the policy applies to participation in functions sponsored by the school.

REGULATIONS

Chapter 42. Section 6. Publication of policy.

Schools must include their seclusion and restraint policies within their district/school handbooks and handbooks shall be posted on the district website where they are accessible to both the Wyoming Department of Education and the public.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

§ 21-4-308. Punishment and disciplinary measures; denial of diploma or credit.

(b) Teachers, principals and superintendents in each district shall be immune from civil and criminal liability in the exercise of reasonable corporal discipline of a student as authorized by board policy.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

§ 21-2-202. Duties of the state superintendent.

(a) In addition to any other duties assigned by law, the state superintendent shall:

(xxxii) By rule and regulation, establish requirements for school district policies and training regarding the use of seclusion and restraint in schools as required under W.S. 21-3-110(a)(xxxi). The state superintendent shall review the policy of each district for compliance with the requirements of W.S. 21-3-110(a)(xxxi) and rules and regulations promulgated pursuant to this paragraph. If the state superintendent determines that the policy is not in compliance under this paragraph the superintendent shall direct the board of trustees to revise the policy and shall, upon request, assist the board in the adoption of the policy.

§ 21-3-110. Duties of boards of trustees.

(xxxi) Not later than December 31, 2011, adopt a policy and training procedures regarding the use of seclusion and restraint in schools. In addition to any requirements provided by rule and regulation of the state superintendent pursuant to W.S. 21-2-202(a)(xxxii), the policy shall require that the parent or legal guardian of the student shall be notified each time that seclusion or restraint is utilized for the student. The policy shall prohibit the use of locked seclusion. The policy shall not be limited to any specified group of students and shall apply any time that seclusion or restraint is used for any student. The district shall submit a copy of the policy to the state superintendent for review as provided in W.S. 21-2-202(a)(xxxii), after the initial adoption of the policy and any time thereafter that the policy is substantially revised. As used in this paragraph:

(A) "Restraint" means the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. "Restraint" does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the

student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team;

(B) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. "Seclusion" does not include a student requested break or in-school suspension, detention or other appropriate disciplinary measure.

REGULATIONS

Chapter 42. Section 1. Authority.

The Wyoming rules are authorized by Wyoming Statute 21-2-202(a)(xxxii) and W.S. 21-3-110(a)(xxxii).

Chapter 42. Section 2. Scope.

(a) The State Superintendent shall review the policy of each school district for compliance with the state statute governing Seclusion and Restraint in Schools and approve those policies only after determining that compliance has been achieved.

(b) To the extent that these rules governing Seclusion and Restraint in Schools overlap with other state or federal rules or regulations, compliance with the regulation or rule offering greater student protection shall be deemed compliance with this rule. To the extent that these rules governing Seclusion and Restraint in Schools exceed the requirements of other state or federal rules or regulations, school districts shall comply with the requirements of this rule. In the event of conflict with another state agency's rules or federal rules or regulations, school districts shall comply with this rule.

Chapter 42. Section 3. Definitions.

(a) "Administrative Review" is when an administrator or other appointed-personnel, who have received training in the use of physical restraint and seclusion, shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

(b) "Appropriate Disciplinary Measures" includes classroom, school-wide, or district-wide plans for student conduct adopted pursuant to a school policy promulgated under the authority of W.S. 21-4-308 or other appropriate authority.

(c) "Appropriately Trained Professional" or "Professional Team" includes individuals who are appropriately licensed, trained, and knowledgeable regarding the acceptable use of assistive or protective devices consistent with recognized professional standards and manufacturers' instructions.

(d) "Assistive or Protective Device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child or protect a child from harm.

(e) "Aversive" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.

(f) "Behavior Intervention" is a systematic implementation of procedures developed in conjunction with the parent intended to result in lasting positive changes in a student's behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

(g) "Debriefing Process" The debriefing session provides an opportunity to discuss the circumstances resulting in the use of physical restraint and/or seclusion. The district may conduct a review of the factors that precipitated the event, the de-escalation techniques used, the physical restraint technique(s) utilized,

the outcome of the intervention, including any injuries to student(s) or staff that may have resulted from the incident, prior incidents of physical restraint or seclusion utilized with this student, and any other relevant factors that the district deems appropriate.

(h) "Escort" means guiding a student by touching the student's back, arm, or hand, or holding the student's arm or hand to escort the student safely from one area to another as long as the student is not refusing to comply with the escort. The term does not include the use of coercion or force to move a student from one location to another.

(i) "Evidence Based Training Program" includes programs that are externally developed and have a record of successful implementation in a variety of settings that, at a minimum, emphasize training in de-escalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive and the specific techniques to encourage the safe reentry of the student into the educational environment.

(j) "Imminent Risk" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(k) "Isolating" means visually, auditorally, or physically separating a student from the learning environment, school activity, or peers.

(l) "Locked Seclusion" means a seclusion room with locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact that upon release immediately permits the door to be opened from the inside.

(m) "Mechanical Restraints" include devices or equipment used to restrict the free movement of all or a portion of a student's body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are used for the specific and approved purposes for which the devices or equipment were designed and prescribed.

(n) "Prohibited Practices" means that certain activities or objects are prohibited from being used with students under any circumstances

(o) "Prone Restraints" include holding a student in any position that will:

- (i) Obstruct a student's airway or impair the ability to breathe;
- (ii) Obstruct a staff member's view of a student's face;
- (iii) Restrict a student's ability to communicate distress;
- (iv) Place pressure on a student's head, neck, or torso; or
- (v) Straddle a student's torso

(p) "Restraint" means the use of physical force, with or without the use of any device or material, to restrict the free movement of all or a portion of a student's body. Restraint does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight, or using an assistive or protective device prescribed by an appropriately trained professional or professional team.

(q) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. The term does not include a student requested break or in-school suspension, detention, or other appropriate disciplinary measure.

- (i) "Seclusion from the Learning Environment" means visually or auditorally isolating the student from the classroom or other school activity or away from peers in an area that obstructs the student's ability to participate in regular classroom or school activities.
- (ii) "Isolation Room" means placing the student in an enclosed room built in compliance with all relevant health and safety codes.
- (r) "Time-out" means providing the student with a brief opportunity to regain self-control in a setting that does not physically remove the student from peers or the learning environment and the student is now physically prevented from having the time-out area.

Chapter 42. Section 4. Policy requirements.

(a) Staff Training and Professional Development. School district policies shall, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in preventing physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and non-classified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

(b) Procedures. School policies shall, at a minimum, include the following procedural components:

(i) Restraint:

(A) Only trained, certified staff consistent with Section 7(a)(ii) above shall be permitted to use restraint as part of a planned behavior intervention unless a bona fide emergency constituting an imminent risk to the health or safety exists.

(B) Schools shall not use prohibited practices as part of student restraint at any time. Prohibited practices include:

(I) Aversive interventions

(II) Locked seclusion

(III) Mechanical restraints

(IV) Prone restraints

(C) Restraint shall be used for the minimum amount of time necessary to permit the student to regain control and for staff to restore safety.

(D) School shall develop restraint duration guidelines including a release strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(E) Restraints exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the restraint may continue.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(G) Schools must document each restraint consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(ii) Seclusion:

(A) School staff shall be able to see and hear the student in seclusion at all times.

(B) Student placed in seclusion shall be permitted to access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.

(C) Schools shall document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in Section (c) below.

(D) Using timeout without seclusion is not regulated by these rules.

(E) Seclusion from the Learning Environment:

(I) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.

(II) School shall develop seclusion from the learning Environment duration guidelines.

(F) Isolation Room:

(I) An isolation room may be used in an emergency.

(II) Schools shall develop Isolation Room duration guidelines including a reentry strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(III) Isolation Room seclusion exceeding the durational limits set forth in school's guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.

(IV) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(V) Physical Space Requirements for Isolation Rooms:

(1.) The room shall provide a means of continuous visual and auditory monitoring of the student.

(2.) The room shall be adequately lighted with switches to control lighting located outside the room.

(3.) The room shall be adequately ventilated with switches to control fans or other ventilation devices located outside the room.

(4.) The room shall maintain a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

(5.) The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes.

(6.) The room shall be constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student.

(7.) The room shall be able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

(8.) The dimensions of the room shall be adequate width, length, and height to allow the student to move about and recline comfortably.

(c) Mandatory Documentation. Schools shall complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) Incident Report: At a minimum, the incident report shall include:

- (A) Antecedents, interventions, and other relevant factors;
- (B) Description of the regulated intervention used;
- (C) Time and duration of the seclusion;
- (D) Student's response to the seclusion;
- (E) Administrative Review, if necessary;
- (F) Release or reentry factors;
- (G) Injuries to the student, if any;
- (H) Debriefing.

(ii) The district shall provide to the parents copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) Parent Notification. The school shall develop a parent notification procedure that includes, at a minimum, written notification within 24 hours, or other timeframe as agreed upon by the school or parent, of using a regulated procedure. Notification shall be complete upon mailing, personal deliver, or electronic transmission of the notice.

Chapter 42. Section 5. Enforcement of policy.

(a) Schools shall specify a procedure for the lodging and investigation of complaints regarding misuse of the school district's policy on seclusion and restraint. Policies must include a process for notifying the Wyoming Department of Education when seclusion and restraint complaints are received. In order to support districts the WDE may review violations and policies and work with the school and district to create an improvement plan that includes:

- (i) Increase monitoring, evaluation, and on site review;
- (ii) Offer support, including training and capacity building, for schools to meet the varied and specialized learning needs of children with and without disabilities;
- (iii) The department shall review the plan to ensure that it complies with applicable federal law and the statutes and regulations of this state. The department may require appropriate revision of the plan to ensure compliance;
- (iv) If the school where the violation(s) occurred does not meet the requirements of the plan to the satisfaction of the department, the department will require onsite technical assistance with necessary district staff to assist in the development and monitoring of a compliant plan. The department will increase monitoring and evaluating of district progress plan.

Chapter 42. Section 6. Publication of policy.

Schools must include their seclusion and restraint policies within their district/school handbooks and handbooks shall be posted on the district website where they are accessible to both the Wyoming Department of Education and the public.

Chapter 42. Section 7. Data collection requirements.

Schools shall collect and report annually to the Wyoming Department of Education the number of students involved in the use of regulated intervention, the number of incidents of seclusion and restraint, and the type of regulated intervention utilized.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 21-4-306. Suspension or expulsion; grounds.

- (a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:
- (i) Continued willful disobedience or open defiance of the authority of school personnel;
 - (ii) Willful destruction or defacing of school property during the school year or any recess or vacation;
 - (iii) Any behavior which in the judgment of the local board of trustees is clearly detrimental to the education, welfare, safety or morals of other pupils, including the use of foul, profane or abusive language or habitually disruptive behavior as defined by subsection (b) of this section;
 - (iv) Torturing, tormenting, or abusing a pupil or in any way maltreating a pupil or a teacher with physical violence;
 - (v) Possession, use, transfer, carrying or selling a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12).

REGULATIONS

No relevant regulations found.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 21-4-305. Suspension or expulsion; authority; procedure.

- (a) The board of trustees of any school district is authorized to suspend or expel a student subject to the requirements to provide notice and an opportunity to be heard as set forth in this section. The board of trustees may delegate the authority to suspend or expel a student to disciplinarians chosen from the administrative and supervisory staff.
- (b) No student shall be suspended or expelled from school without notice as set forth in this subsection and an opportunity to be heard as set forth in subsection (c) of this section. To provide notice the disciplinarian shall:
- (i) Give the student to be suspended or expelled oral or written notice of the charges against him and an explanation of the evidence the authorities have;
 - (ii) In good faith attempt to notify the student's parents, guardians or custodians within twenty-four (24) hours of the student's suspension or expulsion and the reasons for the suspension or expulsion, using contact information on record with the school or district. The disciplinarian shall keep record of the efforts to provide notice under this paragraph and whether the notice was provided successfully;
 - (iii) Give the student to be suspended or expelled an opportunity to be heard and to present his version of the charges against him as set forth in subsection (c) of this section;
- (c) To provide an opportunity to be heard the disciplinarian shall give every student to be suspended or expelled the opportunity to be heard as soon as practicable after the misconduct, and in accordance

with the following, unless a student requests an extension of time and the board of trustees or the disciplinarian designee of the board approves the extension:

(i) For a suspension of ten (10) school days or less, notice shall be provided in accordance with paragraph (b)(ii) of this section and a student shall be provided an opportunity to be heard before a student is removed unless the student's presence endangers persons or property or threatens disruption of the academic process, in which case his immediate removal from school may be justified, but the opportunity to be heard shall follow as soon as practicable, and not later than seventy-two (72) hours after his removal, not counting Saturdays and Sundays;

(ii) For a suspension or expulsion longer than ten (10) school days a hearing shall be held in accordance with the Wyoming Administrative Procedure Act and, unless the student requests an extension and the board or the disciplinarian designee of the board approves an extension, the hearing shall be held within ten (10) business days, or as soon thereafter as is reasonably practicable, after the supervisory staff disciplinarian recommends suspension or expulsion to the appropriate administrator. The student's suspension shall continue until the hearing is held.

(d) Repealed by Laws 2019, ch. 164, § 2.

(e) Suspension or expulsion shall not be imposed as an additional punishment for offenses punishable under the laws of the state, except for expulsion by a district superintendent under subsection (a) of this section, or where the offense was committed at a school function, against the property of the school, or is of such nature that continuation of the child in school would clearly be detrimental to the education, welfare, safety or morals of other pupils. No suspension or expulsion shall be for longer than one (1) year.

(f) Any decision of the board, or of a designated superintendent, shall be considered a final decision which may be appealed to the district court of the county in which the school district is located, pursuant to provisions of the Wyoming Administrative Procedure Act. The court may, on application or on its own motion, stay the decision of the board or superintendent pending appeal, considering both the best interests of the child and the need to maintain an orderly environment conducive to learning for other children.

(g) As used in this chapter, an "opportunity to be heard" means at a minimum a meeting in which the disciplinarian or his designee provides the substantive information regarding the suspension or expulsion to the student to be suspended, and the student to be suspended may dispute the substantive information provided. An opportunity to be heard does not require a formal hearing in accordance with the provisions of the Wyoming Administrative Procedure Act except as provided in paragraph (c)(ii) of this section.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§ 21-4-305. Suspension or expulsion; authority; procedure.

(e) Suspension or expulsion shall not be imposed as an additional punishment for offenses punishable under the laws of the state, except for expulsion by a district superintendent under subsection (a) of this section, or where the offense was committed at a school function, against the property of the school, or is of such nature that continuation of the child in school would clearly be detrimental to the education, welfare, safety or morals of other pupils. No suspension or expulsion shall be for longer than one (1) year.

§ 21-4-306. Suspension or expulsion; grounds.

(d) The superintendent with the approval of the board of trustees may modify the period of any expulsion on a case-by-case basis based upon the circumstances of the violation. Upon a violation of paragraph

(a)(v) of this section and following notice and hearing requirements of W.S. 21-4-305, the superintendent shall notify the district attorney of the violation together with the specific act in violation of paragraph (a)(v) of this section and the name of the student violating paragraph (a)(v) of this section. Nothing in this section prohibits a district from providing educational services to the expelled student in an alternative setting.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

§ 21-4-306. Suspension or expulsion; grounds.

(d) The superintendent with the approval of the board of trustees may modify the period of any expulsion on a case-by-case basis based upon the circumstances of the violation. Upon a violation of paragraph (a)(v) of this section and following notice and hearing requirements of W.S. 21-4-305, the superintendent shall notify the district attorney of the violation together with the specific act in violation of paragraph (a)(v) of this section and the name of the student violating paragraph (a)(v) of this section. Nothing in this section prohibits a district from providing educational services to the expelled student in an alternative setting.

§ 21-13-309. Determination of amount to be included in foundation program for each district.

(m) In determining the amount to be included in the foundation program for each district, the state superintendent shall:

(v) Based upon ADM computations and identified school configurations within each district pursuant to paragraph (iv) of this subsection, compute the foundation program amount for each district as prescribed by the education resource block grant model adopted by the Wyoming legislature as defined under W.S. 21-13-101(a)(xiv), as contained within the spreadsheets and accompanying reports referenced under W.S. 21-13-101(a)(xvii). The following criteria shall be used by the state superintendent in the administration of the education resource block grant model:

(B) Alternative schools qualifying for separate consideration under the education resource block grant model may be established by a school district for offering educational programs to students with educational needs which the district finds are not appropriately met by other schools in the district, excluding charter schools established under W.S. 21-3-301 through 21-3-314. Alternative schools included within a district's configuration of schools identified under paragraph (iv) of this subsection shall for purposes of the education resource block grant model:

- (I) Be approved as an alternative school by the department of education prior to July 1, 2006;
- (II) Repealed by Laws 2007, ch. 147, § 102.
- (III) Unless otherwise authorized by the state superintendent, be restricted to not more than one (1) alternative school within any school district;

(IV) Except as otherwise provided in subdivision (V) of this subparagraph, on and after July 1, 2014, and if not qualifying under subdivision (I) of this subparagraph, be approved by the state superintendent subject to the following:

(1) Completion of a formal evaluation of the school district's at-risk programs to ensure provision of a continuum of learning supports and classroom interventions addressing the needs of at-risk children within the district which is comprised of the following:

- a. Criteria for identifying at-risk students in accordance with and subject to research-based indicators;
- b. Use of individual learning plans for each identified at-risk student or an equivalent school-wide plan that defines interventions, programs and services required to address special needs. The plans shall be continuously monitored by the district;
- c. Use of quality learning supports and classroom interventions based upon the special needs of the student population served by the district and the supports and interventions are supported by and based upon research-based practices and strategies;
- d. Data based predictors to identify students at-risk of dropping out of school after reaching the age of compulsory attendance pursuant to W.S. 21-4-102 and learning supports and classroom strategies to address this student population.

(2) A formal evaluation is conducted by the district not less than once every two (2) years of the school's programs, comprised of the continuum of learning supports and classroom interventions specified under subdivision (IV)(1) of this subparagraph. The evaluation shall measure the effectiveness of the school's programs in meeting the needs of those student populations attending the school. Formal evaluations conducted under this subparagraph shall be reported to and approved by the district board and reported to the state superintendent together with action plans addressing necessary program improvements;

(3) Student achievement within the school is reported annually by the district to the state superintendent, as measured by quality indicators specified by rule and regulation of the department which reflect the components of the continuum of learning supports and classroom interventions specified under subdivision (IV)(1) of this subparagraph;

(4) Educational space for the school is provided through facilities operated and maintained by the district and approved by the state construction department as meeting statewide adequacy standards. After two (2) evaluations by the state superintendent under subdivision (IV)(3) of this subparagraph that demonstrate academic progress or success of an alternative school's educational program, the alternative school shall be included in the district's five (5) year plan under W.S. 21-15-116 and the school's long-term facility needs shall be evaluated by the state construction department. Notwithstanding subparagraph (m)(vi)(C) of this section, the state construction department shall not approve any district plan which includes educational space for the alternative school within a separate facility unless the district provides sufficient documentation and evidence that the school cannot be collocated within a facility containing educational space for another school with similar grade configurations operated by the district.

(V) Not be included for purposes of the block grant model if established on or after March 15, 2017 and before June 30, 2019. No new alternative school shall be approved by the department on and after March 15, 2017 and before July 1, 2019.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 21-3-132. Possession of firearms on school property.

(h) Nothing in this section shall authorize a student of a school district to carry a firearm, concealed or otherwise, on or into any facility of a school district.

§ 21-4-306. Suspension or expulsion; grounds.

(a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:

(v) Possession, use, transfer, carrying or selling a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12). [...]

(c) The board of trustees shall, subject to the case-by-case modification permitted by subsection (d) of this section, require the district superintendent to expel from school for a period of one (1) year any student determined to violate paragraph (a)(v) of this section.

(d) The superintendent with the approval of the board of trustees may modify the period of any expulsion on a case-by-case basis based upon the circumstances of the violation. Upon a violation of paragraph (a)(v) of this section and following notice and hearing requirements of W.S. 21-4-305, the superintendent shall notify the district attorney of the violation together with the specific act in violation of paragraph (a)(v) of this section and the name of the student violating paragraph (a)(v) of this section. Nothing in this section prohibits a district from providing educational services to the expelled student in an alternative setting.

REGULATIONS

No relevant regulations found.

Students with Chronic Disciplinary Issues

LAWS

§ 21-4-306. Suspension or expulsion; grounds.

(a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:

(iii) Any behavior which in the judgment of the local board of trustees is clearly detrimental to the education, welfare, safety or morals of other pupils, including the use of foul, profane or abusive language or habitually disruptive behavior as defined by subsection (b) of this section. [...]

(b) As used in paragraph (a)(iii) of this section, "habitually disruptive behavior" means overt behavior willfully initiated by a student causing disruption in the classroom, on school grounds, on school vehicles or at school activities or events, which requires the attention of a teacher or other school personnel.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 21-3-110. Duties of boards of trustees.

The board of trustees in each school district shall:

xxxix) Define "unexcused absence" "habitual truant" and "willful absenteeism" for all students who are attending public schools and establish rules regarding student attendance. For purposes of this paragraph, an absence preapproved by the district or an absence due to an illness, injury or the health care needs of the student or a death or serious illness in the student's family shall not constitute an unexcused absence. Students participating in the annual state fair held under W.S. 11-10-101 as an exhibitor shall be considered as participating in a district cocurricular activity program and the student's absence shall be defined by the board as an excused absence. Nothing in this paragraph shall prohibit a school district from requesting verification of the reasons for an absence.

§ 21-4-101. Definitions.

(a) For the purposes of this article:

(i) "Unexcused absence" means the absence, as defined in the rules of the local board of trustees, pursuant to W.S. 21-3-110(a)(xxxix);

(ii) "Habitual truant" means any child who disobeys reasonable and lawful demands of the child's parent, guardian, custodian or other proper authority to attend school if required under W.S. 21-4-102 and as further defined in the rules of the local board of trustees pursuant to W.S. 21-3-110(a)(xxxix);

(vii) "Willful absenteeism" means exceeding the limit of unexcused absences as defined in the rules of the local board of trustees pursuant to W.S. 21-3-110(a)(xxxix) when the excess absences are the result of a parent's, guardian's or custodian's willful failure, neglect or refusal to require a child's regular attendance at school in accordance with W.S. 21-4-102. § 21-4-104. Duties of attendance officers.

(a) Subject to the rules and policies of the board of trustees, it shall be the duty of each attendance officer to:

(i) Counsel with students, parents, guardians or custodians and teachers; and to investigate the causes of unexcused absences, habitual truancy and willful absenteeism;

(ii) Give written notice to the parent, guardian, or custodian of any child having an unexcused absence that the attendance of such child at school is required by law under W.S. 21-4-102 and local board rules pursuant to W.S. 21-3-110(a)(xxxix). If after such notice has been given, the child has continued unexcused absences in violation of W.S. 21-4-102 or local board of trustees rules under W.S. 21-3-110(a)(xxxix) and the attendance officer reasonably believes that the excused absences were due to neglect as defined in W.S. 14-3-202(a)(vii), willful absenteeism or habitual truancy, the attendance officer shall proceed in accordance with W.S. 21-4-107.

§ 21-4-106. List of children of school age to be furnished; notice of unexcused absences.

At the beginning of each school year, the board of trustees shall furnish each district attendance officer a list of the names of the children of compulsory school age within the district who are enumerated on the regular enumeration lists. The person in charge of each school within the district shall notify each district attendance officer promptly in writing of all cases of unexcused absence so that the attendance officer may proceed according to the provisions of this article.

§ 21-4-107. Notice to district attorney of habitual truancy; duty of district attorney.

When the attendance officer of any school district determines that a child is an habitual truant or has been absent due to willful absenteeism as defined by this article the attendance officer shall notify the board of trustees and the district attorney who may initiate proceedings in the interest of the child under the Child Protection Act, W.S. 14-3-401 et seq., or the Children In Need of Supervision Act, W.S. 14-6-401 et seq., as appropriate. If the child is an Indian child as defined in the federal Indian Child Welfare Act, 25 U.S.C. 1901 et seq., the district attorney shall notify the child's tribe and may initiate proceedings in the interest of the child if authorized to do so under state and federal law. If the Indian child resides on the Wind River Indian Reservation, the attendance officer shall notify the Wind River Tribal Court

prosecutor and the tribal prosecutor may initiate proceedings pursuant to applicable tribal law and order codes.

REGULATIONS

Chapter 6. Section 5. Accreditation Criteria.

Section 5. Accreditation Criteria. The accreditation criteria and the aligned indicators summarize the requirements for Wyoming districts and schools governed by Wyoming districts.

(m) At-Risk and Dropout Prevention. The district has an early warning system to identify at-risk students, and has implemented dropout prevention strategies.

(ii) Compulsory Attendance. The district and all schools monitor student absenteeism and intervene as soon as a student becomes chronically absent.

Substance Use

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 21-2-202. Duties of the state superintendent.

(xxxviii) When nonstate funds are received by the department of education that provide for one hundred percent (100%) of the cost, the state superintendent may hire the state school nurse as an at-will contract employee or may contract for nursing services to carry out the duties assigned under this paragraph. The state school nurse shall hold a Wyoming license as a registered nurse. The state school nurse shall:

(C) Assist the superintendent in drafting recommendations for school district use to help facilitate care for behavioral health needs, enhance collaboration among school district personnel and community medical and behavioral health providers, and to prevent disease, substance abuse and bullying.

§ 21-4-311. Safe school climate act; short title.

This act shall be known and may be cited as the "Safe School Climate Act".

§ 21-4-312. Definitions.

(a) As used in this act:

(i) "Harassment, intimidation or bullying" means any intentional gesture, any intentional electronic communication or any intentional written, verbal or physical act initiated, occurring or received at school that a reasonable person under the circumstances should know will have the effect of:

(A) Harming a student physically or emotionally, damaging a student's property or placing a student in reasonable fear of personal harm or property damage;

(B) Insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school; or

(C) Creating an intimidating, threatening or abusive educational environment for a student or group of students through sufficiently severe, persistent or pervasive behavior.

(ii) "School" includes a classroom or other location on school premises, a school bus or other school-related vehicle, a school bus stop, an activity or event sponsored by a school, whether or not it is held on school premises, and any other program or function where the school is responsible for the child;

(iii) "This act" means W.S. 21-4-311 through 21-4-315.

§ 21-4-313. Prohibition against harassment, intimidation or bullying; reporting to school officials.

(a) No person shall engage in:

(i) Harassment, intimidation or bullying; or

(ii) Reprisal or retaliation against a victim, witness or person who reports information about an act of harassment, intimidation or bullying.

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(b) The policy prohibiting harassment, intimidation or bullying shall include, without limitation:

(i) A statement prohibiting harassment, intimidation or bullying of a student;

(ii) A definition of "harassment, intimidation or bullying" which includes at minimum the definition as provided in W.S. 21-4-312(a)(i);

(iii) Consequences and appropriate remedial actions for persons committing acts of harassment, intimidation or bullying or engaging in reprisal or retaliation;

(iv) Procedures for reporting and documenting acts of harassment, intimidation or bullying, including a provision for reporting anonymously. However, formal disciplinary action shall not be taken solely on the basis of an anonymous report. The procedures shall identify the appropriate school personnel responsible for receiving a report and investigating a complaint;

(v) Procedures for prompt investigation of reports or complaints of serious violations;

(vi) A statement that prohibits reprisal or retaliation against a person who reports or makes a complaint of harassment, intimidation or bullying;

(vii) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;

(viii) Consequences and appropriate remedial action for a person who is found to have made a false accusation, report or complaint;

(ix) A process for discussing the district's harassment, intimidation or bullying policy with students; and

(x) A statement of how the policy is to be publicized, including notice that the policy applies to participation in functions sponsored by the school.

(c) To assist local school districts in developing a policy under subsection (b) of this section, the department of education shall not later than September 1, 2009, develop model policies applicable to grades kindergarten through twelve (12) and teacher preparation program standards on the

identification and prevention of bullying. In addition, the department shall provide necessary training programs and technical assistance to districts in carrying out this act.

(d) Each local school board shall include the policy adopted by a school district pursuant to this section in a publication of the comprehensive rules, procedures and standards of conduct for schools of a school district and in each school's student's handbook.

(e) Information regarding the school district's policy against harassment, intimidation or bullying shall be incorporated into each district's professional development programs and shall be provided to volunteers and other noncertified employees of the district who have significant contact with students.

(f) School districts may establish bullying prevention programs or other initiatives and may involve school staff, students, administrators, volunteers, parents, law enforcement and community members.

REGULATIONS

Chapter 6. Section 5. Accreditation Criteria.

Section 5. Accreditation Criteria. The accreditation criteria and the aligned indicators summarize the requirements for Wyoming districts and schools governed by Wyoming districts.

(n) School Culture, Climate, and Safety. The district has a plan for promoting positive school culture and learning environments that are safe, orderly, and conducive to learning for all students.

(i) School Culture and Climate. The culture and climate in all schools is designed to ensure positive relationships and decrease harassment, intimidation, and bullying.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(c) To assist local school districts in developing a policy under subsection (b) of this section, the department of education shall not later than September 1, 2009, develop model policies applicable to grades kindergarten through twelve (12) and teacher preparation program standards on the identification and prevention of bullying. In addition, the department shall provide necessary training programs and technical assistance to districts in carrying out this act.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 21-2-204. Wyoming Accountability in Education Act; statewide education accountability system created.

(h) For all schools a progressive system of support and intervention to assist schools shall be established by the state board through the department. The system shall increase the ability of schools and school districts to improve achievement and growth indicator performance and expand the ability for schools and school districts within the state to continuously improve. The system shall clearly identify and prescribe the actions for each level of support, including comprehensive and targeted support and intervention. [...]

§ 21-2-304. Duties of the state board of education.

(a) The state board of education shall:

(vi) Subject to and in accordance with W.S. 21-2-204, through the state superintendent and in consultation and coordination with local school districts, by rule and regulation implement a statewide accountability system. The accountability system shall include a technically defensible approach to calculate school level performance indicators as required by W.S. 21-2-204. The state board shall establish performance targets as required by W.S. 21-2-204(e), target levels for an overall school performance rating and for indicator level performance pursuant to W.S. 21-2-204(f), a progressive system of supports and interventions as required by W.S. 21-2-204(h) and a statewide reporting system pursuant to W.S. 21-2-204(j). As part of the statewide accountability system, and for purposes of complying with requirements under the federal Every Student Succeeds Act, the board shall by rule and regulation provide for annual accountability determinations based upon measures imposed by federal law for all schools and school districts imposing a range of educational interventions and supports resulting from accountability determinations.

REGULATIONS

Chapter 6. Section 5. Accreditation Criteria.

Section 5. Accreditation Criteria. The accreditation criteria and the aligned indicators summarize the requirements for Wyoming districts and schools governed by Wyoming districts.

(l) Learning Supports. Assessment results are used to monitor student progress and assign students in need of intervention to multi-tiered supports. The district is in compliance with all State and Federal Special Education laws. The district addresses the individual learning needs of English learners.

(i) Student Learning Support. Individual student needs are addressed through a structured process that includes interventions and enrichment for all students. (i.e. Response to Intervention or Multi- Tiered System of Support).

Prevention

LAWS

No relevant laws found.

REGULATIONS

Chapter 6. Section 5. Accreditation Criteria.

Section 5. Accreditation Criteria. The accreditation criteria and the aligned indicators summarize the requirements for Wyoming districts and schools governed by Wyoming districts.

(n) School Culture, Climate, and Safety. The district has a plan for promoting positive school culture and learning environments that are safe, orderly, and conducive to learning for all students.

(i) School Culture and Climate. The culture and climate in all schools is designed to ensure positive relationships and decrease harassment, intimidation, and bullying.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§ 21-2-202. Duties of the state superintendent.

(xxxviii) When nonstate funds are received by the department of education that provide for one hundred percent (100%) of the cost, the state superintendent may hire the state school nurse as an at-will contract employee or may contract for nursing services to carry out the duties assigned under this paragraph. The state school nurse shall hold a Wyoming license as a registered nurse. The state school nurse shall:

(A) Identify professional development needs for Wyoming school nurses, with focus on caring for students with behavioral health needs and chronic diseases and make available training resources to meet the professional development needs identified.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

Chapter 6. Section 5. Accreditation Criteria.

Section 5. Accreditation Criteria. The accreditation criteria and the aligned indicators summarize the requirements for Wyoming districts and schools governed by Wyoming districts.

- (t) Student Health. Personnel and processes, including prevention programs, are in place to address the physical and mental health needs of all students enrolled in the district.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 21-4-314. School district implementation; state policies, training and technical assistance.

- (b) The policy prohibiting harassment, intimidation or bullying shall include, without limitation:
- (iv) Procedures for reporting and documenting acts of harassment, intimidation or bullying, including a provision for reporting anonymously. However, formal disciplinary action shall not be taken solely on the basis of an anonymous report. The procedures shall identify the appropriate school personnel responsible for receiving a report and investigating a complaint.

REGULATIONS

Chapter 42. Section 4. Policy requirements.

(c) Mandatory Documentation. Schools shall complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

- (i) Incident Report: At a minimum, the incident report shall include:
- (A) Antecedents, interventions, and other relevant factors;
 - (B) Description of the regulated intervention used;
 - (C) Time and duration of the seclusion;
 - (D) Student's response to the seclusion;
 - (E) Administrative Review, if necessary;
 - (F) Release or reentry factors;
 - (G) Injuries to the student, if any;
 - (H) Debriefing.

Chapter 42. Section 7. Data collection requirements.

Schools shall collect and report annually to the Wyoming Department of Education the number of students involved in the use of regulated intervention, the number of incidents of seclusion and restraint, and the type of regulated intervention utilized.

Parental Notification

LAWS

§ 21-3-110. Duties of boards of trustees.

(xxxii) Not later than December 31, 2011, adopt a policy and training procedures regarding the use of seclusion and restraint in schools. In addition to any requirements provided by rule and regulation of the state superintendent pursuant to W.S. 21-2-202(a)(xxxii), the policy shall require that the parent or legal guardian of the student shall be notified each time that seclusion or restraint is utilized for the student. The policy shall prohibit the use of locked seclusion. The policy shall not be limited to any specified group of students and shall apply any time that seclusion or restraint is used for any student. The district shall submit a copy of the policy to the state superintendent for review as provided in W.S. 21-2-202(a)(xxxii),

after the initial adoption of the policy and any time thereafter that the policy is substantially revised. As used in this paragraph:

(A) "Restraint" means the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. "Restraint" does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team;

(B) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. "Seclusion" does not include a student requested break or in-school suspension, detention or other appropriate disciplinary measure.

§ 21-4-104. Duties of attendance officers.

(a) Subject to the rules and policies of the board of trustees, it shall be the duty of each attendance officer to:

(i) Counsel with students, parents, guardians or custodians and teachers; and to investigate the causes of unexcused absences, habitual truancy and willful absenteeism;

(ii) Give written notice to the parent, guardian, or custodian of any child having an unexcused absence that the attendance of such child at school is required by law under W.S. 21-4-102 and local board rules pursuant to W.S. 21-3-110(a)(xxxix). If after such notice has been given, the child has continued unexcused absences in violation of W.S. 21-4-102 or local board of trustees rules under W.S. 21-3-110(a)(xxxix) and the attendance officer reasonably believes that the unexcused absences were due to neglect as defined in W.S. 14-3-202(a)(vii), willful absenteeism or habitual truancy, the attendance officer shall proceed in accordance with W.S. 21-4-107.

§ 21-4-305. Suspension or expulsion; authority; procedure.

(b) No student shall be suspended or expelled from school without notice as set forth in this subsection and an opportunity to be heard as set forth in subsection (c) of this section. To provide notice the disciplinarian shall:

(ii) In good faith attempt to notify the student's parents, guardians or custodians within twenty-four (24) hours of the student's suspension or expulsion and the reasons for the suspension or expulsion, using contact information on record with the school or district. The disciplinarian shall keep record of the efforts to provide notice under this paragraph and whether the notice was provided successfully.

REGULATIONS

Chapter 42. Section 4. Policy requirements.

(d) Parent Notification. The school shall develop a parent notification procedure that includes, at a minimum, written notification within 24 hours, or other timeframe as agreed upon by the school or parent, of using a regulated procedure. Notification shall be complete upon mailing, personal deliver, or electronic transmission of the notice.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 9-1-603. Duties generally; retention of qualified practicing attorneys; matters in which county or state is party or has interest; assistance to county and district attorneys in felony trials; coordination of county and school safety activities.

(a) The attorney general shall:

(ix) Establish a call center to accept information related to school and student safety issues and assist in the delivery of that information as necessary to allow for the coordination of local law enforcement, emergency response personnel and school district officials. To the extent possible, the identity of parties reporting information via the call center shall remain unknown to all persons and entities. The attorney general may enact rules as necessary to administer the duties required under this paragraph.

REGULATIONS

No relevant regulations found.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Wyoming provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Health and Safety, Wyoming Department of Education	Provides information and resources on various topic areas regarding the general welfare and safety of schools including bullying and cyberbullying prevention, social emotional learning, and school climate.	https://edu.wyoming.gov/for-district-leadership/health-safety/
Multi-Tiered System of Supports (MTSS), Wyoming Department of Education, Wyoming Instructional Network	Overviews MTSS in Wyoming and provides additional resources for school leaders and educators including toolkits, guidance documents, and online trainings.	http://wyominginstructionalnetwork.com/mtss/
<i>Documents</i>		
Anti-Bullying Model Policy I (July 2009), Wyoming Department of Education	Model policy adapted from select existing Wyoming district policies provides a template to assist each school district in developing an anti-bullying policy in compliance with all expectations of the Safe School Climate Act (W.S. 21-4-311 through 21-4-315).	http://edu.wyoming.gov/downloads/safety/Anti_Bullying_Model_Policy_I.docx
Anti-Bullying Model Policy II (July 2009), Wyoming Department of Education	Model policy adapted from the " Bully Police USA Model Policy Reference " provides a template to assist each school district in developing an anti-bullying policy in compliance with all expectations of the Safe School Climate Act (W.S. 21-4-311 through 21-4-315).	https://1ddlxtt2jowkvs672myo6z14-wpengine.netdna-ssl.com/wp-content/uploads/2019/12/Anti_Bullying_Model_Policy_II.pdf
<i>Other Resources</i>		
Safe2Tell Wyoming, Wyoming School Resource Officer's Association	Confidential reporting system for reporting bullying and other violent or dangerous situations that threaten student safety.	https://www.safe2tellwy.org/

Title	Description	Website address (if applicable)
Wyoming Multi-Tiered Systems of Support (MTSS) Training Modules, Wyoming Instructional Network	Online training resources designed to support schoolwide implementation of MTSS.	https://wyominginstructionalnetwork.com/mtss/what-is-mtss/wyoming-mtss-training-modules/
Wyoming Multi-Tiered System of Supports (Wyoming MTSS), WDE	MTSS professional development site with links to tools and other resources and registration for MTSS trainings and events.	https://edu.wyoming.gov/educators/pd/wyoming-mtss/#:~:text=A%20multi%2Dtiered%20system%20of,and%20develop%20skills%20for%20success



District of Columbia Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Chapter 5-E24. Student Rights and Responsibilities

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Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 38-202. Establishment of school attendance requirements.

(a) Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or will become 5 years of age on or before September 30th of the current school year shall place the minor in regular attendance in an educational institution during the period of each year when the public schools of the District are in session. This obligation of the parent, guardian, or other person having custody extends until the minor reaches the age of 18 years. For the purpose of this section placement in summer school is not required.

(b) Any minor who has satisfactorily completed the senior high school course of study prescribed by the Board and has been granted a diploma that certifies his or her graduation from high school, or who holds a diploma or certificate of graduation from another course of study determined by the Board to be at least equivalent to that required by the Board for graduation from the public senior high schools, shall be excused from further attendance at school.

(c) Any minor who has reached the age of 17 years may be allowed flexible school hours by the head of the educational institution in which the minor is enrolled provided he or she is actually, lawfully, gainfully, and regularly employed, but in no case shall he or she be excused entirely from regular attendance or excused to the extent that his or her timely graduation would be jeopardized or prevented.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

§ 38-203. Enforcement; penalties.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff.

REGULATIONS

4-1503. Code of Conduct.

1503.1 The code of conduct required in the bullying prevention policy (referenced in § 1502.3(e)) should provide that:

- (a) The covered entity expects youth to behave in a way that supports the covered entity's objective to provide a safe and welcoming environment for other youth; and
- (b) The covered entity expects youth who are part of the covered entity community to:

- (1) Treat all other youth at the covered entity with respect;
- (2) Respect the property of other youth at the covered entity; and
- (3) Respond appropriately to instructions from covered entity staff regarding behavior toward other youth.

5-B2408. Dress codes/uniforms.

2408.1 Each District of Columbia Public School shall promulgate a local dress code or uniform policy for that school. The policy shall be established by the principal in consultation with the faculty, local school parent groups, and students.

2408.2 The local school dress code or uniform policy shall be as follows:

(d) Include the following principles:

- (8) No student shall wear, possess, use, distribute, display or sell any clothing, jewelry, emblem, blade, symbols, sign or other things which are evidence of affiliation with drugs, alcohol, violence or gang related activities, other criminally motivated organizations, or which exhibit profane or obscene language/gestures. [...]

2408.12 A mandatory uniform policy shall not prevent a student from wearing a button, armband, or other item guaranteed by the First Amendment to the U.S. Constitution unless the button or other item is related to gang, gang membership, gang activity, or other prohibited activity as described in any dress code established by the principal pursuant to subsection 2408.2.

5-E2402. Code of student responsibilities and conduct.

2402.1 Each student shall be responsible for providing a positive and healthy environment for others by maintaining order and self-discipline, and by having consideration for the rights and property of others.

2402.2 Each student shall bear the responsibility for his or her own conduct.

2402.3 Each student shall be responsible for neatness and cleanliness of personal attire and hygiene.

2402.4 A student shall respect other students, teachers, administrators and other school personnel, and visitors as human beings and as fellow citizens of the school community.

2402.5 A student shall respect the personal property of others and refrain from causing intentional damage or unnecessary wear and tear to books, facilities, school materials, school buildings and furnishings, and the personal property of others.

2402.6 A student shall refrain from fighting, creating disturbances, denying others the use of school facilities or buildings, using or carrying any weapon on school grounds, intentionally injuring another person, or acting in a manner that would expose others to risk or danger of harm or injury.

2402.7 A student shall not use threats or intimidation against any other person.

2402.8 A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.

2402.9 A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

Scope

LAWS

§ 2-1535.03. Bullying prevention policy.

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

- (1) On its property, including electronic communication on, or with, its property;
- (2) At sponsored functions;
- (3) On its transportation, or transportation sponsored by it; and
- (4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

REGULATIONS

4-1502. Adoption of a bullying prevention policy.

1502.4 Each covered entity's bullying prevention policy shall apply at the following locations:

- (a) On the covered entity's property, including buildings, fields, parking lots, and walkways;
- (b) At events sponsored by the covered entity, including sponsored events held off the property of the covered entity;
- (c) On any vehicle used for transportation by or on behalf of the covered entity, including transportation for sponsored events of youth; and
- (d) At any transit stop at which youth wait to be transported to the covered entity or an event sponsored by the covered entity.

1502.5 Each covered entity's bullying prevention policy shall apply to cyberbullying sent from or to someone at a location listed in § 1502.4, whether or not the communications device is owned or leased by the covered entity. Cyberbullying is defined as any bullying done through electronic means which meets the definition in § 1502.1, including, but not limited to, social media, electronic mail (email), texting or tweeting.

1502.6 Bullying which occurs on-site, but involves off-site activities, is prohibited if it creates a hostile environment at the covered entity for the target or witnesses of bullying, or impedes or interferes with a youth's ability to participate at the covered entity.

B2501. Applicability.

2501.1 The provisions of this chapter shall be enforceable by school authorities, as follows:

- (a) When the student is on school grounds;
- (b) When the student is on or off school grounds participating in or attending any function or activity, including field trips, class trips, extracurricular activities, or athletic contests, that are sponsored by or are under the auspices of DCPS;
- (c) When the student is off school grounds and traveling on transportation provided by DCPS and the activity involves any conduct prohibited by this chapter;
- (d) When the student commits a prohibited offense that occurs during before-school or after-school programs; and
- (e) When a student has committed a prohibited offense off school grounds or outside regular school hours that results in a significant disruption to the school environment.

Communication of Policy

LAWS

§ 2-1535.03. Bullying prevention policy.

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

- (1) Discussing its bullying policy with youth; and
- (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

§ 38-236.03. Establishment of school discipline policies.

(d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.

REGULATIONS

4-1507. Dissemination of bullying prevention policy.

1507.1 Each covered entity shall develop and implement a plan to publicize its Bullying Prevention Policy that shall include actions to:

- (a) Discuss its bullying prevention policy with youth;
- (b) Publicize the fact that the policy also applies to functions sponsored by the covered entity; and
- (c) Publish the written Bullying Prevention Policy and make copies of the Bullying Prevention Policy available to all youth, families and staff by including it in the entity's handbook and on its website.

5-A2102. Absences.

2102.3 An educational institution shall publish and make available to students, parents and guardians the attendance policies and procedures of the educational institution, including a list of valid excused absences.

5-A2103. Absentee intervention and school-based student support teams.

2103.2 Each educational institution shall incorporate evidence-based practice(s) into its absenteeism protocol, considering procedures to address the following:

- (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and when applicable, collaborating with related service providers.

5-B2500. General policy.

2500.1 It is the policy of D.C. Public Schools (DCPS) that a safe environment conducive to learning shall be maintained. To build and maintain this environment, DCPS shall provide students, families, and staff with clear expectations and rules for appropriate school behavior. These rules must balance the responsibilities and rights of individuals and the responsibilities and rights of the school community.

These rules must reflect the individual's responsibility for contributing to a safe environment conducive to learning and the need for mutual respect and cooperation among all segments of the school community.

[...]

2500.15 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to students and parents within thirty (30) days after the start of each school year or upon initial enrollment, whichever occurs later.

2500.16 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to school staff within thirty (30) days after the start of each school year, or upon initial employment, whichever occurs later.

5-B2503. Policy for disciplinary actions.

2503.1 All disciplinary actions shall be effected pursuant to the rules in this Chapter. Disciplinary actions that do not result in removal from the classroom for more than half a school day may be effected through procedures established by the principal at each school. The principal shall establish such procedures in writing and provide a written copy to students and parents. Procedures shall include a process for appealing such disciplinary responses to the principal.

5-E2401. Student Bill of Rights.

2401.4 Each student has the right to adequate and timely notice of all rules, regulations, policies and sanctions to which the student is subject. All rules and regulations shall be available in writing and be accessible to all students. A copy of the rules of the Board of Education shall be maintained in the library, guidance office, or other appropriate place in each public school in the District of Columbia. A copy of § 2401 (Student Bill of Rights) shall be provided to each student upon registration at a public school in the District of Columbia

5-E2404. Search procedures.

2404.12 Principals shall provide notification to students, and their parents on a regular basis, including at the beginning of each school year, of the Board's policy regarding searches.

In-School Discipline

Discipline Frameworks

LAWS

§ 2-1535.03. Bullying prevention policy.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(A) Appropriately correct the bullying behavior;

(B) Prevent another occurrence of bullying or retaliation;

(C) Protect the target of the bullying;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;

(7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive.

REGULATIONS

4-1502. Adoption of a bullying prevention policy.

1502.3 A covered entity's bullying prevention policy shall at a minimum include the following elements:

(f) A list of consequences that can result from an identified incident of bullying that are designed to:

(1) Appropriately correct the behavior deemed to be bullying;

(2) Prevent future occurrences of bullying or retaliation;

(3) Ensure the safety and well-being of the person who has reportedly experienced or is reportedly at risk for future acts of bullying or retaliation; and

(4) Be flexible in application, appropriate to the individual incident, and varied in method and severity based on the:

(A) Nature of the incident;

(B) Developmental age of the person exhibiting bullying behaviors; and

(C) Any history of problem behavior of all students involved in the incident(s) and where available, history of behavioral concerns documented in an Individualized Education Program (IEP) or 504 plan as a result of a disability under the Individuals with Disabilities Education Act (IDEA),

approved Dec. 3, 2004 (118 Stat. 2647; 20 U.S.C. §§ 1400 et seq.) or Section 504 of the 1973 Rehabilitation Act, approved Sept. 26, 1973 (87 Stat. 394; 29 U.S.C. § 794).

5-B2500. General policy.

2500.2 DCPS is committed to helping students learn the expectations and rules for appropriate school behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs.

2500.3 When a student's behavior disrupts the school community's safe learning environment, DCPS will use a range of disciplinary responses intended to change and manage inappropriate behavior. In administering disciplinary responses, DCPS will work with students to correct inappropriate behavior. Students will be enabled and encouraged to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.

B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(a) The following behaviors shall be considered Tier I behaviors:

- (1) Refusal to present school-issued identification upon request;
- (2) Attending class without required class materials or assigned work;
- (3) Off-task behaviors that demonstrate disengagement from classroom learning;
- (4) Behaviors that disrupt or interfere with classroom teaching and learning;
- (5) Unexcused lateness for school or class;
- (6) Inappropriate displays of affection;
- (7) Excessive noise in the classroom, hall, or school building;
- (8) Running in the classroom, hall, or school building;
- (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
- (10) Directing profanity or obscene/offensive gestures toward peers;
- (11) Refusal to comply with staff instructions, or classroom or school rules; and
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.

(b) Disciplinary responses for Tier I behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student conference;
- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by a person designated by the Chancellor.

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

- (1) Using computer/office equipment without permission;
- (2) Intentional Misuse of School Equipment/Supplies/Facilities;
- (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
- (4) Non-compliance with approved dress code/uniform policy;
- (5) Leaving classroom without permission;
- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;
- (9) Inappropriate or disruptive physical contact between students;
- (10) Directing profanity or obscene/offensive gestures toward staff;
- (11) Throwing objects that may cause injury or damage to property;
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and
- (13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and
- (9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

- (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
- (2) Sale or Distribution of any item without authorization;
- (3) Possession or Distribution of obscene or pornographic material on school premises;
- (4) Possession or Use of tobacco;
- (5) Use of alcohol;
- (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;

- (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
 - (8) Verbal, written, or physical Threat to person or property (including intimidating postures);
 - (9) Obscene, seriously offensive, or abusive language or gestures;
 - (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;
 - (11) Gambling;
 - (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
 - (13) Engaging in Sexual Acts on school premises or at school-related functions;
 - (14) Leaving school without permission;
 - (15) Academic Dishonesty;
 - (16) Forgery;
 - (17) Lying to or giving misleading information to school staff;
 - (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
 - (19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);
 - (20) Hazing;
 - (21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;
 - (22) Possession of tools or instruments which school administrators deem could be used as weapons;
 - (23) Engaging in reckless behavior that may cause harm to self or others;
 - (24) Extortion;
 - (25) Fighting where there is no injury and no weapon;
 - (26) Trespassing;
 - (27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;
 - (28) Documented Pattern of Persistent Tier II Behavior
- (b) Disciplinary responses for Tier III behaviors shall include:
- (1) Verbal redirection/reprimand;
 - (2) Teacher/student conference or administrator/student conference;
 - (3) Parental contact (written or by phone);
 - (4) Parent conference;
 - (5) Temporary Removal of Student from Classroom;
 - (6) Behavior contract;
 - (7) In-School Disciplinary Action;
 - (8) Grade reduction for Academic Dishonesty;
 - (9) On-site Short-Term Suspension with provision of appropriate intervention services;
 - (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
 - (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

- (1) Acts of vandalism, destruction of property, or graffiti (tagging);
- (2) Documented theft of school or personal property without force;
- (3) Interfering with school authorities or participating in a major disruption of the school's operation.
- (4) Tampering with, changing, or altering an official record or document of a school;
- (5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;
- (6) Lewd or indecent public behavior or sexual misconduct;
- (7) Sexual Harassment;
- (8) Retaliation for reporting Harassment and Sexual Harassment;
- (9) Fighting which creates substantial risk of or results in minor injury;
- (10) Inciting others to violence or disruption;
- (11) Activating False Alarm;
- (12) Contaminating food;
- (13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;
- (14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
- (15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and
- (16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
- (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of Exceptional Misconduct at other schools;
- (2) Vandalism/destruction of property over \$ 500;
- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;

- (7) Possession of fireworks or explosives;
 - (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
 - (9) Assault or physical attack on student or staff;
 - (10) Fighting which results in a serious physical injury;
 - (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
 - (12) Using an article that is not normally considered a weapon to injure another individual;
 - (13) Use, threatened use, or transfer of any weapon;
 - (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
 - (15) Any behavior that violates the Gun-Free Schools Act;
 - (16) Deliberate acts that cause severe physical injury to another person (s).
 - (17) Assault with a weapon;
 - (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
 - (19) Arson;
 - (20) Biohazard;
 - (21) Bomb threat;
 - (22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
 - (23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and
 - (24) Documented Pattern of Persistent Tier IV Behavior.
- (b) Disciplinary responses for Tier V behaviors include:
- (1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and
 - (2) Expulsion.
- (c) Weapons include, but are not limited to:
- (1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);
 - (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);
 - (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
 - (4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);
 - (5) Air gun, bb gun, paintball gun;
 - (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);
 - (7) Mace, pepper spray, tear gas;
 - (8) Explosives;
 - (9) Slingshot;
 - (10) Bullets;
 - (11) Chemical weapon; and
 - (12) Razorblade or razor.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

5-B2500. General policy.

2500.12 Disciplinary responses shall include, but not be limited to, the following strategies:

- (e) Temporary Removal of Student from Classroom.

5-B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (b) Disciplinary responses for Tier I behaviors shall include:

- (5) Temporary Removal of Student from Classroom. [...]

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

- (b) Disciplinary responses for Tier II behaviors shall include:

- (5) Temporary Removal of Student from Classroom. [...]

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

- (b) Disciplinary responses for Tier III behaviors shall include:

- (5) Temporary Removal of Student from Classroom.

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Temporary Removal of Student from Classroom" - removal from the student's classroom for less than half a school day, not to extend beyond the time of dismissal on the day of the disciplinary action. During any such removal, the student shall be supervised and provided with instructional materials.

Alternatives to Suspension

LAWS

§ 38-236.01. Definitions.

For the purposes of this part, the term:

- (8) "In-school suspension" means temporarily removing a student from the student's regular class schedule as a disciplinary consequence, during which time the student remains on school grounds under the supervision of school personnel who are physically in the same location as the student.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

- (9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student's offense, and, if appropriate, restorative.

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
 - (D) Restorative practices and other evidence-based or promising behavioral interventions.

REGULATIONS

5-B2500. General policy.

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (y) Restorative justice strategies.

5-B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(b) Disciplinary responses for Tier I behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student conference;
- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by a person designated by the Chancellor.

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;

- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and
- (9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

- (1) Verbal redirection/reprimand;
- (2) Teacher/student conference or administrator/student conference;
- (3) Parental contact (written or by phone);
- (4) Parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) Behavior contract;
- (7) In-School Disciplinary Action;
- (8) Grade reduction for Academic Dishonesty;
- (9) On-site Short-Term Suspension with provision of appropriate intervention services.

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"In-School Disciplinary Action" - disciplinary actions such as after-school detention, loss of privileges (including recess), exclusion from extracurricular activities, written reflection, conflict resolution, mediation, or similar actions of short duration that do not result in the student's loss of academic instruction time.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

5-E2401. Student Bill of Rights.

2401.12 Each student shall have the right to respect from teachers, other students, administrators, and other school personnel, and shall not be subject to ridicule, harassment, or any punishment that is demeaning or derogatory. No student shall be subject to corporal punishment.

E2403. Corporal punishment.

2403.1 For purposes of this section, "corporal punishment" is defined as the use, or attempted use, of physical force upon, or against, a student, either intentionally or with reckless disregard for the student's safety, as a punishment, or discipline.

2403.2 The use of corporal punishment in any form is strictly prohibited in and during all aspects of the public school environment or school activities. No student shall be subject to the infliction of corporal punishment by any teacher, other student administrator, or other school personnel.

2403.3 No teacher, administrator, student or other person shall subject a student to corporal punishment or condone the use of corporal punishment by any person under his or her supervision or control.

2403.4 Permission to administer corporal punishment shall not be sought or accepted from any parent, guardian, or school official.

2403.5 Conduct prohibited by this section include actual or attempted use or physical force against a student in accordance with § 2403.1, provided that the conduct is not prompted by reasonable efforts at self defense or the defense of others; is necessary to maintain or regain order; or is necessary for the safety of the educational environment. Examples of prohibited conduct include, but are not limited to, the following:

- (a) Shoving;
- (b) Striking;
- (c) Grabbing;
- (d) Shaking;
- (e) Hitting;
- (f) Throwing of objects; and
- (g) Unreasonable restraint.
- (h) Directing others to inflict any of the above on a student.

2403.6 The nature and the amount of physical contact reasonably necessary for self-defense, defense of others, protection of the educational environment, or to regain or maintain order shall be dependent upon the factual circumstances of each case. When reviewing those circumstances, the following shall be considered.

- (a) If the action was taken in self-defense or the defense of others, whether the action taken against the student was (1) proportionate to student's conduct, and (2) the least intrusive means of controlling the situation.

(b) If the action was taken against a student for the protection of the educational environment or regain or to maintain order, whether the action taken against the student was (1) taken as a last resort after all other reasonable means had been exhausted, and (2) the least intrusive means of controlling the situation.

2403.7 All allegation of the use of corporal punishment shall be promptly investigated. Discipline shall be administered against any employee who violates this section. Students shall be permitted, but not required, to testify at any proceeding relating to the allegation of corporal punishment.

2403.8 Employees found to have violated this provision will be subject to discipline in accordance with § 1401 these Board Rules, 5 DCMR 1401, and the appropriate collective bargaining agreement, if applicable.

Search and Seizure

LAWS

§ 5-132.03b. Training for school security personnel.

(a) For the school year beginning in 2020, DCPS may use the training curriculum adopted by MPD pursuant to § 5-132.03 to train its school security personnel.

(b) By the start of the school year beginning in 2021, DCPS shall adopt a school security personnel training curriculum based on the positive youth development philosophy. The curriculum shall focus on training supervisory and on-site personnel to provide security services responsive and appropriate to the student, staff, and family populations at each school building. At a minimum, the curriculum shall include training in the following areas, developed with advice from appropriate other District agencies:

(10) Constitutional standards for searches and seizures conducted by school security personnel on school grounds.

REGULATIONS

5-E2401. Student Bill of Rights.

2401.13 Principals, assistant principals, school security personnel and other designated individuals may conduct, or cause to be conducted, such searches of students as are reasonable to maintain the security, discipline and educational atmosphere of a school building, event or program, in accordance with the provisions § 2404.

E2404. Search procedures.

2404.1 Individualized searches shall be undertaken if there exists reasonable suspicion that there has been a violation of the student discipline rules (chapter 25 of this title) or the criminal laws of the District of Columbia or the federal government, or, if such a search is part of the overall effort to maintain the security and safety of D.C. Public Schools, in accordance with the provisions this chapter.

2404.2 Reasonable suspicion shall be premised upon any one or more of the following circumstances:

(a) Observation of contraband or other prohibited property by school officials or conduct suggesting the presence of contraband or other prohibited property;

(b) General, suspicious conduct, such as a student's being in a restricted area without approval;

(c) Observation of suspicious bulges in a student's clothing or personal property;

(d) A tip from an informant, either known to the school official to be reliable or, if anonymous, possessing some attribute, knowledge, or relationship to the school, student or community that gives credence to the information; or

(e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws.

2404.3 The student's age, history, and school record shall be considered in the context of the nature of the infraction, in deciding whether to undertake a search.

2404.4 Random searches of students, and lockers shall be undertaken, in a manner which is consistent with the overall need to maintain the safety and security of D.C. Public Schools. The searches shall occur under the auspices of the D.C. Public Schools Office of Safety and Security and, where appropriate, the Metropolitan Police Department and the D.C. Public Schools Legal Services Branch, unless circumstances compel immediate action to avoid imminent danger to self or others.

2404.5 Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, searches of students shall occur in the privacy of an office or unoccupied room.

2404.6 Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, all searches shall be made in the presence of a third party.

2404.7 Under no circumstances are strip searches to be conducted by school system personnel. In the event that there is reason to believe that such a search would uncover evidence of criminal conduct, the Metropolitan Police Department shall be notified.

2404.8 Subsequent to any search being conducted, whether based on individualized suspicion or at random, the principal shall prepare a written report detailing the scope of the search and circumstances giving rise to the search. Copies of this report shall be filed with the appropriate assistant superintendent, the Division of Safety and Security, and the Legal Services Branch.

2404.9 Magnetometers and other metal-detecting devices may be utilized by school officials at entrances to schools when deemed appropriate by the Superintendent of Schools to be necessary to deter weapons being brought onto school grounds; provided, that such devices are regularly checked and calibrated.

2404.10 All lockers, desks, and other property provided by D.C. Public Schools to students for the storage of personal belongings and school supplies, are the property of the D.C. Public Schools and shall remain under the jurisdiction of D.C. Public Schools. The use of these items by students is a privilege.

School officials retain the right to open and search lockers, desks and such other school property and the contents thereof, with or without the presence of the student(s) at any time to enforce school policies, rules, or regulations, or for any other reason.

2404.11 Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.

2404.12 Principals shall provide notification to students, and their parents on a regular basis, including at the beginning of each school year, of the Board's policy regarding searches.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

§ 38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

§ 38-236.03. Establishment of school discipline policies.

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

- (1) Set high expectations for student behavior and adopt an instructional and corrective approach to school discipline;
- (2) Permit out-of-school suspension or disciplinary unenrollment as a disciplinary action only to ensure safety and in response to the most serious offenses, as set forth in school policy;
- (3) Avoid policies requiring automatic suspension or disciplinary unenrollment for particular behaviors unless otherwise required by law;
- (4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:
 - (A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;
 - (B) Can communicate with school personnel regarding academic work; and
 - (C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension;
- (5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;
- (6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;

- (7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive;
 - (8) Describe the local education agency's in-school and out-of-school suspension practice and policy;
 - (9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student's offense, and, if appropriate, restorative;
 - (10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior;
 - (11) Outline procedures for communicating with students and parents regarding disciplinary actions; and
 - (12) Articulate clearly the due process rights and procedures available to students and parents.
- (c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of § 38-273.03.
- (d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.
- (e) Local education agencies shall proactively evaluate and update school discipline policies and practices to ensure fairness and equity, including by using data and feedback from students, families, and school personnel to identify, reduce, and eliminate discriminatory discipline practices or outcomes and unintended consequences.

REGULATIONS

B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (a) The following behaviors shall be considered Tier I behaviors:
 - (1) Refusal to present school-issued identification upon request;
 - (2) Attending class without required class materials or assigned work;
 - (3) Off-task behaviors that demonstrate disengagement from classroom learning;
 - (4) Behaviors that disrupt or interfere with classroom teaching and learning;
 - (5) Unexcused lateness for school or class;
 - (6) Inappropriate displays of affection;
 - (7) Excessive noise in the classroom, hall, or school building;
 - (8) Running in the classroom, hall, or school building;
 - (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
 - (10) Directing profanity or obscene/offensive gestures toward peers;
 - (11) Refusal to comply with staff instructions, or classroom or school rules; and

(12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.

(b) Disciplinary responses for Tier I behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student conference;
- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by a person designated by the Chancellor.

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

- (1) Using computer/office equipment without permission;
- (2) Intentional Misuse of School Equipment/Supplies/Facilities;
- (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
- (4) Non-compliance with approved dress code/uniform policy;
- (5) Leaving classroom without permission;
- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;
- (9) Inappropriate or disruptive physical contact between students;
- (10) Directing profanity or obscene/offensive gestures toward staff;
- (11) Throwing objects that may cause injury or damage to property;
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and
- (13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and

(9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

- (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
- (2) Sale or Distribution of any item without authorization;
- (3) Possession or Distribution of obscene or pornographic material on school premises;
- (4) Possession or Use of tobacco;
- (5) Use of alcohol;
- (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
- (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
- (8) Verbal, written, or physical Threat to person or property (including intimidating postures);
- (9) Obscene, seriously offensive, or abusive language or gestures;
- (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;
- (11) Gambling;
- (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
- (13) Engaging in Sexual Acts on school premises or at school-related functions;
- (14) Leaving school without permission;
- (15) Academic Dishonesty;
- (16) Forgery;
- (17) Lying to or giving misleading information to school staff;
- (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
- (19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);
- (20) Hazing;
- (21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;
- (22) Possession of tools or instruments which school administrators deem could be used as weapons;
- (23) Engaging in reckless behavior that may cause harm to self or others;
- (24) Extortion;
- (25) Fighting where there is no injury and no weapon;
- (26) Trespassing;
- (27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;
- (28) Documented Pattern of Persistent Tier II Behavior

(b) Disciplinary responses for Tier III behaviors shall include:

- (1) Verbal redirection/reprimand;
- (2) Teacher/student conference or administrator/student conference;
- (3) Parental contact (written or by phone);
- (4) Parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) Behavior contract;
- (7) In-School Disciplinary Action;
- (8) Grade reduction for Academic Dishonesty;
- (9) On-site Short-Term Suspension with provision of appropriate intervention services;
- (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
- (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

- (1) Acts of vandalism, destruction of property, or graffiti (tagging);
- (2) Documented theft of school or personal property without force;
- (3) Interfering with school authorities or participating in a major disruption of the school's operation.
- (4) Tampering with, changing, or altering an official record or document of a school;
- (5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;
- (6) Lewd or indecent public behavior or sexual misconduct;
- (7) Sexual Harassment;
- (8) Retaliation for reporting Harassment and Sexual Harassment;
- (9) Fighting which creates substantial risk of or results in minor injury;
- (10) Inciting others to violence or disruption;
- (11) Activating False Alarm;
- (12) Contaminating food;
- (13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;
- (14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
- (15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and
- (16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
- (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of Exceptional Misconduct at other schools;
- (2) Vandalism/destruction of property over \$ 500;
- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
- (7) Possession of fireworks or explosives;
- (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
- (9) Assault or physical attack on student or staff;
- (10) Fighting which results in a serious physical injury;
- (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
- (12) Using an article that is not normally considered a weapon to injure another individual;
- (13) Use, threatened use, or transfer of any weapon;
- (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
- (15) Any behavior that violates the Gun-Free Schools Act;
- (16) Deliberate acts that cause severe physical injury to another person (s).
- (17) Assault with a weapon;
- (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
- (19) Arson;
- (20) Biohazard;
- (21) Bomb threat;
- (22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
- (23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and
- (24) Documented Pattern of Persistent Tier IV Behavior.

(b) Disciplinary responses for Tier V behaviors include:

- (1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and
- (2) Expulsion.

(c) Weapons include, but are not limited to:

- (1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);
- (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

- (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
- (4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);
- (5) Air gun, bb gun, paintball gun;
- (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);
- (7) Mace, pepper spray, tear gas;
- (8) Explosives;
- (9) Slingshot;
- (10) Bullets;
- (11) Chemical weapon; and
- (12) Razorblade or razor.

B2504. Policy for suspensions and expulsions.

2504.1 The policies and procedures described in § 2504 shall apply to all on-site and off-site Suspensions and Expulsions.

2504.2 Off-site Suspension and Expulsion shall not be used in response to unexcused tardiness or absence.

2504.3 Principals shall consider all extenuating circumstances before recommending Expulsion.

2504.4 A student may be suspended prior to a conference pursuant to § 2505 if he or she is contributing to an emergency situation in a school. An emergency situation may exist either because of general conditions in the school (e.g., a series of fires or False Alarms; a manifestly high level of student tension; an increasing number of fights or physical attacks; a large number of abuses of property) or because the behavior of an individual student is so disruptive or dangerous that he/she poses a very real and immediate threat to the health and safety of other members of the school community, or to the ability of the school community or the school or portion thereof to continue normal operations.

2504.5 A student may be expelled from DCPS only for the commission of an infraction as set forth in § 2502.5.

2504.6 Students who have been suspended or expelled shall not be eligible to participate in any school function for the duration of their Suspension or Expulsion. The only exceptions that may be authorized by the Chancellor or his or her designee shall be for system-wide testing, or College Board or admission examinations.

2504.7 Any Suspension, including on-site Suspension, in excess of two (2) in a single semester must be approved by a person designated by the Chancellor.

2504.8 In accordance with the An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 et seq.), all children of compulsory school age are required to attend school or receive an equivalent education approved by the Office of the State Superintendent of Education. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to Suspension or Expulsion from DCPS pursuant to this chapter.

2504.9 The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of a person designated by the Chancellor. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.

2504.10 A student who has been suspended or expelled shall have access to an Education Plan as follows:

(a) If a student is suspended for fewer than eleven (11) days, the principal initiating the Suspension shall provide an Education Plan that meets the student's educational needs and allows the student to make up any class and homework assignments and exams without penalty.

(b) If a student is suspended for eleven (11) days or more or expelled, the student shall be placed in an Alternative Educational Setting that will allow the student the opportunity to continue to earn credits towards promotion or graduation requirements.

2504.11 Restitution and/or school service may be required in any case involving school property (e.g., arson, vandalism, burglary, robbery). The amount of restitution or type of school service shall be determined by a person designated by the Chancellor.

2504.12 If a student's Suspension or Expulsion is for a period exceeding the number of school days remaining in the school year, any remaining part of the term of the Suspension or Expulsion may be applied to the succeeding school year.

2504.13 Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been contacted by phone or in person and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or guardian of a suspended student cannot be notified by phone or in person, the student must remain at school until the end of the school day.

2504.14 If the parent or guardian of a student who has been suspended cannot be contacted by phone or in person before the next school day, and the student arrives at school, he or she must remain in the building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. The student may be segregated and must be appropriately supervised during this time. Any such day will count toward fulfilling the term of the student's Suspension.

2505.15 Except in cases of immediate emergency Suspensions pursuant to § 2504.4, students shall remain in their regular assigned classroom or education setting until the final determination of the Suspension has been made.

2504.16 For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:

- (A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;
- (B) Can communicate with school personnel regarding academic work; and
- (C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension.

§ 38-236.04. Limitations on exclusion as a disciplinary action.

(a) Unless otherwise required by federal or District law:

(1) Beginning in school year 2019-2020, for students in grades kindergarten through 5, and school year 2020-2021 for students in grades 6 through 8, no student may be subject to an out-of-school suspension or disciplinary unenrollment, unless a school administrator determines, consistent with school policy, that the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person, including behavior that happens off school grounds;

(2) Beginning in school year 2020-2021, no student in grades 9 through 12, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for:

- (A) Violating local education agency or school dress code or uniform rules;
- (B) Willful defiance; or
- (C) Behavior that happens off school grounds and not as part of a school-sponsored activity, unless the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person.

(b) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension for longer than:

- (1) Five consecutive school days for any individual incident in grades kindergarten through 5;
- (2) Ten consecutive school days for any individual incident in grades 6 through 12; or
- (3) Twenty cumulative school days during an academic year regardless of grade, unless:

- (A) The head of a local education agency provides a written justification to the student and parent describing why exceeding the 20-day limit is a more appropriate disciplinary action than alternative responses; or
- (B) The student's conduct necessitated an emergency removal, and the head of the local education agency provides a written justification for the emergency removal to the student and parent.

(c) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for an unexcused absence or a late arrival to school; provided, that a student may be unenrolled from a local education agency if the student has accumulated 20 or more consecutive full-school-day unexcused absences.

(d) No student subject to a suspension may be denied the right to continue to access and complete appropriate academic work or to earn credit toward promotion or graduation during a suspension.

(e) The return of a student to school upon conclusion of an out-of-school suspension shall not be made contingent on a parent accompanying the student, attending a conference, or otherwise being present at the school.

(f) Notwithstanding whether a school or local education agency states the reasoning for the removal from school or prohibition from returning to school, no student may be removed from school or prohibited from returning to school for disciplinary reasons, unless the student is subject to an out-of-school suspension or disciplinary unenrollment.

(g) For purposes of due process, a suspension of 6 school days or more shall be considered a long-term suspension.

§ 38-273.03. Restriction on out-of-school discipline for pre-k age students.

(a) Beginning in school year 2015-2016, no student of pre-k age may receive a disciplinary unenrollment, as defined in § 38-236.01(3), from any publicly funded community-based organization, school in the District of Columbia Public Schools system, or public charter school that provides pre-k care and education services to pre-k age children.

(b) Beginning in school year 2015-2016, no student of pre-k age may receive an out-of-school suspension from any publicly funded community-based organization, school in the District of Columbia Public Schools system, or public charter school that provides pre-k care and education services to pre-k age children, unless it is determined by a school or program administrator that the student has willfully caused or attempted to cause bodily injury, or threatened serious bodily injury to another person, except in self-defense. No student of pre-k age may be suspended for longer than 3 days for any individual incident.

REGULATIONS

B2408. Dress codes/uniforms.

2408.13 With the exception of the disciplinary action described in section 2408.16, students violating the mandatory uniform policy shall be subject to progressive corrective measures and disciplinary action.

Additionally:

(a) Parents shall be called when a student reports to school out of uniform. The parent shall be asked to bring compliant clothing for the student to school.

(b) If the parents are not reachable or are unable to respond within two hours of the start of the school day, the student may be issued a conforming uniform from the school's uniform bank with directions to return it clean the next school day.

2408.14 Under no circumstance shall a student who fails to abide by a mandatory uniform policy be given out-of-school suspension or otherwise be barred from attending school.

2408.15 A fourth offense of a mandatory uniform policy may subject a student, at the principal's discretion, to on-site suspension.

2408.16 If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

B2500. General policy.

2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion. [...]

2500.9 Disciplinary responses shall be logical, appropriate, and instructive. Disciplinary responses shall consider factors such as:

- (a) The nature of the infraction;
- (b) Circumstances relating to the infraction;
- (c) The age of the student;

- (d) The student's previous behavioral history;
- (e) Previous participation in counseling or conflict resolution efforts such as peer mediation;
- (f) Whether injury occurred;
- (g) Whether a weapon or controlled substance was involved;
- (h) The safety of other students and staff;
- (i) The educational needs of other students;
- (j) The educational needs of the student to be disciplined (including those enumerated in an IEP or a plan issued pursuant to § 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 355; 29 U.S.C. § 794)); and
- (k) Extenuating circumstances.

B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (a) The following behaviors shall be considered Tier I behaviors:
 - (1) Refusal to present school-issued identification upon request;
 - (2) Attending class without required class materials or assigned work;
 - (3) Off-task behaviors that demonstrate disengagement from classroom learning;
 - (4) Behaviors that disrupt or interfere with classroom teaching and learning;
 - (5) Unexcused lateness for school or class;
 - (6) Inappropriate displays of affection;
 - (7) Excessive noise in the classroom, hall, or school building;
 - (8) Running in the classroom, hall, or school building;
 - (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
 - (10) Directing profanity or obscene/offensive gestures toward peers;
 - (11) Refusal to comply with staff instructions, or classroom or school rules; and
 - (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.
- (b) Disciplinary responses for Tier I behaviors shall include:
 - (1) Verbal redirection or reprimand;
 - (2) Teacher/student conference;
 - (3) Parental contact in writing or by phone;
 - (4) Teacher/parent conference;
 - (5) Temporary Removal of Student from Classroom;
 - (6) In-School Disciplinary Action;
 - (7) Behavior contract; and
 - (8) Other school-based consequences as approved by a person designated by the Chancellor.

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

- (1) Using computer/office equipment without permission;
- (2) Intentional Misuse of School Equipment/Supplies/Facilities;
- (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
- (4) Non-compliance with approved dress code/uniform policy;
- (5) Leaving classroom without permission;
- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;
- (9) Inappropriate or disruptive physical contact between students;
- (10) Directing profanity or obscene/offensive gestures toward staff;
- (11) Throwing objects that may cause injury or damage to property;
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and
- (13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and
- (9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

- (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
- (2) Sale or Distribution of any item without authorization;
- (3) Possession or Distribution of obscene or pornographic material on school premises;
- (4) Possession or Use of tobacco;
- (5) Use of alcohol;
- (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
- (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
- (8) Verbal, written, or physical Threat to person or property (including intimidating postures);
- (9) Obscene, seriously offensive, or abusive language or gestures;
- (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;

- (11) Gambling;
 - (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
 - (13) Engaging in Sexual Acts on school premises or at school-related functions;
 - (14) Leaving school without permission;
 - (15) Academic Dishonesty;
 - (16) Forgery;
 - (17) Lying to or giving misleading information to school staff;
 - (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
 - (19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);
 - (20) Hazing;
 - (21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;
 - (22) Possession of tools or instruments which school administrators deem could be used as weapons;
 - (23) Engaging in reckless behavior that may cause harm to self or others;
 - (24) Extortion;
 - (25) Fighting where there is no injury and no weapon;
 - (26) Trespassing;
 - (27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;
 - (28) Documented Pattern of Persistent Tier II Behavior
- (b) Disciplinary responses for Tier III behaviors shall include:
- (1) Verbal redirection/reprimand;
 - (2) Teacher/student conference or administrator/student conference;
 - (3) Parental contact (written or by phone);
 - (4) Parent conference;
 - (5) Temporary Removal of Student from Classroom;
 - (6) Behavior contract;
 - (7) In-School Disciplinary Action;
 - (8) Grade reduction for Academic Dishonesty;
 - (9) On-site Short-Term Suspension with provision of appropriate intervention services;
 - (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
 - (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

- (a) The following behaviors shall be considered Tier IV behaviors:
- (1) Acts of vandalism, destruction of property, or graffiti (tagging);

- (2) Documented theft of school or personal property without force;
- (3) Interfering with school authorities or participating in a major disruption of the school's operation.
- (4) Tampering with, changing, or altering an official record or document of a school;
- (5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;
- (6) Lewd or indecent public behavior or sexual misconduct;
- (7) Sexual Harassment;
- (8) Retaliation for reporting Harassment and Sexual Harassment;
- (9) Fighting which creates substantial risk of or results in minor injury;
- (10) Inciting others to violence or disruption;
- (11) Activating False Alarm;
- (12) Contaminating food;
- (13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;
- (14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
- (15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and
- (16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
- (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of Exceptional Misconduct at other schools;
- (2) Vandalism/destruction of property over \$ 500;
- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
- (7) Possession of fireworks or explosives;
- (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
- (9) Assault or physical attack on student or staff;
- (10) Fighting which results in a serious physical injury;

- (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
- (12) Using an article that is not normally considered a weapon to injure another individual;
- (13) Use, threatened use, or transfer of any weapon;
- (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
- (15) Any behavior that violates the Gun-Free Schools Act;
- (16) Deliberate acts that cause severe physical injury to another person (s).
- (17) Assault with a weapon;
- (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
- (19) Arson;
- (20) Biohazard;
- (21) Bomb threat;
- (22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
- (23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and
- (24) Documented Pattern of Persistent Tier IV Behavior.

(b) Disciplinary responses for Tier V behaviors include:

- (1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and
- (2) Expulsion.

(c) Weapons include, but are not limited to:

- (1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);
- (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);
- (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
- (4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);
- (5) Air gun, bb gun, paintball gun;
- (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);
- (7) Mace, pepper spray, tear gas;
- (8) Explosives;
- (9) Slingshot;
- (10) Bullets;
- (11) Chemical weapon; and
- (12) Razorblade or razor.

5-B2503. Policy for disciplinary actions.

2503.4 Disciplinary responses for all tiers of behavior may be assigned only after consideration of the factors involved in the inappropriate behavior as outlined in § 2500.9, and after consideration of prevention, intervention, and remediation responses as outlined in § 2500.6.

5-B2504. Policy for suspensions and expulsions.

2504.3 Principals shall consider all extenuating circumstances before recommending Expulsion.

5-B2505. Procedures for suspensions and expulsions.

2505.2 Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor.
[...]

2505.10 No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.

5-B2508. Review by the chancellor.

2508.1 The Chancellor may review, at his or her discretion, any proposed disciplinary action. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.

2508.2 With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including Expulsion. The Chancellor shall provide written justification for any modification of disciplinary action.

5-E2401. Student Bill of Rights.

2401.14 Each student shall have the right to use reasonable physical means to defend himself or herself from assault or physical abuse, and shall not be subject to suspension for using limited, reasonable, physical means to restrain another person from physically assaulting or harming a third person.

Due Process

LAWS

§ 2-1535.03. Bullying prevention policy.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation.

§ 2-1535.04. Secondary investigation appeal.

(a)(1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to § 2-1535.03(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to § 2-1535.03(b)(7).

(2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:

(A) Circumstances require additional time to complete a thorough investigation;

(B) The higher-level authority sets forth those circumstances in writing; and

(C) The additional time does not exceed 15 days.

(b)(1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.

(2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(12) Articulate clearly the due process rights and procedures available to students and parents.

§ 38-236.04. Limitations on exclusion as a disciplinary action.

(g) For purposes of due process, a suspension of 6 school days or more shall be considered a long-term suspension.

REGULATIONS

4-1502. Adoption of a bullying prevention policy.

1502.3 A covered entity's bullying prevention policy shall at a minimum include the following elements:

(i) A secondary investigation appeal process, consistent with § 1506, for a person accused of bullying or a person who is the target of bullying or retaliation who is not satisfied with the outcome of an initial investigation under § 1505.

4-1506. Secondary Investigation Appeals.

1506.1 Each covered entity shall have an appeals process in place for conducting a secondary investigation where a written request for a secondary investigation is submitted within thirty (30) days after the conclusion of the initial investigation.

1506.2 The secondary investigation shall be conducted by an employee who has a higher level of authority at the covered entity than the one who conducted the investigation and who was not involved in the initial investigation.

1506.3 The secondary investigation shall be completed within thirty (30) days after receipt of the request for a secondary investigation unless the higher-level authority requires additional time to complete a thorough investigation and the higher-level authority sets forth those circumstances in writing. Under those circumstances, the deadline may be extended past the thirty (30) day period by fifteen (15) days.

1506.4 After completing the secondary investigation, the higher-level authority shall notify the parties in writing of the results of the investigation and of the party's ability to seek additional redress under the DCHRA under D.C. Official Code § 2-1402.41. Such notification must be in writing and include:

- (a) The name of the BPP Director;
- (b) The address and telephone number of the OHR;
- (c) The text contained in § 1513 of these regulations outlining the parties' options for appeal through OHR; and
- (d) Notification that complaints of violations under DCHRA and the Act must be filed within one (1) year of the incident.

5-A2103. Absentee intervention and school-based student support teams.

2103.2 Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution.

B2103. Truancy.

2103.7 A written appeal may be filed by a parent or student on behalf of any student receiving a failing grade(s) due to unexcused absences.

2103.8 An appeal filed pursuant to § 2103.7 shall be submitted to the principal of the school attended or to a designee of the Chancellor within ten (10) school days after receipt of the failing grade(s).

2103.9 Upon receipt of an appeal filed pursuant to § 2103.7, the principal or Chancellor's designee shall appoint an Appeals Panel and shall forward all written appeal requests to the panel chairperson within three (3) school days.

2103.10 The Appeals Panel referenced in § 2103.9 shall consist of not less than three (3) members to be selected from the following, one of which shall be from category (a):

- (a) A person designated by the principal or Chancellor's designee, who shall be the panel chairperson;
- (b) A guidance counselor;
- (c) A department chairperson;
- (d) A teacher, other than the one involved in the matter being appealed;
- (e) An attendance staff person; or
- (f) A representative from DCPS central office administration.

2103.11 Substitutions of no more than two (2) members of the Appeals Panel described in § 2103.10 may be made when necessary.

2103.12 The Appeals Panel shall hold a hearing within ten (10) school days after its appointment by the principal or Chancellor's designee.

2103.13 The student, his or her parent, guardian or duly authorized representative shall appear at the hearing to represent the student. One of these individuals shall be given the opportunity to present the student's case and, upon request, to question the involved teacher and to be duly informed of the panel's recommendations.

2103.14 Each appeals panelist, including the chair, shall have an equal vote; however, two (2) voting members can render a decision.

2103.15 In the case of a tie vote, the initial grade is deemed to be upheld by the Appeals Panel.

2103.16 The Appeals Panel's recommendation shall be forwarded immediately to the principal or Chancellor's designee who shall issue the Panel's decision within ten (10) school days after the hearing.

2103.17 The student, his or her parent or guardian, or duly authorized representative may appeal the decision of the Appeals Panel by writing to the Chancellor's official grade appeal designee within ten (10) school days after receipt of the decision.

2103.18 When an appeal is filed pursuant to § 2103.17, the Chancellor's official grade appeal designee shall review all documentation submitted and issue the final administrative decision in the matter.

2103.19 The following procedural guidelines shall apply to appeals reviewed pursuant to § 2103.18:

- (a) The burden to show why the grade(s) in question should be changed shall be on the student or his or her parent or guardian;
- (b) Strict rules of evidence shall not apply; and
- (c) A written determination shall be issued within five (5) school days of the review and consideration of all submitted evidence.

5-B2503. Policy for disciplinary actions.

2503.1 All disciplinary actions shall be effected pursuant to the rules in this Chapter. Disciplinary actions that do not result in removal from the classroom for more than half a school day may be effected through procedures established by the principal at each school. The principal shall establish such procedures in writing and provide a written copy to students and parents. Procedures shall include a process for appealing such disciplinary responses to the principal.

5-B2504. Policy for suspensions and expulsions.

2504.4 A student may be suspended prior to a conference pursuant to § 2505 if he or she is contributing to an emergency situation in a school. An emergency situation may exist either because of general conditions in the school (e.g., a series of fires or False Alarms; a manifestly high level of student tension; an increasing number of fights or physical attacks; a large number of abuses of property) or because the behavior of an individual student is so disruptive or dangerous that he/she poses a very real and immediate threat to the health and safety of other members of the school community, or to the ability of the school community or the school or portion thereof to continue normal operations.

B2505. Procedures for suspensions and expulsions.

2505.2 Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor.

2505.3 Any student who is to be suspended or expelled shall be given a conference with the school official responsible for proposing the disciplinary action, prior to the Suspension or Expulsion. In the event that a student is suspended pursuant to § 2504.4 due to emergency conditions, the conference shall be held no more than three (3) school days after the Suspension is initiated.

2505.4 The conference shall include a discussion of the following:

(a) The grounds for disciplinary action as referred to in this chapter including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;

(b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, as defined in this chapter, including a summary of the recommended disciplinary action;

(c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;

(d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;

(e) A statement informing the adult student, or minor student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed discipline; and

(f) The student's rights to an appeal pursuant to § 2505.13 or to a hearing pursuant to § 2505.14.

(g) If the principal is recommending Long-Term Suspension or Expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and a person designated by the Chancellor. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures, appeal rights, the intervention supports available to the student, and the requirements for readmission.

2505.5 The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.

2505.6 Students and parents or guardians shall be provided written notice of all Suspensions and Expulsions as follows:

(a) No student may be suspended or expelled, including on-site Suspension, without written notice to the adult student or minor student's parent or guardian.

(b) Following the oral notice provided to parents or guardians pursuant to § 2504.13 verifiable written notice using contact information provided by the parent or guardian (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed Suspensions and Expulsions must be sent to the parent or guardian or to the adult student no later than one (1) school day after the decision by the principal or a person designated by the Chancellor to authorize or propose Suspension or Expulsion.

(c) The notice must inform the parent or guardian of the identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion. Adult students shall receive notification of their infraction in the same manner.

(d) The notice must also include a description of the infraction including a citation of the rule(s) upon which the action is based, a summary of the facts, the length of the proposed Suspension or Expulsion, the principal's recommendation for an Education Plan or Alternative Educational Setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § 2505.14.

(e) A student who has been given a notice of proposed Expulsion may be immediately placed on Suspension in accordance with the rules and procedures set forth in this section.

2505.7 A principal authorizing Short-Term Suspension shall submit the authorization to a person designated by the Chancellor within one (1) school day.

2505.8 A principal or school official proposing Medium- or Long-Term Suspension must immediately submit the proposal to a person designated by the Chancellor. A person designated by the Chancellor may authorize the proposed Suspension or modify it to reduce the number of days suspended.

2505.9 A principal or school official proposing Expulsion shall make a written recommendation for Expulsion to a person designated by the Chancellor no more than one (1) school day after the Expulsion conference. The principal's recommendation may be made based upon an initial recommendation from a teacher or other school official. The recommendation to expel shall be supported by sufficient written documentation to enable a person designated by the Chancellor to make an independent decision regarding Expulsion. A copy of this recommendation and any attendant documentation shall also be provided to the parent or guardian of the student involved.

2505.10 No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.

2505.11 In determining whether to propose an Expulsion, a person designated by the Chancellor shall consider the factors enumerated in § 2500.

2505.12 If a person designated by the Chancellor does not concur with the recommended Expulsion, he or she may propose other disciplinary action.

2505.13 If a person designated by the Chancellor concurs with the recommended Expulsion, he or she shall immediately forward a written proposal for Expulsion to the head of the Office of Youth Engagement.

2505.14 A student who has been suspended for fewer than eleven (11) days may appeal the Suspension as follows:

(a) A Short-Term Suspension may be appealed to the principal.

(b) A Medium-Term Suspension may be appealed to a person designated by a Chancellor.

(c) All appeals must be made by the student's parent or guardian or the adult student, either orally or in writing to the principal or person designated by the Chancellor, as appropriate, no later than two (2) school days after receiving the notice of Suspension, and may be made prior to receiving formal written notice of the Suspension. An appeal made orally shall be put in writing by the person receiving the request.

(d) All appeals will be heard by the principal (for Short-Term Suspensions) or a person designated by the Chancellor (for Medium-Term Suspensions) no later than one (1) school day after the appeal is requested. Upon request of the adult student or minor student's parent or guardian, the time for the appeal may be extended up to three (3) school days. The appeal may be held by telephone upon request of the parent or guardian if necessary due to health, work, or childcare.

(e) The student and his or her parent or guardian may present evidence and ask witnesses to speak.

(f) At the conclusion of the conference, the principal or a person designated by the Chancellor, as appropriate, shall render a final decision.

(g) No more than one (1) school day after the conference, the principal or a person designated by the Chancellor, as appropriate, shall give the student and his or her parent or guardian, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings, including the final decision.

2505.15 A student who has been suspended for eleven (11) days or more or who has been expelled shall have a disciplinary hearing pursuant to the procedures in § 2506.

2505.16 No more than one (1) school day after authorization or modification of a Long-Term Suspension or Expulsion, the person designated by the Chancellor shall forward the recommended Suspension or Expulsion to the hearing office for immediate scheduling and shall provide notice of the intent to schedule a hearing to the parent or guardian or adult student.

2505.17 Once a hearing is scheduled by the hearing office, the student shall be placed on Suspension, or in another appropriate placement until the conclusion of the hearing and appeals processes.

5-B2506. Procedures for disciplinary hearings.

2506.1 Disciplinary hearings shall be held at a time and place that is reasonably convenient to the student and parent or guardian.

2506.2 For Long-Term Suspensions and Expulsions, the hearing shall be held not more than four (4) school days after a written notice regarding disciplinary action is provided to the parent or guardian or adult student, except that the hearing may be postponed for not more than five (5) school days upon the request of the adult student, minor student's parent or guardian, or his or her representative, where postponement of the hearing is necessary to prepare for the hearing, provide for the hearing, or provide for the attendance of necessary parties, including interpreters. The hearing office shall provide written notice to the parent or guardian or adult student of the date, time, and location of the hearing immediately upon scheduling the hearing. The notice from the hearing office shall state what consequences, if any, result from failure to attend the hearing.

2506.3 The hearing shall be closed to the public unless the parent or guardian or adult student requests an open hearing.

2506.4 The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student.

2506.5 The student, parent or guardian, or representative shall have the right to question any witness or challenge any documentary evidence.

2506.6 The parent or guardian or adult student shall have the opportunity to present testimony and documentary evidence, including the opportunity to call any witness to present testimony relevant to the disciplinary action or other school system recommendation. The right to call witnesses shall include the right to require the presence of any involved school official.

2506.7 It shall be the burden of the DCPS to show by a preponderance of the evidence that the student did commit the infraction(s) upon which the disciplinary action is based.

2506.8 The hearing officer shall ensure that all due process procedures have been followed or waived.

2506.9 The hearing officer may question any witness or party and shall examine all documentary evidence.

2506.10 The hearing shall not be conducted according to the rules of evidence. However, the hearing officer may exclude any testimony or evidence that is irrelevant or repetitive.

2506.11 The hearing officer shall ensure that the hearing is conducted in a fair and orderly manner and shall have the authority to exclude any party or other person from the hearing on the grounds of substantial interference or obstruction of the orderly hearing process.

2506.12 The hearing officer shall make an official electronic audio recording of the hearing, which shall constitute the official record thereof. Upon request, a copy of the recording shall be made available to the parent or guardian, adult student, or representative and the local school principal. This provision

shall not preclude a parent or guardian or representative from also recording or transcribing the hearing at his or her expense.

2506.13 The principal or school official shall indicate a recommendation of the school system for the duration of the off-site placement.

B2507. Hearing officer recommendation.

2507.1 Within one (1) school day of the conclusion of a disciplinary hearing, the hearing officer shall issue a written recommendation which shall include the following:

- (a) A statement of the facts, as determined from the testimony and evidence presented at the hearing;
- (b) A conclusion as to whether the required due process procedures have been properly followed or waived;
- (c) A conclusion as to whether the student committed the infraction(s) upon which the disciplinary action is based; and
- (d) A determination regarding the appropriateness of the proposed disciplinary action or an order for a modification thereof, including consideration of the factors enumerated in § 2500.8 and explicit justification for any recommended modification.

2507.2 For Long-Term Suspensions, a person designated by the Chancellor shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.

2507.3 For Expulsions, the head of the Office of Youth Engagement shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.

2507.4 A copy of the written determination provided by a person designated by the Chancellor or by the head of the Office of Youth Engagement shall be given or mailed, within twenty-four (24) hours, to the adult student, the minor student's parent or guardian, and their representatives, if any.

2507.5 Additional copies of the determination by a person designated by the Chancellor or the head of the Office of Youth Engagement shall be sent, within twenty-four (24) hours, to the principal or other school official in charge of the school or program in which the student is enrolled, and retained in the files of the student hearing office.

2507.6 If the hearing officer recommends disciplinary action is not warranted, based on the fact that the student did not violate any DCPS rule or policy, the determination shall include an order to destroy all school records regarding the disciplinary action, including any reports that relate to the incident upon which the disciplinary action was proposed, insofar as those reports individually identify the student. If the hearing officer determines that disciplinary action is not warranted and either: (a) fails to state whether a DCPS rule or policy was violated, or, (b) states that a DCPS rule or policy was violated but nevertheless finds the disciplinary action to be unwarranted, the school may maintain documents concerning the alleged infraction until the conclusion of the school year immediately following the incident.

2507.7 Long-Term Suspension may be appealed directly to the head of the Office of Youth Engagement:

- (a) A parent or guardian, or adult student who wishes to appeal a Long-Term Suspension to the head of the Office of Youth Engagement must submit a written or oral request to appeal the proposed Long-Term Suspension within five (5) school days of receiving notification of the Long-Term Suspension. If the request is made orally, it shall be recorded in writing by the person receiving the request.
- (b) Upon receipt of an appeal, the head of the Office of Youth Engagement shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.
- (c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may

be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.

(d) No more than two (2) school days after the conclusion of the conference, the head of the Office of Youth Engagement shall render a final decision. The head of the Office of Youth Engagement shall provide the parent or guardian, or adult student, and a person designated by the Chancellor, a written summary of the conference proceedings and decision.

2507.8 If the head of the Office of Youth Engagement has authorized Expulsion for violating the Gun-Free Schools Act, the parent or guardian or adult student may appeal the decision to the Chancellor pursuant to the process outlined in § 2507.9. The decision of the Chancellor shall be final and shall be provided in writing to the parent or guardian, or adult student, person designated by the Chancellor, and the principal of the school from which the student was expelled.

2507.8 Notwithstanding the other provisions of this section, a person designated by the Chancellor may, at his or her discretion, initiate Expulsion action without the recommendation of a principal or designee.

2507.9 An Expulsion may be appealed directly to the Chancellor.

(a) A parent or guardian, or adult student who wishes to appeal an Expulsion directly to the Chancellor must submit a written or oral request to appeal the proposal within five (5) school days of receiving notification of the Expulsion. If the request is made orally, it shall be recorded in writing by the person receiving the request.

(b) Upon receipt of an appeal, the Chancellor or his/her designee shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.

(c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.

(d) No more than two (2) school days after the conclusion of the conference, the Chancellor shall render a final decision. The Chancellor shall provide the parent or guardian, or adult student, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings and his or her final decision.

Return to School Following Removal

LAWS

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:

(A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;

(B) Can communicate with school personnel regarding academic work; and

(C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension.

§ 38-236.04. Limitations on exclusion as a disciplinary action.

(e) The return of a student to school upon conclusion of an out-of-school suspension shall not be made contingent on a parent accompanying the student, attending a conference, or otherwise being present at the school.

(f) Notwithstanding whether a school or local education agency states the reasoning for the removal from school or prohibition from returning to school, no student may be removed from school or prohibited from returning to school for disciplinary reasons, unless the student is subject to an out-of-school suspension or disciplinary unenrollment.

REGULATIONS

5-B2500. General policy.

2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

5-B2504. Policy for suspensions and expulsions.

2504.16 For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS.

B2509. Re-entry following expulsion.

2509.3 Effort shall be made to return the student to his or her previous school, unless a person designated by the Chancellor reasonably concludes based on the conference that another school is a more appropriate setting. [...]

2509.5 The principal of the receiving school shall ensure the returning student receives an appropriate academic program, as well as services to ensure a smooth transition back into the general school population (e.g., SST meeting, counseling, etc.).

Alternative Placements

LAWS

§ 38-233. Alternative educational programs.

The Board of Education shall provide to any student who is expelled from school in accordance with this subchapter an alternative educational program at the D.C. Street Academy, at another existing alternative educational program, or at any alternative educational program that may be established in the future. Not later than 90 days after April 9, 1997:

- (1) The Mayor and the Board of Education shall submit a report to the Council delineating a comprehensive plan for providing alternative educational services to a student who has been expelled from a District of Columbia Public School setting.
- (2) The comprehensive plan shall include a description of the alternative education services to be provided to an expelled student, each location where the alternative education services shall be provided, and the estimated annual cost of providing the alternative education services.

REGULATIONS

5-A7500. General provisions.

7500.1 The purpose of this chapter is to:

- (a) Set forth the eligibility criteria for a school or specialized program within a school to be designated as an alternative program and describe the manner in which students enrolled in the alternative program are funded on a per pupil basis;
- (b) Establish the process for application for an alternative program designation; and
- (c) Set forth OSSE's authority to monitor compliance with and enforce this chapter.

7500.2 OSSE may publish policies, procedures, or guidance related to alternative programs. Any OSSE policies and procedures related to alternative programs shall be posted on the OSSE website.

5-A7501. Alternative Program Designation.

7501.1 OSSE shall designate a school, or a specialized program within a school, as an alternative program for the purposes of a local education agency (LEA) receiving a per pupil allocation at the "Alternative Program" level, as set forth in D.C. Official Code § 38-2903, as follows:

- (a) For a school, or a specialized program within a school, that does not have a prior alternative program designation, as defined in this chapter, or that is applying for this designation for the first time, the designation pursuant to this chapter shall take effect for school year 2019-2020; and
- (b) For a school, or specialized program within a school, with a prior alternative program designation, as defined in this chapter, the prior designation shall be maintained for school year 2019-2020 and the designation pursuant to this chapter shall take effect for school year 2020-2021.

7501.2 The alternative program designation shall be valid for a period of three (3) years from the date the designation was issued by OSSE.

7501.3 Notwithstanding § 7501.2, a school, or specialized program within a school, that is in its first year of operation may be designated as an alternative program for a period of one year from the date the designation was issued by OSSE.

7501.4 An LEA shall receive per pupil funding at the "Alternative Program" level for students enrolled in a designated alternative program as follows:

- (a) An LEA shall receive this funding for each student enrolled in a designated alternative program receiving full-time equivalent instruction and between the ages of thirteen (13) to twenty-four (24);
- (b) An LEA shall not receive this funding for any student that is enrolled in a designated alternative program below the age of 13 or of the age of 25 years old or above; and
- (c) Notwithstanding §§ 7501.4(a)-(b), an LEA shall receive this funding for each student, regardless of age, enrolled in a designated alternative program that only serves students currently under the supervision of the Department of Youth Rehabilitation Services (DYRS) or only serves students who are in a long-term suspension or expulsion status from the student's last school of attendance due to a disciplinary infraction.

A7502. Eligibility criteria for alternative program designation.

7502.1 To be a designated alternative program, the following criteria shall be satisfactorily demonstrated upon application and maintained throughout the designation period:

- (a) The school mission includes a focus on serving students meeting any of the criteria described in § 7502.1(e);
- (b) The school or specialized program within the school provides programming, including but not limited to, instruction, and academic and non-academic supports targeted to students meeting any of the criteria described in § 7502.1(e);
- (c) The school or specialized program within the school provides a full-time equivalent academic track culminating in the first-time completion of a secondary academic credential;

(d) The students enrolled in the school, or in the specialized program within the school, include, but are not necessarily limited to, those who have reached the minimum age of thirteen (13) and who have not exceeded the maximum age of twenty-four (24);

(e) Based on either the prior school year or an average of the previous two (2) school years, seventy-five percent (75%) of the students between the ages of thirteen (13) and twenty-four (24) enrolled in full-time equivalent instruction in the school, or specialized program within the school, identified as one or more of the following:

(1) At least one year older, or more, than the expected age for the grade in which the student is, or should be, enrolled;

(2) Qualifies for Temporary Assistance for Needy Families (TANF), as defined in the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code

§§ 4-201.1 et seq.);

(3) Qualifies for Supplemental Nutrition Assistance Program (SNAP), as defined in the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 USC § 1942(t));

(4) Experiencing homelessness, as defined in 5-A DCMR § 5099;

(5) Currently involved with or under the jurisdiction of the District of Columbia Child and Family Services Agency (CFSA);

(6) The student has been expelled from their prior school;

(7) The student has a history of being on short- or long-term suspension at the student's prior school(s); or

(8) The student is under court supervision.

7502.2 To be designated as an alternative program during the first year of a school or specialized program's operation, §§ 7502.1(a)-(d), shall be satisfactorily demonstrated upon application and maintained throughout the one-year designation period.

A7503. Application for alternative program designation.

7503.1 To be eligible to receive per pupil funding at the "Alternative Program" level in Fiscal Year 2020 and beyond, an LEA shall apply on behalf of a school, or specialized program within the school, for the alternative program designation.

7503.2 An application for an alternative program designation shall proceed in the manner set forth in this chapter, including as follows:

(a) An LEA shall apply for the alternative program designation on behalf of a school, or specialized program within the school, that is not already designated as an alternative program;

(b) Applications shall be available on an annual basis;

(c) Applications shall be in the format and shall contain the information set forth by OSSE; and

(d) Upon receipt of a complete application, OSSE may request further documentation or records, as necessary, to evaluate an application. The applicant shall promptly comply with OSSE's request.

7503.3 A designated alternative program shall re-apply for the alternative program designation during the final year of the designation period to ensure continuity of funding at the "Alternative Program" level for the next school year.

5-A7504. Annual estimate for per pupil funding.

7504.1 Once designated as an alternative program, the school or specialized program within a school, shall submit an annual estimate of the number and age of students that are projected to be enrolled in the alternative program in the next school year.

7504.2 Projections for the number and age of students that will receive per pupil funding at the "Alternative Program" level in the following school year(s) shall be determined in a manner consistent with D.C. Official Code § 38-2906.

A7505. Monitoring.

7505.1 OSSE may monitor designated alternative programs at any time during the funding period to verify its continued eligibility. OSSE's monitoring may include, but is not limited to, scheduled and unscheduled visits to the school or specialized program, review of student records, and review of any relevant records.

7505.2 An alternative program shall cooperate with any monitoring conducted by OSSE or any audit conducted by the Office of the Chief Financial Officer pursuant to this section, and failure to do so may result in loss of alternative program designation.

7505.3 An alternative program shall comply with the following:

- (a) Notwithstanding any other requirements set forth by federal or local law or regulation, retain any records related to the eligibility of the school or specialized program for alternative program designation, to the application process for alternative program designation, and to the criteria of individual students, for as long as the school is receiving the per pupil funding at the "Alternative Program" level and for ten (10) years after such funding ends; and
- (b) Promptly comply with all OSSE data and records requests related to its alternative program designation.

5-A7599. Definitions.

7599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Alternative Program - An entire school or specialized program within a school that is offering instruction and academic and non-academic supports to students who meet the criteria set forth in this chapter.

Full-time equivalent - Shall have the same meaning as set forth in D.C. Official Code § 38-2901(6)(A).

Local Education Agency - Pursuant to 20 USCS § 7801(30)(A), a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

Office of the State Superintendent of Education or OSSE - The state level agency established by the State Education Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2601 et seq.).

Prior alternative program designation - a school, or specialized program within a school that was designated as an Alternative Program by OSSE for Fiscal Year 2019 to receive per pupil funding at the "Alternative Program" level.

School - A public charter school authorized to operate by a chartering authority in the District of Columbia or a school within the District of Columbia Public Schools system

Secondary Academic Credential - High school diploma, GED or certificate of IEP completion.

5-B2408. Dress codes/uniforms.

2408.16 If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

5-B2500. General policy.

2500.10 Disciplinary responses, as defined in § 2502 of this chapter, shall be aimed, to the extent practicable under the circumstances, to enable students to continue their instructional program.

B2504. Policy for suspensions and expulsions.

2504.9 The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of a person designated by the Chancellor. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.

2504.10 A student who has been suspended or expelled shall have access to an Education Plan as follows:

- (a) If a student is suspended for fewer than eleven (11) days, the principal initiating the Suspension shall provide an Education Plan that meets the student's educational needs and allows the student to make up any class and homework assignments and exams without penalty.
- (b) If a student is suspended for eleven (11) days or more or expelled, the student shall be placed in an Alternative Educational Setting that will allow the student the opportunity to continue to earn credits towards promotion or graduation requirements.

5-B2505. Procedures for suspensions and expulsions.

2505.17 Once a hearing is scheduled by the hearing office, the student shall be placed on Suspension, or in another appropriate placement until the conclusion of the hearing and appeals processes.

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Alternative Educational Setting" - an educational program other than that in which the student was placed prior to disciplinary action.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

§ 38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

§ 38-234. Definitions.

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

- (1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive;
- (2) The frame or receiver of any weapon described in this subsection;
- (3) Any firearm muffler or firearm silencer; or
- (4) Any destructive device; the term "destructive device" means:
 - (A) Any explosive, incendiary, or poison gas;
 - (B) Bomb;
 - (C) Grenade;
 - (D) Rocket having a propellant charge of more than 4 ounces;
 - (E) Missile having an explosive or incendiary charge of more than a 1/4 ounce;
 - (F) Mine; or
 - (G) Any similar device.
- (5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and
- (6) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (e) and (f) of this paragraph [paragraphs (4) and (5) of this subsection] and from which a destructive device may be readily assembled.

(b) The term "weapon" shall not include:

- (1) An antique firearm;
- (2) Any device which is neither designed nor redesigned for use as a weapon; or
- (3) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

REGULATIONS

B2502. Grounds for disciplinary action.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(22) Possession of tools or instruments which school administrators deem could be used as weapons. [...]

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act. [...]

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(13) Use, threatened use, or transfer of any weapon;

(14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.

(15) Any behavior that violates the Gun-Free Schools Act;

(17) Assault with a weapon;

(c) Weapons include, but are not limited to:

(1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);

(2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

(3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);

(4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);

(5) Air gun, bb gun, paintball gun;

(6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);

(7) Mace, pepper spray, tear gas;

(8) Explosives;

(9) Slingshot;

(10) Bullets;

(11) Chemical weapon; and

(12) Razorblade or razor.

5-B2505. Procedures for suspensions and expulsions.

2505.2 Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor. [...]

2505.10 No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends

Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.

5-E2402. Code of student responsibilities and conduct.

2402.6 A student shall refrain from fighting, creating disturbances, denying others the use of school facilities or buildings, using or carrying any weapon on school grounds, intentionally injuring another person, or acting in a manner that would expose others to risk or danger of harm or injury.

5-E2404. Search procedures.

2404.2 Reasonable suspicion shall be premised upon any one or more of the following circumstances:

- (e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws. [...]

2404.9 Magnetometers and other metal-detecting devices may be utilized by school officials at entrances to schools when deemed appropriate by the Superintendent of Schools to be necessary to deter weapons being brought onto school grounds; provided, that such devices are regularly checked and calibrated. [...]

2404.11 Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

5-B2408. Dress codes/uniforms.

2408.16 If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (a) The following behaviors shall be considered Tier I behaviors:

- (1) Refusal to present school-issued identification upon request;
- (2) Attending class without required class materials or assigned work;
- (3) Off-task behaviors that demonstrate disengagement from classroom learning;
- (4) Behaviors that disrupt or interfere with classroom teaching and learning;
- (5) Unexcused lateness for school or class;
- (6) Inappropriate displays of affection;
- (7) Excessive noise in the classroom, hall, or school building;
- (8) Running in the classroom, hall, or school building;
- (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
- (10) Directing profanity or obscene/offensive gestures toward peers;

- (11) Refusal to comply with staff instructions, or classroom or school rules; and
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.

(b) Disciplinary responses for Tier I behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student conference;
- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by a person designated by the Chancellor.

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

- (1) Using computer/office equipment without permission;
- (2) Intentional Misuse of School Equipment/Supplies/Facilities;
- (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
- (4) Non-compliance with approved dress code/uniform policy;
- (5) Leaving classroom without permission;
- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;
- (9) Inappropriate or disruptive physical contact between students;
- (10) Directing profanity or obscene/offensive gestures toward staff;
- (11) Throwing objects that may cause injury or damage to property;
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and
- (13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and

(9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

- (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
- (2) Sale or Distribution of any item without authorization;
- (3) Possession or Distribution of obscene or pornographic material on school premises;
- (4) Possession or Use of tobacco;
- (5) Use of alcohol;
- (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
- (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
- (8) Verbal, written, or physical Threat to person or property (including intimidating postures);
- (9) Obscene, seriously offensive, or abusive language or gestures;
- (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;
- (11) Gambling;
- (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
- (13) Engaging in Sexual Acts on school premises or at school-related functions;
- (14) Leaving school without permission;
- (15) Academic Dishonesty;
- (16) Forgery;
- (17) Lying to or giving misleading information to school staff;
- (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
- (19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);
- (20) Hazing;
- (21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;
- (22) Possession of tools or instruments which school administrators deem could be used as weapons;
- (23) Engaging in reckless behavior that may cause harm to self or others;
- (24) Extortion;
- (25) Fighting where there is no injury and no weapon;
- (26) Trespassing;
- (27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;
- (28) Documented Pattern of Persistent Tier II Behavior

(b) Disciplinary responses for Tier III behaviors shall include:

- (1) Verbal redirection/reprimand;
- (2) Teacher/student conference or administrator/student conference;
- (3) Parental contact (written or by phone);
- (4) Parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) Behavior contract;
- (7) In-School Disciplinary Action;
- (8) Grade reduction for Academic Dishonesty;
- (9) On-site Short-Term Suspension with provision of appropriate intervention services;
- (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
- (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

- (1) Acts of vandalism, destruction of property, or graffiti (tagging);
- (2) Documented theft of school or personal property without force;
- (3) Interfering with school authorities or participating in a major disruption of the school's operation.
- (4) Tampering with, changing, or altering an official record or document of a school;
- (5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;
- (6) Lewd or indecent public behavior or sexual misconduct;
- (7) Sexual Harassment;
- (8) Retaliation for reporting Harassment and Sexual Harassment;
- (9) Fighting which creates substantial risk of or results in minor injury;
- (10) Inciting others to violence or disruption;
- (11) Activating False Alarm;
- (12) Contaminating food;
- (13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;
- (14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
- (15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and
- (16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
- (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of Exceptional Misconduct at other schools;
- (2) Vandalism/destruction of property over \$ 500;
- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
- (7) Possession of fireworks or explosives;
- (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
- (9) Assault or physical attack on student or staff;
- (10) Fighting which results in a serious physical injury;
- (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
- (12) Using an article that is not normally considered a weapon to injure another individual;
- (13) Use, threatened use, or transfer of any weapon;
- (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
- (15) Any behavior that violates the Gun-Free Schools Act;
- (16) Deliberate acts that cause severe physical injury to another person (s).
- (17) Assault with a weapon;
- (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
- (19) Arson;
- (20) Biohazard;
- (21) Bomb threat;
- (22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
- (23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and
- (24) Documented Pattern of Persistent Tier IV Behavior.

(b) Disciplinary responses for Tier V behaviors include:

- (1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and
- (2) Expulsion.

(c) Weapons include, but are not limited to:

- (1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);
- (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

- (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
- (4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);
- (5) Air gun, bb gun, paintball gun;
- (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);
- (7) Mace, pepper spray, tear gas;
- (8) Explosives;
- (9) Slingshot;
- (10) Bullets;
- (11) Chemical weapon; and
- (12) Razorblade or razor.

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Documented Pattern of Persistent Behavior" - repeated commission of the same or similar infraction. Behavioral occurrences on a single school day (for Elementary students) or in a single class period (for Secondary students) are considered a single infraction. To impose disciplinary action using this standard, prior infractions must be documented no later than one school day after than the occurrence of each infraction. Only infractions occurring within the current school year shall be considered in the assessment of whether a pattern of behavior exists.

Chronic Absenteeism and Truancy

LAWS

§ 38-201. Definitions.

For the purposes of this subchapter, the term:

(1A) "Chronic absenteeism" means the incidence of students missing more than 10% of school days, including excused and unexcused absences. [...]

(3B) "School-based student support team" means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based, depending on the availability, to enhance the student's success with services, incentives, intervention strategies, and consequences for dealing with absenteeism.

§ 38-202. Establishment of school attendance requirements.

(a) Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or will become 5 years of age on or before September 30th of the current school year shall place the minor in regular attendance in an educational institution during the period of each year when the public schools of the District are in session. This obligation of the parent, guardian, or other person having custody extends until the minor reaches the age of 18 years. For the purpose of this section placement in summer school is not required.

(b) Any minor who has satisfactorily completed the senior high school course of study prescribed by the Board and has been granted a diploma that certifies his or her graduation from high school, or who holds a diploma or certificate of graduation from another course of study determined by the Board to be at

least equivalent to that required by the Board for graduation from the public senior high schools, shall be excused from further attendance at school.

(c) Any minor who has reached the age of 17 years may be allowed flexible school hours by the head of the educational institution in which the minor is enrolled provided he or she is actually, lawfully, gainfully, and regularly employed, but in no case shall he or she be excused entirely from regular attendance or excused to the extent that his or her timely graduation would be jeopardized or prevented.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

§ 38-203. Enforcement; penalties.

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each educational institution. These records shall be open for inspection at all times by the Board, the State Superintendent of Education, school attendance officers, or other persons authorized to enforce this subchapter. [...]

(c)(1) The absence of a minor covered by § 38-202(a) without valid excuse shall be unlawful.

(2) An absence of a minor covered by § 38-202(a) who is enrolled in a public school is deemed unexcused unless the minor's parent, guardian, or other person who has custody or control of the minor provides the school with a valid excuse for the minor's absence within 5 school days upon the minor's return to school.

(d) The parent, guardian, or other person who has custody or control of a minor covered by § 38-202(a) who is absent from school without a valid excuse shall be guilty of a misdemeanor.

(e) Any person convicted of failure to keep a minor in regular attendance in a public, independent, private, or parochial school, or failure to provide regular private instruction acceptable to the Board may be fined not less than \$100 or imprisoned for not more than 5 days, or both for each offense.

(f) Each unlawful absence of a minor for 2 full-day sessions or for 4 half-day sessions during a school month shall constitute a separate offense.

(g) For the 1st offense, upon payment of costs, the sentence may be suspended and the defendant may be placed on probation.

(h) For any person convicted under this section, the courts shall consider requiring the offender to perform community service as an alternative to fine or imprisonment or both.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Office of the State Superintendent of Education, and make publicly available the following data for each school or campus under its authority based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

(i) One to 5 days;

(ii) Six to 10 days;

(iii) Eleven to 20 days; and

(iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

(i) The number of students who were referred to a school-based student support team;

- (ii) The number of students who met with a school-based student support team;
 - (iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and
 - (iv) A summary of the services utilized by students to reduce unexcused absences;
 - (v) A summary of the common barriers to implementing the recommendations of the school-based student support team;
- (B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2) [(a-2) expired];
- (B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and
- (C) The policy on absences, including defined categories of valid excuses, that it used.
- (j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.
- (k) By November 30 of each year, the Office of the State Superintendent of Education shall publicly report on the state of absenteeism in the District based on data from the preceding school year, including an analysis of truancy and chronic absenteeism by school or campus and the impact of current laws on improving school attendance.

§ 38-207. Authority of police over truant child.

(a)(1) A law enforcement officer who has reasonable grounds to believe, based on the minor's age and other factors, that a minor is truant from any public, independent, private, or parochial school on a day and during the hours when the school is in session shall take that minor into custody and deliver the minor to the public, independent, private, or parochial school where the minor is presently enrolled, so long as the school is located in the District.

(2) If the minor is not currently enrolled at a public, independent, private, or parochial school, the law enforcement officer shall take the minor to the District of Columbia Public Schools placement office.

(3) If a minor is enrolled in a public, independent, private, or parochial school located within the District of Columbia, the educational institution shall receive that minor from a law enforcement officer during the hours when the school is in operation.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall send the minor's parent:

(1) Information from the Chief of Police about the compulsory attendance requirements and criminal penalties for violations of this chapter; and

(2) A letter notifying the parent that he or she may be in violation of the school attendance requirements under this chapter and may be subject to prosecution.

§ 38-208. Truancy procedures; inter-agency coordination.

(b) Within 2 business days of the 10th unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy

prevention resource guide created pursuant to § 38-2602(b)(19); provided, that the parent has not received the truancy prevention resource guide before the 10th unexcused absence.

(c) In addition to the requirements set forth in subsection (b) of this section:

(1)(A) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to § 4-1321.02(a-1), no later than 2 business days after the accrual of 10 unexcused full school day absences within a school year.

(B) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused full school day absences within a school year.

(C) The educational institution shall have discretion with regard to the referral requirements set forth in subparagraphs (A) and (B) of this paragraph if a minor student accrues the 10th or 15th unexcused absence, respectively, within the final 10 school days of a school year.

(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student's parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this subchapter.

(d) By July 1 of each year, the State Superintendent of Education shall send written notice to each educational institution outlining the attendance and reporting requirements outlined in this subchapter.

§ 38-209. Reporting requirements.

By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

- (1) Referrals it received from each educational institution;
- (2) Cases it filed pursuant to this subchapter, and the outcome of each;
- (3) Child-in-need of supervision cases filed pursuant to this subchapter, and the outcome of each; and
- (4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this subchapter.

§ 38-241. Truancy and dropout prevention program.

(a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.

(b) The program shall develop a supportive relationship with the Metropolitan Police Department.

(c) The program shall be available for students who are enrolled in grades K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.

(d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

§ 38-2602. Responsibilities.

(b) The OSSE shall:

(19) By August 1, 2013, create a truancy prevention resource guide for parents and legal guardians who have children who attend a District public school, which shall be updated and made available upon request and, at minimum, include:

(A) An explanation of the District's laws and regulations related to absenteeism and truancy;

(B) Information on:

(i) What a parent or legal guardian can do to prevent truancy;

(ii) The common causes of truancy; and

(iii) Common consequences of truancy;

(C) A comprehensive list of resources that are available to a parent or legal guardian, and the student, that address the common causes of truancy and the prevention of it, such as:

(i) Hotlines that provide assistance to parents, legal guardians, and youth;

(ii) Counseling for the parent (or legal guardian) or the youth, or both;

(iii) Parenting classes;

(iv) Parent-support groups;

(v) Family psycho-education programs;

(vi) Parent-resource libraries;

(vii) Risk prevention education;

(viii) Neighborhood family support organizations and collaboratives that provide assistance to families experiencing hardship;

(ix) Behavioral health resources and programs in schools;

(x) The Behavioral Health Ombudsman Program; and

(xi) The resources at each public school for at-risk students and their parents or legal guardians.

REGULATIONS

5-A2100. General provisions.

2100.2 This chapter shall apply to a public educational institution as defined in this chapter to include any elementary or secondary educational program operating in the District of Columbia that is subject to the control or oversight of a local educational agency.

2100.3 Unless otherwise approved by the office of the State Superintendent of Education (OSSE), a school year for attendance purposes, whether in-person or distance, shall include a minimum of one hundred eighty (180) regular instructional days and the following requirements:

(a) An instructional day shall be at least six (6) hours in length for students, including time allotted for lunch periods, recess, and class breaks;

(b) The six (6)-hour minimum instructional day requirement shall not be applicable to an evening school program, adult program, prekindergarten program, or kindergarten program.

2100.6 Daily attendance shall include participation in school-sponsored field trips; participation in an off-site school sponsored or approved activity during a regularly scheduled school day; in-school suspensions; and the number of days a student receives instructional services while expelled or while serving an out-of-school suspension.

5-A2101. Attendance records and reporting.

2101.1 Each educational institution operating in the District of Columbia shall maintain an accurate, contemporaneous, and daily attendance record for each student who is enrolled in or who attends the educational institution.

2101.2

(a) Attendance shall be recorded and reported as follows)

1) The requirement to record and report attendance for a student who is registered in the institution's Student Information System shall begin on the educational institution's first (1st) official school day and continue throughout the school year, unless the student

(A) Officially withdraws from the educational institution;

(B) Fails to attend at least one (1) day of school in the first (1st) three (3) weeks of school without notification to the educational institution for such absence; or

(C) Enrolls in another educational institution; and

2) Expulsion or suspension of a student during the school year does not relieve the educational institution of the duty to record and report the student's daily attendance for the school year in which the expulsion or suspension occurred until such time as the student officially withdraws from the educational institution or enrolls in another educational institution; or such time as the educational institution determines that, despite best efforts, it is unable to contact the student's parent(s) or guardian(s).

(b) Attendance records and reports required by this section shall be maintained by the educational institution for a minimum, of five (5) years.

2101.3 The attendance record for each student shall contain the following:

(a) Dates of enrollment;

(b) Daily legible or machine-readable records of daily attendance, noting the student as: fully present, partially present, fully absent, or partially or absent for;

(c) The nature of each absence as excused, unexcused; suspension-related; or expulsion-related;

(d) Dates of withdrawal from the educational institution or confirmed enrollment in another educational institution, including the name and location of the educational institution in which the student enrolled and follow up notation(s) to confirm the child's new educational institution, if applicable;

(e) Dates of each referral to the school-based student support team, the Child and Family Services Agency, the Court Social Services Division of the Superior Court of the District of Columbia ; or the Office of the Attorney General Juvenile Section related to absenteeism or truancy;

(f) Dates of marking periods;

(g) Dates on which a law enforcement officer enforcing compulsory attendance laws returns the student to the educational institution, if applicable;

(h) Daily late arrival time, if applicable;

(i) Dates and times of early dismissals from the school day, as authorized by the educational institution, if applicable;

(j) Dates and brief description of communications with the student's, parent(s) or guardian(s) with regard to school attendance and absences, including the record of or a cross-reference to the record documenting:

(1) Contact with parent(s) or guardian(s); and

(2) Interventions, services, and service referrals related to absences other than those listed in subparagraph (e) ; if applicable;

(k) Underlying cause(s) for student's absenteeism or truancy as determined by the school-based student support team;

(l) Action plans and strategies implemented by the school-based student support team to eliminate unexcused absences; and

(m) Services utilized by the student to reduce unexcused absences, if applicable.

2101.4 Prior to the beginning of each school year, an educational institution shall designate an individual to be responsible for collecting, maintaining, and reporting the attendance data required for each student consistent federal and District requirements. This designated individual shall:

- (a) Ensure timely submission of attendance in conformance with this chapter; and
- (b) Submit corrected attendance records via an automated, electronic feed, or such other format; and provide any corrections to attendance records according to deadlines provided by OSSE; and
- (c) Timely respond to requests for clarification of submitted attendance records.

2101.5 The name and contact information of the designated attendance monitor(s) shall be reported by the educational institution prior to the first (1st) official school day of each school year to the Office of the State Superintendent of Education (OSSE) and posted in a conspicuous space on the educational institution's website.

2101.6 Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203(i). Such report shall include attendance information in aggregate form, excluding individual student data.

2101.7 By November 30 of each school year, OSSE shall issue a report including the following information:

- (a) Truancy rates and chronic absenteeism rates for each educational institution;
- (b) Progress in improving attendance and reducing truancy for each educational institution; and
- (c) Each educational institution's compliance with key attendance and truancy requirements.

2101.8 An educational institution shall maintain attendance records as part of the student's permanent record and for such periods of time as may be otherwise specified by applicable laws and regulations.

2101.9 Within two (2) business days of a student's tenth (10th) full day unexcused absence during a school year, the educational institution shall:

- (a) [REPEALED];
- (b) Send the student's parent(s) or guardian(s) a letter, under signature of the Chief of the Metropolitan Police Department, notifying the parent(s) or guardians that they be in violation of the school attendance requirements and subject to prosecution under District of Columbia laws; and
- (c) Notify OSSE that the student has accrued ten (10) full day unexcused absences.

2101.10 Upon notification from the educational institution under § 2101.12, OSSE shall provide the parent(s) or guardian(s) with a copy of the Truancy Prevention Resource Guide published by OSSE.

2101.11 An educational institution that is approved to offer instruction through a distance learning model on a regular or otherwise routine basis must submit an attendance plan to OSSE for approval on an annual basis. This attendance plan shall:

- (a) Comply with the instructional day requirements defined in Section 2100.3 by dividing the instructional day into modules;
- (b) Identify modules as synchronous or asynchronous;
- (c) Require every student to have at least one (1) in-person class or synchronous module on their daily schedule every day;
- (d) Identify how the educational institution will document and preserve attendance records that demonstrate compliance with Sections 2101.12 and 2101.13; and

- (e) Identify how the educational institution will communicate attendance expectations to parents and guardians, including an expectation for adequate supervision of their child(ren) during distance learning instruction.

2101.12 To be considered present in a synchronous module, a student's physical presence must be verified by an instructor through a synchronous video camera where the instructor can temporarily visually verify the student's presence through a responsive action by the student.

2101.13 To be considered present in an asynchronous module, a student must complete an output during the module.

2101.14 For routine distance learning, a student shall be marked "fully present" if the student satisfies the requirements in 2101.12 for one hundred percent (100%) of the instructional day's synchronous modules and satisfies the requirements in 2101.13 for one hundred percent (100%) of the instructional day's asynchronous modules.

2101.15 For routine distance learning, a student shall be marked "partially present" if the student:

- (a) Is present for at least one (1) or synchronous module, as defined in 2101.12; and
- (b) Is present for modules that account for between sixty percent (60%) and ninety-nine and nine tenths percent (99.9%) of the instructional day.

2101.16 For routine distance learning, a student shall be marked "partially absent" if the student:

- (a) Is present for at least one (1) asynchronous module but absent for all synchronous modules scheduled on that day, or
- (b) Is marked as present for modules that account for between one percent (1%) and fifty-nine and nine tenths percent (59.9%) of the instructional day.

2101.17 For routine distance learning, a student shall be marked as "fully absent" if the student is marked as present for zero percent (0%) of the instructional day.

2101.18 For situational distance learning, the educational institution shall comply with the following standards:

- (A) To mark a student as "present," the educational institution shall, at a minimum, require:
 - (1) An instructor to verify the student's presence through one-on-one contact with the student, including but not limited to a phone call, through a synchronous video platform, or through the educational institution's learning management system; and
 - (2) The student to complete at least one (1) output for the instructional day;
- (B) Document and preserve attendance records that demonstrate compliance with Section 2101.18(a); and
- (C) Communicate attendance expectations to parents and guardians, including but not limited to an expectation for adequate supervision of their child(ren) during situational distance learning.

A2102. Absences.

2102.1 Any absence, including an absence from any portion of the instructional day, without a valid excuse shall be presumed to be an unexcused absence.

2102.2 An educational institution shall define categories of valid excuses for an absence, which shall include the following categories:

- (a) Illness or other bona fide medical cause experienced by the student;
- (b) Exclusion, by direction of the authorities of the District of Columbia, due to quarantine, contagious disease, infection, infestation, or other condition requiring separation from other students for medical or health reasons;

- (c) Death in the student's family;
- (d) Necessity for a student to attend a judicial proceeding, administrative proceeding, or court-ordered event or activity during school hours as a party to the action or under subpoena;
- (e) Observance of a religious holiday;
- (f) Lawful suspension or exclusion from school by school authorities;
- (g) Temporary suspension of classes due to severe weather, official activities, holidays, malfunctioning equipment, unsafe or unsanitary conditions, or other condition(s) or emergency requiring a temporary suspension of classes;
- (h) Failure of the District of Columbia to provide transportation in cases where the District of Columbia has a legal responsibility for the transportation of the student;
- (i) Medical or dental appointments for the student;
- (j) Absences to allow students to visit their parent or guardian, who is in the military during, immediately before, or immediately after deployment; and
- (k) An emergency or other circumstances approved by an educational institution.

2102.3 An educational institution shall publish and make available to students, parents and guardians the attendance policies and procedures of the educational institution, including a list of valid excused absences.

2102.4 An educational institution shall obtain an explanation from the student's parent or guardian verifying the reason for an absence within no more than five (5) days upon the student's return to school otherwise the absence shall be deemed unexcused.

2102.5 If a student is receiving home or hospital instruction in accordance with D.C. Official Code § 38-251.01 *et seq.* and Chapter 25, Subtitle A, of Title 5 of the District of Columbia Municipal Regulations, the LEA shall maintain the student on the regular attendance roll and count the student as medically excused, except when a student is not available for home or hospital instruction, in which event the student may be counted by the LEA as absent.

A2103. Absentee intervention and school-based student support teams.

2103.1 An educational institution shall implement a specific protocol for absenteeism (absenteeism protocol) including a focus on preventing of unexcused absences, and academic and behavioral interventions to address the needs of students.

2103.2 Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

- (a) A description of valid excused absences consistent with this chapter;
- (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and when applicable collaborating with related service providers; and
- (c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:
 - (1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent(s) or guardian(s) of a student, or the adult student, as applicable on the same day, and each time, a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary;
 - (2) A continuum of school practices and services, which shall not include off-site suspension or expulsion as intervention strategies, but shall include

(A) Meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism; and

(B) Consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists,

(3) A referral process whereby, within two (2) school days after a student has accumulated five (5) full day unexcused absences in one (1) marking period or other similar time frame, the student shall be referred to a school-based student support team which will meet within five (5) school days of the referral and regularly thereafter to:

(A) Review and address the student's attendance and determine the underlying cause(s) for the student's unexcused absences;

(B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and the student's parents or guardian(s);

(C) Communicate and collaborate with the student's existing Individualized Education Program (IEP) team, as applicable;

(D) Provide timely response to the student's truant behavior;

(E) Make recommendations for academic, diagnostic, or social work services, applicable;

(F) Use school and/or community resources to abate the student's truancy, including referral to a community-based organization when available; and

(G) Develop and implement an action plan in consultation with the student and student's parent(s) or guardian(s);

(4) The school-based student support team assigned to a student who accumulates ten (10) full day unexcused absences during a school year shall notify the school administrator within two (2) school days after the tenth (10th) full day unexcused absence with a plan for immediate intervention, including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;

(5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution; and

(6) A process to ensure that the educational institution maintains complete, accurate, and contemporaneous records of the work of the school-based student support team to reduce unexcused absences, including records of all meetings that take place after a student accumulates five (5) or more full day unexcused absences in one (1) marking period or other similar time frame and after a student accumulates ten (10) unexcused absences at any time during a school year.

2103.3 In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), an educational institution shall provide to OSSE, upon request, student-level data and records evidencing the work of school-based student support teams.

2103.4 A school-based student support team shall be guided by the following principles:

(a) Prior to performing school-based student support team functions, appointed team members shall be provided training on the compulsory attendance laws, regulations, and policies of the District of Columbia and OSSE; absenteeism and truancy intervention strategies and best practices; and available remedies and services to ameliorate the causes of absenteeism and truancy;

(b) A school-based student support team shall include the educational institution's designated attendance monitor(s);

(c) Core school-based student support team membership should typically include a:

(1) General education teacher;

(2) School nurse, psychologist, counselor, and/or social worker, if applicable; and

(3) School administrator with decision-making authority.

(d) Selection of additional members of a team should be guided by the needs of the particular student, which may include the following:

- (1) IDEA/Section 504 coordinator and/or special education personnel;
- (2) Early learning/Head Start teacher;
- (3) Bilingual or English as a second language teacher;
- (4) Representatives of the Child and Family Services Agency and/or Department of Youth Rehabilitation Services;
- (5) McKinney-Vento homeless liaison; and/or
- (6) Guardian ad litem.

2103.5 Each educational institution shall develop a process to refer students to District of Columbia entities under the following circumstances:

- (a) Students ages five (5) through thirteen (13) shall be referred by the educational institution to the Child and Family Services Agency not later than two (2) business days after the accrual of ten (10) full day unexcused absences within a school year; and
- (b) Students ages fourteen (14) through seventeen (17) shall be referred by the educational institution to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of Attorney General Juvenile Section no later than two (2) business days after the accrual of fifteen (15) full day unexcused absences within a school year.

2103.6 Copies of the following documents shall be provided with a referral made pursuant to this chapter:

- (a) The student's attendance and absence record;
- (b) The student's action plan;
- (c) Documentation related to referrals and outcome of such referrals;
- (d) Documentation representing evidence of communications, services, and attendance related interventions taken by the school;
- (e) Documentation of suspected educational neglect;
- (f) Documentation of personal contacts with, and written notification to, parent(s) or guardian(s) with regard to the unexcused absences; and
- (g) If applicable, the student's Individualized Education Program pursuant to IDEA or Section 504 services plan, with any supporting evaluations or assessments.

5-A2199. Definitions.

2199.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

"Absence"- a school day when a student is either fully absent or partially absent.

"Absenteeism"- a pattern of a high frequency of absences.

"Action plan"- a written document that is designed to meet the individual and specialized needs of the student and contains the relevant details of the student's attendance record, the school-based or third-party-provided interventions toward addressing the underlying causes of unexcused absences as determined by the school-based student support team, and expected attendance goals.

"Asynchronous" - non-simultaneous distance instruction where a student completes work independently without a teacher providing real time instruction.

"Attendance monitor" - the person(s) designated by the principal or chief school administrator of an educational institution to be responsible for collecting, maintaining, and reporting attendance records that are required pursuant to District of Columbia compulsory education and school attendance laws, regulations, and OSSE policies for each student enrolled in the educational institution.

"Chronic absenteeism" - the incidence of a student missing more than 10 percent of instructional school days, including excused and unexcused absences.

"Chronic truancy rate" - the incidence of students of compulsory attendance age, as defined by [D.C. Official Code § 38-202\(a\)](#), enrolled at a school at any point in a given school year who are absent without a valid excuse on ten (10) or more occasions within a single school year, divided by the total number of students of compulsory attendance age ever enrolled during the corresponding school year.

"Chronically Truant" a student of compulsory attendance age, as defined by D.C. Official Code § 38-202(a) who is absent from school without a legitimate excuse for ten (10) or more days within a single school year.

"Consultation"- a meeting or conversation between the school-based student support team of an educational institution and a student's parent(s) or guardian(s) in which the team, on the part of the educational institution, engages in meaningful discussions about the issues underlying the student's absenteeism prior to making any decision about action plans, interventions, or services to address the student's absenteeism.

"Distance" - instruction that takes place when the student is not physically present in the educational institution in which the student is enrolled or where the student is assigned to attend.

"Educational institution" - a school in the District of Columbia Public Schools system, or a public charter school.

"Educational neglect" the failure of a parent or guardian to ensure that a child attends school consistent with the requirements of the law including, without limitation, the failure to enroll a student of compulsory attendance age, as defined by D.C. Official Code § 38-202(a), in an educational institution or provide appropriate private instruction; permitting chronic absenteeism from school; inattention to special education needs; refusal to allow or failure to obtain recommended remedial education services; or the failure to obtain treatment or other special education services without reasonable cause.

"Elementary/secondary educational program" - a course of instruction and study from and including pre-Kindergarten through the end of high school, any portion thereof, or its equivalent. This does not include an adult education or evening school program.

"Enrollment"- a process through which a student obtains admission to a District of Columbia Public School or District of Columbia public charter school that includes, at a minimum the following stages:

- (1) Application by student to attend the school;
- (2) Acceptance and notification of an available slot to the student by the school;
- (3) Acceptance of the offered slot by the student (signified by completion of enrollment forms and, for minor student, parent or guardian signature on a "letter of enrollment agreement form");
- (4) Registration of the student in the Student Information System (SIS) by school upon receipt of required enrollment forms and letter of enrollment agreement; and
- (5) Receipt of educational services, which are deemed to begin on the first official school day.
- (6) The LEA 's obligation to determine eligibility for special education services or to provide special education services on an existing IEP is triggered upon completion of registration (stage 4).

"Full school day"- The entirety of the instructional hours regularly provided on a single school day.

"Fully absent" - the designation for a school day when a student is not in attendance for the entire instructional day. This designation applies to both excused and unexcused full school day absences.

"Fully present" - the designation for a school day when a student is present for the entire instructional day.

"IDEA"- the "Individuals with Disabilities Education Act", approved April 13, 1970 (84 Stat. 191; 20 U.S.C.

§ 1400. et seq.)

"In person" – instruction that takes place when the student is physically present in the educational institution in which the student is enrolled or at the specified off-site in-person learning location
"Late arrival"- arrival by a student at the educational institution after the official start of the school day as defined by the educational institution.

" LEA " or "Local Educational Agency – the District of Columbia Public Schools or a District of Columbia public charter operator.

"Marking period"- a portion of a school year between two dates, at the conclusion of which period students are graded or marked.

"McKinney-Vento"- the "McKinney-Vento Homeless Assistance Act, approved July 22, 1987 (101 Stat. 482; 42 U.S.C. §§ 11431-11435).

"Module" -- A subdivision of the instructional day (as defined in 5-A DCMR § 2100.3) for distance learning.

"Office of the State Superintendent of Education" - The State Education Agency (SEA) for the District of Columbia established by the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Official Code §§ 38-2601 *et seq.*), with all operational authority for state-level functions, except that delegated to the State Board of Education in D.C. Official Code § 38-2652.

"OSSE"- The Office of the State Superintendent of Education.

"Output" - an instructional activity completed by the student during a module of distance learning that reflects the instruction delivered in that module.

"Parent"- A parent, guardian, or other person who resides in the District and who has custody or control of a minor five (5) years of age or older.

"Partially absent" - the designation for a school day when a student is present for less than sixty percent (60%) of the instructional day but did attend at least part of the school day. This designation applies to both excused and unexcused absence.

"Partially present" -- the designation for a school day when a student is present for at least sixty percent (60%) of the instructional day but not the full day, regardless of whether the absent period was excused.

"Present"- A school day when the student is either fully present or partially present.

"Routine distance" - the use of distance instruction by a school on a regular or otherwise routine and predictable, nonemergency, basis.

"Section 504"- Section 504 of the "Rehabilitation Act of 1973", approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794.).

" STEM " - educational instruction in science, technology, engineering, and mathematics.

"Situational distance" - the use of distance instruction by a school otherwise providing in-person instruction to address a temporary, emergency need.

"Synchronous" - in synchronous modules, teaching and learning occur simultaneously such that the teacher is able to react and respond to students in the moment and vice-versa.

"Truant"- a student of compulsory attendance age, as defined by [D.C. Official Code § 38-202\(a\)](#), who is not in attendance for an entire instructional school day without a valid excuse for absence pursuant to Section 2102.2 of this chapter.

"Truancy" -- the act or pattern of being truant from school for an entire instructional school day without a valid excuse (an unexcused full school day absence).

“Unexcused absence” -- the designation of a day when a student is either fully absent or partially absent without a valid excuse.

B2103. Truancy.

2103.1 District of Columbia Public Schools (DCPS) elementary and secondary students who have one unexcused absence from homeroom where attendance has been taken for purposes of the Compulsory School Attendance Act shall receive appropriate absenteeism protocol interventions initiated by classroom or homeroom teachers, pursuant to the Act.

2103.2 Half-day schedules for students attending DCPS are governed by the following requirements:

- (a) Half day schedules are permitted for employed students aged seventeen (17) or older whose hours of employment fall within the regular school day;
- (b) Half day schedules are permitted for secondary students attending one of the local colleges or universities;
- (c) In order for a half-day schedule to be approved, the student's employment and work hours or college schedule must be verified by the local school. Students who are not employed or attending one of the local colleges or universities will have a full course schedule, as will those whose employment begins after regular school hours.

2103.3 DCPS students accumulating thirty (30) or more unexcused absences within a full school year shall only be promoted if they meet an exception set forth in D.C. Official Code §§ 38-781.02(c) or 38-781.05.

2103.4 DCPS secondary students with ten (10) unexcused absences in any class shall receive an initial written notice that they are at risk of receiving a grade of "FA" (failure due to absences) in that subject upon accumulating more than thirty (30) unexcused absences unless an exception applies.

2103.5 DCPS secondary students with fifteen (15) unexcused absences in any class shall receive an additional written warning that they are at risk of receiving a grade of "FA" (failure due to absences) in that subject upon accumulating more than thirty (30) unexcused absences.

2103.6 DCPS secondary students accumulating more than thirty (30) unexcused absences in a course within a full school year shall receive a failing final grade in that course with a resulting loss of course credit.

2103.7 A written appeal may be filed by a parent or student on behalf of any student receiving a failing grade(s) due to unexcused absences.

2103.8 An appeal filed pursuant to § 2103.7 shall be submitted to the principal of the school attended or to a designee of the Chancellor within ten (10) school days after receipt of the failing grade(s).

2103.9 Upon receipt of an appeal filed pursuant to § 2103.7, the principal or Chancellor's designee shall appoint an Appeals Panel and shall forward all written appeal requests to the panel chairperson within three (3) school days.

2103.10 The Appeals Panel referenced in § 2103.9 shall consist of not less than three (3) members to be selected from the following, one of which shall be from category (a):

- (a) A person designated by the principal or Chancellor's designee, who shall be the panel chairperson;
- (b) A guidance counselor;
- (c) A department chairperson;
- (d) A teacher, other than the one involved in the matter being appealed;
- (e) An attendance staff person; or
- (f) A representative from DCPS central office administration.

2103.11 Substitutions of no more than two (2) members of the Appeals Panel described in § 2103.10 may be made when necessary.

2103.12 The Appeals Panel shall hold a hearing within ten (10) school days after its appointment by the principal or Chancellor's designee.

2103.13 The student, his or her parent, guardian or duly authorized representative shall appear at the hearing to represent the student. One of these individuals shall be given the opportunity to present the student's case and, upon request, to question the involved teacher and to be duly informed of the panel's recommendations.

2103.14 Each appeals panelist, including the chair, shall have an equal vote; however, two (2) voting members can render a decision.

2103.15 In the case of a tie vote, the initial grade is deemed to be upheld by the Appeals Panel.

2103.16 The Appeals Panel's recommendation shall be forwarded immediately to the principal or Chancellor's designee who shall issue the Panel's decision within ten (10) school days after the hearing.

2103.17 The student, his or her parent or guardian, or duly authorized representative may appeal the decision of the Appeals Panel by writing to the Chancellor's official grade appeal designee within ten (10) school days after receipt of the decision.

2103.18 When an appeal is filed pursuant to § 2103.17, the Chancellor's official grade appeal designee shall review all documentation submitted and issue the final administrative decision in the matter.

2103.19 The following procedural guidelines shall apply to appeals reviewed pursuant to § 2103.18:

- (a) The burden to show why the grade(s) in question should be changed shall be on the student or his or her parent or guardian;
- (b) Strict rules of evidence shall not apply; and
- (c) A written determination shall be issued within five (5) school days of the review and consideration of all submitted evidence.

5-B2500. General policy.

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (b) Attendance intervention plans.

B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (a) The following behaviors shall be considered Tier I behaviors:

- (5) Unexcused lateness for school or class. [...]

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

- (a) The following behaviors shall be considered Tier II behaviors:

- (6) Unexcused absence from class;
- (8) Unexcused absence from school.

5-B2504. Policy for suspensions and expulsions.

2504.8 In accordance with the An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat.

806; D.C. Official Code § 38-201 et seq.), all children of compulsory school age are required to attend school or receive an equivalent education approved by the Office of the State Superintendent of Education. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to Suspension or Expulsion from DCPS pursuant to this chapter.

5-E2402. Code of student responsibilities and conduct.

2402.9 A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

Substance Use

LAWS

§ 2-1595. Duties.

(b)(1) All programs shall be evidence-based, age-appropriate, and implemented to serve children and their families and shall include:

(B) School-based violence and substance abuse prevention.

§ 38-651.10. Misuse.

(a) A school may deny a medication action plan pursuant to terms established by the Mayor.

(b) A student who self-administers medication while at school, at a school-sponsored activity, or while on school-sponsored transportation for a purpose other than his or her own treatment may be subject to disciplinary action by the school; provided, that disciplinary action shall not limit or restrict the access of a student to his or her prescribed medication. The school shall promptly notify the responsible person of any disciplinary action imposed.

§ 38-827.01. Establishment of the Healthy Youth and Schools Commission.

(a) There is established the Healthy Youth and Schools Commission with the purpose of advising the Mayor and the Council on health, wellness, and nutritional issues concerning youth and schools in the District, including:

(10) Substance abuse.

REGULATIONS

5-B2500. General policy.

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

(v) Referral to substance abuse counseling service.

B2502. Grounds for disciplinary action.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(4) Possession or Use of tobacco;

(5) Use of alcohol;

(6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;

(7) Unauthorized Possession, Use, or Distribution of over-the-counter medication. [...]

(b) Disciplinary responses for Tier III behaviors shall include:

- (1) Verbal redirection/reprimand;
- (2) Teacher/student conference or administrator/student conference;
- (3) Parental contact (written or by phone);
- (4) Parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) Behavior contract;
- (7) In-School Disciplinary Action;
- (8) Grade reduction for Academic Dishonesty;
- (9) On-site Short-Term Suspension with provision of appropriate intervention services;
- (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
- (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence. [...]

2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001).

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Use" - when referring to alcohol, marijuana or other illegal drugs, or prescription medication, means a finding, based on reasonable evidence, that a student was found to have consumed such substances without proper authorization, or that a student was found, based on reasonable evidence, to be or have been under the influence of same while under the jurisdiction of DCPS authority.

5-E2402. Code of student responsibilities and conduct.

2402.8 A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.

Gang-related Activity

LAWS

§ 2-1531.01. Establishment of a gang and crew intervention joint working group.

(b) The Joint Working Group shall develop a coordinated response to high-profile youth violence through the following measures:

- (3) Coordinate existing resources to respond to critical incidents by:
 - (C) Engaging staff and School Resource Officers of middle and high schools in targeted neighborhoods in the CI process, as appropriate. [...]

(4) Identify targeted youth by:

(A) Identifying existing and emerging conflicts between gangs and crews based on MPD's Gang Intelligence Fusion Unit, MPD Division officers, and street intelligence from community partners and schools;

(B) In partnership with schools and community partners, identifying the youth most immediately at risk of involvement in violent behavior in targeted neighborhoods. [...]

(5) Intervene with targeted youth by:

(A) Developing protocols for CIs that outline the necessary steps when responding to violent incidents involving youth, including the development of containment and de-escalation strategies that are incident-specific and designed to prevent acts of retaliation; provided, that:

§ 5-132.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Chancellor" means the Chancellor of the District of Columbia Public Schools. (1A) "DCPS" means the District of Columbia Public Schools.

(1B) "MOA" means the Memorandum of Agreement into which DCPS and MPD enter pursuant to § 5-132.04.

(2) "MPD" means the Metropolitan Police Department.

(2A) "Public charter schools" shall have the same meaning as provided in § 38-1800.02(29).

(3) "School resource officer" means a sworn MPD officer assigned to DCPS or public charter schools for the purpose of working in collaboration with DCPS, public charter schools, and community-based organizations to:

(A) Prevent crime through community-oriented policing strategies;

(B) Address crime and disorder, gang, and drug activity problems affecting or occurring in or around the schools to which the school resource officer is assigned; and

(C) Ensure that DCPS schools and grounds and public charter schools and their grounds are safe environments for students, teachers, and staff.

(5) "School security personnel" means individuals, including unarmed security guards, that DCPS hires or contracts to support safety in DCPS schools.

(5A) "Security-related contract" means any contract to provide physical or personal security services, including school security personnel, at DCPS schools.

§ 5-132.02. Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division.

(a) There is established within the Metropolitan Police Department a School Safety Division that shall provide school resource officers to the DCPS schools and public charter schools.

(b) The School Safety Division shall be headed by a Director, appointed by, and reporting to, the Chief of Police with rank equal to a Commander or above.

(c) The School Safety Division shall:

(1) Hire and train school resource officers;

(2) Deploy school resource officers to:

(A) DCPS schools, consistent with the terms of the MOA; and

(B) Public charter schools;

(3) Coordinate with DCPS and public charter schools regarding the use and sharing of resources and communications between MPD and school-specific safety teams; and

(4) Provide recommendations to the Mayor, Council, and the DCPS Chancellor regarding the impact of school closings, consolidations, grade reconfigurations, use of swing space during school reconstruction, and gang and crew violence on the safety and well-being of children.

(c)(1) School resource officers shall not report any information regarding a student's suspected crew or gang affiliation, or that of their family members, to a law enforcement agency for the purpose of including such information in any District government crew or gang database, nor shall any such information shared by or derived from a school resource officer be otherwise included in any District government crew or gang database.

(d)(1) The School Safety Division shall develop a plan to be implemented before the beginning of each DCPS school year for protecting children walking to and from DCPS and public charter schools and for protecting children from gang and crew violence on, in, and around DCPS and public charter schools' property. Beginning in 2009, this plan shall be provided to the Mayor, the Council, and the Chancellor, by August 15th of each year.

(2) The plan shall include a description of:

(A) Safety issues children may face during passage to and from school, and recommended solutions to these issues; and

(B) A description of specific gang and crew conflicts and recommended solutions for the protection of children from gang and crew violence on, in, and around DCPS and public charter schools property.

(3) The plan shall incorporate the recommendations of the District Department of Transportation on the deployment of school crossing guards required under § 38-3101(f-1).

(e) The School Safety Division's sworn and civilian staffing shall be as follows:

(1) By July 1, 2022, a maximum of 60 personnel;

(2) By July 1, 2023, a maximum of 40 personnel;

(3) By July 1, 2024, a maximum of 20 personnel; and

(4) By July 1, 2025, the School Safety Division shall be dissolved, and MPD no longer shall staff DCPS and public charter schools with school resource officers.

§ 5-132.03. Training for school resource officers.

The School Safety Division shall develop a training curriculum for all school resource officers. The curriculum shall be focused on training supervisory and on-site personnel so that they will provide appropriate security procedures for the various socioeconomic conditions at each educational facility. The curriculum shall include training in the following areas:

(9) Gang and crew violence prevention.

§ 5-132.03b. Training for school security personnel.

(a) For the school year beginning in 2020, DCPS may use the training curriculum adopted by MPD pursuant to § 5-132.03 to train its school security personnel.

(b) By the start of the school year beginning in 2021, DCPS shall adopt a school security personnel training curriculum based on the positive youth development philosophy. The curriculum shall focus on training supervisory and on-site personnel to provide security services responsive and appropriate to the student, staff, and family populations at each school building. At a minimum, the curriculum shall include training in the following areas, developed with advice from appropriate other District agencies:

(11) Violence prevention, including gang and crew dynamics.

REGULATIONS

5-B2408. Dress codes/uniforms.

2408.2 The local school dress code or uniform policy shall be as follows:

(d) Include the following principles:

(8) No student shall wear, possess, use, distribute, display or sell any clothing, jewelry, emblem, blade, symbols, sign or other things which are evidence of affiliation with drugs, alcohol, violence or gang related activities, other criminally motivated organizations, or which exhibit profane or obscene language/gestures. [...]

2408.12 A mandatory uniform policy shall not prevent a student from wearing a button, armband, or other item guaranteed by the First Amendment to the U.S. Constitution unless the button or other item is related to gang, gang membership, gang activity, or other prohibited activity as described in any dress code established by the principal pursuant to subsection 2408.2.

B2502. Grounds for disciplinary action.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs).

B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Gang" - a group of individuals that are involved in illegal, intimidating or harassing conduct.

Bullying, Harassment, or Hazing

LAWS

§ 2-1535.01. Definitions.

For the purposes of this subchapter, the term:

(2)(A) "Bullying" means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal that:

(i) May be based on a youth's actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, place of residence or business, or any other distinguishing characteristic, or on a youth's association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(ii) Can be reasonably predicted to:

(I) Place the youth in reasonable fear of physical harm to his or her person or property;

(II) Cause a substantial detrimental effect on the youth's physical or mental health;

(III) Substantially interfere with the youth's academic performance or attendance; or

(IV) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by an agency, educational institution, or grantee.

§ 2-1535.02. Bullying prevention task force.

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

- (A) Teachers;
- (B) Administrators from educational institutions and agencies;
- (C) School mental health professionals;
- (D) Parents, and legal guardians;
- (E) Youth;
- (F) Direct service providers; and
- (G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

- (1) Provide guidance to the Mayor on the implementation of this subchapter;
- (2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);
- (3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;
- (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;
- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
- (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;
- (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;
- (5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and
- (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

§ 2-1535.03. Bullying prevention policy.

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

- (1) On its property, including electronic communication on, or with, its property;
- (2) At sponsored functions;
- (3) On its transportation, or transportation sponsored by it; and
- (4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

- (1) The definition of bullying set forth in § 2-1535.01(2);
 - (2) A statement prohibiting bullying;
 - (3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;
 - (4) The expected code of conduct;
 - (5) A list of the consequences that can result from an identified incident of bullying, which are designed to:
 - (A) Appropriately correct the bullying behavior;
 - (B) Prevent another occurrence of bullying or retaliation;
 - (C) Protect the target of the bullying;
 - (D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:
 - (i) Nature of the incident;
 - (ii) Developmental age of the person bullying; and
 - (iii) Any history of problem behavior from the person bullying;
 - (6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;
 - (7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;
 - (8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and
 - (9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.
- (c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).
- (d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.
- (e) Information on the bullying prevention policy shall be incorporated into new employee training.
- (f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:
- (1) Discussing its bullying policy with youth; and
 - (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

§ 2-1535.04. Secondary investigation appeal.

- (a)(1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to § 2-1535.03(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to § 2-1535.03(b)(7).
- (2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:
- (A) Circumstances require additional time to complete a thorough investigation;
 - (B) The higher-level authority sets forth those circumstances in writing; and

(C) The additional time does not exceed 15 days.

(b)(1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.

(2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

§ 2-1535.05. Retaliation.

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

§ 2-1535.06. Bullying prevention programs.

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

(1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

§ 2-1535.07. Reporting requirement.

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

§ 2-1535.08. Availability of other remedies.

This subchapter does not create a new private right of action or provide a statutory basis for a claim for damages against the District of Columbia or its employees.

§ 2-1535.09. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of this title [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

REGULATIONS

4-1500. Purpose.

1500.1 The purpose of this chapter is to provide guidance, procedures and standards for the implementation of the Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D. C. Law 19-167; D.C. Official Code §§ 2-1535.01 et seq.).

4-1501. Covered entities.

1501.1 The requirements of this chapter apply in whole or in part to the following entities, which are referred to collectively in this chapter as "covered entities:"

(b) Educational institutions, as described in § 1501.2(b)

1501.2 For the purposes of this chapter, the terms "covered agency," "educational institution," and "covered grantee" are defined as follows:

(b) An "educational institution" means:

(1) The District of Columbia Public Schools (DCPS).

4-1502. Adoption of a bullying prevention policy.

1502.1 Bullying means any severe, pervasive, or persistent act or conduct, whether physical, electronic, written or verbal that:

(a) May be based on a youth's actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, place of residence or business, or any other distinguishing characteristic, or on a youth's association with a person or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(b) Can reasonably be predicted to:

- (1) Place the youth in reasonable fear of physical harm to his or her person or property;
- (2) Cause a substantial detrimental effect on the youth's physical or mental health;
- (3) Substantially interfere with the youth's academic performance or attendance; or
- (4) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by a covered entity.

1502.2 (a) If a covered entity wishes to update its bullying prevention policy, it shall do so before the beginning of a school year, and provide a copy of the updated policy to OHR by August 15.

(b) Each covered entity shall review its list of Point of Contacts annually and provide an updated list of Point of Contacts to OHR by August 15 of each year.

(c) Newly authorized charter schools or newly established youth organizations that receive funding from the District must adopt a bullying prevention policy (including a Point of Contact) within three months of their opening and provide the policy to the BPP Director.

1502.3 A covered entity's bullying prevention policy shall at a minimum include the following elements:

- (a) The legal definition of bullying set forth above;
- (b) A statement prohibiting bullying, including cyberbullying;
- (c) A statement prohibiting retaliation against a victim or witness of bullying, or a person who reports bullying;
- (d) A statement that the policy applies at all of the locations listed in § 1501;
- (e) A code of conduct;
- (f) A list of consequences that can result from an identified incident of bullying that are designed to:
 - (1) Appropriately correct the behavior deemed to be bullying;

(2) Prevent future occurrences of bullying or retaliation;

(3) Ensure the safety and well-being of the person who has reportedly experienced or is reportedly at risk for future acts of bullying or retaliation; and

(4) Be flexible in application, appropriate to the individual incident, and varied in method and severity based on the:

(A) Nature of the incident;

(B) Developmental age of the person exhibiting bullying behaviors; and

(C) Any history of problem behavior of all students involved in the incident(s) and where available, history of behavioral concerns documented in an Individualized Education Program (IEP) or 504 plan as a result of a disability under the Individuals with Disabilities Education Act (IDEA), approved Dec. 3, 2004 (118 Stat. 2647; 20 U.S.C. §§ 1400 et seq.) or Section 504 of the 1973 Rehabilitation

Act, approved Sept. 26, 1973 (87 Stat. 394; 29 U.S.C. § 794).

(g) A mechanism and procedures for staff, students, parents/guardians, and others to report bullying, retaliation for reporting bullying, or other violations of the bullying prevention policy that permits anonymous reporting, provided however, that no formal response shall be taken solely on the basis of anonymous reporting;

(h) A procedure for prompt investigation of reports of bullying, retaliation, or other violations of the bullying prevention policy that identifies the name and contact information for the person(s) responsible for investigating bullying and retaliation;

(i) A secondary investigation appeal process, consistent with § 1506, for a person accused of bullying or a person who is the target of bullying or retaliation who is not satisfied with the outcome of an initial investigation under § 1505; and

(j) A statement that retaliation against any person for reporting an incident of bullying is prohibited and a description of the possible consequences for a person who engages in retaliatory behavior.

1502.4 Each covered entity's bullying prevention policy shall apply at the following locations:

(a) On the covered entity's property, including buildings, fields, parking lots, and walkways;

(b) At events sponsored by the covered entity, including sponsored events held off the property of the covered entity;

(c) On any vehicle used for transportation by or on behalf of the covered entity, including transportation for sponsored events of youth; and

(d) At any transit stop at which youth wait to be transported to the covered entity or an event sponsored by the covered entity.

1502.5 Each covered entity's bullying prevention policy shall apply to cyberbullying sent from or to someone at a location listed in § 1502.4, whether or not the communications device is owned or leased by the covered entity. Cyberbullying is defined as any bullying done through electronic means which meets the definition in § 1502.1, including, but not limited to, social media, electronic mail (email), texting or tweeting.

1502.6 Bullying which occurs on-site, but involves off-site activities, is prohibited if it creates a hostile environment at the covered entity for the target or witnesses of bullying, or impedes or interferes with a youth's ability to participate at the covered entity.

4-1503. Code of Conduct.

1503.1 The code of conduct required in the bullying prevention policy (referenced in § 1502.3(e)) should provide that:

(a) The covered entity expects youth to behave in a way that supports the covered entity's objective to provide a safe and welcoming environment for other youth; and

- (b) The covered entity expects youth who are part of the covered entity community to:
- (1) Treat all other youth at the covered entity with respect;
 - (2) Respect the property of other youth at the covered entity; and
 - (3) Respond appropriately to instructions from covered entity staff regarding behavior toward other youth.

4-1504. Reporting Bullying or Retaliation Complaints.

1504.1 Each covered entity shall encourage youth, parents, guardians, employees, volunteers and community members to report any incidents of bullying or retaliation that they are witness to, or of which they are aware.

1504.2 Reports of bullying, retaliation, and other violations of the bullying prevention policy should be made to the Point of Contact at the covered entity, either by mail, telephone, facsimile, electronically, or through an anonymous drop box at the covered entity's site.

1504.3 If an individual is unable to report the complaint to the Point of Contact, the complaint may also be made to a member of the covered entity's management or leadership team, and those individuals shall refer the complaint to the Point of Contact for investigation. If there is some reason why the Point of Contact should not be the investigator on a particular matter, for example if there are any known or raised conflict of interests, the covered entity's management may assign another investigator.

1504.4 Employees and volunteers of covered entities shall promptly report incidents of bullying or retaliation to the entity's named Point of Contact identified in the policy when they witness incidents of bullying or retaliation, or for incidents about which they have reliable information.

1504.5 Information about reporting bullying and retaliation shall be communicated to all youth associated with the covered entity in an age-appropriate manner.

1504.6 Each covered entity shall ensure that there are reporting materials available in a wide variety of languages as required by the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 et seq.) and 4 DCMR § 1205.4.

1504.7 The person designated by a covered entity to investigate bullying, retaliation, and other violations of the bullying prevention policy (the covered entity's Point of Contact) shall create a written description of each incident of bullying, retaliation, or other violation of the bullying prevention policy that was reported to him or her and where applicable, shall include the description in the annual report that is required by § 1511.

4-1505. Investigations.

1505.1 Each covered entity shall promptly initiate an investigation into each report of bullying, retaliation, or other violation of the bullying prevention policy within two (2) business days of receiving the complaint and complete the investigation within thirty (30) days of receiving the complaint, as outlined below. If the bullying, retaliation, or other acts in violation of the bullying prevention policy involve multiple covered entities, the entities shall coordinate their investigation and response activities.

1505.2 Within two (2) business days of receiving a report of bullying, retaliation, or other violation of the bullying prevention policy, the Point of Contact shall:

- (a) Draft a written record of the complaint, which must be included in the final report outlined in § 1505.5;
- (b) Take appropriate action to protect, to the extent possible, the safety of the alleged target referenced in the report, which may include contacting relevant parties, intercepting the target or alleged perpetrator if information is received regarding a pending act of bullying or retaliation, and ascertaining the presence of teachers or other employees at a location that has been identified as the site of a pending act of bullying or retaliation;

(c) Inform the target, alleged perpetrator, and if applicable, witnesses, of the alleged incident and of the initiation of the investigation;

(d) Make a good-faith attempt to inform the parents or guardians of the target about the alleged incident and any planned investigation, if the target is less than eighteen (18) years of age and if the contact information for the parents or guardians is available or can be requested. If the Point of Contact determines that informing the parents or guardians may cause harm to, or endanger the health or well-being of the target, the Point of Contact shall document facts giving rise to such determination, and document the decision not to inform in writing; and

(e) Make a good-faith attempt to inform the parents or guardians of the alleged perpetrator about the alleged incident and any planned investigation, if the alleged perpetrator is less than eighteen (18) years of age. If the Point of Contact determines that informing the parents or guardians may cause harm to, or endanger the health or well-being of, alleged perpetrator, as the case may be, the Point of Contact shall document facts giving rise to such determination, and document the decision not to inform in writing; and

(f) Take into account whether the individuals involved have disabilities and whether the behavior is a manifestation of the disability. Where available, consider whether the individuals have legally mandated protections including an Individualized Education Programs (IEP). The United States Department of Education through its Office for Civil Rights (OCR) has provided helpful information that covered entities are to follow concerning students with disabilities and bullying. One such resource is available through OCR's 2014 Dear Colleague Letter at <http://www.ed.gov/ocr/docs/disabharassltr.html>.

1505.3 The covered entity shall provide confidentiality if possible to individuals interviewed as part of the investigation, including the victim, and inform them that retaliation for reporting acts of bullying is prohibited. However, if the Point of Contact learns during the course of the investigation that the reported incident involves criminal activity, the Point of Contact shall communicate such information to the Principal or the equivalent. If the reported incident or statements during the investigation indicate credible and imminent threat of harm or criminal activity, the Point of Contact shall immediately report such information to the appropriate law enforcement authorities and to the Principal or the equivalent.

1505.4 The investigation shall be completed within thirty (30) days after receipt of a report of bullying, retaliation, or other violation of the bullying prevention policy.

1505.5 The investigator or a designee of the covered entity shall issue a written report setting forth his or her findings and recommendations within thirty (30) days after receiving a report of bullying, retaliation, or other violation of the bullying prevention policy which includes the following:

(a) A description of the incident(s) including the names of individuals involved and behaviors alleged, location of occurrence(s) and whether or not bullying occurred under the definitions set forth in the Act as outlined in § 1502.1;

(b) Whether the incident was based on a trait that is covered in the Human Rights Act (as listed in the definition of bullying in § 1502.1(a)); and

(c) The actions that were taken as a result of the

findings. 1505.6 The written report shall be provided to the:

(a) Target, the parents or guardians of the target if the target is under eighteen (18) years of age, the alleged perpetrator, and the parents or guardians of the alleged perpetrator if the alleged perpetrator is under eighteen (18) years of age.

(b) The requirement in paragraph (a) of this subsection to send the written report to the parents or guardians shall not apply if the contact information for parents or guardians is not available after making good-faith attempt to obtain such information, or if the Point of Contact determines that sending the report may cause harm to, or endanger the health or well-being of, the target or alleged perpetrator, as the case may be, but the reasons for the determination not to send the report must be documented in writing.

4-1506. Secondary Investigation Appeals.

1506.1 Each covered entity shall have an appeals process in place for conducting a secondary investigation where a written request for a secondary investigation is submitted within thirty (30) days after the conclusion of the initial investigation.

1506.2 The secondary investigation shall be conducted by an employee who has a higher level of authority at the covered entity than the one who conducted the investigation and who was not involved in the initial investigation.

1506.3 The secondary investigation shall be completed within thirty (30) days after receipt of the request for a secondary investigation unless the higher-level authority requires additional time to complete a thorough investigation and the higher-level authority sets forth those circumstances in writing. Under those circumstances, the deadline may be extended past the thirty (30) day period by fifteen (15) days.

1506.4 After completing the secondary investigation, the higher-level authority shall notify the parties in writing of the results of the investigation and of the party's ability to seek additional redress under the DCHRA under D.C. Official Code § 2-1402.41. Such notification must be in writing and include:

- (a) The name of the BPP Director;
- (b) The address and telephone number of the OHR;
- (c) The text contained in § 1513 of these regulations outlining the parties' options for appeal through OHR; and
- (d) Notification that complaints of violations under DCHRA and the Act must be filed within one (1) year of the incident.

4-1507. Dissemination of bullying prevention policy.

1507.1 Each covered entity shall develop and implement a plan to publicize its Bullying Prevention Policy that shall include actions to:

- (a) Discuss its bullying prevention policy with youth;
- (b) Publicize the fact that the policy also applies to functions sponsored by the covered entity; and
- (c) Publish the written Bullying Prevention Policy and make copies of the Bullying Prevention Policy available to all youth, families and staff by including it in the entity's handbook and on its website.

4-1508. Annual review and updating of bullying prevention policy.

1508.1 Each covered entity shall submit an update confirming the identity of its Point of Contact and any substantial revisions in its bullying prevention policy, to the BPP Director by August 15 of each year.

1508.2 The BPP Director will review any new policies or policies with substantial edits within thirty (30) days and provide feedback to ensure full compliance including any recommendations for improvement of the policy.

4-1509. Bullying Prevention Programs.

1509.1 Each covered entity is encouraged to:

- (a) Establish an ongoing bullying prevention program for youth such that the program is aligned with established health-education standards;
- (b) Inform youth about their right to be free from discrimination in public accommodations and education and of the redress available for a violation of their rights under the Human Rights Act; and
- (c) Provide training on bullying prevention to all volunteers who have significant contact with youth.

4-1510. Training requirements.

1510.1 Except as provided in § 1510.2, each covered entity shall provide bullying prevention training to all of its employees on an annual basis using the following:

- (a) OHR training material for a three (3) hour session provided by the BPP Director; or
- (b) Alternative training that is comparable in scope and content.

1510.2 Each covered entity need only provide a thirty (30) minute general bullying prevention training to employees with no direct contact with youth. This training shall cover the general procedures for responding to a report of bullying and contact information for the designated Point of Contact, or similar personnel. Upon request, OHR will provide content guidance for such training.

1510.3 Each covered entity shall incorporate information on its bullying prevention policy into new employee training.

1510.4 Each covered entity shall provide written documentation of the training provided, to the BPP Director, including the date, time and summary of the content of annual training, along with the names and biographical information of the trainer by August 15 of each year.

4-1511. Educational Institutions Reporting Requirements.

1511.1 Each educational institution shall report to OHR by August 15 of each year the following information:

- (a) The aggregate number of incidents of bullying, retaliation, and other violations of the bullying prevention policy at the educational institution during the prior school year (including the prior summer term);
- (b) A brief description of each such incident (as required by § 1505.5); and
- (c) The results of the investigation of the incident.

1511.2 The annual report of each educational institution shall also include any other information that OHR deems necessary or appropriate and requests from the educational institution.

4-1512. OHR roles and responsibilities.

1512.1 The BPP Director shall assist covered entities with developing bullying prevention policies and programs.

1512.2 The BPP Director shall compile and make available to each covered entity a list of free or low-cost methods for establishing the bullying prevention programs.

1512.3 The BPP Director shall conduct training for covered entities on bullying and techniques for investigating allegations of bullying on a periodic basis when requested.

1512.4 When contacted by parents or guardians of youth in covered entities, the BPP Director will contact the school, agency, or grantee to ensure that the bullying prevention policy is compliant and has been fully implemented with regard to reporting, investigating, and addressing alleged incidents. This approach will provide an immediate response to parents and guardians as well as provide support and guidance for all parties (families and school or agencies) to ensure that appropriate steps are taken to address the situation.

4-1513. Complaint procedures at the office of human rights under the youth bullying prevention act and the D.C. human rights act.

1513.1 There are both formal and informal ways to initiate actions with OHR and individuals are encouraged to first use the informal option of working with the BPP Director as outlined in § 1513.2(a) before bringing formal complaints as outlined in § 1513.2 and § 1513.10. OHR will make efforts to investigate related matters jointly as to avoid duplication of efforts for the parties and the agency.

1513.2 Complaints under the Act may be pursued as follows:

- (a) Youth or other individuals may call or contact the BPP Director with informal complaints under the Act, which may result in incident specific or broader program changes at covered entities; and
- (b) An individual, who is eighteen (18) years or older, or who is younger but acting through a parent or advocate, may file a formal complaint with OHR alleging a violation of the Act within one (1) year after the alleged violation occurred.

1513.3 A complaint to OHR under the Act may include, but is not limited to, allegations regarding:

- (a) The adequacy of an investigation of bullying, retaliation, or another violation of a bullying prevention policy;
- (b) The failure to initiate an investigation or an unreasonable delay in the processing of a report of bullying, retaliation, or another violation of a bullying prevention policy; or
- (c) Any other failures by the covered entity to follow the requirements of the Act such as an entity maintaining a policy that is not in compliance with this Act.

1513.4 The complaint shall state the name and address of the covered entity (called the Respondent), the name and title (if known) of the person alleged to have committed the violation, a detailed description of the incident(s) or substance of the complaint and alleged violation, and such other information as may be required by OHR.

1513.5 OHR shall conduct an investigation of the complaint to determine if there was a violation of the Act with a target completion date for the Determination within ninety (90) days after a complaint is filed with OHR.

1513.6 OHR shall report the results of its investigation to the complainant and covered entity and if necessary, provide recommendations to the covered entities.

1513.7 Within sixty (60) days of the issuance date of the Determination, the Respondent must meet with the BPP Director and where appropriate, OHR General Counsel, to discuss the findings and corrective actions, if needed.

1513.8 A full set of corrective actions must be agreed upon by all parties within ninety (90) days of the Determination.

1513.9 If Respondent fails to comply with these timelines or corrective actions within the agreed upon timeframe, OHR shall inform the Deputy Mayor for Education or an appropriate official in the Mayor's Office in writing by submitting a copy of the Determination and a summary of Respondent's failure to resolve the matter.

1513.10 Complaints filed under the DCHRA, D.C. Official Code §§ 2-1401.01 et seq., may be filed as follows:

- (a) If the facts include allegations of discrimination at an educational institution or public accommodation as covered by the DCHRA, an individual, who is eighteen (18) years or older, the parent, or an advocate of youth, may file a complaint with OHR within one (1) year of the alleged discriminatory acts; and
- (b) A complaint under the DCHRA could result in a probable cause finding, conciliation efforts and a Commission hearing.
- (c) Pursuant to D.C. Official Code § 2-1403.16, an individual may also file DCHRA claims in D.C. Superior Court instead of at the OHR.

4-1599. Definitions.

1599.1 As used in this chapter, the follow words and phrase shall have the following meanings:

Employee - an individual who receives compensation for performing a function for a covered entity;

Point of Contact - the designated individual at each entity responsible for receiving reports of bullying incidents, investigating complaints of bullying, and attempting to resolve matters. Each entity must list a

Point of Contact in the Bullying Prevention Policy and update the contact information annually with the BPP Director;

Retaliation - to coerce a person, or attempt to coerce a person, to not report an act of bullying; to threaten to harm a person or otherwise subject the person to an adverse action because the person has reported or may report bullying; or to interfere with a person's right or obligation to report an act of bullying under the Act;

Youth - (a) an individual of twenty-one (21) years of age or less who is enrolled in an educational institution or who uses the services or programs provided by an agency or grantee, or an individual of twenty-two (22) years of age or less who is receiving special education services from an educational institution; or (b) individuals as described in paragraph (a) of this definition considered as a group.

5-B2405. Student grievance procedure.

2405.2 The grievance procedure set forth in this section shall also apply to all grievances or complaints brought in the following instances:

(e) Where a student is a victim of bullying or harassment, including sexual harassment [...]

2405.4 An individual bringing a grievance about an issue set forth in §§ B 2405.1 or B 2405.2 shall follow the procedures contained in this section. An individual who is a victim of bullying or harassment, including sexual harassment, may follow these procedures or the procedures in § B 2405.5. A grievance may be filed by a parent or guardian on behalf of a student, as consistent with § B 2401.15 of this chapter.

(f) All complaints should include the following information, to the extent that is known by the grievant:

(3) The type of bullying or harassment that was involved in the incident;

(4) The identity of the person(s) who committed the alleged acts of harassment. [...]

2405.5 A grievant who is a victim of bullying or harassment, including sexual harassment, by an employee, students, or third parties may, at his or her option, choose to follow this procedure to resolve his or her complaint:

(a) An individual who is a victim of bullying or harassment may complain orally or in writing to any teacher, administrator, or counselor.

(b) If the grievant files his or her complaint orally, the teacher, administrator, or counselor shall prepare a written report of the conversation with the grievant. If the grievant complains in writing, it may be in any form. All complaints should include the following information, to the extent that is known by the grievant:

(3) The type of bullying or harassment that was involved in the incident;

(4) The identity of the person(s) who committed the alleged acts of harassment; [...]

(d) The complaint shall be reported to the principal no later than the end of the next school day following the report of the complaint. The teacher, administrator, or counselor shall report complaints of severe or pervasive bullying or harassment no later than the end of the school day that the report of the complaint was made.

(e) If any principal, administrator or other school employee responsible for overseeing or investigating bullying or harassment complaints are implicated in the complaint, or have any actual or perceived conflict of interest, the complaint will be filed with the Instructional Superintendent with jurisdiction over the school the student attends or at which the grievance arose for action.

(f) The principal is responsible for ensuring that all complaints are properly investigated and processed in accordance with these procedures, but may delegate responsibility for processing bullying and harassment complaints. The principal or designee shall take the following actions:

(2) Within ten (10) school days - the principal or designee shall complete his or her investigation and prepare a written report that includes a finding as to whether the allegations of bullying or harassment are substantiated; the parties should be notified if the investigation will take longer, including the reasons for the delay and the anticipated time frame. The investigation shall include, but not be limited to, the following matters: 1) interview with the grievant; 2) interview with the alleged victim (if not the grievant); 3) interviews with the subject(s) alleged to have committed the harassment or bullying; 4) interviews with employees and others (including students) who have knowledge of the facts alleged in the complaint (including those identified by the student who filed the complaint); and 5) review of all pertinent records (including those identified by the grievant). The report shall reflect the results of the investigation and shall be provided to all parties to the complaint. The report shall include a description of any follow up actions taken or to be taken, including any intervention or disciplinary actions (to the extent permitted by the Family Educational Rights and Privacy Act (20U.S.C. § 1232g; 34 C.F.R. §§ 99.1 et seq.)).

B2502. Grounds for disciplinary action.

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(20) Hazing;

(21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying.
[...]

2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(5) Persistent Harassment based on actual (or perceived) race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business.

5-B2599. Definitions.

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Bullying" - repeated intentional behavior that occurs in order to intentionally harm others through verbal or non verbal Harassment, physical Assault, or other more subtle methods of coercion. Such behavior may include, but is not limited to, manipulation, teasing, taunting, threatening, hitting, stealing, destroying personal property, sending threatening/abusive emails, text messages, or other electronic communications. [...]

"Hazing" - actions taken against a person for the purpose of being initiated into a group that endangers the mental or physical health, well being or safety of a student, and results in humiliation, embarrassment, ridicule, intimidation or shame.

"Harassment" - verbal or physical conduct or communication relating to an individual's actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, in a manner that denies or limits a student's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive environment for

students, employees, or others in the school environment, or interferes with employees' performance of their job duties or the effective performance of the school-related functions of others. Harassment also includes written or verbal communications that are electronically transmitted with the intention of creating or causing the same harm described above.

5-E405. Grievance procedures for parents, guardians, and visitors.

405.3 The grievance procedure set forth in this section shall also apply to all grievances or complaints brought in the following instances:

(c) Where an individual is a victim of bullying or harassment, including sexual harassment [...]

405.5 An individual bringing a grievance about an issue set forth in § E-405.1 or § E-405.3 of this section shall follow the procedures contained in this section. A grievance may be filed on behalf of another individual by attorney or an authorized representative.

(f) All complaints should include the following information, to the extent that is known by the grievant:

(4) The type of bullying or harassment that was involved in the incident;

(5) The identity of the person(s) who committed the alleged acts of harassment.

Dating and Relationship Violence

LAWS

§ 38-952.01. Definitions.

For the purposes of this chapter, the term:

(1) "Dating partner" means any person who is involved in a relationship with another person that is primarily characterized by social interaction of a sexual, romantic, or intimate nature, whether casual, serious, or long-term.

(2) "Dating violence" means abusive or coercive behavior where a dating partner uses threats of, or actually uses, physical, emotional, economic, technological, or sexual abuse to exert power or control over a current or former dating partner.

§ 38-952.02. Policy to prevent and address student-on-student acts of sexual harassment, sexual assault, and dating violence.

(a) Beginning in the 2019-2020 school year, schools shall adopt and implement a policy to prevent and address student-on-student acts of sexual harassment, sexual assault, and dating violence. The policy shall include:

(1) A statement prohibiting student-on-student acts of sexual harassment, sexual assault, and dating violence, including an acknowledgment that schools that know or reasonably should know of student-on-student acts of sexual harassment, sexual assault, and dating violence shall take immediate and appropriate action to investigate whether such acts occurred;

(2) Protocols for the school's response to allegations of student-on-student acts of sexual harassment, sexual assault, and dating violence, including procedures to:

(A) Interrupt or stop each specific act of student-on-student sexual harassment, sexual assault, or dating violence, prevent its recurrence, and address its effects, whether or not the incident is the subject of a criminal investigation;

(B) Refer complainants to services and advocacy organizations;

(C) Provide information to complainants regarding the investigatory process;

(D) Institute and resolve disciplinary action; and

(E) Protect the confidentiality of complainants in accordance with the Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, dated January 19, 2001, as issued by the Department of Education;

(3) The school's plan to effectuate its obligations, and inform students of their rights, under Title IX of the Education Amendments of 1972, approved June 23, 1972 (86 Stat. 373; 20 U.S.C. §§ 1681 et seq.)("Title IX"), the Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act of 2004, approved October 30, 2004 (118 Stat. 2260; 18 U.S.C. § 3771), Unit A of Chapter 14 of Title 2, and Chapter 19 of Title 23 of the District of Columbia Official Code, including mechanisms to:

(A) Protect the safety of complainants as necessary during the investigation of student-on-student acts of sexual harassment, sexual assault, or dating violence; and

(B) Develop and implement a prompt, fair, and impartial procedure for students to file complaints regarding student-on-student acts of sexual harassment, sexual assault, or dating violence, that:

(i) Is conducted by school officials or agents who, at a minimum, receive annual training on:

(I) Issues related to student-on-student acts of sexual harassment, sexual assault, or dating violence; and

(II) How to conduct an investigation that protects the safety of complainants and promotes accountability;

(ii) Provides the complainant and the accused with the same opportunities to have others present during any school disciplinary proceeding, including the opportunity to be accompanied to any proceeding by an advisor or advocate of their choice; provided, that the school may establish restrictions regarding the extent to which an advisor or advocate may participate in the proceeding, as long as the restrictions apply equally to both parties;

(iii) Establishes a standard for resolving complaints; and

(iv) Requires contemporaneous notification, in writing, to both the complainant and the accused, of:

(I) The result of any school disciplinary proceeding that arises from an allegation of a student-on-student act of sexual harassment, sexual assault, or dating violence;

(II) The school's procedures for the complainant and the accused to appeal the result of the institutional disciplinary proceeding, if such procedures are available;

(III) Any change to the result; and

(IV) When such results become final;

(4) Protocol to identify appropriate counseling and intervention strategies for students alleged to have committed student-on-student acts of sexual harassment, sexual assault, or dating violence, including guidelines for reporting such incidents to the Child and Family Services Agency if the student's behavior indicates that he or she may be the victim of child sexual abuse or child abuse;

(5) Guidance concerning the applicability of the policy to student-on-student acts of sexual harassment, sexual assault, and dating violence that occur at school, school events and activities, over social media, and during travel to and from school, school events, and activities; and

(6) A list of appropriate resources, services, and information for students and families affected by student-on-student acts of sexual harassment, sexual assault, or dating violence, including school-based supports.

(b) Beginning in the 2020-2021 school year, schools shall provide:

(1) Training for staff, at the time of hiring and at a minimum every 2 years thereafter, utilizing evidence based standards and developed in consultation with community-based sexual violence or abuse experts, on:

(A) Identifying, responding to, and reporting student-on-student acts of sexual harassment, sexual assault, or dating violence, including any mandatory reporting requirements under District or federal law which may be triggered by such incidents;

(B) Communicating universal prevention techniques to students that increase their ability to set and communicate about appropriate boundaries, respect boundaries set by others, and build safe and positive relationships; and

(C) Receiving reports and disclosures from students regarding student-on-student acts of sexual harassment, sexual assault, or dating violence in a supportive, appropriate, and trauma-informed manner; and

(2) Information for parents on recognizing the warning signs of student-on-student acts of sexual harassment, sexual assault, and dating violence, as well as effective, age-appropriate methods for discussing such topics with students.

(c) Schools shall provide the policy described in subsection (a) of this section to staff, parents, and, in a developmentally appropriate manner, students, and shall make the policy publicly available, including on the school's website.

(d) The Office of the State Superintendent for Education, in consultation with schools, direct service providers, mental health professionals, governmental and community-based sexual harassment, sexual assault, and dating violence experts, community partners, parents, and students, shall:

(1) Develop, maintain, and make available to schools a model policy on preventing and addressing student-on-student acts of sexual harassment, sexual assault, and dating violence that may be utilized to satisfy the requirements of subsection (a) of this section;

(2) Develop, maintain, and make available to schools a list of training resources, including community organizations, that may be utilized by schools to inform their development of the policy required pursuant to subsection (a) of this subsection; and

(3) Make training and other resources required by this section available.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 2-1535.02. Bullying prevention task force.

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

- (A) Teachers;
- (B) Administrators from educational institutions and agencies;
- (C) School mental health professionals;
- (D) Parents, and legal guardians;
- (E) Youth;
- (F) Direct service providers; and
- (G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

- (1) Provide guidance to the Mayor on the implementation of this subchapter;
- (2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);
- (3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;
- (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;
- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
- (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;
- (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;
- (5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and
- (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt

trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
 - (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
 - (A) Trauma and chronic stress, their effects on students and learning, and effective responses;
 - (B) Classroom management, positive behavioral interventions, and fostering positive school climate;
 - (C) Disciplinary approaches that utilize instruction and correction;
 - (D) Restorative practices and other evidence-based or promising behavioral interventions;
 - (E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.); and
 - (F) Implicit bias and culturally responsive corrective action techniques;
 - (3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and
 - (4) Technical assistance and supportive services to assist local education agencies and schools, as needed and in accordance with policies OSSE adopts, in reducing the use of exclusion by addressing the causes of student misconduct and the development and revision of disciplinary plans.
- (b) The OSSE shall collaborate with other government agencies, local education agencies and schools, and postsecondary educational institutions to facilitate the provision of postsecondary degree or certificate programs covering the topics described in subsection (a)(2) of this section, including the identification or creation of a trauma-informed educator certificate program.
- (c) For the purpose of providing local education agencies and schools the services set forth in subsection (a) of this section, the OSSE may:
- (1) Award a contract or grant to one or more nonprofit organizations;
 - (2) Award contracts or competitive or formula grants to local education agencies, schools, or partnerships developed among schools or with nonprofit organizations;
 - (3) Establish a memorandum of understanding with the Department of Behavioral Health or other District agency; or
 - (4) Any combination of paragraphs (1) through (3) of this subsection.
- (c-1) Beginning October 1, 2019, and consistent with the recommendations in the Report of the Task Force on School Mental Health submitted March 26, 2018, the Department of Behavioral Health shall provide local education agencies and schools with non-instructional personnel who have specialized expertise in behavioral health and trauma-informed educational settings to provide local education agencies and schools with broader mental health services, including reducing the use of exclusion by addressing the causes of student misconduct and being available for consultation regarding the development and revision of disciplinary plans.
- (d) Within 2 years after August 29, 2018, and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:
- (1) Be based upon rigorous research techniques, including quantitative and qualitative methods;

- (2) Draw on the information maintained and reported pursuant to § 38-236.09, as well as other sources, with a particular focus on:
- (A) Ensuring the fidelity of data reporting;
 - (B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this part;
 - (C) Barriers schools face in implementing the policies and practices required pursuant to this part; and
 - (D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;
- (3) Provide specific recommendations for further action by the Council, executive branch, and schools; and
- (4) Provide suggestions for further research.

§ 38-2602. Responsibilities.

(b) The OSSE shall:

- (26)(A) Develop and publish online written guidance to assist LEAs in developing and adopting policies and procedures for handling aspects of student mental and behavioral health. The written guidance shall include model policies for identifying, appropriately supporting, and referring to behavioral health service providers students with mental and behavioral health concerns, and model policies for suicide prevention, suicide intervention, and suicide postvention, especially for at-risk youth sub-groups.
- (B) OSSE shall examine its guidance on mental and behavioral health in schools at least every 5 years and update its guidance as needed. Within 30 days of updating its guidance, OSSE shall notify LEAs of the update.

REGULATIONS

4-1512. OHR roles and responsibilities.

1512.1 The BPP Director shall assist covered entities with developing bullying prevention policies and programs.

1512.2 The BPP Director shall compile and make available to each covered entity a list of free or low-cost methods for establishing the bullying prevention programs.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
 - (B) Classroom management, positive behavioral interventions, and fostering positive school climate.

REGULATIONS

5-B2500. General policy.

2500.1 It is the policy of D.C. Public Schools (DCPS) that a safe environment conducive to learning shall be maintained. To build and maintain this environment, DCPS shall provide students, families, and staff with clear expectations and rules for appropriate school behavior. These rules must balance the responsibilities and rights of individuals and the responsibilities and rights of the school community.

These rules must reflect the individual's responsibility for contributing to a safe environment conducive to learning and the need for mutual respect and cooperation among all segments of the school community.

2500.2 DCPS is committed to helping students learn the expectations and rules for appropriate school behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs.

2500.3 When a student's behavior disrupts the school community's safe learning environment, DCPS will use a range of disciplinary responses intended to change and manage inappropriate behavior. In administering disciplinary responses, DCPS will work with students to correct inappropriate behavior. Students will be enabled and encouraged to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.

2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

2500.5 DCPS shall involve family members in efforts to determine the causes of misbehavior and in efforts to support appropriate school behavior.

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (s) Positive behavior supports.

Prevention

LAWS

§ 2-1595. Duties.

(b)(1) All programs shall be evidence-based, age-appropriate, and implemented to serve children and their families and shall include:

- (B) School-based violence and substance abuse prevention.

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
 - (A) Trauma and chronic stress, their effects on students and learning, and effective responses;
 - (B) Classroom management, positive behavioral interventions, and fostering positive school climate;

- (C) Disciplinary approaches that utilize instruction and correction;
 - (D) Restorative practices and other evidence-based or promising behavioral interventions;
 - (E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.); and
 - (F) Implicit bias and culturally responsive corrective action techniques;
- (3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and
- (4) Technical assistance and supportive services to assist local education agencies and schools, as needed and in accordance with policies OSSE adopts, in reducing the use of exclusion by addressing the causes of student misconduct and the development and revision of disciplinary plans.
- (b) The OSSE shall collaborate with other government agencies, local education agencies and schools, and postsecondary educational institutions to facilitate the provision of postsecondary degree or certificate programs covering the topics described in subsection (a)(2) of this section, including the identification or creation of a trauma-informed educator certificate program.
- (c) For the purpose of providing local education agencies and schools the services set forth in subsection (a) of this section, the OSSE may:
- (1) Award a contract or grant to one or more nonprofit organizations;
 - (2) Award contracts or competitive or formula grants to local education agencies, schools, or partnerships developed among schools or with nonprofit organizations;
 - (3) Establish a memorandum of understanding with the Department of Behavioral Health or other District agency; or
 - (4) Any combination of paragraphs (1) through (3) of this subsection.
- (c-1) Beginning October 1, 2019, and consistent with the recommendations in the Report of the Task Force on School Mental Health submitted March 26, 2018, the Department of Behavioral Health shall provide local education agencies and schools with non-instructional personnel who have specialized expertise in behavioral health and trauma-informed educational settings to provide local education agencies and schools with broader mental health services, including reducing the use of exclusion by addressing the causes of student misconduct and being available for consultation regarding the development and revision of disciplinary plans.
- (d) Within 2 years after August 29, 2018, and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:
- (1) Be based upon rigorous research techniques, including quantitative and qualitative methods;
 - (2) Draw on the information maintained and reported pursuant to § 38-236.09, as well as other sources, with a particular focus on:
 - (A) Ensuring the fidelity of data reporting;
 - (B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this part;
 - (C) Barriers schools face in implementing the policies and practices required pursuant to this part; and
 - (D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;
 - (3) Provide specific recommendations for further action by the Council, executive branch, and schools; and
 - (4) Provide suggestions for further research.

§ 38-827.01. Establishment of the Healthy Youth and Schools Commission.

(a) There is established the Healthy Youth and Schools Commission with the purpose of advising the Mayor and the Council on health, wellness, and nutritional issues concerning youth and schools in the District, including:

(11) Violence prevention.

REGULATIONS

B2500. General policy.

2500.2 DCPS is committed to helping students learn the expectations and rules for appropriate school behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs. [...]

2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion. [...]

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (a) Anger management;
- (b) Attendance intervention plans;
- (c) Behavior intervention plan;
- (d) Behavior log/behavior progress report;
- (e) Behavior redirection;
- (f) Community conference;
- (g) Community service;
- (h) Conflict resolution;
- (i) Crime awareness/prevention programs;
- (j) Diverse instructional strategies;
- (k) In-school program restructuring (schedule change);
- (l) Individual or group counseling;
- (m) Intervention by guidance counselor or mental health professional;
- (n) Mediation, including teacher/student mediation and multi-party dispute resolution;
- (o) Mentoring;
- (p) Parent conference;
- (q) Parent observation of student;
- (r) Positive feedback for appropriate behavior;
- (s) Positive behavior supports
- (t) Problem solving conferences;
- (u) Referral to community based organizations;
- (v) Referral to substance abuse counseling service;
- (w) Rehabilitative programs;
- (x) Restitution;
- (y) Restorative justice strategies;
- (z) Social skills instruction;
 - (aa) Student support team meeting; and
 - (bb) Other appropriate intervention strategies.

Social-emotional Learning (SEL)

LAWS

§ 2-1517.32. Early childhood and school-based behavioral health comprehensive plan.

(a) By March 30, 2013, the Mayor shall submit a comprehensive plan to the Council for the expansion of early childhood and school-based behavioral health programs and services by the 2016-2017 school year. At minimum, the plan shall:

(1) Establish a strategy to enhance behavioral health services in all public schools and public charter schools, including:

(A) The implementation of programs that:

(iii) Promote social and emotional competency in students.

§ 2-1595. Duties.

(b)(1) All programs shall be evidence-based, age-appropriate, and implemented to serve children and their families and shall include:

(C) Social and emotional learning assistance.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

(1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;

(2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:

(A) Trauma and chronic stress, their effects on students and learning, and effective responses; [...]

(b) The OSSE shall collaborate with other government agencies, local education agencies and schools, and postsecondary educational institutions to facilitate the provision of postsecondary degree or certificate programs covering the topics described in subsection (a)(2) of this section, including the identification or creation of a trauma-informed educator certificate program. [...]

(c-1) Beginning October 1, 2019, and consistent with the recommendations in the Report of the Task Force on School Mental Health submitted March 26, 2018, the Department of Behavioral Health shall provide local education agencies and schools with non-instructional personnel who have specialized expertise in behavioral health and trauma-informed educational settings to provide local education agencies and schools with broader mental health services, including reducing the use of exclusion by addressing the causes of student misconduct and being available for consultation regarding the development and revision of disciplinary plans.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

§ 7-1131.17. Youth behavioral health program.

(a) As of October 1, 2012, there is established within the Department, and shall be made available to all child development facilities, public schools, and public charter schools, a program that, at a minimum, provides participants with the tools needed to:

- (1) Identify students who may have unmet behavioral health needs;
- (2) Refer identified students to appropriate services for behavioral health screenings and behavioral health assessments;
- (3) Recognize the warning signs and risk factors for youth suicide and implement best practices for suicide prevention, suicide intervention, and suicide postvention.

(b)(1) Starting October 1, 2016, completion of the program shall be mandatory once every 2 years for all:

- (A) Teachers in public schools and public charter schools;
- (B) Principals in public schools and public charter schools; and
- (C) Staff employed by child development facilities, who are subject to training or continuing education requirements pursuant to licensing regulations.

(2) In addition to the individuals described in paragraph (1) of this subsection, the Mayor may determine through rulemaking other individuals who shall be required to complete the program.

(3) The Department may make the program available to other interested individuals.

(c) The Department shall keep a record of all participants who complete the program and shall provide the participants with written proof of completion.

(d) If so approved by the Office of the State Superintendent for Education, the program may count towards professional development credits.

(e) For the purposes of this section, the term:

(1) "Suicide intervention" means specific actions schools can take in response to student suicidal behavior, including:

- (A) Student supervision;
- (B) Notification of parents or guardians;
- (C) Crisis-response protocols;
- (D) When and how to request an immediate mental health assessment or emergency services; and
- (E) School re-entry procedures following a student mental health crisis.

(2) "Suicide postvention" means planned support and interventions schools can implement after a suicide attempt or suicide death of a member of the school community that are designed to:

- (A) Reduce the risk of suicide contagion;
- (B) Provide support for affected students and school-based personnel;
- (C) Address the social stigma associated with suicide; and
- (D) Disseminate factual information about suicide.

(3) "Suicide prevention" means specific actions schools can take to recognize and reduce suicidal behavior, including:

- (A) Identifying risk and protective factors for suicide and suicide warning signs;
- (B) Establishing a process by which students are referred to a behavioral health provider for help;
- (C) Making available school-based and community-based mental health supports;
- (D) Providing the location of available online and community suicide prevention resources, including local crisis centers and hotlines; and
- (E) Adopting policies and protocols regarding suicide prevention, intervention, and postvention, school safety, and crisis response.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 2-1517.31. Definitions.

For the purposes of this part, the term:

- (1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

§ 2-1517.32. Early childhood and school-based behavioral health comprehensive plan.

(a) By March 30, 2013, the Mayor shall submit a comprehensive plan to the Council for the expansion of early childhood and school-based behavioral health programs and services by the 2016-2017 school year. At minimum, the plan shall:

- (1) Establish a strategy to enhance behavioral health services in all public schools and public charter schools, including:

(A) The implementation of programs that:

- (i) Include interventions for families of students with behavioral health needs;
- (ii) Reduce aggressive and impulsive behavior; and
- (iii) Promote social and emotional competency in students; and

(B) The expansion of school-based mental health services as follows:

- (i) By the 2014-2015 school year, services are available to at least 50% of all public and public charter school students;
- (ii) By the 2015-2016 school year, services are available to at least 75% of all public and public charter school students; and
- (iii) By the 2016-2017 school year, services are available to all public and public charter school students;

(2) Include an analysis of whether current health education standards align with actual behavioral health needs of youth and any recommendations for proposed changes; and

(3) Provide recommendations for the expansion of behavioral health programs and services at child development facilities.

(b)(1) The Mayor shall not alter the school-based behavioral health programs and services model for the 2017-2018 school year.

(2) There is established a Task Force on School Mental Health ("Task Force") to steer the creation of a comprehensive plan to expand school-based behavioral health programs and services. The Task Force shall consist of the following:

- (A) The Deputy Mayor for Health and Human Services or his or her designee, to co-chair the task force;
- (B) The Deputy Mayor for Education or his or her designee;
- (C) The Director of the Department of Behavioral Health or his or her designee;
- (D) The State Superintendent of Education or his or her designee;
- (E) A Department of Behavioral Health school mental health program clinician appointed by the Chairperson of the Committee on Health, in consultation with committee members;
- (F) The Chairperson of the Committee on Health or his or her designee;

- (G) The Chairperson of the Committee on Education or his or her designee;
 - (H) A Department of Behavioral Health school mental health program clinician appointed by the Mayor;
 - (I) A representative of a core service agency appointed by the Mayor;
 - (J) A non-core service agency school mental health provider appointed by the Mayor;
 - (K) A District of Columbia Public Schools representative appointed by the Mayor;
 - (L) A parent of a District of Columbia Public Schools student and a parent of a District of Columbia public charter school student appointed by the Chairperson of the Committee on Education, in consultation with committee members;
 - (M) A non-core service agency school mental health provider appointed by the Chairperson of the Committee on Education, in consultation with committee members;
 - (N) A District of Columbia public charter school representative appointed by the Chairperson of the Committee on Education, in consultation with committee members;
 - (O) A representative of a core service agency appointed by the Chairperson of the Committee on Health, in consultation with committee members; and
 - (P) A school mental health expert appointed by the Chairperson of the Committee on Health, in consultation with committee members, to co-chair the task force.
- (3) The Task Force shall review the comprehensive plan submitted to the Committee on Health and the Committee on Education on May 9, 2017, by the Deputy Mayor for Health and Human Services ("Deputy Mayor").
- (4) By February 9, 2018, the Task Force shall provide a report to the Council and the Mayor that includes the following:
- (A) An evaluation of the comprehensive plan submitted under paragraph (3) of this subsection, including the following:
 - (i) Any shortcomings or defects in the plan;
 - (ii) An analysis of healthcare provider interest in participating in the plan;
 - (iii) An analysis of healthcare provider capacity to participate in the plan; and
 - (iv) District of Columbia Public Schools and District of Columbia public charter schools interest in participating in the plan;
 - (B) An analysis of the school mental health programs and providers currently operating in District of Columbia Public Schools and District of Columbia public charter schools, including best practices;
 - (C) An analysis of the Department of Behavioral Health's current school mental health program ("SMHP") to determine what schools participate in the SMHP and what activities occur across the schools, including an analysis of available Department of Behavioral health data, such as the following:
 - (i) The number of psychiatric admits for children by school;
 - (ii) The number of children with an individualized education plan; and
 - (iii) Existing SMHP data for the number of sessions and number of clients per school;
 - (D) A comprehensive plan to expand school-based behavioral health programs and services, which shall include:
 - (i) The Task Force's proposed changes to the Deputy Mayor's comprehensive plan under paragraph (3) of this subsection;
 - (ii) A timeline for implementation of the Task Force's comprehensive plan;
 - (iii) A funding source for the Task Force's comprehensive plan;

- (iv) A workforce development strategy;
- (v) The District-wide need for school-based behavioral health programs and services; and
- (vi) Evaluation criteria to determine the common metrics all school mental health providers should collect so indicators of success may be reported across providers.

§ 7-1131.17. Youth behavioral health program.

(a) As of October 1, 2012, there is established within the Department, and shall be made available to all child development facilities, public schools, and public charter schools, a program that, at a minimum, provides participants with the tools needed to:

- (1) Identify students who may have unmet behavioral health needs;
- (2) Refer identified students to appropriate services for behavioral health screenings and behavioral health assessments;
- (3) Recognize the warning signs and risk factors for youth suicide and implement best practices for suicide prevention, suicide intervention, and suicide postvention.

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(c-1) Beginning October 1, 2019, and consistent with the recommendations in the Report of the Task Force on School Mental Health submitted March 26, 2018, the Department of Behavioral Health shall provide local education agencies and schools with non-instructional personnel who have specialized expertise in behavioral health and trauma-informed educational settings to provide local education agencies and schools with broader mental health services, including reducing the use of exclusion by addressing the causes of student misconduct and being available for consultation regarding the development and revision of disciplinary plans.

§ 38-754.03. Administration of community schools incentive initiative.

(a) The Mayor shall establish and administer the multiyear Community Schools Incentive Initiative ("Incentive Initiative") to award multiyear grants to incentivize the establishment of no fewer than 5 new community schools within one year of June 19, 2012, with priority given to schools that have:

- (1) A focus on mental health prevention and treatment services.

§ 38-827.01. Establishment of the Healthy Youth and Schools Commission.

(a) There is established the Healthy Youth and Schools Commission with the purpose of advising the Mayor and the Council on health, wellness, and nutritional issues concerning youth and schools in the District, including:

- (9) Emotional, social, and mental health services.

§ 38-2602. Responsibilities.

(b) The OSSE shall:

(26)(A) Develop and publish online written guidance to assist LEAs in developing and adopting policies and procedures for handling aspects of student mental and behavioral health. The written guidance shall include model policies for identifying, appropriately supporting, and referring to behavioral health service providers students with mental and behavioral health concerns, and model policies for suicide prevention, suicide intervention, and suicide postvention, especially for at-risk youth sub-groups.

(B) OSSE shall examine its guidance on mental and behavioral health in schools at least every 5 years and update its guidance as needed. Within 30 days of updating its guidance, OSSE shall notify LEAs of the update.

REGULATIONS

B2413. School-based health centers.

2413.1 The Chancellor may accept health services, including primary health, behavioral health, and oral health, from the Director of the Department of Health, the Director of the Department of Mental Health, or from a public or non-profit healthcare organization. The health services shall be provided to D.C. Public Schools students in a school setting in accordance with the provisions of this section, standards as established by the Department of Health, and an agreement concerning school-based health centers (SHCs) executed by the D.C. Public Schools (DCPS) and the healthcare organization.

2413.2 Health services provided to D.C. Public Schools pursuant to this section shall be provided to students in accordance with:

- (a) The provisions of this section; and
- (b) An agreement concerning SHCs executed by DCPS and the healthcare organization.

2413.3 Health services provided in a SHC located in DCPS shall be subject to the following limitations:

(a) Services shall augment, supplement, or complement DCPS services in the areas of the physical, social, mental, and emotional well-being of students, or fulfill an unmet health need within the general student population;

(b) A practitioner shall obtain informed consent for all health care services provided.

(c) Services shall be provided to:

- (1) Students enrolled in the school in which the SHC is located;
- (2) Additional schools named as part of the agreement executed between D.C. Public Schools and the healthcare organization;
- (3) To students previously enrolled within those schools during the current school year, upon approval of the school principal;
- (4) To prospective students of the schools as part of an enrollment process;
- (5) To the students' minor family members, upon approval by DCPS; and
- (6) To other members of the community during before- or after-school hours, upon approval by DCPS.

(d) Services shall be provided regardless of ability to pay unless an agreement between DCPS and the healthcare organization provides otherwise. This section shall not be construed to relieve any insurer, Medicaid, or similar third party from an otherwise valid obligation to pay for these health services;

(e) Services shall be provided to minors pursuant to the consent requirements of sections 600 and 603 of Title 22 of the D.C. Municipal Regulations, and pursuant to D.C. Code § 7-1231.14 for mental health treatment;

(f) Services shall be provided only during the hours between eight o'clock (8:00) a.m. and five o'clock (5:00) p.m., unless otherwise provided in an agreement between DCPS and the healthcare organization; and

(g) A notification system shall be established to inform students where to receive after-hours health care inclusive of non-school days, summer breaks, and during hours when the school-based health center can not be accessed.

(h) A practitioner in a school health center may dispense prescription and over-the-counter drugs, including contraceptive drugs and devices when medically indicated.

2413.4 Health care organizations providing services in a school health center shall be subject to the following requirements:

- (a) Services shall be provided only by certified and licensed health professionals, acting under proper supervision, as appropriate;
- (b) Services shall be provided only by government agencies or organizations that are licensed to provide primary health, behavioral health, or oral health services, as appropriate;
- (c) Healthcare organization staff shall be subject to and shall pass the DC Public Schools background check and screening requirements required by the Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353); D.C. Official Code § 4-1 501.01 et seq.);
- (d) The healthcare organization shall comply with the students' health and personal confidentiality requirements of this chapter; the Family Educational Rights and Privacy Act (FERPA) approved (110 Stat 197) 20 U.S.C. § 1232g, and the regulations promulgated under FERPA, including 34 CFR Part 99; the Health Insurance Portability and Accountability Act (HIPAA) approved (110 Stat 2021) 42 U.S.C. § 1320d et seq., and the regulations promulgated under HIPAA, including 45 CFR Part 164; and the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 et seq.); and
- (e) The healthcare organization shall have insurance coverage for bodily injury and property damage, errors and omissions, officer's liability and professional liability of no less than five million dollars (\$ 5,000,000) per claim and ten million dollars (\$ 10,000,000) per accident.

2413.5 A Local School Health Center Advisory Council (LSHCAC) shall be established at a school with a SHC. The school leadership may convene the LSHCAC as part of the school's existing wellness council or committee. The LSHCAC shall serve in an advisory capacity to each SHC. The Chancellor shall make all decisions. The principal of each school with a SHC shall convene the initial meeting of that school's LSHCAC. At the first meeting, the members present shall select the leadership of the council.

2413.6 Each LSHCAC shall be comprised of representatives from the local school staff, community leaders, health professionals, behavioral health and social work professionals, parents, and students. Each LSHCAC may also include representatives from the Office of the Chancellor and the Department of Health or the Department of Mental Health, as appropriate. The exact composition of each LSHCAC shall be determined by agreement executed among the school, DCPS, the Department of Health, the Department of Mental Health, and the healthcare organization.

2413.7 The LSHCAC shall provide advice to the local school administration, the Directors of the Departments of Health and Mental Health, and the Chancellor on matters related to the operation of the school health center as it considers appropriate. It shall specifically advise on the following:

- (a) The standard format and procedures used to inform parents of the school health center and to gain their consent for utilization of the center by their children;
- (b) The scope of services provided at the health center;
- (c) The adequacy of the health education material used to promote preventive health care and general health promotion;
- (d) The adequacy of any school health center's provisions to enhance and encourage parents' ability to counsel their own children with competence and confidence;
- (e) The consistency of the health education materials regarding human sexuality, preventive health care, and general health promotion with materials used in the classroom; and
- (f) The adequacy of a SHC's provisions for addressing the emotional and social support needs of students.

5-B2500. General policy.

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (m) Intervention by guidance counselor or mental health professional.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 2-1535.03. Bullying prevention policy.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports.

§ 2-1535.05. Retaliation.

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

REGULATIONS

4-1502. Adoption of a bullying prevention policy.

1502.3 A covered entity's bullying prevention policy shall at a minimum include the following elements:

(g) A mechanism and procedures for staff, students, parents/guardians, and others to report bullying, retaliation for reporting bullying, or other violations of the bullying prevention policy that permits anonymous reporting, provided however, that no formal response shall be taken solely on the basis of anonymous reporting;

(h) A procedure for prompt investigation of reports of bullying, retaliation, or other violations of the bullying prevention policy that identifies the name and contact information for the person(s) responsible for investigating bullying and retaliation.

4-1504. Reporting Bullying or Retaliation Complaints.

1504.1 Each covered entity shall encourage youth, parents, guardians, employees, volunteers and community members to report any incidents of bullying or retaliation that they are witness to, or of which they are aware.

1504.2 Reports of bullying, retaliation, and other violations of the bullying prevention policy should be made to the Point of Contact at the covered entity, either by mail, telephone, facsimile, electronically, or through an anonymous drop box at the covered entity's site.

1504.3 If an individual is unable to report the complaint to the Point of Contact, the complaint may also be made to a member of the covered entity's management or leadership team, and those individuals shall refer the complaint to the Point of Contact for investigation. If there is some reason why the Point of Contact should not be the investigator on a particular matter, for example if there are any known or raised conflict of interests, the covered entity's management may assign another investigator.

1504.4 Employees and volunteers of covered entities shall promptly report incidents of bullying or retaliation to the entity's named Point of Contact identified in the policy when they witness incidents of bullying or retaliation, or for incidents about which they have reliable information.

1504.5 Information about reporting bullying and retaliation shall be communicated to all youth associated with the covered entity in an age-appropriate manner.

1504.6 Each covered entity shall ensure that there are reporting materials available in a wide variety of languages as required by the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 et seq.) and 4 DCMR § 1205.4.

1504.7 The person designated by a covered entity to investigate bullying, retaliation, and other violations of the bullying prevention policy (the covered entity's Point of Contact) shall create a written description of each incident of bullying, retaliation, or other violation of the bullying prevention policy that was reported to him or her and where applicable, shall include the description in the annual report that is required by § 1511.

5-A2103. Absentee intervention and school-based student support teams.

2103.2 Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(4) The school-based student support team assigned to a student who accumulates ten (10) full day unexcused absences during a school year shall notify the school administrator within two (2) school days after the tenth (10th) full day unexcused absence with a plan for immediate intervention, including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis.

5-B2503. Policy for disciplinary actions.

2503.2 Principals shall ensure that accurate, appropriate documentation is maintained of all disciplinary actions.

5-E2404. Search procedures.

2404.8 Subsequent to any search being conducted, whether based on individualized suspicion or at random, the principal shall prepare a written report detailing the scope of the search and circumstances giving rise to the search. Copies of this report shall be filed with the appropriate assistant superintendent, the Division of Safety and Security, and the Legal Services Branch.

Parental Notification

LAWS

§ 38-207. Authority of police over truant child.

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall send the minor's parent:

(1) Information from the Chief of Police about the compulsory attendance requirements and criminal penalties for violations of this chapter; and

(2) A letter notifying the parent that he or she may be in violation of the school attendance requirements under this chapter and may be subject to prosecution.

§ 38-208. Truancy procedures; inter-agency coordination.

(c)(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student's parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this subchapter.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate.

REGULATIONS

5-A2101. Attendance records and reporting.

2101.9 Within two (2) business days of a student's tenth (10th) full day unexcused absence during a school year, the educational institution shall:

- (a) [REPEALED];
- (b) Send the student's parent(s) or guardian(s) a letter, under signature of the Chief of the Metropolitan Police Department, notifying the parent(s) or guardian(s) that they may be in violation of the school attendance requirements and subject to prosecution under District of Columbia laws; and
- (c) Notify OSSE that the student has accrued ten (10) full day unexcused absences.

2101.10 Upon notification from the educational institution under Section 2101.9, OSSE shall provide the parent(s) or guardian(s) with a copy of the Truancy Prevention Resource Guide published by OSSE.

5-A2102. Absences.

2102.4 An educational institution shall obtain an explanation from the student's parent or guardian verifying the reason for an absence within no more than five (5) days upon the student's return to school, otherwise the absence shall be deemed unexcused.5-A2103. Absentee intervention and school-based student support teams.

2103.2 Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

- (c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:
 - (1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent(s) or guardian(s) of a student, or the adult student, as applicable, on the same day, and each time, a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary.

B2408. Dress codes/uniforms.

2408.13 With the exception of the disciplinary action described in section 2408.16, students violating the mandatory uniform policy shall be subject to progressive corrective measures and disciplinary action. Additionally:

- (a) Parents shall be called when a student reports to school out of uniform. The parent shall be asked to bring compliant clothing for the student to school.

(b) If the parents are not reachable or are unable to respond within two hours of the start of the school day, the student may be issued a conforming uniform from the school's uniform bank with directions to return it clean the next school day.

5-B2500. General policy.

2500.5 DCPS shall involve family members in efforts to determine the causes of misbehavior and in efforts to support appropriate school behavior. [...]

2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (p) Parent conference;
- (q) Parent observation of student. [...]

2500.12 Disciplinary responses shall include, but not be limited to, the following strategies:

- (c) Parental contact (written or by phone);
- (d) Parent conference. [...]

2500.17 All oral communications, including conferences, appeals, and hearings conducted with any student, parent, or guardian shall be conducted with interpretation services when necessary to ensure effective communication. Interpretation service shall include a qualified interpreter, as that term is defined in D.C. Official Code § 2-1901 (2007 Rpl.) or DCPS staff member who is fluent in the individual's native language. A certified sign language interpreter shall be provided for any student, parent, or guardian who is deaf or hard of hearing upon request.

2500.18 All written documents concerning the disciplinary process shall be considered vital documents and provided to any student, parent, or guardian in a format that he or she can understand. For individuals with Limited or No-English Proficiency, documents shall be provided in the individual's native language. For individuals with vision impairments, reasonable accommodations shall be made to provide documents in a manner accessible to the individual, including but not limited to Braille, large type, audio recording, or some other suitable electronic media.

5-B2502. Grounds for disciplinary action.

2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

- (b) Disciplinary responses for Tier I behaviors shall include:
- (3) Parental contact in writing or by phone;
 - (4) Teacher/parent conference. [...]

2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

- (b) Disciplinary responses for Tier II behaviors shall include:
- (3) Parental contact in writing or by phone;
 - (4) Administrator/parent conference [...]

2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

- (b) Disciplinary responses for Tier III behaviors shall include:
- (3) Parental contact (written or by phone);

(4) Parent conference.

5-B2504. Policy for suspensions and expulsions.

2504.13 Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been contacted by phone or in person and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or guardian of a suspended student cannot be notified by phone or in person, the student must remain at school until the end of the school day.

2504.14 If the parent or guardian of a student who has been suspended cannot be contacted by phone or in person before the next school day, and the student arrives at school, he or she must remain in the building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. The student may be segregated and must be appropriately supervised during this time. Any such day will count toward fulfilling the term of the student's Suspension.

5-B2505. Procedures for suspensions and expulsions.

2505.4 The conference shall include a discussion of the following:

(g) If the principal is recommending Long-Term Suspension or Expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and a person designated by the Chancellor. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures, appeal rights, the intervention supports available to the student, and the requirements for readmission.

2505.5 The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.

2505.6 Students and parents or guardians shall be provided written notice of all Suspensions and Expulsions as follows:

(a) No student may be suspended or expelled, including on-site Suspension, without written notice to the adult student or minor student's parent or guardian.

(b) Following the oral notice provided to parents or guardians pursuant to § 2504.13 verifiable written notice using contact information provided by the parent or guardian (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed Suspensions and Expulsions must be sent to the parent or guardian or to the adult student no later than one (1) school day after the decision by the principal or a person designated by the Chancellor to authorize or propose Suspension or Expulsion.

(c) The notice must inform the parent or guardian of the identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion. Adult students shall receive notification of their infraction in the same manner.

(d) The notice must also include a description of the infraction including a citation of the rule(s) upon which the action is based, a summary of the facts, the length of the proposed Suspension or Expulsion, the principal's recommendation for an Education Plan or Alternative Educational Setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § 2505.14.

(e) A student who has been given a notice of proposed Expulsion may be immediately placed on Suspension in accordance with the rules and procedures set forth in this section.

5-B2506. Procedures for disciplinary hearings.

2506.1 Disciplinary hearings shall be held at a time and place that is reasonably convenient to the student and parent or guardian.

2506.2 For Long-Term Suspensions and Expulsions, the hearing shall be held not more than four (4) school days after a written notice regarding disciplinary action is provided to the parent or guardian or adult student, except that the hearing may be postponed for not more than five (5) school days upon the request of the adult student, minor student's parent or guardian, or his or her representative, where postponement of the hearing is necessary to prepare for the hearing, provide for the hearing, or provide for the attendance of necessary parties, including interpreters. The hearing officer shall provide written notice to the parent or guardian or adult student of the date, time, and location of the hearing immediately upon scheduling the hearing. The notice from the hearing officer shall state what consequences, if any, result from failure to attend the hearing.

2506.3 The hearing shall be closed to the public unless the parent or guardian or adult student requests an open hearing.

2506.4 The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student.

2506.5 The student, parent or guardian, or representative shall have the right to question any witness or challenge any documentary evidence.

2506.6 The parent or guardian or adult student shall have the opportunity to present testimony and documentary evidence, including the opportunity to call any witness to present testimony relevant to the disciplinary action or other school system recommendation. The right to call witnesses shall include the right to require the presence of any involved school official.

2506.7 It shall be the burden of the DCPS to show by a preponderance of the evidence that the student did commit the infraction(s) upon which the disciplinary action is based.

2506.8 The hearing officer shall ensure that all due process procedures have been followed or waived.

2506.9 The hearing officer may question any witness or party and shall examine all documentary evidence.

2506.10 The hearing shall not be conducted according to the rules of evidence. However, the hearing officer may exclude any testimony or evidence that is irrelevant or repetitive.

2506.11 The hearing officer shall ensure that the hearing is conducted in a fair and orderly manner and shall have the authority to exclude any party or other person from the hearing on the grounds of substantial interference or obstruction of the orderly hearing process.

2506.12 The hearing officer shall make an official electronic audio recording of the hearing, which shall constitute the official record thereof. Upon request, a copy of the recording shall be made available to the parent or guardian, adult student, or representative and the local school principal. This provision shall not preclude a parent or guardian or representative from also recording or transcribing the hearing at his or her expense.

2506.13 The principal or school official shall indicate a recommendation of the school system for the duration of the off-site placement.

5-B2507. Hearing officer recommendation.

2507.4 A copy of the written determination provided by a person designated by the Chancellor or by the head of the Office of Youth Engagement shall be given or mailed, within twenty-four (24) hours, to the adult student, the minor student's parent or guardian, and their representatives, if any.

B2509. Re-entry following expulsion.

2509.1 Prior to the conclusion of an Expulsion, a person designated by the Chancellor shall hold a conference with the student and the student's parent or guardian to determine appropriate school placement for the student.

2509.2 The conference shall be held according to guidelines in § 2505, and shall include discussion of the following topics:

- (a) The student's activities while under disciplinary action;
- (b) The steps the student will take to avoid a subsequent disciplinary action;
- (c) Support required by the student to avoid subsequent disciplinary action; and
- (d) Any other pertinent circumstances.

2509.3 Effort shall be made to return the student to his or her previous school, unless a person designated by the Chancellor reasonably concludes based on the conference that another school is a more appropriate setting.

2509.4 The student and his or her parent or guardian shall be informed of the school placement no more than one school day after the conference, and the registration/enrollment process shall be facilitated as smoothly and quickly as possible thereafter.

2509.5 The principal of the receiving school shall ensure the returning student receives an appropriate academic program, as well as services to ensure a smooth transition back into the general school population (e.g., SST meeting, counseling, etc.).

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 2-1535.07. Reporting requirement.

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

- (1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and
- (2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

§ 38-203. Enforcement; penalties.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Office of the State Superintendent of Education, and make publicly available the following data for each school or campus under its authority based on the preceding school year:

- (A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:
 - (i) One to 5 days;
 - (ii) Six to 10 days;
 - (iii) Eleven to 20 days; and
 - (iv) Twenty-one or more days;

- (A-i) The work of the school-based student support teams in reducing unexcused absences, including:
 - (i) The number of students who were referred to a school-based student support team;
 - (ii) The number of students who met with a school-based student support team;
 - (iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and
 - (iv) A summary of the services utilized by students to reduce unexcused absences;
 - (v) A summary of the common barriers to implementing the recommendations of the school-based student support team;
- (B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2) [(a-2) expired];
- (B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and
- (C) The policy on absences, including defined categories of valid excuses, that it used.

§ 38-209. Reporting requirements.

By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

- (1) Referrals it received from each educational institution;
- (2) Cases it filed pursuant to this subchapter, and the outcome of each;
- (3) Child-in-need of supervision cases filed pursuant to this subchapter, and the outcome of each; and
- (4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this subchapter.

§ 38-236.06. Support for positive school climate and trauma-informed educational settings.

(d) Within 2 years after August 29, 2018, and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:

- (1) Be based upon rigorous research techniques, including quantitative and qualitative methods;
- (2) Draw on the information maintained and reported pursuant to § 38-236.09, as well as other sources, with a particular focus on:
 - (A) Ensuring the fidelity of data reporting;
 - (B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this part;
 - (C) Barriers schools face in implementing the policies and practices required pursuant to this part; and
 - (D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;
- (3) Provide specific recommendations for further action by the Council, executive branch, and schools; and
- (4) Provide suggestions for further research.

§ 38-236.08. Suspension and expulsion report.

Within 180 calendar days of September 19, 2013, the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations

to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate part A of this subchapter [§ 38-231 et seq.].

§ 38-236.09. Annual reporting requirements.

(a) Each local education agency and entity operating a publicly funded community-based organization shall maintain data for each student that includes:

(1) Demographic data including:

- (A) The campus attended by the student;
- (B) The student's grade level;
- (C) The student's gender identification;
- (D) The student's race;
- (E) The student's ethnicity;
- (F) Whether the student receives special education services;
- (G) Whether the student is classified as an English language learner; and
- (H) Whether the student is considered at-risk as defined in § 38-2901(2A);

(2) Discipline data including:

- (A) Total number of in-school suspensions, out-of-school suspensions, involuntary dismissals, and emergency removals experienced by the student during each school year;
- (B) Total number of days excluded from school;
- (C) Whether the student was referred to an alternative education setting for the duration of a suspension, and whether the student attended;
- (D) Whether the student was subject to a disciplinary unenrollment during the school year;
- (E) Whether the student voluntarily withdrew or voluntarily transferred from the school during the school year;
- (F) Whether the student was subject to referral to law enforcement;
- (G) Whether the student was subject to school-related arrest; and
- (H) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary unenrollment, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest and, for students with disabilities, change in placement; and

(3) Special education services data, including whether a student received during the school year:

- (A) A functional behavioral assessment;
- (B) An updated behavior improvement plan; or
- (C) A manifestation determination review, including the number of suspension days that triggered the review, whether the suspension days were cumulative, and the outcome of the review.

(b) By August 15 of each year, each local education agency or entity operating a publicly funded community-based organization shall submit a report to the Office of the State Superintendent of Education disaggregated by each of the demographic categories identified in subsection (a)(1) of this section. The report shall include:"

(1) The students suspended for:

- (A) At least one and no more than 5 days, and whether the suspension was an in-school suspension or an out-of-school suspension;
- (B) At least 6 and no more than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

- (C) More than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;
 - (2) The students who received more than one suspension in a school year and whether the suspensions were in-school or out-of-school suspensions;
 - (3) The students who were referred to an alternative educational setting for the course of a suspension;
 - (4) The students who received a school-based intervention rather than an in-school suspension, and a description of the school-based intervention;
 - (5) The students involuntarily dismissed:
 - (A) At least once and no more than 5 times;
 - (B) At least 6 times and no more than 10 times;
 - (C) More than 10 times;
 - (6) The students subject to emergency removals;
 - (7) The students subject to a disciplinary unenrollment, disaggregated by type of disciplinary unenrollment;
 - (8) The students who voluntarily withdrew or transferred;
 - (9) The students subject to referral to law enforcement;
 - (10) The students subject to school-related arrest;
 - (11) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary withdrawal, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest, and, for students with disabilities, change in placement;
 - (12) Whether the student received a functional behavior assessment, an updated behavioral improvement plan, or a manifestation determination review, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.), and the outcomes of those actions; and
 - (13) Whether the student was subject to suspensions exceeding the time limits described in § 38-236.04(b), and a summary of the written justification provided by the local education agency for those disciplinary actions.
- (c)(1) Each local education agency or entity operating a publicly funded community-based organization shall provide the requested data in subsection (b) of this section in a form and manner prescribed by the Office of the State Superintendent of Education.
- (2) The OSSE shall collaborate with local education agencies and publicly funded community-based organizations to develop consistent definitions for the types of misconduct and explanations of reasoning required to be maintained or reported pursuant to subsections (a)(2)(H) and (b)(11) of this section.
- (d) By December 15 of each year, beginning in 2016, the Office of the State Superintendent of Education shall publicly report on the data provided by local education agencies and community-based organizations in subsection (b) of this section during the preceding school year, including a relevant trend analysis. The report shall include a trend analysis based on available data, including data drawn from the Youth Risk Behavior Survey, school climate surveys, and any other available sources, of the exclusion of students who identify as lesbian, gay, bisexual, questioning of the student's sexual orientation, transgender, gender nonconforming, or questioning of the student's gender identity or expression.

REGULATIONS

4-1504. Reporting Bullying or Retaliation Complaints.

1504.7 The person designated by a covered entity to investigate bullying, retaliation, and other violations of the bullying prevention policy (the covered entity's Point of Contact) shall create a written description of each incident of bullying, retaliation, or other violation of the bullying prevention policy that was reported to him or her and where applicable, shall include the description in the annual report that is required by § 1511.

4-1511. Educational Institutions Reporting Requirements.

1511.1 Each educational institution shall report to OHR by August 15 of each year the following information:

- (a) The aggregate number of incidents of bullying, retaliation, and other violations of the bullying prevention policy at the educational institution during the prior school year (including the prior summer term);
- (b) A brief description of each such incident (as required by § 1505.5); and
- (c) The results of the investigation of the incident.

1511.2 The annual report of each educational institution shall also include any other information that OHR deems necessary or appropriate and requests from the educational institution.

5-A2101. Attendance records and reporting.

2101.4 Prior to the beginning of each school year, an educational institution shall designate an individual to be responsible for collecting, maintaining, and reporting the attendance data required for each student consistent federal and District requirements. This designated individual shall:

- (a) Ensure timely submission of attendance in conformance with this chapter;
- (b) Submit corrected attendance records via an automated, electronic feed, or such other format; and provide any corrections to attendance records according to deadlines provided by OSSE; and ; and
- (c) Timely respond to requests for clarification of submitted attendance records.

2101.6 Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203.(i). Such report shall include attendance information in aggregate form, excluding individual student data.

2101.7 By November 30 of each school year, OSSE shall issue a report including the following information:

- (a) Truancy rates and chronic absenteeism rates for each educational institution;
- (b) Progress in improving attendance and reducing truancy for each educational institution; and
- (c) Each educational institution's compliance with key attendance and truancy requirements.

5-A2103. Absentee intervention and school-based student support teams.

2103.3 In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), an educational institution shall provide to OSSE, upon request, student-level data and records evidencing the work of school-based student support teams.

5-B2508. Review by the chancellor.

2508.1 The Chancellor may review, at his or her discretion, any proposed disciplinary action. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.

2508.2 With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including Expulsion. The Chancellor shall provide written justification for any modification of disciplinary action.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 38-207. Authority of police over truant child.

(a)(1) A law enforcement officer who has reasonable grounds to believe, based on the minor's age and other factors, that a minor is truant from any public, independent, private, or parochial school on a day and during the hours when the school is in session shall take that minor into custody and deliver the minor to the public, independent, private, or parochial school where the minor is presently enrolled, so long as the school is located in the District.

(2) If the minor is not currently enrolled at a public, independent, private, or parochial school, the law enforcement officer shall take the minor to the District of Columbia Public Schools placement office.

(3) If a minor is enrolled in a public, independent, private, or parochial school located within the District of Columbia, the educational institution shall receive that minor from a law enforcement officer during the hours when the school is in operation.

§ 38-208. Truancy procedures; inter-agency coordination.

(c)(1)(B) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused full school day absences within a school year.

§ 38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

§ 38-236.01. Definitions.

For the purposes of this part, the term:

(15) "Referral to law enforcement" means an action by school personnel to report a student to a law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during off-campus school activities, or while taking school transportation. [...]

(17) "School-related arrest" means an arrest of a student for an activity conducted on school grounds, during off-campus school activities, while taking school transportation, or due to a referral to law enforcement by the student's school.

§ 38-236.03. Establishment of school discipline policies.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior.

REGULATIONS

E2404. Search procedures.

2404.4 Random searches of students, and lockers shall be undertaken, in a manner which is consistent with the overall need to maintain the safety and security of D.C. Public Schools. The searches shall occur under the auspices of the D.C. Public Schools Office of Safety and Security and, where appropriate, the

Metropolitan Police Department and the D.C. Public Schools Legal Services Branch, unless circumstances compel immediate action to avoid imminent danger to self or others.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

§ 5-132.03. Training for school resource officers.

The School Safety Division shall develop a training curriculum for all school resource officers. The curriculum shall be focused on training supervisory and on-site personnel so that they will provide appropriate security procedures for the various socioeconomic conditions at each educational facility. The curriculum shall include training in the following areas:

- (1) Child development;
- (2) Effective communication skills;
- (3) Behavior management;
- (4) Conflict resolution;
- (5) Substance abuse and its effect on youth;
- (6) Availability of social services for youth;
- (7) District of Columbia laws and regulations;
- (8) Constitutional standards for searches and seizures conducted by school resource officers on school grounds; and
- (9) Gang and crew violence prevention.

§ 5-132.03b. Training for school security personnel.

(a) For the school year beginning in 2020, DCPS may use the training curriculum adopted by MPD pursuant to § 5-132.03 to train its school security personnel.

(b) By the start of the school year beginning in 2021, DCPS shall adopt a school security personnel training curriculum based on the positive youth development philosophy. The curriculum shall focus on training supervisory and on-site personnel to provide security services responsive and appropriate to the student, staff, and family populations at each school building. At a minimum, the curriculum shall include training in the following areas, developed with advice from appropriate other District agencies:

- (1) Child and adolescent development;
- (2) Effective communication skills;
- (3) Behavior management;
- (4) Conflict resolution, including restorative justice practices;
- (5) De-escalation techniques;
- (6) Behavioral health issues for youth and families;
- (7) Child sexual abuse and gender-based violence prevention, identification, and response;
- (8) Availability of social services for youth;
- (9) District of Columbia laws and regulations;
- (10) Constitutional standards for searches and seizures conducted by school security personnel on school grounds; and
- (11) Violence prevention, including gang and crew dynamics.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 5-132.01. Definitions.

For the purposes of this subchapter, the term:

- (1) "Chancellor" means the Chancellor of the District of Columbia Public Schools. (1A) "DCPS" means the District of Columbia Public Schools.
- (1B) "MOA" means the Memorandum of Agreement into which DCPS and MPD enter pursuant to § 5-132.04.
- (2) "MPD" means the Metropolitan Police Department.
- (2A) "Public charter schools" shall have the same meaning as provided in § 38-1800.02(29).
- (3) "School resource officer" means a sworn MPD officer assigned to DCPS or public charter schools for the purpose of working in collaboration with DCPS, public charter schools, and community-based organizations to:
 - (A) Prevent crime through community-oriented policing strategies;
 - (B) Address crime and disorder, gang, and drug activity problems affecting or occurring in or around the schools to which the school resource officer is assigned; and
 - (C) Ensure that DCPS schools and grounds and public charter schools and their grounds are safe environments for students, teachers, and staff.
- (5) "School security personnel" means individuals, including unarmed security guards, that DCPS hires or contracts to support safety in DCPS schools.
- (5A) "Security-related contract" means any contract to provide physical or personal security services, including school security personnel, at DCPS schools.

§ 5-132.02. Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division.

- (a) There is established within the Metropolitan Police Department a School Safety Division that shall provide school resource officers to the DCPS schools and public charter schools.
- (b) The School Safety Division shall be headed by a Director, appointed by, and reporting to, the Chief of Police with rank equal to a Commander or above.
- (c) The School Safety Division shall:
 - (1) Hire and train school resource officers;
 - (2) Deploy school resource officers to:
 - (A) DCPS schools, consistent with the terms of the MOA; and
 - (B) Public charter schools;
 - (3) Coordinate with DCPS and public charter schools regarding the use and sharing of resources and communications between MPD and school-specific safety teams; and
 - (4) Provide recommendations to the Mayor, Council, and the DCPS Chancellor regarding the impact of school closings, consolidations, grade reconfigurations, use of swing space during school reconstruction, and gang and crew violence on the safety and well-being of children.
- (c)(1) School resource officers shall not report any information regarding a student's suspected crew or gang affiliation, or that of their family members, to a law enforcement agency for the purpose of including such information in any District government crew or gang database, nor shall any such information shared by or derived from a school resource officer be otherwise included in any District government crew or gang database.
- (d)(1) The School Safety Division shall develop a plan to be implemented before the beginning of each DCPS school year for protecting children walking to and from DCPS and public charter schools and for protecting children from gang and crew violence on, in, and around DCPS and public charter schools' property. Beginning in 2009, this plan shall be provided to the Mayor, the Council, and the Chancellor, by August 15th of each year.

- (2) The plan shall include a description of:
- (A) Safety issues children may face during passage to and from school, and recommended solutions to these issues; and
 - (B) A description of specific gang and crew conflicts and recommended solutions for the protection of children from gang and crew violence on, in, and around DCPS and public charter schools property.
- (3) The plan shall incorporate the recommendations of the District Department of Transportation on the deployment of school crossing guards required under § 38-3101(f-1).
- (e) The School Safety Division's sworn and civilian staffing shall be as follows:
- (1) By July 1, 2022, a maximum of 60 personnel;
 - (2) By July 1, 2023, a maximum of 40 personnel;
 - (3) By July 1, 2024, a maximum of 20 personnel; and
 - (4) By July 1, 2025, the School Safety Division shall be dissolved, and MPD no longer shall staff DCPS and public charter schools with school resource officers.

§ 5-132.03a. DCPS responsibilities for school security.

- (a) By October 1, 2020, DCPS shall be responsible for school security personnel within DCPS schools, and shall:
- (1) Oversee the hiring or contracting of school security personnel for DCPS;
 - (2) Deploy school security personnel to DCPS schools;
 - (3) Provide oversight over school security personnel and be responsible for administering all disciplinary actions related to school security personnel, including termination;
 - (4) Execute, approve, administer, monitor, and provide oversight over any security-related contract for school security personnel; and
 - (5) Create and implement school building security and emergency operations plans, in consultation with MPD and the Homeland Security and Emergency Management Agency.

§ 5-132.04. Coordination of school security efforts between DCPS and MPD.

- By October 1, 2020, DCPS and MPD shall enter into a MOA for the purpose of coordinating the agencies' respective security obligations at DCPS schools. The MOA shall:
- (1) Reflect DCPS's role as the administrator of any security-related contract;
 - (2) Include provisions for effectuating the transfer of any personnel, property, funds, or records necessary to transfer responsibility for any existing security-related contract from MPD to DCPS;
 - (3) Delineate lines of authority, supervision, and communication between MPD and DCPS, including how school resource officers deployed at each school will provide security in coordination with the school's principal and school security personnel; provided, that during emergencies, incident command shall be consistent with the District of Columbia response plan, as defined by § 7-2301(1A);
 - (4) Include a process for resolving disagreements between DCPS and MPD at all levels; and
 - (5) Provide for MPD advice and consultation on DCPS school building security and emergency operations plans.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by District of Columbia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Attendance and Truancy Resources for Schools, OSSE	Provides information and resources on school attendance and resources that aid LEAs in promoting school attendance. Includes resources for parents and families	https://osse.dc.gov/page/attendance-and-truancy-resources-schools
Behavior and School Culture, District of Columbia Public Schools, DCPS	Provides information and weblinks to resources pages addressing bullying prevention, behavior and discipline, and student attendance and support.	https://dcps.dc.gov/page/attendance-and-behavior
Bullying Prevention in DCPS	Provides information on bullying prevention, including definitions of bullying behavior and links to additional resources.	https://dcps.dc.gov/bullying
Citywide Youth Bullying Prevention Program, DC Office of Human Rights	Aims to reduce incidents of bullying across the District by emphasizing prevention and proper procedures for responding when incidents occur.	https://ohr.dc.gov/page/bullying-prevention
K-12 Student Discipline Policy (School Year 2021-22), DCPS	Provides a link to the K-12 student discipline for school year 2021-22	https://dcps.dc.gov/publication/k-12-student-discipline-policy-school-year-2021-22
Safe Passage Program, DCPS	Provides education and information regarding the District of Columbia's efforts of fostering and sustaining a safe environment for students in transit to and from school property including a survey analysis and resource toolkit.	https://safepassage.dc.gov/
School Mental Health, DCPS	Provides information on district strategies to promote the development of healthy relationships, sound decision making, and effective regulation of emotions and behavior among students.	https://dcps.dc.gov/service/school-mental-health-team
Student Discipline, DCPS	Compiles information on discipline law and policies for schools and families including a resource guide for improving school climate	https://sboe.dc.gov/page/discipline

Title	Description	Website address (if applicable)
	and discipline and maintaining a safe learning environment.	
Student Safety, DCPS	Provides information on school safety and approaches to ensuring the physical safety and security of school learning environments.	https://dcps.dc.gov/page/student-safety
Supporting Mental Health in Schools, OSSE	Provides guidance, professional development, and curriculum and implementation resources to support schools in developing and adopting policies and procedures for supporting student mental and behavioral health and implementing multi-tiered systems of support.	https://osse.dc.gov/page/supporting-mental-health-schools
Documents		
2013-14 Office of the State Superintendent of Education (OSSE) Bullying Policy, OSSE	State policy requiring all District agencies, grantees, and educational institutions that provide services to youth to adopt a bullying prevention policy outlining prevention, identification and reporting, and strategies for providing remedies to victims.	https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Bullying%20Policy.pdf
DCPS Philosophy And Approach To Student Behavior And Discipline Safe And Effective Learning Environment, DCPS	Provides information about DCPS's approach to school culture, student support, instructional approach to behavior and discipline, and discipline responses.	https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS-Approach-to-Safe-Effective-Learning-Environment-August-1.pdf
DCPS Attendance and Truancy Policy (SY2021-22), DCPS	District policy conveying requirements on attendance and the protocols school officials must implement if a student is absent or truant.	https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/Attendance-and-Truancy-Policy-SY%202021-22.pdf
DCPS District-Wide Bullying Prevention Policy (November 2013), DCPS	District policy addressing bullying in District of Columbia's Public School that includes code of conduct, prevention, intervention, consequences and progressive discipline, professional development, reporting, investigating, protection, and complaints.	https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Bullying%20Prevention%20Policy.pdf
District of Columbia Student Discipline Guide, A Guide for Students, Families, and School Staff, DC Office of the Ombudsman for Public Education	Guidance document for students, families, and school staff to explain new rules for school discipline that all public schools must follow under DC law.	https://sboe.dc.gov/sites/default/files/dc/sites/sboe/page_content/attachments/DC%20Student%20Discipline%20Guide.pdf

Title	Description	Website address (if applicable)
K-12 Student Discipline Policy Guidance (2019-20), DCPS	Guidance on policy requirements related to K-12 student discipline pursuant to the Student Fair Access to School Amendment Act of 2018.	https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/SY-2019-20-Discipline-Policy-Guidance-July-2019.pdf
Mental Health Guidelines (March 2022), OSSE	Provides guidelines to help schools evaluate and understand their school climate and build policies and procedures to protect students' health and strengthen academic success.	https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2022%20Mental%20Health%20Guidelines%202022%20Update%20with%20links.pdf
Navigating Behavioral Health Guide (2021), District of Columbia Department of Behavioral Health	Toolkit that provides District of Columbia families and schools with information on behavioral health and how to seek care and resources in the District of Columbia area.	https://sboe.dc.gov/sites/default/files/dc/sites/sboe/2021%20Navigating%20Behavioral%20Health%20in%20DC%20Schools-%20FINAL.pdf
Other Resources		
Bullying Prevention and Intervention in DC Educational Institution: A Training Toolkit, DC Office of Human Rights	A comprehensive package of guides, presentation slides, scenarios and self-assessments for schools or other entities to train their staff on how to prevent and respond to incidents of bullying	https://ohr.dc.gov/page/bullying-prevention/toolkit
DC School Report Card, OSSE	Report card includes state, LEA, and school level discipline and attendance data.	https://dcschoolreportcard.org/
Positive Behavioral Intervention and Support, School Climate, Restorative Justice Professional Development Opportunities, OSSE	Professional development opportunities for educators on various topics including positive behavioral intervention and support, school climate, and restorative justice.	https://osse.dc.gov/page/teaching-and-learning-professional-development-opportunities
State of Discipline, 2020- 21 School Year, OSSE	Required annual report on discipline in the District of Columbia.	https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2020-21%20Discipline%20Report_FINAL_0.pdf
Restorative Justice Trainings and Resources, OSSE	Training and resources for educators on restorative justice, including a monthly Community of Practice.	https://osse.dc.gov/page/restorative-justice-trainings-and-resources



American Samoa Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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American Samoa Codes Cited

American Samoa Revised Laws

Title 13. Health and Economic Welfare Services

Chapter 10. Medicine and Drugs

- 13.1020. Prohibited actions
- 13.1022. Possession of controlled substance unlawful

Title 16. Educational Institutions

Chapter 03. General Provisions

- 16.0308. Truancy - Investigation - Notice to parents - Penalty

Title 46. Criminal Justice

Chapter 33. Defense of Justification

- 46.3311. Use of force by persons with responsibility for care, discipline, or safety of others

Chapter 42. Weapons

- 46.4203. Unlawful use of weapons

American Samoa Regulations

American Samoa Department of Education

These documents were shared via email communication from AS DOE to the NCSSLE on April 8, 2015; a publicly accessible version of this document has not been identified. For more information, contact: <http://www2.ed.gov/about/contacts/state/as.html>. As of January 2020, NCSSLE is requesting for updated handbooks from AS DOE.

Student Policy Handbook

- 9. Truancy
- 13. Dress and appearance
- 20. Student discipline - Cooperation with law enforcement
- 21. Cooperation with police officers
- 22. Control of dangerous and anti-social behavior - Bullying
- 23. Searching students
- 25. Suspension, exemption, excluded, or expelled - Definitions
- 26. Student exclusion from school
- 27. Attendance - Checking, absences and excuses
- 36. Athletic activities - Student safety
- 38. Care of school property
- 52. Student grievances
- 54. Safe and drug free policy
Use of technology

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 13. Dress and appearance.

The Department reserves the right to insist that student dress, personal appearance, and conduct shall be of such character as to not disrupt or detract from the educational environment of the school nor tend to diminish the instructional effectiveness or disciplinary control of the teacher.

Scope

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

A. Bullying: A student shall not intimidate, harass, or bully another student through the use of words or actions. Behavior includes direct physical contact such as hitting or shoving, verbal assaults such as teasing or name-calling, and/or social manipulation or isolation.

The Department expects students and staff to immediately report any incidents of bullying to the principal. Staff who witness such acts shall take immediate steps to intervene. This policy applies to students on school campus or off campus, while traveling to and from school, or during lunch period or a school sponsored activity. Students in violation of bullying are subject to disciplinary action and may lead to suspension.

Student Policy Handbook. Section 54. Safe and drug free policy.

All student enrolled in the Public School System are prohibited from participating in any activity relating to the unlawful manufacture, distribution, possession use and/or sale of illegal drugs at any time while on the school premises, or at any school sponsored activities. [...]

Communication of Policy

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 13. Dress and appearance.

The Department reserves the right to insist that student dress, personal appearance, and conduct shall be of such character as to not disrupt or detract from the educational environment of the school nor tend to diminish the instructional effectiveness or disciplinary control of the teacher.

4. Information. Handbooks and/or newsletters prepared at each elementary or high school shall express uniformity on specific requirements and exhibitions. Each school will be responsible for inservice activities to acquaint students and staff with the enforcement procedure of those requirements.

Statements shall be included which:

- a. Prohibit wearing transparent, see-through, tank tops, bare midriff, strapless, high slits, mini skirts, or low-cut clothing.
- b. Prohibit wearing cut-offs and other brief attire.
- c. Prohibit the wearing of hats and sun glasses in inappropriate areas such as classrooms and other areas designated by the principal.
- d. Prohibit slogans or advertising on clothing which by their controversial or obscene nature disrupt the educational setting.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

A. Classroom Discipline.

1. Classroom discipline is largely a teacher responsibility and should, in most instances, be handled by the teacher.
2. If the teacher is confronted with a situation so serious that it should be brought to the principal's attention, or is confronted with a situation specified in the department's guidelines as unacceptable behavior, the teacher should refer the students involved to the principal or principal's designee.
3. A written report describing this incident must be sent to the office with the student within 24 hours thereafter. If the teacher desires a student-teacher-administrator conference, the teacher should so indicate in the written report. Every effort should be made to hold such conference immediately following the instructional period to determine the appropriate action.
4. Disciplinary action should be taken as soon as possible and the student returned to the classroom, unless the behavior warrants a future conference or referral to an alternative program.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

- D. Probation. A student may be placed on probation with the understanding that he must fulfill certain stipulated conditions agreed to by the student, the parents and the school. Failure to comply with the provisions of the probation may result in final suspension from school.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

A.S.C.A. § 46.3311. Use of force by persons with responsibility for care, discipline, or safety of others.

(a) The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1) the actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

(2) the force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme emotional distress.

(b) A warden or other authorized official of a jail, prison, or correctional facility may, in order to maintain order and discipline, use whatever physical force, is authorized by law, including deadly force.

(c) The use of physical force by an actor upon another person is justifiable when the actor is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the actor reasonably believes that that force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier; except, that deadly force may be used only when the actor reasonably believes it necessary to prevent death or serious physical injury.

(d) The use of physical force by an actor upon another person is justified when the actor is a physician or a person assisting at his direction: and

(1) the force is used for the purpose of administering a medically acceptable form of treatment which the actor reasonably believes to be adapted to promoting the physical or mental health of the patient; and

(2) the treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent on his behalf, or the treatment is administered in an emergency when the actor reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(e) The use of physical force by an actor upon another person is justifiable when the actor acts under the reasonable belief that:

(1) the other person is about to commit suicide or to inflict serious physical injury upon himself; and

(2) the force used is necessary to thwart the result.

(f) The defendant has the burden of injecting the issue of justification under this section.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Regulations and procedures should provide strong and direct support to teachers and administrators in such topics as:

B. Corporal punishment

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

B. Corporal Punishment.

1. Corporal punishment is strictly prohibited in all phases of education.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Regulations and procedures should provide strong and direct support to teachers and administrators in such topics as:

K. Search and seizure

Student Policy Handbook. Section 23. Searching students.

Personal search of students will be made with caution and only when there is reasonable suspicion or belief that a student may be jeopardizing the health, safety or welfare of other students and personnel in the school or the welfare of the institution. The decision to search a student will be made by the school principal or his designated representative. In all instances of search of a student or in the seizure of illegal or dangerous materials from a student, it will be made in the presence of at least one adult witness. Students will not be allowed to search other students.

Searching Students or Student Lockers. It is legally permissible to search a student's desk or locker at any time, including routine searches, for prohibited items. Searching a student's person is subject to serious legal safeguards and must be approached with care. The following guidelines are generally applicable.

- A. A student may be searched with the student's permission.
- B. A student may be searched for weapons if there is cause to believe student is carrying a weapon. Cause should be defensible in court and should usually be related to a recent disorder involving weapons or to an immediate threat of danger reasonable cause.
- C. School personnel should call for the proper law enforcement agency to assist in dangerous situations.
- D. Students should not be searched by school personnel without permission, for non-threatening items which may pose threats to safety, welfare, health and/or order. If require a search for such items, the student's parents and/or legal guardians or proper law enforcement agency should be called to make the search.

Restraint and Seclusion

LAWS

A.S.C.A. § 46.3311. Use of force by persons with responsibility for care, discipline, or safety of others.

(a) The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1) the actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

(2) the force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme emotional distress.

(b) A warden or other authorized official of a jail, prison, or correctional facility may, in order to maintain order and discipline, use whatever physical force, is authorized by law, including deadly force.

(c) The use of physical force by an actor upon another person is justifiable when the actor is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the actor reasonably believes that that force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier; except, that deadly force may be used only when the actor reasonably believes it necessary to prevent death or serious physical injury.

(d) The use of physical force by an actor upon another person is justified when the actor is a physician or a person assisting at his direction: and

(1) the force is used for the purpose of administering a medically acceptable form of treatment which the actor reasonably believes to be adapted to promoting the physical or mental health of the patient; and

(2) the treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent on his behalf, or the treatment is administered in an emergency when the actor reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(e) The use of physical force by an actor upon another person is justifiable when the actor acts under the reasonable belief that:

(1) the other person is about to commit suicide or to inflict serious physical injury upon himself; and

(2) the force used is necessary to thwart the result.

(f) The defendant has the burden of injecting the issue of justification under this section.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Regulations and procedures should provide strong and direct support to teachers and administrators in such topics as:

- A. Classroom discipline
- B. Corporal punishment
- C. Detaining students
- D. Weapons and dangerous implements
- E. Drugs and alcoholic beverages
- G. Theft and extortion
- H. Destruction of property
- I. Disruption of school
- J. Physical and verbal assault
- K. Search and seizure

Students who violate discipline rules may be subject to suspension, expulsion, or other disciplinary action in accordance with the Territorial statutes. A positive approach to discipline will be practiced whenever possible.

[...] Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

D. Probation. A student may be placed on probation with the understanding that he must fulfill certain stipulated conditions agreed to by the student, the parents and the school. Failure to comply with the provisions of the probation may result in final suspension from school.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The law charges every teacher and principal with maintaining order and discipline among students and provides that students who do not comply with reasonable rules may be recommended for expulsion or other disciplinary action. Actions taken to control and correct undesirable student behavior should take individual circumstances into account, but must always be most concerned for the safety and educational welfare of all students. It is the principal's responsibility to take actions as necessary to protect other students and school personnel from dangerous or socially detrimental actions of students. When there is serious doubt, the student should be suspended until the matter is resolved. The following acts constitute dangerous or anti-social student behavior.

E. Immoral Conduct. Any student who commits or attempts to induce another student to commit an act or acts of immoral conduct that in the principal's judgment may be harmful to others or may bring discredit to the Department shall be suspended until suitable corrective action can be determined. If it appears that the law may have been violated, the student shall be referred to the proper law enforcement agency. After study of the problem, the student shall either be (1) readmitted or (2) continue on suspension with recommendation for further action.

G. Unlawful Drugs/Alcoholic Beverages. Any student who is found to possess, or to have used recently, or to have in any way encouraged the illegal use by another of any alcoholic beverages, narcotics, or drugs shall be suspended until the problem is investigated. If circumstances and/or tangible evidence cause suspicion that an

illegal act has been committed, the student shall be referred to the proper law enforcement agency. The suspension shall continue until it has been determined whether the student's attendance is a threat to the welfare of other students, at which time the student shall be either (1) readmitted to regular school pending clearance, or (2) continued on suspension and recommended for expulsion or other action.

H. Weapons.

1. Implements manufactured, used, or intended for use or on as weapons may not be carried at school way to or from school. Students found in possession of weapons shall immediately be referred to the appropriate law enforcement agency and suspended from school until a thorough investigation is made of the circumstances. Unless there is satisfactory evidence that the student's continued attendance will not be dangerous to other persons, expulsion proceedings shall be initiated.

2. The following items are specifically prohibited: snap-blade knives, non-closing knives, knives with blades, firearms, explosives including caps and firecrackers, "first loads," and "brass knuckles," chairs, iron bars, sling shots, metal cake cutters, water pistols (with chemicals) any form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such a shell, cartridge or bomb, and other objects capable of being used as weapons will be considered as such unless the circumstances indicate the contrary. All weapons, whether or not listed herein, are similarly prohibited. The use of any normally non-dangerous implement such as a stone, table fork, board, stick, or baseball bat as a weapon shall come under the provisions of this section.

Student Policy Handbook. Section 36. Athletic activities - Student safety.

[...] Any student found hurling objects at school buses at any time will be subjected to disciplinary actions and may result in indefinite suspension. [...]

Student Policy Handbook. Section 38. Care of school property.

[...] Students who cause damage to school property shall be subject to disciplinary action, and their parents or guardians shall be held responsible within the limits of the Territorial Statutes for restitution for such damage. [...]

Student Policy Handbook. Section 54. Safe and drug free policy.

All student enrolled in the Public School System are prohibited from participating in any activity relating to the unlawful manufacture, distribution, possession use and/or sale of illegal drugs at any time while on the school premises, or at any school sponsored activities.

[...] Students who engage in these activities prohibited above shall be subject to disciplinary action as defined in the Student Section, Section 23-G, will be suspended and/or expelled from school. Violators will be reported to the Department of Public Safety as required by law and may face prosecution.

Limitations or Conditions on Exclusionary Discipline

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

A. Classroom Discipline.

4. Disciplinary action should be taken as soon as possible and the student returned to the classroom, unless the behavior warrants a future conference or referral to an alternative program.

C. Detaining Students. Students are not to be deprived of instructional physical education or of necessary time to eat lunch, either for punishment or for special help. When it is necessary for students to make up time or receive special help, the teacher may request them to report before school in the

morning or detain them after school for not more than one hour. Anticipating the natural concern of parents for immediate student return to home, no student will be detained without prior notification. All students who have bus transportation, regardless of grade level, shall have the privilege of going home the first day to inform parents that they will be detained the following day or days.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

Actions taken to control and correct undesirable student behavior should take individual circumstances into account, but must always be most concerned for the safety and educational welfare of all students. It is the principal's responsibility to take actions as necessary to protect other students and school personnel from dangerous or socially detrimental actions of students. When there is serious doubt, the student should be suspended until the matter is resolved.

Student Policy Handbook. Section 25. Suspension, exemption, excluded, or expelled - Definitions.

The Department directs that no student be suspended, expelled, exempted, or excluded from school unless such action serves, in the best judgment of appropriate school authority, the welfare of the student or the welfare of other students, the school, or the Department. Definitions

1. Suspension shall mean the temporary removal of a student from school.
2. Exemption shall mean the release from the legal obligation to attend school by the student's voluntary withdrawal before completion of the secondary program.
3. Exclusion shall mean the temporary termination of enrollment because of reasons or conditions such that the student's continued enrollment would be detrimental to the student, to other students, or to the educational program.
4. Expulsion shall mean the termination of enrollment as the result of behavior so serious that future attendance in the regular schools is not contemplated.

Student Policy Handbook. Section 26. Student exclusion from school.

School expulsion can only be authorized by the Director of Education on the recommendation of the school principal and the Assistant Director of the Elementary or Secondary Division. Recommendations shall include sufficient documentation requesting the action.

- a. Review of Expulsion: Upon written request of the parent(s) or guardian(s), the administration will review any expulsion case in accordance with guidelines and limitations specified in approved administrative regulations and procedures. If action by the Director seems advisable, a recommendation will be made based on the findings of the review.
- b. Procedures shall be developed governing student dismissal and must comply with appropriate due process requirements and Territorial Statutes.

Due Process

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

A. Classroom Discipline.

1. Classroom discipline is largely a teacher responsibility and should, in most instances, be handled by the teacher.

2. If the teacher is confronted with a situation so serious that it should be brought to the principal's attention, or is confronted with a situation specified in the department's guidelines as unacceptable behavior, the teacher should refer the students involved to the principal or principal's designee.
3. A written report describing this incident must be sent to the office with the student within 24 hours thereafter. If the teacher desires a student-teacher-administrator conference, the teacher should so indicate in the written report. Every effort should be made to hold such conference immediately following the instructional period to determine the appropriate action.

Student Policy Handbook. Section 25. Suspension, exemption, excluded, or expelled - Definitions.

The Department directs that no student be suspended, expelled, exempted, or excluded from school unless such action serves, in the best judgment of appropriate school authority, the welfare of the student or the welfare of other students, the school, or the Department.

Definitions

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Student Policy Handbook. Section 27. Attendance - Checking, absences and excuses.

The Department requires that students enrolled in schools attend school regularly in accordance with the Territorial statutes. It is the position of the Department that the educational experiences lost during an absence from school are irretrievable as the interaction in the classroom setting can seldom be duplicated through makeup work. Students who have been absent three (3) or more consecutive school days shall be required to present to the school a written statement signed by the parent, legal guardian, or physician listing the reason for the absence. The determination of whether an absence will be excused or unexcused will be made by the principal. Students enrolled in grades nine through twelve who accumulate more than three unexcused absences or who accumulate more than twenty combined excused and unexcused absences may be excluded from all classes for the remainder of the semester in which these absences occur. No credits will be earned during that semester by any excluded student. Excuses are to be filed in the individual students' personal folders.

I. Hearing Process

To guarantee due process, any secondary student who has been absent more than the allowable number of times (excused or unexcused absences) will be notified by the school. The parent or legal guardian of the student will then be notified of pending exclusion proceedings. If the parent, legal guardian or student has reason to believe that there is an error in the attendance record or extenuating circumstances exist, a hearing may be requested. Such a request must be initiated by the parent, student, or legal guardian

within two school days after notification. The hearing will be conducted by a review panel established within each school and composed of a principal (designee) and school instructor(s). The student, parent or legal guardian may appear before the review panel and shall have the right to be represented by an attorney. During the hearing process, the instructors record book shall serve as the legal document of reference and will be used exclusively for determining both excused and unexcused absences. This review panel shall have the authority to recommend to the Principal that the attendance record of the student be corrected or that the student not be excluded from school. The final determination in all hearing proceedings, rests with the secondary school principal.

J. Makeup Work. After any absence, a student shall be required to initiate contact with school instructors to obtain appropriate makeup, work within two school days the absence. Teachers may use their discretion in providing makeup work for students who unexcused absence or who are truant. Once the contact has been made with the instructor(s), specific time interval allowed for homework completion will be determined by the instructor(s) directly following.

Student Policy Handbook. Section 52. Student grievances.

A grievance procedure shall be established by the Division of Student Information Systems & Services to offer recourse to students on matters that are not satisfactorily resolved at the school level. Examples shall include but not limited to grades, suspension, etc.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

A.S.C.A. § 46.4203. Unlawful use of weapons.

- (a) A person commits the crime of unlawful use of weapons if he knowingly:
- (1) carries concealed on or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use;
 - (2) sets a spring gun;
 - (3) discharges or shoots a firearm into an inhabitable structure, boat, aircraft, vehicle, or any building or structure used for the assembling of people;
 - (4) aims a firearm or projectile weapon at another person in an angry or threatening manner, or possesses a knife, firearm, blackjack, or any other weapon readily capable of lethal use with purpose to unlawfully use the weapon against another person;
 - (5) possesses or discharges a firearm or projectile weapon while intoxicated;
 - (6) discharges a firearm within 100 yards of any occupied school house, courthouse, or church building;
 - (7) discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any out-building; or
 - (8) carries a knife, firearm, blackjack, or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election district on any election day, or into any building owned or occupied by any agency of the federal government, territorial government, or political subdivision of them, or into any public assemblage of persons met for any lawful purpose.
- (b) Exemptions.
- (1) Paragraphs (a)(1), (3), (4), (6), (7) and (8) do not apply to or affect any of the following:
 - (A) peace officers, or any person summoned by these officers to assist in making arrests or preserving the peace while actually engaged in assisting the officer;
 - (B) wardens, superintendents and keepers of prisons, jails and other institutions for the detention of persons accused or convicted of crime;
 - (C) members of the armed forces while performing their official duty.
 - (2) Paragraph (a)(1) does not apply when the actor is transporting the weapons in a nonfunctioning state or when not readily accessible.
- (c) The defendant has the burden of injecting the issue of an exemption under subsection (b).
- (d) Unlawful use of weapons is a class D felony unless committed under paragraph (a)(5), (6), (7) or (8), then it is a class B misdemeanor.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Regulations and procedures should provide strong and direct support to teachers and administrators in such topics as:

- D. Weapons and dangerous implements.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

H. Weapons.

1. Implements manufactured, used, or intended for use or on as weapons may not be carried at school way to or from school. Students found in possession of weapons shall immediately be referred to the appropriate law enforcement agency and suspended from school until a thorough investigation is made of the circumstances. Unless there is satisfactory evidence that the student's continued attendance will not be dangerous to other persons, expulsion proceedings shall be initiated.
2. The following items are specifically prohibited: snap-blade knives, non-closing knives, knives with blades, firearms, explosives including caps and firecrackers, "first loads," and "brass knuckles," chairs, iron bars, sling shots, metal cake cutters, water pistols (with chemicals) any form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such a shell, cartridge or bomb, and other objects capable of being used as weapons will be considered as such unless the circumstances indicate the contrary. All weapons, whether or not listed herein, are similarly prohibited. The use of any normally non-dangerous implement such as a stone, table fork, board, stick, or baseball bat as a weapon shall come under the provisions of this section.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

- D. Repeated School Violations. A student shall not repeatedly fail to comply with directions of teachers, student teachers, substitute teachers, teacher aides, principals, or other authorized school personnel during any period of time when the student is properly under the authority of school personnel.

Chronic Absenteeism and Truancy

LAWS

A.S.C.A. § 16.0308. Truancy - Investigation - Notice to parents - Penalty.

- (a) The truant officer, when notified by any school official, shall investigate all cases of truancy or nonattendance at school.
- (b) If any parent fails to send any child under his control to some certified school, the truant officer shall, as soon as practicable after he is notified thereof, give notice to such person that such child shall be present at the proper public school on the day following receipt of such notice.
- (c) The truant officer, after giving notice to any person having control of any child not attending school, shall determine whether the notice has been complied with, and if not complied with, the truant officer shall thereupon make complaint against such person before the district court wherein the person resides.
- (d) Any person having control of a child who fails to comply with an order of the truant officer shall be fined not more than \$15, or confined in prison for not more than 1 month, or both.

REGULATIONS

Student Policy Handbook. Section 9. Truancy.

Territorial law mandates compulsory education for all children ages 5 to 18 inclusively, or from ECE through Grade 12, unless excused or excluded for good reason by the Director of Education. Nonattendance at the schools without legitimate reason constitutes truancy. Students suspected of being truant are to be referred to the School Principal for appropriate action. The current truancy law provides for prosecution of negligent parents/legal guardians.

Student Policy Handbook. Section 27. Attendance - Checking, absences and excuses.

The Department requires that students enrolled in schools attend school regularly in accordance with the Territorial statutes. It is the position of the Department that the educational experiences lost during an absence from school are irretrievable as the interaction in the classroom setting can seldom be duplicated through makeup work. Students who have been absent three (3) or more consecutive school days shall be required to present to the school a written statement signed by the parent, legal guardian, or physician listing the reason for the absence. The determination of whether an absence will be excused or unexcused will be made by the principal. Students enrolled in grades nine through twelve who accumulate more than three unexcused absences or who accumulate more than twenty combined excused and unexcused absences may be excluded from all classes for the remainder of the semester in which these absences occur. No credits will be earned during that semester by any excluded student. Excuses are to be filed in the individual students' personal folders.

A. Attendance-Checking.

Attendance shall be checked carefully in accordance with individual school practices. Students not accounted for shall be reported to the Principal so that a check can be made as to their whereabouts. Teachers must take daily attendance in their own classes and home-rooms. This is one responsibility that must not be delegated to a student. With the availability of today's technology, teachers are now required to enter student attendance into the Student Management System (SMS) the first 10 minutes of class. [Teachers who have selfcontained classrooms are to take daily attendance before instruction.

B. Cause of Absence.

Each school will include specific directions in the student handbook and/or procedures relative to the manner in which students will be readmitted to class subsequent to an absence. In all cases, schools will insist upon parental confirmation of the reason for absence and/or tardiness.

C. Classification of Absences.

The determination of the proper classification requires the exercise of judgment on the part of the teacher or principal. To support this judgment, the student or parent may be required to furnish reasonable evidence of the cause of absence. For example, although a statement of illness is ordinarily accepted, the statement may be challenged for good reason and the parent is required to obtain a statement from a physician. To insure uniformity in practice, the following classifications of absences shall be used:

1. Excused Absence for causes over which the student and parent had no control and absences for causes which are acceptable in the estimation of the principal.
2. Unexcused Absence for educationally unacceptable causes, or absence for which the reason has not been determined or verified.
3. Truant-Absence resulting from parent's failure or refusal to require a student's attendance for educationally unacceptable reasons; the student's failure or refusal to attend school when so directed

by the parent or school official; or the student's absence without official permission from school or class after arriving at school.

D. Responsibility for Work Missed During Absences.

Teachers shall provide an opportunity for student's makeup work missed because of an excused absence, and students shall be held accountable for the work. Teachers may use their discretion in providing makeup work for students who have an unexcused absence or who are truant.

The makeup work must be completed within a reasonable length of time. It should be communicated to students that classroom participation is an integral part of their total evaluation and will have a direct bearing on grades. The primary aim of attendance enforcement is to identify the cause of student absence and through the capacities of the principal, the Department or community agencies, remove the cause of absence so that the student may benefit from the educational opportunities afforded the student.

Substance Use

LAWS

A.S.C.A. § 13.1020. Prohibited actions.

(a) Except as authorized by the Director, it is unlawful for any person to deliver, dispense, distribute, possess with intent to deliver, dispense, or distribute, produce, or manufacture a controlled substance. In determining whether a controlled substance is possessed with intent to deliver, dispense, or distribute, a court should consider, in addition to all other logically relevant factors, the following:

- (1) statements by the owner or by anyone in control of the controlled substance:
- (2) the amount possessed and its consistency or inconsistency with personal use:
- (3) the presence of paraphernalia commonly used in preparing, packaging, or subdividing controlled substances for distribution, dispensing, or delivering; and or
- (4) the presence of apparent proceeds or records of distribution, dispensing, or delivering of controlled substances.

(b) Any person who violates this section is guilty of a crime, and upon conviction may be imprisoned for not more than 20 years, or fined not more than \$20,000, or both.

(c) Any person who violates this section by delivering, dispensing, distributing, producing, manufacturing or who attempts to deliver dispense, distribute, produce, or manufacture a controlled substance in any school or on any school campus in the Territory is guilty of a crime and upon conviction shall be imprisoned for a mandatory term of 10 years without the possibility of parole, and fined \$10,000.00.

A.S.C.A. § 13.1022. Possession of controlled substance unlawful.

(a) Except as authorized by the director, it is unlawful for a person to possess a controlled substance.

(b) A person who violates this section is guilty of a felony and shall be punished as follows:

- (1) for a first offense, a fine not less than \$5,000 and not more than \$20,000 or not less than 5 years and not more than 10 years in prison, or both;
- (2) for a second offense, a fine not less than \$20,000 and not more than \$30,000 or not less than 10 years and not more than 20 years in prison, or both; and
- (3) for a third offense, a fine not less than \$30,000 and not more than \$40,000 or not less than 15 years and not more than 30 years in prison, or both;

There shall be no parole for a conviction under this section.

(c) The above penalties are mandatory.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Regulations and procedures should provide strong and direct support to teachers and administrators in such topics as:

E. Drugs and alcoholic beverages.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

G. Unlawful Drugs/Alcoholic Beverages. Any student who is found to possess, or to have used recently, or to have in any way encouraged the illegal use by another of any alcoholic beverages, narcotics, or drugs shall be suspended until the problem is investigated. If circumstances and/or tangible evidence cause suspicion that an illegal act has been committed, the student shall be referred to the proper law enforcement agency. The suspension shall continue until it has been determined whether the students' attendance is a threat to the welfare of other students, at which time the student shall be either (1) readmitted to regular school pending clearance, or (2) continued on suspension and recommended for expulsion or other action.

Student Policy Handbook. Section 54. Safe and drug free policy.

All student enrolled in the Public School System are prohibited from participating in any activity relating to the unlawful manufacture, distribution, possession use and/or sale of illegal drugs at any time while on the school premises, or at any school sponsored activities. Any student found in violation of the compliance code on the use of alcohol and/or illegal drugs any time on school campus or while participating in school sponsored activities will be required to do the following:

A. Attend a parental/guardian conference with school authorities

B. Receive available school counseling services;

C. Enroll in rehabilitation programs and services offered by other government agencies. Students who engage in these activities prohibited above shall be subject to disciplinary action as defined in the Student Section, Section 23-G, will be suspended and/or expelled from school. Violators will be reported to the Department of Public Safety as required by law and may face prosecution.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

A. Bullying: A student shall not intimidate, harass, or bully another student through the use of words or actions. Behavior includes direct physical contact such as hitting or shoving, verbal assaults such as teasing or name-calling, and/or social manipulation or isolation. The Department expects students and staff to immediately report any incidents of bullying to the principal. Staff who witness such acts shall take immediate steps to intervene. This policy applies to students on school campus or off campus, while traveling to and from school, or during lunch period or a school sponsored activity. Students in violation of bullying are subject to disciplinary action and may lead to suspension.

Student Policy Handbook. Section 55. Use of technology.

Acceptable Use of Information Technology: By accessing ASDOE's Technology Resources and Services, user accepts without limitation or qualification the terms and conditions of these standards. In addition, ASDOE employees are required to sign the agreement provided before accessing any Technology Resources or Services.

3. Technology products, devices, services and use shall conform to ASDOE policies/directives.

e) Students must be instructed on appropriate behavior when utilizing the ASDOE technology resources, especially online or web content. Instructions for appropriate use of social networking websites, chat rooms, cyberbullying awareness and response must be included in the instruction to students.

Cyberbullying is bullying that takes place using electronic technology. Examples of cyberbullying include mean text messages or emails, rumors sent by email or posted on social networking sites, embarrassing pictures, videos, websites, or fake profiles. Messages and images can be posted anonymously and distributed quickly to a wide audience through the social media. Students are to refrain from such actions and behaviors. Should cyberbullying happens, it is important to document and report the behavior/student so it can be addressed.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

No relevant laws found.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

Each school principal will follow disciplinary procedures in accordance with those established by the Department. The principal, when feasible, will involve school staff and the parent organization, if any.

A. Classroom Discipline.

1. Classroom discipline is largely a teacher responsibility and should, in most instances, be handled by the teacher.
2. If the teacher is confronted with a situation so serious that it should be brought to the principal's attention, or is confronted with a situation specified in the department's guidelines as unacceptable behavior, the teacher should refer the students involved to the principal or principal's designee.
3. A written report describing this incident must be sent to the office with the student within 24 hours thereafter. If the teacher desires a student-teacher-administrator conference, the teacher should so indicate in the written report. Every effort should be made to hold such conference immediately following the instructional period to determine the appropriate action.
4. Disciplinary action should be taken as soon as possible and the student returned to the classroom, unless the behavior warrants a future conference or referral to an alternative program.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The law charges every teacher and principal with maintaining order and discipline among students and provides that students who do not comply with reasonable rules may be recommended for expulsion or other disciplinary action. The following acts constitute dangerous or anti-social student behavior.

A. Bullying: A student shall not intimidate, harass, or bully another student through the use of words or actions. Behavior includes direct physical contact such as hitting or shoving, verbal assaults such as teasing or name-calling, and/or social manipulation or isolation. The Department expects students and staff to immediately report any incidents of bullying to the principal. Staff who witness such acts shall take immediate steps to intervene. This policy applies to students on school campus or off campus, while traveling to and from school, or during lunch period or a school sponsored activity. Students in violation of bullying are subject to disciplinary action and may lead to suspension.

F. Theft, Loss, or Destruction of School and/or Private Property. A student shall not intentionally cause or attempt to cause substantial damage or attempt to steal school or private property. Students and their parents shall be held responsible within the limits of the law for restitution for damage to Department property. Parents and students are responsible for instructional supplies and materials owned to students. Students responsible for minor damage may be dealt with by the principal in the manner judged most suitable, followed by a report to the appropriate Assistant Director. In the event the student or guardian refuses to make the proper restitution voluntarily, a full re-port of the case shall be referred to the appropriate Assistant Director and Deputy Director who shall seek advice and assistance of the Director of Education in making recovery.

Student Policy Handbook. Section 55. Use of technology.

Acceptable Use of Information Technology: By accessing ASDOE's Technology Resources and Services, user accepts without limitation or qualification the terms and conditions of these standards. In addition, ASDOE employees are required to sign the agreement provided before accessing any Technology Resources or Services.

3. Technology products, devices, services and use shall conform to ASDOE policies/directives.
 - e) Students must be instructed on appropriate behavior when utilizing the ASDOE technology resources, especially online or web content. Instructions for appropriate use of social networking websites, chat rooms, cyberbullying awareness and response must be included in the instruction to students.

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Parental Notification

LAWS

A.S.C.A. § 16.0308. Truancy - Investigation - Notice to parents - Penalty.

- (a) The truant officer, when notified by any school official, shall investigate all cases of truancy or nonattendance at school.
- (b) If any parent fails to send any child under his control to some certified school, the truant officer shall, as soon as practicable after he is notified thereof, give notice to such person that such child shall be present at the proper public school on the day following receipt of such notice.
- (c) The truant officer, after giving notice to any person having control of any child not attending school, shall determine whether the notice has been complied with, and if not complied with, the truant officer shall thereupon make complaint against such person before the district court wherein the person resides.
- (d) Any person having control of a child who fails to comply with an order of the truant officer shall be fined not more than \$15, or confined in prison for not more than 1 month, or both.

REGULATIONS

Student Policy Handbook. Section 21. Cooperation with police officers.

The interviewing of school students on campus by police officers will be conducted only in the presence of the school principal or his appointed representative. Parents need to be informed their child is being interviewed as soon as possible. Should the police official attempt to remove the student from campus, he should be allowed to do so only if he has written permission from a parent or has legal warrant for the student's arrest.

Student Policy Handbook. Section 27. Attendance - Checking, absences and excuses.

G. Communication from Parents.

Within two school days after any absence, a student shall be required to present to the school a written statement signed by the parent, legal guardian, or physician who lists the reason for the absence. Noncompliance will result in the absence being considered unexcused.

H. Student Exclusion and Communication to Parents.

When a student has been absent the maximum number of times during a semester, the student may be excluded from attendance for the remainder of that school semester and no academic credit may be earned during this time period. Prior to exclusion, either for excused or unexcused absences, the parent, legal guardian, and student will be notified, in writing, of the attendance record through notices mailed to the recorded residence of the student. These notices will be mailed after the second and fifth unexcused absences. Notices for all other absences will be mailed after the fifth, ninth, fifteenth, and eighteenth total absences. Schools are required to conduct parent conferences whenever excessive absenteeism is identified. A parent conference must be scheduled after the third absence.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

A.S.C.A. § 16.0308. Truancy - Investigation - Notice to parents - Penalty.

- (a) The truant officer, when notified by any school official, shall investigate all cases of truancy or nonattendance at school.
- (b) If any parent fails to send any child under his control to some certified school, the truant officer shall, as soon as practicable after he is notified thereof, give notice to such person that such child shall be present at the proper public school on the day following receipt of such notice.
- (c) The truant officer, after giving notice to any person having control of any child not attending school, shall determine whether the notice has been complied with, and if not complied with, the truant officer shall thereupon make complaint against such person before the district court wherein the person resides.
- (d) Any person having control of a child who fails to comply with an order of the truant officer shall be fined not more than \$15, or confined in prison for not more than 1 month, or both.

REGULATIONS

Student Policy Handbook. Section 20. Student discipline - Cooperation with law enforcement.

The Department will cooperate with other agencies whose objectives are to promote the mental and physical well-being of youths. As permitted by law, appropriate information shall be furnished to law enforcement agencies and cooperation given in apprehending law violators. The Department assumes the responsibility for the supervision of children while in school or engaged in school sponsored activities, but will not supervise youth activities not sponsored by the schools. Appropriate action for those students who deviate from expected and desired behavior will be provided.

E. Court Referrals. A student who has committed an act in violation of the law should be referred to law enforcement or legal authorities for disposition of the case.

Student Policy Handbook. Section 21. Cooperation with police officers.

The interviewing of school students on campus by police officers will be conducted only in the presence of the school principal or his appointed representative. Parents need to be informed their child is being interviewed as soon as possible. Should the police official attempt to remove the student from campus, he should be allowed to do so only if he has written permission from a parent or has legal warrant for the student's arrest.

Student Policy Handbook. Section 22. Control of dangerous and anti-social behavior - Bullying.

The following acts constitute dangerous or anti-social student behavior.

E. Immoral Conduct. Any student who commits or attempts to induce another student to commit an act or acts of immoral conduct that in the principal's judgment may be harmful to others or may bring discredit to the Department shall be suspended until suitable corrective action can be determined. If it appears that the law may have been violated, the student shall be referred to the proper law enforcement agency. After study of the problem, the student shall either be (1) readmitted or (2) continue on suspension with recommendation for further action.

G. Unlawful Drugs/Alcoholic Beverages. Any student who is found to possess, or to have used recently, or to have in any way encouraged the illegal use by another of any alcoholic beverages, narcotics, or

drugs shall be suspended until the problem is investigated. If circumstances and/or tangible evidence cause suspicion that an illegal act has been committed, the student shall be referred to the proper law enforcement agency. The suspension shall continue until it has been determined whether the student's attendance is a threat to the welfare of other students, at which time the student shall be either (1) readmitted to regular school pending clearance, or (2) continued on suspension and recommended for expulsion or other action.

H. Weapons.

1. Implements manufactured, used, or intended for use or on as weapons may not be carried at school way to or from school. Students found in possession of weapons shall immediately be referred to the appropriate law enforcement agency and suspended from school until a thorough investigation is made of the circumstances. Unless there is satisfactory evidence that the student's continued attendance will not be dangerous to other persons, expulsion proceedings shall be initiated.

2. The following items are specifically prohibited: snap-blade knives, non-closing knives, knives with blades, firearms, explosives including caps and firecrackers, "first loads," and "brass knuckles," chairs, iron bars, sling shots, metal cake cutters, water pistols (with chemicals) any form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such a shell, cartridge or bomb, and other objects capable of being used as weapons will be considered as such unless the circumstances indicate the contrary. All weapons, whether or not listed herein, are similarly prohibited. The use of any normally non-dangerous implement such as a stone, table fork, board, stick, or baseball bat as a weapon shall come under the provisions of this section.

Student Policy Handbook. Section 23. Searching students.

Searching Students or Student Lockers. It is legally permissible to search a student's desk or locker at any time, including routine searches, for prohibited items. Searching a student's person is subject to serious legal safeguards and must be approached with care. The following guidelines are generally applicable.

C. School personnel should call for the proper law enforcement agency to assist in dangerous situations.

Student Policy Handbook. Section 54. Safe and drug free policy.

All student enrolled in the Public School System are prohibited from participating in any activity relating to the unlawful manufacture, distribution, possession use and/or sale of illegal drugs at any time while on the school premises, or at any school sponsored activities. [...]

Students who engage in these activities prohibited above shall be subject to disciplinary action as defined in the Student Section, Section 23-G, will be suspended and/or expelled from school. Violators will be reported to the Department of Public Safety as required by law and may face prosecution.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by American Samoa provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Guidance & Counseling, American Samoa Department of Education (ASDOE)	Provides an overview of the Guidance and Counseling office and addresses school climate and safety including the student success and safety program.	https://www.doe.as/District/Department/12-Secondary-Office/Portal/guidance-counseling
<i>Documents</i>		
No relevant resources found.		
<i>Other Resources</i>		
Testing, Evaluation, and Accountability, ASDOE	Annual territorial and school performance reports.	https://www.doe.as/District/Department/16-TESTING-EVALUATION-ACCOUNTABILITY/Portal/territorial-school-performance-reports



Guam Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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§ 8107. Marshal; appointment of special deputies

§ 8108. Special deputy marshal; duties, compensation

Title 9. Crimes and Corrections

Chapter 71. The Guam Gun-Free School Zone Act of 2004

§ 71.10. Title

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- § 6402. Habitual truant
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Guam Regulations

Board Policies

d. Student Conduct (400-473)

- 400. Code of conduct
- 405. Student suspension expulsion
- 407. Student searches and seizures
- 409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment
- 410. Corporal punishment
- 411. Attendance
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- 430. Smoking and possession of tobacco products
- 472. School crime stoppers program

h. Community Relations (800-836)

- 810. Cooperation with law enforcement authorities

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 3102.1. Duties of the Guam education board.

The Guam Education Board shall be responsible for all policies that govern the Department of Education (hereinafter "Department"). The Board shall have the authority to delegate such of its powers as it may deem appropriate, but shall retain the ultimate responsibility for the exercise of its powers.

The Board, among other duties, shall perform the following in accordance with applicable law:

- (j) establish student discipline policy.

§ 3112.1. Same: Policy against bullying.

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

§ 6409. Authority for suspension or expulsion of pupils.

The Superintendent shall determine by regulation the grounds for suspension or expulsion of pupils from school, and the procedure whereby such suspension or expulsion is determined.

- (a) Such regulation shall include grounds for suspensions or expulsions, length of suspensions and the procedures for review of suspension or expulsion orders.
- (b) In adopting the regulation establishing procedures for suspending or expelling pupils, the Superintendent shall follow the guidelines established therefore by local and Federal laws and regulations.
- (c) Such hearings and procedures as are established by the Superintendent pursuant to this Article shall provide any pupil against whom suspension or expulsion procedures are initiated with due process of law.
- (d) Such procedures are exempt from the provisions of Chapter 9 of Title 5 of the Guam Code Annotated, Administrative Adjudication Law.

§ 6410. Student discipline advisory councils.

In carrying out the provision of § 6409, the Superintendent may authorize the creation of a Student Discipline Advisory Council for each elementary and secondary school. Such Councils shall be given the power to establish standards of student behavior, and shall have authority to hear charges of violations of such standards, and to recommend appropriate disciplinary action to the principal. The procedure for expelling pupils shall require that before expulsion, the accused pupil be given a hearing before the Student Discipline Advisory Council of the student's school, if such exists.

REGULATIONS

400. Code of conduct.

Each principal shall establish rules and regulations concerning the conduct of students consistent with positive behavior supports, policies of the Board, and the Student Conduct Procedural Manual.

Scope

LAWS

§ 3112.1. Same: Policy against bullying.

(a) As used in this Section:

(1) "At school" means in a classroom, elsewhere on or within school fences or at a school-sponsored activity or event whether or not it is held on school premises.

(2) "Harassment, intimidation, or bullying" means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. "Harassment, intimidation, or bullying" includes, but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(3) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(1) A statement prohibiting "harassment, intimidation, or bullying" and "cyberbullying" of a pupil.

(2) A definition of "harassment, intimidation, or bullying" and "cyberbullying" that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

(4) Consequences and appropriate remedial action for a person who commits an act of "harassment, intimidation, or bullying" and "cyberbullying".

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of "harassment, intimidation, or bullying" and "cyberbullying" is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of "harassment, intimidation, or bullying" and "cyberbullying", and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of "harassment, intimidation, or bullying" and "cyberbullying".

- (10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities.
- (11) A school employee, pupil, or volunteer shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of "harassment, intimidation, or bullying" and "cyberbullying".
- (12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to "harassment, intimidation, or bullying" and "cyberbullying", whether verbal or physical, shall report the incident to the appropriate school official designated by the Board policy.
- (13) A school employee who promptly reports an incident of "harassment, intimidation, or bullying" and "cyberbullying" to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" is not liable for damages arising from any failure to remedy the reported incident.
- (d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.
- (e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.
- (f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.
- (g) Each school shall do all of the following:
- (1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and
 - (2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.
- (h) A school shall incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.
- (i) This Section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does not create or alter any tort liability.
- (j) The Board shall establish rules for appropriate disciplinary action for the Department of Education personnel who do not comply with the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying".
- (k) "harassment, intimidation, or bullying" and "cyberbullying" are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law.

§ 5114. Same: Maintenance of discipline.

Every teacher in the public schools shall hold pupils to strict account for their conduct while on the school premises and when on authorized off-campus school activities.

REGULATIONS

405. Student suspension expulsion.

I. Introduction

The following policy shall be observed for suspensions and expulsion of students in the

public schools. Officials should use the least amount of discipline necessary under the circumstances to correct a student and to protect the school's educational environment.

IV. Jurisdiction:

Students are subject to suspension or expulsion for misconduct committed:

- A. At any time or place on the school campus;
- B. At any school activity, wherever located;
- C. Off-campus at any time if the misconduct interferes directly with the educational mission of the school
- D. In any circumstances establishing that the student's continued presence in the school constitutes a threat to others (e.g., a student who is charged with murder outside of school).

and any student who has not reached the age of 16 years.

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct. Whereas, it is the Board's intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

II. Coverage

This policy governs all students within the jurisdiction of DOE and is intended to prohibit bullying, cyberbullying, sexting and sexual harassment in the public school system. The term "at school" is defined in 17 GCA Section 3112.1 that states (a) "'at school' means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official bus stop, or at a school-sponsored activity or event whether or not it is held on school premises."

Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

430. Smoking and possession of tobacco products.

The Board of Education, in consideration of the health and safety of students within the school system, believes that a total ban on student smoking and possession of tobacco products within the school campus would be in the best interest of our school children. It is the policy of this Board that smoking and possession of tobacco products by all public school students is strictly prohibited at all times on any school property, in all school buses and at school activities, both on and off-campus. It is also the policy of the Board that smoking by adults is strictly prohibited on campus in any areas accessible to students. Note: for the purposes of this policy, electronic cigarettes, vapor pens, hookah related products and all other nicotine products or substitutes are included under the category of tobacco products.

Communication of Policy

LAWS

§ 3112.1. Same: Policy against bullying.

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but

shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities. [...]

(d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.

(e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.

(f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.

(g) Each school shall do all of the following:

(1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and

(2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.

(h) A school shall incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.

REGULATIONS

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

IV. Prevention against harassment, intimidation, bullying, sexting and sexual harassment

A. Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members.

B. All schools shall include the provisions of this policy in their student handbook.

C. Each school will be responsible for teaching behavioral expectations to their students in their respective school communities. Each school shall develop a process for discussing harassment, intimidation, or bullying policy with pupils as part of the curriculum.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

410. Corporal punishment.

The Department of Education does not condone or use corporal punishment.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

407. Student searches and seizures.

The Superintendent shall establish and implement standard operating procedures for student searches and seizures. The type and number of searches conducted on each campus, and the results of those searches, shall be reported to the Board annually.

420. Control of unauthorized drugs and alcoholic beverages.

Introduction

The following guidelines are issued to provide direction to school administrators regarding suspected or actual possession, use, and distribution of illegal drugs, unauthorized medication, and alcoholic beverages by students of the Department of Education. Refer to the policy of the Territorial Board of Education on medication for guidance on the authorized possession and use of medication by students.

Suspicion That Students Are in Possession of Unauthorized Drugs or Alcoholic Beverages

School administrators are authorized to conduct searches of students, their possessions, and their lockers whenever they have reasonable suspicion that the students are in possession of unauthorized medications, illegal drugs, or alcoholic beverages. However, school administrators must conduct their searches within the legal parameters allowed by the appendix of this policy.

School administrators may take appropriate corrective or disciplinary action against students who are discovered to in be possession of unauthorized medications, illegal drugs, or alcoholic beverages as a result of properly conducted searches.

Restraint and Seclusion

LAWS

§ 82610. Seclusion and restraint policy.

The Government of Guam's use of restraint or seclusion shall be strictly limited to emergencies when there is imminent risk of an individual physically harming himself or others and nonphysical intervention is

not effective. This Section applies to all direct care providers within Government of Guam agencies and agents and employees of the Government of Guam who provide services to persons with mental difficulties, behavioral difficulties and developmental disabilities, but not the Department of Corrections and Guam Police Department. Direct care providers means personnel working with persons with mental difficulties, behavioral difficulties and developmental disabilities who are subject to a behavior plan, individualized educational plan or a similar plan.

(a) Training Program. An agency employing direct care providers shall provide a minimum of sixteen (16) hours to newly hired providers and annual follow-up training at a minimum of eight (8) hours. The training shall instruct providers in the following:

- (1) reducing the use of seclusion and restraint through risk assessment and early intervention, which includes nonphysical intervention;
- (2) needs and behaviors of the population served (e.g. age, gender, adults, or children);
- (3) relationship building;
- (4) proper and permissible techniques for seclusion, physical holds and chemical restraints for the population served, including risks versus benefits;
- (5) preventive techniques for restraint and seclusion, including a safe and calm physical environment;
- (6) positive alternatives to restraint and seclusion;
- (7) de-escalation methods;
- (8) avoidance of power struggles;
- (9) thresholds for restraints and seclusion;
- (10) the physiological and psychological impact of restraint and seclusion;
- (11) monitoring physical signs of distress and obtaining medical assistance;
- (12) legal issues;
- (13) positional asphyxia;
- (14) escape and evasion techniques;
- (15) time limits;
- (16) the process for obtaining approval for continued restraints;
- (17) procedures to address problematic restraints;
- (18) documentation of restraints and seclusion;
- (19) debriefing after the use of restraints and seclusion with the client or student, the client's or student's family member, or authorized representative, as well as staff members; and
- (20) processing with clients or students, and follow-up with personnel, and investigation of injuries and complaints.

(b) Reporting Requirements. Direct care providers shall document the use of every restraint defined in §§ 82101(h) and 82101(i), Article 1, Chapter 82, Title 10 GCA on an incident report. Any injury as a result of restraint or seclusion shall be reported immediately to professional staff, Guam Behavioral Health and Wellness Center, Department of Public Health and Social Services, and the territorial protection and advocacy office or its successor.

Government of Guam agencies and agents and employees of the government of Guam who provide services to persons with mental difficulties, behavioral difficulties and developmental disabilities shall report all deaths and severe injuries to Guam Behavioral Health and Wellness Center, Department of Integrated Services for Individuals with Disabilities, and the territorial protection and advocacy office or its successor. Each agency shall maintain and update a list of all deaths, severe injuries, and the frequency

of its facility's use of seclusion and restraint on an annual basis and shall post the same on its website with a proper regard for client and student confidentiality.

(c) Prohibited Acts.

(1) seclusion is prohibited in school settings;

(2) chemical restraint is prohibited unless prescribed by a physician who specifies the duration and circumstances under which the restraints are to be used, and shall be indicated in a client or student's individualized treatment plan.

(3) a physical restraint or containment technique that obstructs a person's respiratory airway or impairs the person's breathing or respiratory capacity, including techniques in which a staff member places pressure on a person's back or places his or her body weight against the person's torso or back is prohibited.

(4) a pillow, blanket, or other item covering the person's face as part of a physical or mechanical restraint or containment process is prohibited.

(5) prone restraint on a person at risk for positional asphyxiation as a result of one of the following risk factors that are known to the personnel is prohibited:

(A) obesity;

(B) pregnancy;

(C) agitated delirium or excited delirium syndromes;

(D) cocaine, methamphetamine, or alcohol intoxication;

(E) exposure to pepper spray;

(F) preexisting heart disease, including, but not limited to, an enlarged heart or other cardiovascular disorders; and/or

(G) respiratory conditions, including emphysema, bronchitis, or asthma.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

No relevant laws found.

REGULATIONS

425. Dangerous weapons.

Any student, while at a school site or riding on a school bus is found possessing an instrument which the Principal or his designee determines to be a deadly weapon shall be suspended immediately and a complete investigation shall be conducted. If it is determined that possession of an instrument is illegal under the laws of Guam, or if the student threatens or attacks another person with it on campus or at a school related activity, the student shall be referred to the Guam Police Department and dealt with according to the provisions of Board Policy 405.

If the weapon is determined to be a firearm, upon an adjudication of guilt made pursuant to the provisions of Board Policy 405, the student must be expelled from a regular school setting for a minimum of one year. The Director of Education may, upon a showing that such expulsion violates other legal rights of the student, modify this sanction. The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily convert to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

The term "destructive device" means-

(A) any explosive, incendiary, or poison gas -

- (i) bomb
- (ii) grenade
- (iii) rocket having a propellant charge of more than four ounces
- (iv) missile having an explosive or incendiary charge of more than one-quarter ounce
- (v) mine, or
- (vi) device similar to any of the devices described in the preceding clauses

(B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter, and (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in (A) or (B) and from which a destructive device may be readily assembled.

Limitations or Conditions on Exclusionary Discipline

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Due Process

LAWS

§ 6409. Authority for suspension or expulsion of pupils.

The Superintendent shall determine by regulation the grounds for suspension or expulsion of pupils from school, and the procedure whereby such suspension or expulsion is determined.

(a) Such regulation shall include grounds for suspensions or expulsions, length of suspensions and the procedures for review of suspension or expulsion orders.

(b) In adopting the regulation establishing procedures for suspending or expelling pupils, the Superintendent shall follow the guidelines established therefore by local and Federal laws and regulations.

(c) Such hearings and procedures as are established by the Superintendent pursuant to this Article shall provide any pupil against whom suspension or expulsion procedures are initiated with due process of law.

(d) Such procedures are exempt from the provisions of Chapter 9 of Title 5 of the Guam Code Annotated, Administrative Adjudication Law.

§ 6410. Student discipline advisory councils.

In carrying out the provision of § 6409, the Superintendent may authorize the creation of a Student Discipline Advisory Council for each elementary and secondary school. Such Councils shall be given the power to establish standards of student behavior, and shall have authority to hear charges of violations of such standards, and to recommend appropriate disciplinary action to the principal. The procedure for expelling pupils shall require that before expulsion, the accused pupil be given a hearing before the Student Discipline Advisory Council of the student's school, if such exists.

REGULATIONS

405. Student suspension expulsion.

II. Definitions

C. Due Process - An established course for judicial proceedings or other governmental activities designed to safeguard the legal rights of the individual. [...]

V. Standard process for administering behavioral citations, interventions/consequences and/or adjudications

E. Any student suspended from any school shall not be accepted into a DOE school, until such time a due process review has been provided to the student and the consequences or conditions as stipulated have been met.

VI. Discipline advisory council (DAC):

A. Each school shall have a Disciplinary Advisory Council, DAC. The Council shall have the power to advise the School Principal/Assistant Principal in establishing and amending student conduct regulations for the school. The Council shall also conduct a hearing regarding suspensions exceeding ten (10) school days alternate placements, expulsions and/or referral to another agency.

B. In regard to proposed suspensions, the Council shall, after hearing, make the actual decision, subject only to revocation of the suspension by the Superintendent of Education as provided below. In regards to proposed expulsions, the Council shall, after a hearing, make a recommendation to the Superintendent of Education. [...]

VI. Expulsions:

A. School Principals or Assistant Principals have the authority to seek the expulsion of students in order to ensure the safety of all students by initiating a DAC Hearing and following the procedures set forth in the standard operating procedures.

B. Once a Discipline Advisory Council has completed a hearing, the Council shall make written findings and a recommendation to the Superintendent of Education for the sanction of expulsion.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

405. Student suspension expulsion.

VI. Expulsions:

- A. School Principals or Assistant Principals have the authority to seek the expulsion of students in order to ensure the safety of all students by initiating a DAC Hearing and following the procedures set forth in the standard operating procedures.
- B. Once a Discipline Advisory Council has completed a hearing, the Council shall make written findings and a recommendation to the Superintendent of Education for the sanction of expulsion.
- C. Grounds for Expulsion shall be consistent with those listed in Standard Operating Procedure 1200-018: Student Conduct Procedural Manual.
- D. Applicability of sanctions:
 1. Any student of expelled from any school shall not be accepted into a DOE school, until such time that the student receives approval to return from the Superintendent of Education.
 2. The length of expulsion shall be determined by the Superintendent of Education in accordance with the standard operating procedure governing student conduct.
 3. Students of compulsory age will be provided an alternative educational placement, if in existence, the expulsion is upheld by the Discipline Advisory Council and the Superintendent.

Alternative Placements

LAWS

§ 42101. Definitions.

As used in this Chapter:

- (a) student means a student enrolled or accepted for enrollment in an alternative education program;
- (b) alternative education program or program means a wide ranging system of alternative programs significantly different from the conventional curricula of the public secondary school system which is open to students on an optional basis.

§ 42102. Organization.

The Territorial Board of Education shall promulgate policies, rules and regulations governing the alternative education program.

§ 42103. Curriculum.

The alternative education program shall consist of a curriculum that would permit those students who do not profit from the conventional classroom program to pursue studies that would permit completion of basic life skills, career guidance, including work experience which would take into consideration an open entry-open exit procedure for enrolling and discharging students.

§ 42104. Enrollment and withdrawal.

Students may enroll in the alternative education program at the beginning of an academic period and may withdraw from the program only at the end of said period. A student shall be admitted to the program:

- (1) at the request of the student and his parents;
- (2) at the request of at least three (3) of the student's teachers with the consent of the student's guidance counselor, principal and the student himself and the student's parents;

(3) at the request of the administrator of the Pupil Personnel Office of the department with the consent of the student and his parents; and

(4) at the direction of a judge of the Superior Court.

§ 42105. Community involvement.

The Territorial Board of Education shall endeavor to obtain the participation of the community as a major part of the alternative education program. This participation shall consist among other things, utilization of community resources in employment, and on-the-job training, and the use of parents, professionals, technicians, clergy, government leaders and other talented members of the community of teachers or resource personnel in the education and training of students in the program.

§ 42106. Designation.

The Territorial Board of Education shall designate the school(s) for the implementation of the alternative education program.

§ 42107. Funding.

The Territorial Board of Education shall prepare a budget for implementation of the alternative education program and submit same to the Legislature no later than six (6) months before the beginning of each academic year.

§ 42108. Screening committee.

Each school authorized to establish a program shall have a screening committee to assist the program staff in determining the eligibility of students referred for enrollment in the program. Members of such committee shall be appointed by the principal of the participating school.

§ 42109. Credits and certification.

The joint board shall establish policies on credits and certification requirements for the program. Such policies shall include credits to be earned for each course or combination of courses and work experience. Credits earned in the program may be applied to the requirements for graduation from the traditional high school course for students who withdraw from the program.

§ 42110. Certificates for graduating students.

The joint board shall adopt a certification standard which awards the student for competencies acquired through the program. Such certification shall state the student's employability in an occupational area or the obtaining of credentials required for acceptance in a more advanced educational or technical program.

REGULATIONS

405. Student suspension expulsion.

V. Alternative Education (Alternative School):

An alternative education shall be provided for a student of compulsory attendance age that has been expelled. This placement, as recommended by the Council, shall be the responsibility of, and coordinated by, the School Principal or Assistant Principal of the school from which the student has been suspended, for more than ten (10) days. The Superintendent of Education may provide alternative education for students over the compulsory attendance age in consideration of the welfare of the student, parent(s), and community. [...]

D. Applicability of Sanctions:

1. Any student of expelled from any school shall not be accepted into a DOE school, until such time that the student receives approval to return from the Superintendent of Education.
2. The length of expulsion shall be determined by the Superintendent of Education in accordance with the standard operating procedure governing student conduct.
3. Students of compulsory age will be provided an alternative educational placement, if in existence, the expulsion is upheld by the Discipline Advisory Council and the Superintendent.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 71.10. Title.

This Chapter shall be known, and may be cited, as The Guam Gun-Free School Zone Act of 2004".

§ 71.20. Definitions.

As used in this Chapter, the following definitions shall apply:

- (a) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in early childhood, kindergarten or grades 1 to 12, inclusive.
- (b) "Firearm" shall mean as defined in 10 GCA § 60100.
- (c) "Concealed firearm" shall mean as defined in 9 GCA § 60108(e).

§ 71.30. Persons not allowed to possess firearms.

Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (a) of Subdivision § 71.20, shall be punished as specified in Subdivision § 71.60.

§ 71.40. Prohibition on discharge of firearm.

It shall be unlawful for any person to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (a) of Subdivision § 71.20. The prohibition contained in this Subdivision does not apply to the discharge of a firearm if the firearm is discharged in an area that is designated as a shooting range at a University or College.

§ 71.60. Punishment.

Any person who violates § 71.30, § 71.40, or § 71.50 of this Act shall be guilty of a felony of the third degree and any person who is convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50 shall be sentenced as follows:

- (a) For a first offense, the Court shall impose a sentence of imprisonment of no more than three (3) years, a fine of not less than One Thousand Dollars (\$ 1,000.00), and mandatory community service of no less than one hundred and fifty (150) hours.
- (b) In cases where the person has been convicted of felonies under any provision of this Chapter, the person shall be sentenced to a term of imprisonment which shall not be less than five (5) years and in addition, may be fined not more than Fifteen Thousand Dollars (\$ 15,000.00). The sentence, if for a term of years, shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended, and probation shall not be granted. Sentence in these cases must also include mandatory community service of no less than one hundred fifty (150) hours unless the term of imprisonment is for life.
- (c) The Court shall apply any minimum sentence, fine or community service specified in this Section, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment, fine or community service required in this Subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this Section, in which case the Court

shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

§ 71.70. What constitutes a loaded firearm.

For purposes of this Chapter, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

§ 71.80. Notice.

(a) The Department of Education and other entities covered by this Chapter shall post permanent signs with large visible lettering stating at a minimum, "Warning this is a Gun-Free Zone" at the main entrances of the covered facilities within their control on or before January 1, 2005. This Section does not require that notice be posted regarding the proscribed conduct for the purposes of prosecution of any violation of this Act.

(b) The Guam Police Department within sixty (60) days of the effective date of this Act shall implement a public relations campaign to inform the general public of its provisions.

§ 71.81. Not applicable to peace officers and military.

This Chapter does not apply to a duly appointed peace officer as defined in § 5.55, Article 2, Chapter 5, Title 8, Guam Code Annotated, a full-time paid peace officer of another state or the Federal government who is carrying out official duties while in Guam, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of Guam or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard engaged in the performance of his or her duties.

REGULATIONS

425. Dangerous weapons.

Any student, while at a school site or riding on a school bus is found possessing an instrument which the Principal or his designee determines to be a deadly weapon shall be suspended immediately and a complete investigation shall be conducted. If it is determined that possession of an instrument is illegal under the laws of Guam, or if the student threatens or attacks another person with it on campus or at a school related activity, the student shall be referred to the Guam Police Department and dealt with according to the provisions of Board Policy 405.

If the weapon is determined to be a firearm, upon an adjudication of guilt made pursuant to the provisions of Board Policy 405, the student must be expelled from a regular school setting for a minimum of one year. The Director of Education may, upon a showing that such expulsion violates other legal rights of the student, modify this sanction.

The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily convert to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

The term "destructive device" means-

- (A) any explosive, incendiary, or poison gas -
 - (i) bomb

- (ii) grenade
 - (iii) rocket having a propellant charge of more than four ounces
 - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce
 - (v) mine, or
 - (vi) device similar to any of the devices described in the preceding clauses
- (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter, and
- (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in (A) or (B) and from which a destructive device may be readily assembled.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

§ 6102. Duty to send children to school.

- (a) Any parent, guardian or other person having control or charge of any child who is at least five (5) years of age and has not reached the age of eighteen (18) years, not exempted under the provisions of this Article, shall send the child to a public or private full-time day school for the full-time of which such schools are in session, except that the starting date of school for children five (5) years of age shall be determined by the provisions of §§ 6103 and 6107 of this Article.
- (b) A student is exempted from the upper age requirement if the student graduates or obtains a General Educational Development (GED), prior to eighteen (18) years of age.
- (c) The Superintendent is authorized to establish attendance areas.
- (d) Any parent, guardian, or other person having control or charge of any such child who is at least five (5) years of age, and has not reached the age of eighteen (18) years, who fails to comply with the provisions of this Section, unless excused or exempted therefrom, is guilty of a violation for the first offense, and subject to perform one hundred (100) hours of community service at the school of the student. For each subsequent offense, the person is guilty of a petty misdemeanor.

§ 6401. Definitions.

As used in this Article:

- (a) "Board" means the Guam Education Policy Board.
- (b) "Parent" means the parent, guardian or other person who has the custody or responsibility for the care of the child.

(c) "Truant" means a pupil found to be absent from school without a reasonable and bona fide excuse from a parent.

(d) "Superintendent" refers to the Superintendent of Education.

§ 6402. Habitual truant.

A pupil is a habitual truant if the pupil has incurred twelve (12) or more unexcused absences in a school year, and is of compulsory attendance age. If any pupil is a habitual truant, the principal of the pupil's school shall request the Superintendent to file a petition concerning such habitual truant in the Family Court or the Superior Court of Guam.

§ 6403. Attendance Officer.

The Superintendent shall appoint employees of the Department of Education, as Attendance Officers. The Attendance Officers, any peace officer, principal, or dean may take into custody during school hours, without warrant, any truant found away from the truant's home and who has been reported truant. For the purposes of Title 10 GCA, Chapter 55, § 55102, Attendance Officers are not classified as public safety and law enforcement officers.

§ 6404. Same: Delivery of truant.

The attendance officer, upon taking a truant into custody, shall deliver the truant promptly either to the truant's parent or to the school which the pupil attends. If the child is a habitual truant, the attendance officer, with the concurrence of the principal of the pupil's school, shall bring the child before the Family Court.

§ 6405. Same: Disposition.

The attendance officer shall promptly report to the Department of Education and to the parent the disposition made by the attendance officer of the truant.

§ 6406. Report to court and social services.

Any pupil who has once been adjudged a habitual truant, or who is again reported as a truant one (1) or more days, or is late to school for thirty (30) or more minutes on one (1) or more days without excuse, shall be reported by the Superintendent or the attendance officer to the Family Court.

§ 6407. Court hearing.

If the Court, after hearing, finds that the allegations of habitual truancy are sustained by evidence, it may order that the child be detained and maintained in a school supervised by the Court for the remainder of the current school term, or it may order that the child be turned over to the custody of the Division of Social Services where the child shall be provided casework treatment and services.

REGULATIONS

411. Attendance.

There is a plethora of educational research that shows the strong relationship between student attendance and academic success. The Board acknowledges that students need to be in school and engaged in learning with their teachers and peers. Excessive absences or tardiness erode this understanding and may lead to incomplete and unsatisfactory work, a reduced capacity to meet curricular standards, and lower course grades. Parents/guardians are partners with the school and faculty ensuring that students attend and arrive in class on time every day of the school year. Therefore, parents shall inform the school immediately when a child does not attend school. School personnel and teachers (to include substitutes or other personnel covering classroom instruction) shall inform parents, as soon as

possible, but no later than the end of the school day when a child does not attend class. As partners in education, parents are expected to review their child's attendance, academics and social behavior on a daily basis using parent portal.

The Board acknowledges that academic achievement entails many components and those academic credentials should reflect more than just the product of quizzes, examinations, and papers. These alone do not adequately prepare students for the challenges awaiting them after graduation. An additional essential component of academic excellence is the development of good work habits necessary to successfully compete in an increasingly competitive work force. Attendance is the cornerstone for the development of such good work habits. The Board believes that the Department must place great emphasis on student attendance and do everything possible to ensure students come to school every day.

Students who are under the compulsory education age are required to attend school full-time, notwithstanding their inability to receive a passing grade in any course. A compulsory aged student who has incurred twelve (12) or more unexcused absences in a school year shall be referred to the Superintendent of Education. Pursuant to 17 GGA §6402, the Superintendent of Education has the explicate authority to review and approve all habitual truant petition to family court.

Upon enactment of this policy, the Superintendent shall establish uniform procedures across elementary, middle, and high schools for tracking student attendance. The Student Conduct Procedural Manual (SOP 1200-018) can be referenced to further clarify definitions and language addressed in this policy.

Substance Use

LAWS

§ 48000. Title.

This Chapter shall be known as the Drug Free School Zones Act.

§ 48001. Definitions.

Drug Free School Zone means any area within one thousand (1,000) feet of a public or private elementary, secondary or post secondary educational institution or its accompanying grounds; or within the vehicle of any school bus which transports students while in motion; or within two hundred fifty feet (250()) of any school bus not in motion or a designated school bus stop or shelter, including any school bus transfer station. Notwithstanding the provisions of this Section, a Drug Free School Zone shall not include private real property which is not a school or the accompanying grounds of a school.

§ 48002. Establishment of drug free school zones.

There is hereby established a Drug Free School Zone as defined in this Chapter. Any person who commits an offense under Chapter 67 of Title 9 of the Guam Code Annotated within the Drug Free School Zone shall be in violation of this Chapter and punished in accordance with Article 4, Chapter 67 of Title 9 of the Guam Code Annotated.

§ 48003. Designation of school zones: Responsibilities of the schools.

The following provisions shall apply relative to the coordination, establishment, and designation of drug free school zones:

(a) It shall be the responsibility of schools, both public and private, and their respective governing boards or their designees, or the chief administrative officer in the case of private schools, to coordinate the establishment and designation of the drug free school zones.

(b) The respective governing boards of the schools, or the chief administrative officer in the case of private schools, shall place and maintain permanently affixed and plainly visible signs at the main entrances of each school which identify the school and its accompanying grounds as a drug free school zone and which outline the penalties associated with violations of the Drug Free School Zones Act. The respective governing boards of the schools, or the chief administrative officer in the case of private schools, shall determine the actual size of such signs.

(c) Upon enactment, a copy of the Drug Free School Zones Act shall be transmitted to the respective governing boards, or the chief administrative officers in the case of private schools, and it shall be their responsibility, at their discretion, to disseminate the information to parent groups and to the community.

(d) The respective governing boards of the schools, or the chief administrative officer in the case of private schools, shall transmit to the Legislature, within ninety (90) days, a status report on the establishment and designation of the drug free school zones within their respective jurisdictions.

§ 48004. Drug free school zone maps.

The respective governing boards of the schools or their designees, or the chief administrative officer in the case of any private school, shall prepare drug free school zone maps for their respective jurisdictions and shall submit copies of the original maps to the Office of the Attorney General as well as to the Department of Land Management for the purposes of record-keeping. These shall constitute the official record as to the location and boundaries of each drug free school zone. The respective governing boards of the schools or their designees, or the chief administrative officer in the case of any private school, shall notify the Office of the Attorney General and the Department of Land Management whenever there are changes in the location and boundaries of any school property and drug free school zone.

REGULATIONS

420. Control of unauthorized drugs and alcoholic beverages.

Introduction

The following guidelines are issued to provide direction to school administrators regarding suspected or actual possession, use, and distribution of illegal drugs, unauthorized medication, and alcoholic beverages by students of the Department of Education. Refer to the policy of the Territorial Board of Education on medication for guidance on the authorized possession and use of medication by students.

Suspicion That Students Are in Possession of Unauthorized Drugs or Alcoholic Beverages

School administrators are authorized to conduct searches of students, their possessions, and their lockers whenever they have reasonable suspicion that the students are in possession of unauthorized medications, illegal drugs, or alcoholic beverages. However, school administrators must conduct their searches within the legal parameters allowed by the appendix of this policy.

School administrators may take appropriate corrective or disciplinary action against students who are discovered to in be possession of unauthorized medications, illegal drugs, or alcoholic beverages as a result of properly conducted searches.

A student suspected of having used or of being under the influence of an illegal drug or alcoholic beverage, but who is not reasonably suspected of possessing such substances, shall be referred to the appropriate health and/or guidance counselor, who shall act in the best interests of the child. The counselor(s) who work with these students shall abide by the Department's procedures on confidentiality while working with them.

Possession of Suspected Illegal Drugs and Alcoholic Beverages

Students shall be referred to the Guam Police Department upon the determination of a school's administration that they are in possession of suspected illegal drugs on the school's campus or at a

school activity. Minor students shall be referred to the Guam Police Department upon the determination of a school's administration that they are in possession of alcoholic beverages on the school's campus or at a school activity.

Possession of Medication Without Proper Authorization

Students who are in possession of medication without proper authorization on a school's campus or at a school approved activity shall be referred to the school's administration, which shall:

- determine why the students were in possession of the unauthorized medication, and
- take appropriate corrective or disciplinary action based on the findings of the above investigation.

Discovery of Suspected Illegal Drugs Not in Anyone's Possession

A school's administration shall turn over suspected illegal drugs that are not in anyone's possession which are found on its campus or at a school activity to the Guam Police Department for proper identification and disposal. It shall also be responsible for informing its health and guidance services staff of the identity of the substances upon receipt of such feedback from the police.

430. Smoking and possession of tobacco products.

The Board of Education, in consideration of the health and safety of students within the school system, believes that a total ban on student smoking and possession of tobacco products within the school campus would be in the best interest of our school children. It is the policy of this Board that smoking and possession of tobacco products by all public school students is strictly prohibited at all times on any school property, in all school buses and at school activities, both on and off-campus. It is also the policy of the Board that smoking by adults is strictly prohibited on campus in any areas accessible to students.

Note: for the purposes of this policy, electronic cigarettes, vapor pens, hookah related products and all other nicotine products or substitutes are included under the category of tobacco products.

Disciplinary procedures to be enforced for student violations of this policy are as follows:

For Elementary Students

The disciplinary measures to be taken with elementary students who violate this policy shall be in accordance with those procedures delineated in the Student Conduct Procedural Manual (SCPM) and the Office Discipline Referral (ODR) form and approved by the appropriate Deputy Superintendent relative to student smoking and possession of tobacco products. The approved procedures must be in written form and disseminated by the appropriate Deputy Superintendent, to all elementary schools.

For Secondary Students

Each offense shall be handled as a Level 3 and progressively disciplined in accordance with the Student Conduct Procedural Manual and the Office Discipline Referral (ODR) Form.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

§ 3112.1. Same: Policy against bullying.

(a) As used in this Section:

(1) "At school" means in a classroom, elsewhere on or within school fences or at a school-sponsored activity or event whether or not it is held on school premises.

(2) "Harassment, intimidation, or bullying" means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. "Harassment, intimidation, or bullying" includes, but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(3) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(1) A statement prohibiting "harassment, intimidation, or bullying" and "cyberbullying" of a pupil.

(2) A definition of "harassment, intimidation, or bullying" and "cyberbullying" that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

(4) Consequences and appropriate remedial action for a person who commits an act of "harassment, intimidation, or bullying" and "cyberbullying".

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of "harassment, intimidation, or bullying" and "cyberbullying" is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of "harassment, intimidation, or bullying" and "cyberbullying", and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of "harassment, intimidation, or bullying" and "cyberbullying".

- (10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities.
- (11) A school employee, pupil, or volunteer shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of "harassment, intimidation, or bullying" and "cyberbullying".
- (12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to "harassment, intimidation, or bullying" and "cyberbullying", whether verbal or physical, shall report the incident to the appropriate school official designated by the Board policy.
- (13) A school employee who promptly reports an incident of "harassment, intimidation, or bullying" and "cyberbullying" to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" is not liable for damages arising from any failure to remedy the reported incident.
- (d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.
- (e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.
- (f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.
- (g) Each school shall do all of the following:
- (1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and
 - (2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.
- (h) A school shall incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.
- (i) This Section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does not create or alter any tort liability.
- (j) The Board shall establish rules for appropriate disciplinary action for the Department of Education personnel who do not comply with the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying".
- (k) "harassment, intimidation, or bullying" and "cyberbullying" are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law.

§ 4125. Internet safety in course curricula.

The Guam Education Board shall, by Board policy, adopt internet usage safety standards in the curriculum of each course where internet usage is required or may be used by students for successful completion and mastery of the course subject matter. The standards may include, but not be limited to, teaching students to avoid computer viruses, identity theft, phishing and bank theft scams, exposure to violent, pornographic and obscene imagery, solicitation from sexual predators, and cyberbullying.

REGULATIONS

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct. Whereas, it is the Board's intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

I. Purpose

It is the policy of the Guam Education Board to ensure that students who attend the Department of Education (DOE) are safe, secure, and can count on being treated with respect. Schools shall be free from harassment, intimidation or bullying, cyberbullying, sexting and sexual harassment and shall provide an environment that is conducive to learning. School administrators shall ensure that the school environment is free of any threat while attending school and all school sponsored activities. This requires a fundamental change in the way administrators and employees in the DOE view harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment, sexual misconduct and fraternization. The school principal must recognize that minor events, which do not rise to the level of violations of school rules or a crime, may still create an environment which makes students feel uncomfortable or even terrified at the prospect of attending school. This policy is to allow students active participation in school affairs without fear and threat of harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment. This policy will also follow federal anti-discrimination laws enforced by the Office of Civil Rights (OCR). The statutes that OCR enforces includes Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

II. Coverage

This policy governs all students within the jurisdiction of DOE and is intended to prohibit bullying, cyberbullying, sexting and sexual harassment in the public school system. The term "at school" is defined in 17 GCA Section 3112.1 that states (a) "'at school' means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official bus stop, or at a school-sponsored activity or event whether or not it is held on school premises."

III. Definitions

A. Harassment, Intimidation or Bullying

1. 17 GCA Section 3112.1 (a) - "any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. Harassment, intimidation, or bullying includes but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic."

2. Bullying behavior components:

a. aggressive behavior that involves unwanted, negative actions

b. involves a pattern of behavior repeated over time

c. involves an imbalance of power or strength

3. Common forms of harassment, intimidation or bullying include:

a. Repeated negative behaviors intended to frighten or cause distress to a student or group of students. Behaviors also include assault & battery, pushing, shoving, teasing and name calling.

b. Posting of negative messages on bathroom walls, school walls, and classroom walls thus creating an atmosphere of distress to the point that a student or students are frightened to attend school or their classes.

c. Verbal expressions, physical acts, gestures and antagonism intended to strike fear in students and school staff.

d. Threatening notes, phone calls, and other means of electronic communication which indicate some form of retaliation.

e. Aggressive behavior of an individual or group meant to use greater power by threatening and generally oppressing a targeted individual or group of individuals.

f. Acts of intimidation that prevents students from engaging in the academic learning process.

g. An action that targets a student or group of students and causes distress or suggests oppression based on race, color, religion, disability and beliefs as well as negatively impacts students' ability to focus and perform academically.

h. Physical aggression such as assault, kicking, punching, hitting and biting.

i. Physical and aggressive gestures imitating an action to hit another person.

j. Extortion for lunch money or other student property.

k. Teasing in such a manner as to impact a student's emotional or academic functioning.

l. Writing nasty notes on walls, paper, or other surfaces in an attempt to demean and defame a person's character or integrity.

m. Other behaviors meant to create a climate of fear and that affect the daily functioning of students on and off campus.

n. Behaviors that cause or intend to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promote relational aggression.

o. Having money or other things taken or damaged, or threatening and/or forcing others to engage in bullying behaviors.

B. Cyberbullying

1. The use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2). Cyberbullying is bullying through email, instant messaging, in a chat room, on a website, or through digital messages or images sent to a cell phone (Kowalski et al. 2008). Cyberbullying like traditional bullying involves an imbalance of power, aggression, and repetitive negative action.

2. Common forms of cyberbullying include but are not limited to the following:

a. Harassment: Repeatedly sending offensive, rude and insulting messages.

b. Denigration: "Dissing" someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.

c. Flaming: Online fights using electronic messages with angry and vulgar language.

- d. Impersonation: Breaking into someone's email or social networking account posing as that person and sending messages to make the person look bad, get that person into trouble or danger, or damage that person's reputation or friendships.
- e. Outing and trickery: Sharing someone's secrets or embarrassing information online. Tricking someone into revealing secrets or embarrassing information which is then shared online.
- f. Cyberstalking: repeatedly sending messages that include threats of harm or are highly intimidating; engaging in other online activities that make a person afraid for his or her safety.
- g. Exclusion: Intentionally excluding someone from an online group like a "buddy list" or a game.
- h. Trolling: Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.

C. Sexting

1. 9 GCA §28.100: a minor is guilty of an offense of Illegal Use of a Computer Telecommunications Device Involving a Minor, otherwise known as Sexting, if the minor, by use of a computer or any telecommunications device, recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.
2. Common forms of sexting include but are not limited to the following:
 - a. Electronically transmitting offensive, sexually explicit and/or inappropriate pictures, images or drawings that damage a student's reputation, educational standing, social standing or that interferes with the educational mission of the school.
 - b. Electronically transmitting offensive messages, postings, texts, instant messages and/or other forms of written communication that contain sexual content that interfere with the educational mission of the school.
 - c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicit and/or inappropriate content that interfere with the educational mission of the school.

D. Sexual Harassment

1. Office of Civil Rights Title IX - Sexual harassment is defined as "unwelcome conduct of a sexual nature" that may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX. Sexual harassment may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidation and frank threats or sexual demands. Forms of sexual harassment may include but are not limited to the following:
 - a. verbal, non-verbal and physical sexual behaviors
 - b. coerced sex
 - c. sexual jokes and innuendoes
 - d. remarks about a person's body
 - e. turning discussions inappropriately to sexual topics
 - f. whistling or cat calls
 - g. looking a person up and down or staring in a sexually suggestive manner

- h. invading someone's personal space or blocking her/his path
- i. sexually explicit visuals such as pin-ups
- j. suggestions of sexual intimacy
- k. repeated requests for dates
- l. unwanted letters, electronic mail or other computer communications
- m. unwanted gifts
- n. touching, hugging, massaging, and other gestures or sounds that a reasonable person of the same sex as the recipient would find offensive

IV. Prevention Against Harassment, Intimidation, Bullying, Cyberbullying, Sexting and Sexual Harassment

A. Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members.

B. All schools shall include the provisions of this policy in their student handbook.

C. Each school will be responsible for teaching behavioral expectations to their students in their respective school communities. Each school shall develop a process for discussing harassment, intimidation, or bullying policy with pupils as part of the curriculum.

V. Interventions Against Harassment, Intimidation, and Bullying, Cyberbullying, Sexting and Sexual Harassment and Reporting Requirements

A. Responsibility of Students and/or Parents

1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.
2. Each student shall adhere to the behavioral expectations of their respective school community.

B. Responsibility of Teachers, School Staff and Volunteers

1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.
2. 19 GCA Chapter 13 is known as the "Child Protective Act" under Guam law. In §13101(b) it states "Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child's welfare."
3. There is a reporting requirement under this section of the law. Article 2 entitled the "Child Abuse and Neglect Reporting Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

Dating and Relationship Violence

LAWS

§ 15110. Required curricula for education system. .

(a) The Department of Education shall select or develop:

- (1) curricula for pupils concerning family violence that are appropriate for various ages;
- (2) curricula for school counselors, health-care personnel, administrators and teachers concerning family violence; and
- (3) curricula for Department of Public Works Bus Operations employees.

(b) The curricula must be selected or developed in consultation with public and private agencies that provide programs for victims of family violence and programs of intervention for perpetrators of family violence, advocates for victims, non-profit family violence coalitions or organizations, persons who have demonstrated expertise and experience in education and family violence, and the Family Violence Task Force.

(c) The curricula must include, but are not limited to:

- (1) the nature, extent and causes of family violence;
- (2) issues of family violence concerning children;
- (3) the prevention of the use of violence by children;
- (4) sensitivity to cultural, racial and gender issues;
- (5) violence in dating and other social relationships of boys and girls;
- (6) practices designed to promote safety of the victim and other family and household members, including safety plans;
- (7) legal reporting requirements concerning abuse or neglect of children; and
- (8) the lethality of family violence.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct. Whereas, it is the Board's intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

I. Purpose

It is the policy of the Guam Education Board to ensure that students who attend the Department of Education (DOE) are safe, secure, and can count on being treated with respect. Schools shall be free from harassment, intimidation or bullying, cyberbullying, sexting an sexual harassment and shall provide an environment that is conducive to learning. School administrators shall ensure that the school environment is free of any threat while attending school and all school sponsored activities. This requires a fundamental change in the way administrators and employees in the DOE view harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment, sexual misconduct and fraternization. The school principal must recognize that minor events, which do not rise to the level of violations of school rules or a crime, may still create an environment which makes students feel uncomfortable or even terrified at the prospect of attending school. This policy is to allow students active participation in school affairs without fear and threat of harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment. This policy will also follow federal anti-discrimination laws enforced by the Office of Civil Rights (OCR). The statutes that OCR enforces includes Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

II. Coverage

This policy governs all students within the jurisdiction of DOE and is intended to prohibit bullying, cyberbullying, sexting and sexual harassment in the public school system. The term "at school" is defined in 17 GCA Section 3112.1 that states (a) "'at school' means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official bus stop, or at a school-sponsored activity or event whether or not it is held on school premises."

III. Definitions

A. Harassment, intimidation or bullying

1. 17 GCA Section 3112.1 (a) - "any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her

property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. Harassment, intimidation, or bullying includes but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic."

2. Bullying behavior components:

- a. aggressive behavior that involves unwanted, negative actions
- b. involves a pattern of behavior repeated over time
- c. involves an imbalance of power or strength

3. Common forms of harassment, intimidation or bullying include:

- a. Repeated negative behaviors intended to frighten or cause distress to a student or group of students. Behaviors also include assault & battery, pushing, shoving, teasing and name calling.
- b. Posting of negative messages on bathroom walls, school walls, and classroom walls thus creating an atmosphere of distress to the point that a student or students are frightened to attend school or their classes.
- c. Verbal expressions, physical acts, gestures and antagonism intended to strike fear in students and school staff.
- d. Threatening notes, phone calls, and other means of electronic communication which indicate some form of retaliation.
- e. Aggressive behavior of an individual or group meant to use greater power by threatening and generally oppressing a targeted individual or group of individuals.
- f. Acts of intimidation that prevents students from engaging in the academic learning process.
- g. An action that targets a student or group of students and causes distress or suggests oppression based on race, color, religion, disability and beliefs as well as negatively impacts students' ability to focus and perform academically.
- h. Physical aggression such as assault, kicking, punching, hitting and biting.
- i. Physical and aggressive gestures imitating an action to hit another person.
- j. Extortion for lunch money or other student property.
- k. Teasing in such a manner as to impact a student's emotional or academic functioning.
- l. Writing nasty notes on walls, paper, or other surfaces in an attempt to demean and defame a person's character or integrity.
- m. Other behaviors meant to create a climate of fear and that affect the daily functioning of students on and off campus.
- n. Behaviors that cause or intend to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promote relational aggression.
- o. Having money or other things taken or damaged, or threatening and/or forcing others to engage in bullying behaviors.

B. Cyberbullying

- 1. The use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2). Cyberbullying is bullying through email, instant messaging, in a chat room, on a website, or through digital messages or images sent to a cell phone (Kowalski et al. 2008). Cyberbullying like traditional bullying involves an imbalance of power, aggression, and repetitive negative action.

2. Common forms of cyberbullying include but are not limited to the following:
 - a. Harassment: Repeatedly sending offensive, rude and insulting messages.
 - b. Denigration: "Dissing" someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.
 - c. Flaming: Online fights using electronic messages with angry and vulgar language.
 - d. Impersonation: Breaking into someone's email or social networking account posing as that person and sending messages to make the person look bad, get that person into trouble or danger, or damage that person's reputation or friendships.
 - e. Outing and trickery: Sharing someone's secrets or embarrassing information online. Tricking someone into revealing secrets or embarrassing information which is then shared online.
 - f. Cyberstalking: repeatedly sending messages that include threats of harm or are highly intimidating; engaging in other online activities that make a person afraid for his or her safety.
 - g. Exclusion: Intentionally excluding someone from an online group like a "buddy list" or a game.
 - h. Trolling: Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.

C. Sexting

1. 9 GCA §28.100: a minor is guilty of an offense of Illegal Use of a Computer Telecommunications Device Involving a Minor, otherwise known as Sexting, if the minor, by use of a computer or any telecommunications device, recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.
2. Common forms of sexting include but are not limited to the following:
 - a. Electronically transmitting offensive, sexually explicit and/or inappropriate pictures, images or drawings that damage a student's reputation, educational standing, social standing or that interferes with the educational mission of the school.
 - b. Electronically transmitting offensive messages, postings, texts, instant messages and/or other forms of written communication that contain sexual content that interfere with the educational mission of the school.
 - c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicit and/or inappropriate content that interfere with the educational mission of the school.

D. Sexual harassment

1. Office of Civil Rights Title IX - Sexual harassment is defined as "unwelcome conduct of a sexual nature" that may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX. Sexual harassment may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidation and frank threats or sexual demands. Forms of sexual harassment may include but are not limited to the following:
 - a. verbal, non-verbal and physical sexual behaviors
 - b. coerced sex
 - c. sexual jokes and innuendoes

- d. remarks about a person's body
- e. turning discussions inappropriately to sexual topics
- f. whistling or cat calls
- g. looking a person up and down or staring in a sexually suggestive manner
- h. invading someone's personal space or blocking her/his path
- i. sexually explicit visuals such as pin-ups
- j. suggestions of sexual intimacy
- k. repeated requests for dates
- l. unwanted letters, electronic mail or other computer communications
- m. unwanted gifts
- n. touching, hugging, massaging, and other gestures or sounds that a reasonable person of the same sex as the recipient would find offensive

IV. Prevention against harassment, intimidation, bullying, cyberbullying, sexting and sexual harassment

- A. Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members.
- B. All schools shall include the provisions of this policy in their student handbook.
- C. Each school will be responsible for teaching behavioral expectations to their students in their respective school communities. Each school shall develop a process for discussing harassment, intimidation, or bullying policy with pupils as part of the curriculum.

V. Interventions against harassment, intimidation, an bullying, cyberbullying, sexting and sexual harassment and reporting requirements

A. Responsibility of Students and/or Parents

- 1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.
- 2. Each student shall adhere to the behavioral expectations of their respective school community.

B. Responsibility of Teachers, School Staff and Volunteers

- 1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.
- 2. 19 GCA Chapter 13 is known as the "Child Protective Act" under Guam law. In §13101(b) it states "Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child's welfare."
- 3. There is a reporting requirement under this section of the law. Article 2 entitled the "Child Abuse and Neglect Reporting Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 4121. Character Education.

(a) It is the policy of this government that Guam's public schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student in the public school system, in close cooperation with the student's parents, and with input from the community and educators.

(b) Public schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities include, but are not limited to, honesty; responsibility; respect and care for the person and property of others; self-discipline; understanding of, respect for, and obedience to law and citizenship; courage, initiative, commitment and perseverance kindness, compassion, service and loyalty; fairness, moderation and patience; and the dignity and necessity of hard work.

(c) The Department of Education shall establish a non-sectarian character education program to evaluate methods for incorporating positive character qualities into all levels of the existing educational programs within one hundred twenty (120) days after the enactment of this Act.

(d) The Department of Education shall assist public schools in accessing financial and curricular resources to implement programs stressing these character qualities. Public schools are encouraged to use their existing resources to implement programs stressing these qualities.

(e) The Department of Education shall seek Federal funds from the Partnership Grant for Character Education from the United States Department of Education authorized under Title X, Part A, § 10103 of the Improving American's School Act (P.L. No. 203-382).

(f) The Department of Education shall make an annual report to and I Liheslaturan Guahan at the termination of each fiscal year, reporting upon the progress made and a detailed analysis of the non-sectarian character education program. Copies of such report shall be made available to the public.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

§ 6700. Legislative Findings and Intent.

[Guam Legislature] finds that:

- (a) The use of educational settings to screen children and adolescents for "mental disorders" has led to parents not being given sufficient information about the purpose of such screenings and the ramifications if they consent, such as psychological or psychiatric treatment for their child and family, thereby violating the recognized requirements and standards regarding "full informed consent".
- (b) Frequently, a system of "passive consent" is used whereby "consent" is considered provided when the parent does not return the consent form. The onus is, therefore, on the child/adolescent to transmit the consent form to the parent, and on the parent ensuring that if consent is not given, the form is signed and returned. However, the onus should rest on both the school and the mental health professional or agency seeking to conduct the screening, with criminal penalties if consent is not obtained in writing and the child is subjected to non-consensual screening.
- (c) "Passive consent" or other consent forms often:
 - (1) mislead parents into thinking that what is taking place at the school is just a health evaluation for their child, not a psychiatric evaluation;
 - (2) do not include information about the personal and invasive questions their child will be asked;
 - (3) do not contain information on the difference between "emotional health concerns", mental disorders, or physical diseases, the latter of which can be physically tested for and the former cannot; and
 - (4) leave the parent with so little information that he or she cannot make a proper informed decision to give valid informed consent.
- (d) Parents also are not informed that mental health screenings for "mental disorders" are based on those defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM). However, in the introduction of the DSM-IV it states, "Moreover, although this manual provides a classification of mental disorders, it must be admitted that no definition adequately specifies precise boundaries for the concept of 'mental disorder'". Further, "...the term 'mental' disorders...persists in the title of DSM-IV because we have not found an appropriate substitute".
- (e) Unlike scientific methods to determine physical diseases like cancer, diabetes or tuberculosis, a diagnosis of "mental disorder" or "syndrome" is not based on any medical test, such as a brain scan, a 'chemical imbalance' test, x-ray or blood test. The former U.S. Surgeon General, in his 1999 Report on Mental Health, which became a reference for many countries, stated, "The diagnosis of mental

disorders is often believed to be more difficult than diagnosis of medical disorders since there is no definitive lesion, laboratory test or abnormality in brain tissue that can identify the illness."

(f) Harvard Medical School's Dr. Joseph Glenmullen warns that the checklist rating scales used to screen people for conditions, such as "depression", are "designed to fit hand-in-glove with the effects of drugs, emphasizing the physical symptoms of depression that most respond to antidepressant medication ...While assigning a number to a patient's depression may look scientific, when one examines the questions asked and the scales used, they are utterly subjective measures". He says, "The symptoms are subjective emotional states, making the diagnosis extremely vague".

(g) Based on the subjective nature of the mental health diagnostic system and mental health screenings, millions of children are prescribed antidepressants or stimulants recognized by leading drug regulatory agencies as causing suicidal behavior, suicide, violence, hostility and, in the case of stimulants, the potential for strokes and heart attacks. In October 2004, the U.S. Food and Drug Administration (FDA) required a "black box" warning of suicide risks for all antidepressants prescribed to those under eighteen (18) years old. In August 2005, The Commission of the European Communities that represents twenty-five (25) countries issued the strongest warning yet against child antidepressant use, warning of the drug's potential to cause suicide attempts and suicidal ideation, aggression, hostility (predominantly aggression, oppositional behavior and anger), and/or related behavior. According to the U.S. Drug Enforcement Administration, the stimulant drugs being prescribed to children are scheduled as abusive as opium, morphine and cocaine. In February 2006, an FDA Advisory Committee recommended a "black box" warning for stimulants, stating that they can cause heart attacks, strokes, and even death.

(h) As such, Guam's parents, without explicit protection, will be unable to give informed consent about whether they want their child to participate in such screening. It is the intent of I Liheslatura to prohibit the Guam Department of Education from conducting any mental health screening on school children without the informed consent of parents.

§ 6701. Informed consent required for mental health screening of students.

The Guam Department of Education shall:

- (a) prohibit the use of schools for any mental health or psychological screening or testing of any student, whether a non- emancipated minor or emancipated minor, without the express written consent of the parent or guardian;
- (b) the consent form must be in a clear and legible form and in compliance with any local or federal regulation, in the primary language of the parent, not less than forty-five (45) days in advance of any such screening; and
- (c) the consent form must be signed by the parent or legally appointed guardian of each minor.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

§ 3112.1. Same: Policy against bullying.

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

REGULATIONS

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

V. Interventions Against Harassment, Intimidation, and Bullying, Cyberbullying, Sexting and Sexual Harassment and Reporting Requirements

A. Responsibility of Students and/or Parents

1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.
2. Each student shall adhere to the behavioral expectations of their respective school community.

B. Responsibility of Teachers, School Staff and Volunteers

1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.
2. 19 GCA Chapter 13 is known as the "Child Protective Act" under Guam law. In §13101(b) it states "Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child's welfare."
3. There is a reporting requirement under this section of the law. Article 2 entitled the "Child Abuse and Neglect Reporting Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

Parental Notification

LAWS

§ 6404. Same: Delivery of truant.

The attendance officer, upon taking a truant into custody, shall deliver the truant promptly either to the truant's parent or to the school which the pupil attends. If the child is a habitual truant, the attendance

officer, with the concurrence of the principal of the pupil's school, shall bring the child before the Family Court.

§ 6405. Same: Disposition.

The attendance officer shall promptly report to the Department of Education and to the parent the disposition made by the attendance officer of the truant.

REGULATIONS

No relevant regulations found.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 3105. Collection of data and production of school performance reports by superintendent; Criteria for grading schools.

(a) The Superintendent shall collect data and produce annual school performance reports containing information on student performance, student behavior and school characteristics.

(b)(1) In consultation with representatives of parents, teachers and school administrators, the Board shall adopt, by rule, criteria for grading schools. Such criteria shall take into account both overall performance and improvement in performance. A five (5) member evaluation team shall be appointed by the Board to assess every school. The Board shall appoint one (1) member from each of the four (4) school board election districts, and the fifth member shall be appointed from the Island-wide Parent Teacher Organization. The grades shall include classifications for exceptional performance, strong performance, satisfactory performance, low performance and unacceptable performance.

(2) The grades received by a school shall be included in the Annual State of Public Education Report.

(3) If a school is within the low performance or unacceptable performance classification in any category, the school shall file a school improvement plan with the Superintendent and with the Board.

(c) The Superintendent shall notify the public and the media, and post on the Department of Education's website, no later than thirty (30) days following the end of the fiscal year. The school performance reports shall be available at schools and the DOE' offices. The Superintendent shall also include notice that copies of school improvement plans can be obtained from the schools and the DOE.

§ 6408. Submission of report.

The attendance officer shall report monthly to the Superintendent the number and types of reports and requests made by each school on Guam pursuant to this Article, and whether each school within Guam has complied with the provisions of this Article.

§ 82610. Seclusion and restraint policy.

The Government of Guam's use of restraint or seclusion shall be strictly limited to emergencies when there is imminent risk of an individual physically harming himself or others and nonphysical intervention is not effective. This Section applies to all direct care providers within Government of Guam agencies and agents and employees of the Government of Guam who provide services to persons with mental difficulties, behavioral difficulties and developmental disabilities, but not the Department of Corrections and Guam Police Department. Direct care providers means personnel working with persons with mental

difficulties, behavioral difficulties and developmental disabilities who are subject to a behavior plan, individualized educational plan or a similar plan.

(a) Training Program. An agency employing direct care providers shall provide a minimum of sixteen (16) hours to newly hired providers and annual follow-up training at a minimum of eight (8) hours. The training shall instruct providers in the following:

- (1) reducing the use of seclusion and restraint through risk assessment and early intervention, which includes nonphysical intervention;
- (2) needs and behaviors of the population served (e.g. age, gender, adults, or children);
- (3) relationship building;
- (4) proper and permissible techniques for seclusion, physical holds and chemical restraints for the population served, including risks versus benefits;
- (5) preventive techniques for restraint and seclusion, including a safe and calm physical environment;
- (6) positive alternatives to restraint and seclusion;
- (7) de-escalation methods;
- (8) avoidance of power struggles;
- (9) thresholds for restraints and seclusion;
- (10) the physiological and psychological impact of restraint and seclusion;
- (11) monitoring physical signs of distress and obtaining medical assistance;
- (12) legal issues;
- (13) positional asphyxia;
- (14) escape and evasion techniques;
- (15) time limits;
- (16) the process for obtaining approval for continued restraints;
- (17) procedures to address problematic restraints;
- (18) documentation of restraints and seclusion;
- (19) debriefing after the use of restraints and seclusion with the client or student, the client's or student's family member, or authorized representative, as well as staff members; and
- (20) processing with clients or students, and follow-up with personnel, and investigation of injuries and complaints.

(b) Reporting Requirements. Direct care providers shall document the use of every restraint defined in §§ 82101(h) and 82101(i), Article 1, Chapter 82, Title 10 GCA on an incident report. Any injury as a result of restraint or seclusion shall be reported immediately to professional staff, Guam Behavioral Health and Wellness Center, Department of Public Health and Social Services, and the territorial protection and advocacy office or its successor.

Government of Guam agencies and agents and employees of the government of Guam who provide services to persons with mental difficulties, behavioral difficulties and developmental disabilities shall report all deaths and severe injuries to Guam Behavioral Health and Wellness Center, Department of Integrated Services for Individuals with Disabilities, and the territorial protection and advocacy office or its successor. Each agency shall maintain and update a list of all deaths, severe injuries, and the frequency of its facility's use of seclusion and restraint on an annual basis and shall post the same on its website with a proper regard for client and student confidentiality.

(c) Prohibited Acts.

- (1) seclusion is prohibited in school settings;

(2) chemical restraint is prohibited unless prescribed by a physician who specifies the duration and circumstances under which the restraints are to be used, and shall be indicated in a client or student's individualized treatment plan.

(3) a physical restraint or containment technique that obstructs a person's respiratory airway or impairs the person's breathing or respiratory capacity, including techniques in which a staff member places pressure on a person's back or places his or her body weight against the person's torso or back is prohibited.

(4) a pillow, blanket, or other item covering the person's face as part of a physical or mechanical restraint or containment process is prohibited.

(5) prone restraint on a person at risk for positional asphyxiation as a result of one of the following risk factors that are known to the personnel is prohibited:

(A) obesity;

(B) pregnancy;

(C) agitated delirium or excited delirium syndromes;

(D) cocaine, methamphetamine, or alcohol intoxication;

(E) exposure to pepper spray;

(F) preexisting heart disease, including, but not limited to, an enlarged heart or other cardiovascular disorders; and/or

(G) respiratory conditions, including emphysema, bronchitis, or asthma.

REGULATIONS

405. Student suspension expulsion.

I. Introduction

The following policy shall be observed for suspensions and expulsion of students in the public schools. Officials should use the least amount of discipline necessary under the circumstances to correct a student and to protect the school's educational environment. [...]

V. Standard Process for Administering Behavioral Citations, Interventions/Consequences and/or Adjudications

A. The Superintendent shall establish a standard operating procedure that standardizes how schools refer students for behavioral incidences and administer interventions/consequences. The procedures shall include the following:

B. A standard Office Discipline Referral form that identifies behaviors by levels of severity with corresponding interventions /consequences

C. Behavioral incidences and interventions/consequences that have operational definitions and is categorized by level of severity and is assigned a code generated by the DOE student information system.

D. A method of recording, managing and reporting discipline data using the DOE student information system.

E. Any student suspended from any school shall not be accepted into a DOE school, until such time a due process review has been provided to the student and the consequences or conditions as stipulated have been met.

407. Student searches and seizures.

The Superintendent shall establish and implement standard operating procedures for student searches and seizures. The type and number of searches conducted on each campus, and the results of those searches, shall be reported to the Board annually.

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct. Whereas, it is the Board's intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

V. Interventions Against Harassment, Intimidation, and Bullying, Cyberbullying, Sexting and Sexual Harassment and Reporting Requirements

A. Responsibility of Students and/or Parents

1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.
2. Each student shall adhere to the behavioral expectations of their respective school community.

B. Responsibility of Teachers, School Staff and Volunteers

1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.
2. 19 GCA Chapter 13 is known as the "Child Protective Act" under Guam law. In §13101(b) it states "Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child's welfare."
3. There is a reporting requirement under this section of the law. Article 2 entitled the "Child Abuse and Neglect Reporting Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

472. School crime stoppers program.

In accordance to 17 GCA 3112.2., Safe Schools Program: School Crime Stoppers, the Board intends to address the continual rash of crimes that have victimized our students and our community for years, and that there is a need to implement measures so students, faculty, staff, administrators, and the entire community can take ownership of the protection of our island schools and put a stop to these senseless acts so that school communities can continuously function with a sense of security and safety. [...]

Data Collection

The Guam Department of Education School Safety Coordinators and School Crime Stoppers Coordinator will work in tandem to collect statistical data generated from call-ins or web tips of crimes or violations.

- 1) Statistical data may be used to obtain grants intent on increasing student involvement and achievement, and the promotion of safe, crime-free schools and communities.
- 2) The data shall be published quarterly for public review on the Guam Department of Education website.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 3112.1. Same: Policy against bullying.

(a) As used in this Section:

(1) "At school" means in a classroom, elsewhere on or within school fences or at a school-sponsored activity or event whether or not it is held on school premises.

(2) "Harassment, intimidation, or bullying" means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. "Harassment, intimidation, or bullying" includes, but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(3) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(1) A statement prohibiting "harassment, intimidation, or bullying" and "cyberbullying" of a pupil.

(2) A definition of "harassment, intimidation, or bullying" and "cyberbullying" that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

(4) Consequences and appropriate remedial action for a person who commits an act of "harassment, intimidation, or bullying" and "cyberbullying".

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of "harassment, intimidation, or bullying" and "cyberbullying" is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of "harassment, intimidation, or bullying" and "cyberbullying", and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of "harassment, intimidation, or bullying" and "cyberbullying".

- (10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities.
- (11) A school employee, pupil, or volunteer shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of "harassment, intimidation, or bullying" and "cyberbullying".
- (12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to "harassment, intimidation, or bullying" and "cyberbullying", whether verbal or physical, shall report the incident to the appropriate school official designated by the Board policy.
- (13) A school employee who promptly reports an incident of "harassment, intimidation, or bullying" and "cyberbullying" to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" is not liable for damages arising from any failure to remedy the reported incident.
- (d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.
- (e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.
- (f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.
- (g) Each school shall do all of the following:
- (1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and
 - (2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.
- (h) A school shall incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.
- (i) This Section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does not create or alter any tort liability.
- (j) The Board shall establish rules for appropriate disciplinary action for the Department of Education personnel who do not comply with the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying".
- (k) "harassment, intimidation, or bullying" and "cyberbullying" are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law.

§ 3112.2. Safe schools program: School crime stoppers.

- (a) As used in this Section:
- (1) "At school" means in a classroom, elsewhere on or within school fences or at a school-sponsored activity or event whether or not it is held on school premises.
 - (2) "Harassment, intimidation, or bullying" means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. "Harassment, intimidation, or bullying" includes, but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion,

race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(3) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) shall adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (c). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(1) A statement prohibiting "harassment, intimidation, or bullying" and "cyberbullying" of a pupil.

(2) A definition of "harassment, intimidation, or bullying" and "cyberbullying" that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

(4) Consequences and appropriate remedial action for a person who commits an act of "harassment, intimidation, or bullying" and "cyberbullying".

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of "harassment, intimidation, or bullying" and "cyberbullying" is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of "harassment, intimidation, or bullying" and "cyberbullying", and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of "harassment, intimidation, or bullying" and "cyberbullying".

(10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities.

(11) A school employee, pupil, or volunteer shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of "harassment, intimidation, or bullying" and "cyberbullying".

(12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to "harassment, intimidation, or bullying" and "cyberbullying", whether verbal or physical, shall report the incident to the appropriate school official designated by the Board policy.

(13) A school employee who promptly reports an incident of "harassment, intimidation, or bullying" and "cyberbullying" to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" is not liable for damages arising from any failure to remedy the reported incident.

(d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.

(e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.

(f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.

(g) Each school shall do all of the following:

- (1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and
- (2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.

(h) A school shall incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.

(i) This Section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does not create or alter any tort liability.

(j) The Board shall establish rules for appropriate disciplinary action for the Department of Education personnel who do not comply with the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying".

(k) "harassment, intimidation, or bullying" and "cyberbullying" are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law.

§ 6406. Report to court and social services.

Any pupil who has once been adjudged a habitual truant, or who is again reported as a truant one (1) or more days, or is late to school for thirty (30) or more minutes on one (1) or more days without excuse, shall be reported by the Superintendent or the attendance officer to the Family Court.

§ 6407. Court hearing.

If the Court, after hearing, finds that the allegations of habitual truancy are sustained by evidence, it may order that the child be detained and maintained in a school supervised by the Court for the remainder of the current school term, or it may order that the child be turned over to the custody of the Division of Social Services where the child shall be provided casework treatment and services.

§ 6408. Submission of report.

The attendance officer shall report monthly to the Superintendent the number and types of reports and requests made by each school on Guam pursuant to this Article, and whether each school within Guam has complied with the provisions of this Article.

REGULATIONS

409. Prohibiting harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct. Whereas, it is the Board's intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

I. Purpose

It is the policy of the Guam Education Board to ensure that students who attend the Department of Education (DOE) are safe, secure, and can count on being treated with respect. Schools shall be free from harassment, intimidation or bullying, cyberbullying, sexting and sexual harassment and shall provide an environment that is conducive to learning. School administrators shall ensure that the school

environment is free of any threat while attending school and all school sponsored activities. This requires a fundamental change in the way administrators and employees in the DOE view harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment, sexual misconduct and fraternization. The school principal must recognize that minor events, which do not rise to the level of violations of school rules or a crime, may still create an environment which makes students feel uncomfortable or even terrified at the prospect of attending school. This policy is to allow students active participation in school affairs without fear and threat of harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

This policy will also follow federal anti-discrimination laws enforced by the Office of Civil Rights (OCR). The statutes that OCR enforces includes Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

II. Coverage

This policy governs all students within the jurisdiction of DOE and is intended to prohibit bullying, cyberbullying, sexting and sexual harassment in the public school system. The term "at school" is defined in 17 GCA Section 3112.1 that states (a) "'at school' means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official bus stop, or at a school-sponsored activity or event whether or not it is held on school premises."

III. Definitions

A. Harassment, intimidation or bullying

1. 17 GCA Section 3112.1 (a) - "any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. Harassment, intimidation, or bullying includes but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic."

2. Bullying behavior components:

- a. aggressive behavior that involves unwanted, negative actions
- b. involves a pattern of behavior repeated over time
- c. involves an imbalance of power or strength

3. Common forms of harassment, intimidation or bullying include:

- a. Repeated negative behaviors intended to frighten or cause distress to a student or group of students. Behaviors also include assault & battery, pushing, shoving, teasing and name calling.
- b. Posting of negative messages on bathroom walls, school walls, and classroom walls thus creating an atmosphere of distress to the point that a student or students are frightened to attend school or their classes.
- c. Verbal expressions, physical acts, gestures and antagonism intended to strike fear in students and school staff.
- d. Threatening notes, phone calls, and other means of electronic communication which indicate some form of retaliation.
- e. Aggressive behavior of an individual or group meant to use greater power by threatening and generally oppressing a targeted individual or group of individuals.

- f. Acts of intimidation that prevents students from engaging in the academic learning process.
- g. An action that targets a student or group of students and causes distress or suggests oppression based on race, color, religion, disability and beliefs as well as negatively impacts students' ability to focus and perform academically.
- h. Physical aggression such as assault, kicking, punching, hitting and biting.
- i. Physical and aggressive gestures imitating an action to hit another person.
- j. Extortion for lunch money or other student property.
- k. Teasing in such a manner as to impact a student's emotional or academic functioning.
- l. Writing nasty notes on walls, paper, or other surfaces in an attempt to demean and defame a person's character or integrity.
- m. Other behaviors meant to create a climate of fear and that affect the daily functioning of students on and off campus.
- n. Behaviors that cause or intend to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promote relational aggression.
- o. Having money or other things taken or damaged, or threatening and/or forcing others to engage in bullying behaviors.

B. Cyberbullying

1. The use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2). Cyberbullying is bullying through email, instant messaging, in a chat room, on a website, or through digital messages or images sent to a cell phone (Kowalski et al. 2008). Cyberbullying like traditional bullying involves an imbalance of power, aggression, and repetitive negative action.
2. Common forms of cyberbullying include but are not limited to the following:
 - a. Harassment: Repeatedly sending offensive, rude and insulting messages.
 - b. Denigration: "Dissing" someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.
 - c. Flaming: Online fights using electronic messages with angry and vulgar language.
 - d. Impersonation: Breaking into someone's email or social networking account posing as that person and sending messages to make the person look bad, get that person into trouble or danger, or damage that person's reputation or friendships.
 - e. Outing and trickery: Sharing someone's secrets or embarrassing information online. Tricking someone into revealing secrets or embarrassing information which is then shared online.
 - f. Cyberstalking: repeatedly sending messages that include threats of harm or are highly intimidating; engaging in other online activities that make a person afraid for his or her safety.
 - g. Exclusion: Intentionally excluding someone from an online group like a "buddy list" or a game.
 - h. Trolling: Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.

C. Sexting

1. 9 GCA §28.100: a minor is guilty of an offense of Illegal Use of a Computer Telecommunications Device Involving a Minor, otherwise known as Sexting, if the minor, by use of a computer or any telecommunications device, recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.
2. Common forms of sexting include but are not limited to the following:

- a. Electronically transmitting offensive, sexually explicit and/or inappropriate pictures, images or drawings that damage a student's reputation, educational standing, social standing or that interferes with the educational mission of the school.
- b. Electronically transmitting offensive messages, postings, texts, instant messages and/or other forms of written communication that contain sexual content that interfere with the educational mission of the school.
- c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicit and/or inappropriate content that interfere with the educational mission of the school.

D. Sexual harassment

1. Office of Civil Rights Title IX - Sexual harassment is defined as "unwelcome conduct of a sexual nature" that may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX. Sexual harassment may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidation and frank threats or sexual demands. Forms of sexual harassment may include but are not limited to the following:

- a. verbal, non-verbal and physical sexual behaviors
- b. coerced sex
- c. sexual jokes and innuendoes
- d. remarks about a person's body
- e. turning discussions inappropriately to sexual topics
- f. whistling or cat calls
- g. looking a person up and down or staring in a sexually suggestive manner
- h. invading someone's personal space or blocking her/his path
- i. sexually explicit visuals such as pin-ups
- j. suggestions of sexual intimacy
- k. repeated requests for dates
- l. unwanted letters, electronic mail or other computer communications
- m. unwanted gifts
- n. touching, hugging, massaging, and other gestures or sounds that a reasonable person of the same sex as the recipient would find offensive

IV. Prevention against harassment, intimidation, bullying, cyberbullying, sexting, and sexual harassment

A. Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members.

B. All schools shall include the provisions of this policy in their student handbook.

C. Each school will be responsible for teaching behavioral expectations to their students in their respective school communities. Each school shall develop a process for discussing harassment, intimidation, or bullying policy with pupils as part of the curriculum.

V. Interventions against harassment, intimidation, and bullying, cyberbullying, sexting and sexual harassment and reporting requirements

A. Responsibility of Students and/or Parents

- 1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.

2. Each student shall adhere to the behavioral expectations of their respective school community.

B. Responsibility of Teachers, School Staff and Volunteers

1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.

2. 19 GCA Chapter 13 is known as the "Child Protective Act" under Guam law. In §13101(b) it states "Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child's welfare."

3. There is a reporting requirement under this section of the law. Article 2 entitled the "Child Abuse and Neglect Reporting Act" mandates how cases should be handled. All teachers and school staff are required to adhere to the law. [...]

425. Dangerous weapons.

Any student, while at a school site or riding on a school bus is found possessing an instrument which the Principal or his designee determines to be a deadly weapon shall be suspended immediately and a complete investigation shall be conducted. If it is determined that possession of an instrument is illegal under the laws of Guam, or if the student threatens or attacks another person with it on campus or at a school related activity, the student shall be referred to the Guam Police Department and dealt with according to the provisions of Board Policy 405.

If the weapon is determined to be a firearm, upon an adjudication of guilt made pursuant to the provisions of Board Policy 405, the student must be expelled from a regular school setting for a minimum of one year. The Director of Education may, upon a showing that such expulsion violates other legal rights of the student, modify this sanction.

The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily convert to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

The term "destructive device" means-

(A) any explosive, incendiary, or poison gas -

(i) bomb

(ii) grenade

(iii) rocket having a propellant charge of more than four ounces

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses

(B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter, and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in (A) or (B) and from which a destructive device may be readily assembled.

472. School crime stoppers program.

In accordance to 17 GCA 3112.2., Safe Schools Program: School Crime Stoppers, the Board intends to address the continual rash of crimes that have victimized our students and our community for years, and that there is a need to implement measures so students, faculty, staff, administrators, and the entire community can take ownership of the protection of our island schools and put a stop to these senseless acts so that school communities can continuously function with a sense of security and safety.

At a minimum, the program will include:

School Safety Coordinator

Each school shall identify a School Safety Coordinator (SSC)(an Administrator, School Counselor, School Resource Officer (SRO) or designee) who will be responsible for overseeing the Program for individual GDOE schools as a collateral duty. Specific duties for the SSC shall be stipulated in the Standard Operating Procedures developed by the Superintendent.

School Crime Stoppers Coordinator

A School Crime Stoppers Coordinator (SCSC) who is an employee of the Guam Police Department assigned by the Chief of Police will work with GDOE School Safety Coordinators, and to serve as liaison to Guam Crime Stoppers, Inc. and the Guam Police Department.

- 1) The School Crime Stoppers Coordinator will be responsible for organizing awareness and education events for students, and the broader community, with the Guam Police Department, the Guam Crime Stoppers, the Office of the Attorney General, the Mayors Council of Guam, and other relative agencies and organizations, as well as training events for administrators, faculty, staff, school parent organizations and families.
- 2) Partnership with Guam Crime Stoppers, Inc. The School Principal or assigned personnel in partnership with Guam Crime Stoppers, Inc. shall identify the School Crime Stoppers Program needs, such as securing phone services, the possible implementation of procedures for online web tips for the reporting of crimes that occur on GDOE campuses, and other related needs.
- 3) The School Crime Stoppers Coordinator will forward reports of tips and calls that have led to arrests for crimes to the Guam Crime Stoppers Board of Directors for disposition, in accordance with the organization's current procedures. For infractions or instances where the event is not a criminal activity, the School Safety Coordinator and the School Crime Stopper Coordinator will determine, or make a referral for, the appropriate disciplinary action, or make a referral to the appropriate entity.
- 4) The School Crime Stoppers Coordinator and the School Safety Coordinators shall coordinate with the Guam Crime Stoppers, Inc., and make recommendations to support the School Crime Stoppers program.

Data Collection

The Guam Department of Education School Safety Coordinators and School Crime Stoppers Coordinator will work in tandem to collect statistical data generated from call-ins or web tips of crimes or violations.

- 1) Statistical data may be used to obtain grants intent on increasing student involvement and achievement, and the promotion of safe, crime-free schools and communities.
- 2) The data shall be published quarterly for public review on the Guam Department of Education website.

The Principal or designated personnel is be responsible for determining what appropriate disciplinary action will be taken or referrals will be made to appropriate authorities if what is reported is not a crime. If what is reported, however, is a crime, the SSC and SCSC coordinators shall forward it to the appropriate authorities for disposition.

Implementation

The Program shall be implemented in all Guam Department of Education schools.

810. Cooperation with law enforcement authorities.

Cooperation with Law Enforcement:

The Guam Public School System will cooperate to the extent permitted by law all law and assist in their legal functions and mandates. In furtherance of this policy, care should be exercised to ensure that:

- The individual pupil and employee's rights and feelings are respected.
- The pupil and employee are protected from unnecessary humiliation and damage to his reputation.
- The rights and responsibilities of parents or guardians of pupils and of employees are observed.
- GPSS is responsible to help each pupil and employee in the most constructive way possible.

When Action is initiated by Law Enforcement:

- a) The school may permit law enforcement officers to interview minor students at the school provided at least one (1) parent or legal guardian is present and consents in writing to the interview. Such consent to the interview at the school is independent of, and prior to, any warnings the officers may be required to give to the minor student prior to the interview. If at all possible, the interview should be conducted away from school.
- b) Law enforcement shall first report to the principal in the school's main office and should indicate to the principal the reason they are on campus and why they want to talk to a student or employee.
- c) The officer is required to identify himself to the principal. If the principal is not satisfied with the identification, he should check with the agency in question.

When Action is initiated by the School:

The principal should call law enforcement when a case, in his/her judgment, warrants such assistance. If this occurs, the principal should immediately endeavor to notify the Office of the Superintendent, as well as the Public Information Officer.

When Action is initiated by Law Enforcement or by the School, the principal should provide a private room for questioning.

1. The Guam Education Policy Board wholeheartedly condemns any strategy, which would encourage the use of any student or employee as an undercover agent for law enforcement.
2. The Guam Education Policy Board is morally opposed to the concept that any other agency, department, business or organization is justified in suborning any student or employee of the Guam Public School System to bribery or promises of reward for performance of nefarious acts.
3. The Guam Education Policy Board unanimously endorses education for children in a healthy, mentally stimulating atmosphere and feels that education is its own reward.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 77119. Assignment of police officers.

- (a) The Chief of Police, or his designee, may assign police officers consistent with the needs of the Department to the villages so as to be the most efficient in carrying out the purposes of the Department to preserve the peace, to enforce the law and to prevent and detect crime.
- (b) The Chief of Police may assign those hired as limited term police officers to serve as a school resource officer, who at the minimum will be responsible for addressing drugs and violence in the

schools, the investigation of criminal activity involving juveniles, and other duties as agreed upon by the parties in a Memorandum of Understanding and whose employment shall be on a school-year basis.

§ 8107. Marshal; appointment of special deputies.

- (a) The Chief Justice, at the request of the Marshal of the Court, may appoint employees of
- (1) the Department of Law,
 - (2) the Department of Revenue & Taxation of the government of Guam, and
 - (3) the School Attendance Officers of the Department of Education as Special Deputy Marshals of the Guam Judiciary.

Such appointments shall be for as long as such employees remain in their employment with their respective departments, unless sooner revoked by the Chief Justice, whichever is earlier.

- (b) The School Attendance Officers of the Department of Education shall complete a training program developed and adopted by the Judicial Council, that is pertinent to their appointment, prior to such appointment as Special Deputy Marshals of the Guam Judiciary.

§ 8108. Special deputy marshal; duties, compensation.

- (a) The employees of the Department of Law who are appointed as deputies under § 8107 of this Chapter shall exercise their office only in cases wherein the government of Guam is a party.
- (b) The employees of the Department of Revenue and Taxation who are appointed as deputies under said § 8107 shall exercise their office only in matters concerning the income tax laws and other tax and revenue laws of Guam.
- (c) The School Attendance Officers of the Department of Education under § 8107 shall exercise their office only in matters concerning truancy proceedings of the Superior Court of Guam.
- (d) No deputies under said § 8107 shall be entitled to compensation in addition to the compensation they are receiving as employees of the government of Guam.

REGULATIONS

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Implementation

The Program shall be implemented in all Guam Department of Education schools.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Guam provide additional context to policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Positive Behavioral Intervention and Supports (PBIS), Guam Department of Education (GDOE)	Overviews the PBIS framework for school leaders and educators and provides resources to PBIS guidebook manual and online training.	https://www.gdoe.net/District/Department/9-Student%20Support%20Services%20(SSSD)/1591-Positive-Behaviour-Intervention-and-Support.html
Social and Emotional Wellness, GDOE	Provides information for resources related to social and emotional wellbeing including a resource library related to emergencies, counseling and the Guam Behavioral Health and Wellness Center, and FAQs related to social and emotional wellness topics such as anxiety, stress, and trauma.	https://www.gdoe.net/District/Portal/social-and-emotional-wellness
Standard Operating Procedures, GDOE	Provides links to standard school operating procedures, including campus security, student searches, cell phone use, controlled substances, school crime, school attendance and conduct, and bullying, harassment, and intimidation.	https://www.gdoe.net/District/Department/30-Standard-Operating-Procedures
Student Support Services (SSSD), GDOE	Provides information and resources for school leaders and education regarding GDOE's support in the areas of behavioral assessment, identification, and support of students eligible under Section 504, and truancy prevention. Page includes links for district leaders regarding student search and seizure, trauma informed care, and student conduct reports.	https://www.gdoe.net/District/Department/9-Student%20Support%20Services%20(SSSD)
Truancy/School Attendance	Provides information and links to resources address truancy and student attendance.	https://www.gdoe.net/District/Department/9-Student%20Support%20Services%20(SSSD)/1668-Truancy-School-Attendance.html
Olweus Bullying Prevention Programs	An evidence-based program that uses student centered approach to prevent or reduce bullying and violence among peers.	https://olweus.sites.clemson.edu/

Title	Description	Website address (if applicable)
Documents		
Positive Behavior Interventions & Supports (PBIS) Guidebook (July 2014), GDOE	Guidebook provides district and schools a framework for implementing PBIS with the focus on Tier I- Universal Intervention made available to all faculty and staff throughout the district.	https://www.gdoe.net/files/user/1/file/2014%20PBIS%20Guidebook,%20Version%201_0%20with%20Superintendents%20Message.pdf
Social and Emotional Wellness Community Resource Directory, GDOE	Resource library for school leaders and educators to access a community network of care to support the social and emotional needs of students.	https://ucarecdn.com/4b3f499a-fc6c-42c5-8582-9da07aa43f88/
Other Resources		
District Student Conduct Reports, GDOE	Monthly student conduct reports on student's non-compulsory aged unexcused absences, suspension, and truancy.	https://www.gdoe.net/District/Department/9-Student%20Support%20Services%20(SSSD)/1576-District-Student-Conduct-Reports.html
Positive Behavioral Interventions and Support (PBIS) Training, GDOE	Student Support Services Division provides training and facilitates meetings throughout the district for school administrators, school counselors, teachers, and staff regarding PBIS. Training resources include materials and presentations on classroom management, functional behavior assessment trainings, and additional tools and resources.	https://www.gdoe.net/District/Department/9-Student-Support-Services-SSSD/1592-PBIS-Training.html



Commonwealth of the Northern Mariana Islands Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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Chapter 5. Public School System

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[§ 2268.](#) Board of Education: Powers, functions, and duties

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Article 4. Prohibition of Smoking

[§ 3175.](#) Prohibition of smoking on property of the public school system

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- § 60-20-401. Discrimination and harassment prohibited
- § 60-20-403. Bullying
- § 60-20-404. Searches by school personnel
- § 60-20-406. Releasing and referring students to the Department of Public Safety
- § 60-20-408. Employees of Department of Public Safety on campus

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- § 60-20-420. Student Attendance
- § 60-20-426. Truancy and educational neglect procedures

Subpart F. Discipline

- § 60-20-438. Jurisdiction
- § 60-20-440. Day to day discipline
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- § 60-20-490. Policy
- § 60-20-491. Definitions
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- § 60-20-494. Proper administration of physical restraint
- § 60-20-495. Reporting requirements

Part 500. Instructional Services

- § 60-20-530. Alternative learning settings

Part 800. Support Services

Subpart B. Safety, Security and Communications

- § 60-20-810. Accident/incident reporting

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 2268. Board of Education: Powers, functions, and duties.

- (a) To formulate policy and exercise control over the Commonwealth Public School System through the commissioner;
- (b) To establish and revise as necessary on its own or through its agents, rules, regulations and policies for the operation of the Public School System, including policies relating to the appointment, promotions, and removal of all Public School System staff, health and welfare benefits, financial affairs and budgeting;
- (c) To approve and establish curricula and courses of instruction, including marine conservation and environmental management, and administrative policies of the Public School System, including special projects and federally funded programs;
- (d) To recommend to the legislature the annual report of the Public School System pursuant to N.M.I. Const. art. XV, § 1(e);
- (e) To propose appropriate legislation and to make recommendations to the legislature on policies governing the use of English, Chamorro, and Carolinian languages in the public schools;
- (f) To accept on behalf of the Public School System, gifts, grants, donations, bequests, and other contributions providing that all contributions shall be made public through media or other forms of publication;
- (g) To authorize the awarding of diplomas and certificates to students of the Public School System;
- (h) To approve long-range plans for the orderly development of the Public School System, including building needs;
- (i) To prepare the high schools for accreditation;
- (j) To establish and maintain trust funds for special projects of the Public School System; provided that trust funds shall only be established pursuant to subsection (f) of this section;
- (k) The members of the board shall be the trustees of the trust funds and shall administer them in accordance with the terms under which the funds are received. The funds shall be administered separately from appropriated Commonwealth funds. The trustees shall be held to strict standards of fiduciary care;
- (l) To acquire property by lease, option, purchase, in fee simple, and condemnation as necessary for the operation of the Public School System, when the board determines it to be in best interest of the Public School System, and, to dispose of the same in any manner which is now or may hereafter be provided by law; provided, that any transaction involving public property shall, when necessary, be done in consultation with the Marianas Public Land Corporation; or any other legal entity similar to MPLC that may thereafter be established;
- (m) To adopt the official seal of the Public School System;
- (n) To act in its own name with respect to federal programs;
- (o) To establish certification standards for all professional positions within the Public School System;
- (p) To establish school attendance districts;
- (q) [Repealed by PL 11-32 § 2(a).]
- (r) To report on its affairs to the Governor and the legislature on or before January 30 of each year;

- (s) To establish student disciplinary procedures and guidelines for student rights and responsibilities;
- (t) To disseminate pertinent information to the public regarding rights of students and parents;
- (u) To approve functional and operational organization charts for the Public School System;
- (v) To include programs for gifted and talented children, to prioritize arts and Japanese language instruction within their special projects;
- (w) To perform all acts as may be necessary to carry out the purpose of this chapter or 3 CMC § 1101 et seq. To take such action as it deems necessary and proper to operate the Public School System and the Board of Education, further its purpose, administer its services, and perform its duties.
- (x) To establish a minimum core curriculum and length of school year standard for non public schools.

§ 3175. Prohibition of smoking on property of the public school system.

- (a) It shall be unlawful at all times for any person or an employee of any public school or college to smoke on school or college property. Any person or employee who knowingly violates this section shall be subject to the penalties under 6 CMC § 3182.
- (b) It shall be unlawful for any student enrolled in public schools, colleges, or trade schools in the Northern Marianas to use tobacco products of any type on school property.
- (c) The Public School System and the Northern Marianas College shall establish by regulation a policy dealing with students who violate this law. This policy shall, at a minimum, include mandatory education classes on the hazards of tobacco use.

REGULATIONS

§ 60-20-440. Day to day discipline.

Principals and designated personnel are specifically authorized by this policy to impose or recommend day to day discipline including, but not limited to, in-house detention, parent conferences, counseling sessions, work detail, community service, appropriate restitution, behavioral intervention plans, and any reasonable disciplinary measures.

Scope

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-403. Bullying.

- (a) It is the policy of the CNMI State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the CNMI State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation.

(b) Definitions

(1) As used in this regulation, "bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

- (i) Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
- (ii) Threatening or seriously intimidating;

- (iii) Occurs in a school setting and/or with school property; and
- (iv) Substantially disrupts the orderly operation of a school.

(2) Examples of bullying may include but are not limited to:

- (i) Physical: hitting, kicking, pushing, shoving, getting another person to hurt someone;
- (ii) Verbal: racial slurs, name-calling, teasing, taunting, verbal sexual harassment, gossiping, spreading rumors; or
- (iii) Non-verbal: threatening, obscene gestures, isolation, exclusion, stalking, cyber-bullying (bullying that occurs by means of electronic communication).

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or page.

(4) "School setting" means in the school, on school grounds, in school vehicles, at a designated school bus stop or at any activity sponsored, supervised or sanctioned by the school.

(5) "School property" means the school computer or telephone and encompasses the use of electronic technology at a public school.

(c) Complaints

(1) Any student who believes that he or she is a victim of bullying should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to bullying.

(3) The responsible administrator shall follow up regularly with the complaining student to ensure that the bullying has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in bullying while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the bullying of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of bullying from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of bullying shall receive appropriate discipline.

The terms "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to bullying. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from bullying. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's bullying policy.

§ 60-20-438. Jurisdiction.

(a) The student discipline regulations apply in all situations in which students are involved, including, but not limited to:

(1) School activities on property owned, rented, leased, or otherwise occupied by the CNMI Board of Education, Public School System (PSS), or Commonwealth government;

(2) Any travel to and from the school site, whether on school buses, school vehicles, or during official school sanctioned trips;

(3) Off-site school sponsored activities;

(4) On or off-site school-related problems which are the result or cause of disruptive behavior on school grounds; or

(5) Violent acts or behavior that occur off school property, pose a threat to the safety of students and/or faculty, or disrupt the learning environment.

(b) The fact that a student withdraws from PSS or transfers to another school after the alleged commission of a prohibited act shall not be construed to deprive PSS of jurisdiction to suspend or expel the student.

§ 60-20-470. Student use of tobacco, alcohol, drugs and betel nut.

(a) Drugs and Alcohol

The possession, use, sale, distribution and/or intent to distribute any illegal or controlled moodaltering chemical, medication or abused chemical or alcohol or other intoxicants on school property, at school-sponsored events, and on school buses is prohibited.

(b) Smoking

Smoking on school campuses and on school buses at all times is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

(c) Betel-nut (Pugua)

The use, sale or distribution of betel-nut on Public School System campuses and on school buses is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

Communication of Policy

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-403. Bullying.

(a) It is the policy of the CNMI State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the CNMI State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation. [...]

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from bullying. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's bullying policy.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-440. Day to day discipline.

Principals and designated personnel are specifically authorized by this policy to impose or recommend day to day discipline including, but not limited to, in-house detention, parent conferences, counseling sessions, work detail, community service, appropriate restitution, behavioral intervention plans, and any reasonable disciplinary measures.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-440. Day to day discipline.

Principals and designated personnel are specifically authorized by this policy to impose or recommend day to day discipline including, but not limited to, in-house detention, parent conferences, counseling sessions, work detail, community service, appropriate restitution, behavioral intervention plans, and any reasonable disciplinary measures.

§ 60-20-442. Detention.

(a) The provisions of a detention program for student violations of policies, rules, and regulations shall provide principals with an additional alternative for dealing with disciplinary problems that occur in the schools. Detention is an assigned before school and/or after-school period, during which student activity is closely monitored and severely restricted. Students will be required to adhere to all detention rules.

(b) School administrators and certified personnel detain students after normal school hours for a reasonable time provided the following conditions are observed, but not longer than daily instructional hours:

- (1) Parents will be notified before detention so that transportation is arranged beforehand;
- (2) The names of all students detained must be reported to the principal or designee.

§ 60-20-444. In-school suspension.

In-school suspension is a structured disciplinary action in which a student is removed from regular classroom activities, but is not dismissed from the school setting. The principal/designee may assign students to the in-school suspension program for a reasonable and specified period of time. All schools are required to have In-School Suspension (ISS) policies that ensure students are provided instructional services during ISS.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-404. Searches by school personnel.

(a) Reasonable Suspicion

(1) Searches of students shall only be conducted when a school official has reasonable suspicion predicated on one or more of the following:

- (i) Reliable reports or information from credible sources made known to school officials. If the source is anonymous, the informant must show that the information has a relationship with the school or students so as to give it credibility.
- (ii) Suspicious or evasive behavior suggesting violation of a school policy or law, or concealment of contraband, weapons or stolen property.
- (iii) Observation of a student engaging in prohibited conduct or being in a restricted area.

(2) The more of these factors that are found, the greater the inference of reasonable suspicion. The school official may also take into account the student's history in the development of reasonable suspicion.

(b) Reasonable Scope

(1) The scope of the search conducted must be reasonably related to the objective sought and the evidence searched for. The search shall be no more intrusive than necessary to serve the school's legitimate objectives. In determining if the search is related to the objectives sought, the school official should consider:

- (i) The nature and severity of the violation to determine the permissible amount of intrusion into the student's privacy rights.
- (ii) The area to be searched so that it will be no more extensive than required to serve the school's legitimate objectives.
- (iii) The time and place where the search is conducted so that it will be as close as possible to the time and place of the suspected violation.
- (iv) The duration of the search so that it will be no longer than necessary to serve the school's legitimate objectives.

(2) Whenever reasonably possible the search should be conducted by school official who is the same sex as the student to be searched.

(c) Locker, Automobile and Desk Searches Searches of lockers, desks, storage spaces and other property owned jointly by the PSS and the student may be conducted whenever reasonable suspicion

exists to believe that contraband, weapons or prohibited items are concealed therein. Notice of the joint ownership of lockers and

desks shall be given to the student body at the beginning of each school year or more often as required. (See form 2150 for an example of such a notice).

(d) Canine Searches

Canine searches shall never be conducted on a student's person and if undertaken, shall be restricted to desks, lockers and parking lots.

(e) Surveillance

Surveillance shall only be conducted in hallways, school buses and other areas open to public view where the students are permitted.

(f) Consent Searches

Whenever possible the student's voluntary informed consent shall be sought before a search is conducted. However, searches normally should not be based solely on consent.

(g) Police Involvement

Police involvement shall be sought whenever school officials uncover evidence of a violation of Commonwealth or federal law or when school officials deem such involvement necessary or helpful in maintaining school discipline or safety.

(h) Reports

After a search has been conducted, school officials shall prepare a written report, specifically detailing the objectives of the search, the scope of the search, and the circumstances and information giving rise to reasonable suspicion for the search. Copies of the report shall be immediately filed with the Commissioner of Education and PSS legal counsel.

§ 60-20-462. Student vehicle use.

Building principals have the authority to regulate student use of automobiles at school. Use of school property for student parking purposes is a privilege that may be denied due to violation of PSS regulations and school policies. Student vehicles parked on PSS property are subject to search by school officials where there is reason to believe a vehicle contains materials prohibited by PSS regulations.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-490. Policy.

The Board of Education believes that maintaining an orderly, safe environment conducive to learning is an expectation of all staff members of the CNMI Public School System. An individual who is a teacher, administrator or school employee may, within the scope of that person's employment, use the amount of force as is reasonable and necessary to accomplish the following purposes:

- (a) To retrain a student from an act of wrongdoing;
- (b) To quell a disturbance threatening physical injury to self or others.

§ 60-20-491. Definitions.

- (a) "Extended restraint": A physical restraint the duration of which is more than twenty minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in this regulation.

(b) "Physical escort": Touching or holding a student without the use of force for the purpose of directing the student.

(c) "Physical restraint": The use of bodily force to limit a student's freedom of movement.

(d) "Restraint" - Other: Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian.

(1) "Mechanical Restraint": The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.

(2) "Seclusion Restraint": Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."

(3) "Chemical restraint": The administration of medication for the purpose of restraint.

§ 60-20-493. Determining when physical restraint may be used.

(a) Use of restraint. Physical restraint may be used only in the following circumstances:

(1) Non-physical interventions would not be effective; and

(2) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(b) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(c) Prohibitions. Physical restraint is prohibited in the following circumstances:

(1) As a means of punishment; or

(2) For the convenience of staff; or

(3) As a substitute for less restrictive alternatives; or

(4) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm; or*

(d) Referral to law enforcement or other public agencies. Nothing in these regulations prohibits:

(1) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detention of a student or other person alleged to have committed a crime or posing a security risk; or

(3) The exercise of an individual's responsibilities as a mandated reporter pursuant to BOE, CNMI and Federal regulation. These regulations shall not be used to deter any individual from reporting neglect or abuse to an appropriate public agency.

§ 60-20-494. Proper administration of physical restraint.

(a) Trained personnel. Only school personnel who have received training pursuant to this subpart shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained herein shall not preclude a teacher or employee of PSS from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

(b) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

(c) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements. Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received indepth training and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present;

(d) Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues for more than twenty minutes, it shall be considered an "extended restraint" for purposes of the reporting requirements.

(e) Safety requirements. Additional requirements for the use of physical restraint:

(1) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(2) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(3) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(4) Following the release of a student from a restraint, the program shall implement followup procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

§ 60-20-495. Reporting requirements.

(a) Circumstances under which a physical restraint must be reported.

(1) PSS staff shall report the use of physical restraint after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of duration longer than five minutes.

(b) Informing school administration.

(1) The PSS staff who administered the restraint shall verbally inform the administration of the restraint as soon as possible and by written report no later than the next school working day.

(2) The written report shall be provided to the principal or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint

(3) The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint.

(c) Informing parents.

(1) The principal or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report no later than three school working days following the use of restraint.

(d) Contents of report. The written report shall include:

(1) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(2) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that

prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(3) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(4) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts, and the justification for administering the extended restraint.

(5) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(6) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student, and/or any other related matter.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

- (1) Academic dishonesty (cheating on tests, copying term papers, forging signature of teacher or parent);
- (2) Disrespect to teacher/staff;
- (3) Gambling;
- (4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;
- (5) Igniting matches (when not part of the instructional program);
- (6) Refusing to cooperate with school transportation regulations;
- (7) Refusing to cooperate with school rules and regulations;
- (8) Refusing to serve detention;
- (9) Tardiness (class/classes);
- (10) Tardiness (school day);
- (11) Truancy (class/classes);
- (12) Truancy (school day);
- (13) Possession and/or use of tobacco or cigarette rolling papers;
- (14) Possession and/or distribution of drug paraphernalia;
- (15) Excessive foul or abusive language;
- (16) Possession and/or distribution of pornography;
- (17) Failure to assume responsibility for, or to control his/her behavior.

(b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:

- (1) Assault on a student;
- (2) Chronic disruption of the school program and/or activities;
- (3) Bullying:
 - (i) Physical - includes hitting, kicking, tripping, pinching, and pushing, or damaging property;

- (ii) Verbal - includes name calling, insults, teasing, intimidation, homophobic or racist remarks, or verbal abuse;
- (iii) Social - includes:
 - (A) Lying and spreading rumors;
 - (B) Negative facial or physical gestures, menacing or contemptuous looks;
 - (C) Playing nasty jokes to embarrass and humiliate;
 - (D) Mimicking unkindly;
 - (E) Encouraging others to socially exclude another;
 - (F) Damaging someone's social reputation or social acceptance.
- (iv) Cyber - includes:
 - (A) Abusive or hurtful texts, emails or posts, images or videos;
 - (B) Deliberately excluding others online;
 - (C) Nasty gossip or rumors;
 - (D) Identity theft: imitating others online or accessing their content.
- (4) Possession and/or use of electronic devices are prohibited without prior and written approval from the school principal;
- (5) Destruction and vandalism of school property, personal property of students and/or faculty;
- (6) Receipt, sale, possession, or distribution of property stolen from CNMI Public School System valued less than \$300;
- (7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance;
- (8) Extortion less than \$300;
- (9) False fire alarm/false fire report;
- (10) Harrasment for any reason including, but not limited to, sex, sexual orientation, color, race, religion, national origin, and disability;
- (11) Indecent exposure;
- (12) Participating in, or inciting, a school disruption;
- (13) Possession and/or detonation of an incendiary or explosive material and/or device (firecracker or greater);
- (14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I));
- (15) Theft and/or knowingly possessing stolen property;
- (16) Trespassing on school property;
- (17) Possession and/or use of tobacco or cigratte rolling paper, repeated offense;
- (18) Posession and/or use of betel nut (pugua) and/or betel nut paraphernalia, repeated offense;
- (19) Fighting;
- (20) Conspiracy involving two or more persons to commit a category II offense;
- (21) Arson;
- (22) Conspiracy between two or more persons to commit a category III offense;
- (23) Destruction and/or vandalism of school property, personal property of students and/or faculty valued at more than \$300;
- (24) Receiving, selling, possessing, or distributing property stolen from the CNMI Public School System valued at \$300 or more;

- (25) Distribution and/or sale of alcohol;
- (26) Distribution and/or sale of controlled substances (illegal drugs), excluding betel nut;
- (27) Possession or use of a weapon or look alike weapon of any kind (other than a firearm) including, but not limited to, knives, throwing star, straight razor, nunchaku, spiked glove, spiked wristband, or any mace, tear gas, or pepper-spray derivative. Mace, tear gas, and peper-spray derivatives may be carried with prior, written approval from the Commissioner of Education;
- (28) Extortion of \$300 or more;
- (29) Possession of alcohol;
- (30) Possession of illegal drugs, including betel nut;
- (31) Prescription violation (misuse of properly prescribed medicine including, but not limited to, such drugs as amphetamines and barbiturates). Possession of prescription drugs without prior authorization for prescribing medication (office policy);
- (32) Robbery;
- (33) Use of alcohol, under the influence of alcohol, or showing evidence of having consumed alcohol;
- (34) Use of intoxicants which cause a loss of self-control or inebriation which include, but are not limited to, glue and solvents, excluding betel nut;
- (35) Violent behavior which creates a substantial danger to persons or property;
- (36) Any crime that is designated a felony by CNMI or federal statutes.

(c) Category III – Offenses which shall result in expulsion and referral to law enforcement:

- (1) Possession, use, purchase, or sale of a firearm;
 - (i) A firearm is defined as:
 - (A) Any weapon which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; or
 - (B) The frame or receiver of any weapon which will, or is designed to or may be readily converted to expel a projectile by the action of an explosive.
- (2) Acts of terrorism (such as bomb threats);
- (3) Fraud and/or identity theft.

§ 60-20-450. Expulsion.

- (a) Expulsion is permanent exclusion from public school attendance, school activities and school property. Expulsion shall be used only in severe cases, or where other means of corrective disciplinary action have failed, or where no other reasonable alternatives are available. An expulsion may be recommended if the student persistently engages in conduct that warrants suspension, or if the student by means of a single action evidences behavior that is serious enough to warrant removal to protect the rights or safety of others.
- (b) Only the Commissioner of Education may expel a student. The principal recommending expulsion shall prepare written documentation in justification of such action.
- (c) The Commissioner of Education reserves the right to exclude students for other than disciplinary reasons if the expulsion is deemed in the best interest of the student or the operation of the school (i.e. student with a contagious health problem).
- (d) In the event of criminal conduct or other serious action committed by a student, the Commissioner of Education may expel the student immediately and for an unlimited period with a hearing to be held in accordance with § 60-20-452.
- (e) Prior to any expulsion ordered by the Commissioner of Education, the student shall be advised by the principal or his designee of the specific conduct resulting in the action, the student shall be given the

opportunity to explain his or her version of the facts surrounding the alleged misconduct and the student shall be advised of the applicable hearing procedures.

§ 60-20-466. Student participation in secret organizations and gangs.

(a) The Board of Education prohibits membership in secret fraternities or sororities, or in other clubs or gangs not sponsored by established agencies or organizations recognized by the PSS. The Board feels that the presence of gangs and gang activities can cause a substantial disruption of or material interference with school and school activities.

(b) A "gang" as defined in this section is any group of two or more persons whose purposes include the commission of illegal acts. By this policy, the Board acts to prohibit existence of gangs and gang activities as follows.

(c) No student on or about school property or at any school activity:

(1) Shall wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other things, which are evidence of membership or affiliation in any gang.

(2) Shall commit any act or omission or use any speech either verbal or nonverbal (gestures, handshakes, etc.) showing membership or affiliation in a gang.

(3) Shall use any speech or commit any act or omission in furtherance of the interests of any gang or gang activity, including but not limited to:

(i) Soliciting others for membership in any gangs.

(ii) Requesting any person to pay protection or otherwise intimidating or threatening any person.

(iii) Committing any other illegal act or other violation of school PSS policies.

(iv) Inciting other students to act with physical violence upon any other person.

(d) The principal will establish procedures and regulations to ensure that any student wearing, carrying or displaying gang paraphernalia; exhibiting behavior or gestures which symbolize gang membership; or causing and/or participating in activities which intimidate or affect the attendance of another student, shall be subject to disciplinary action.

(e) Consequences for such actions and/or behaviors may result in suspension or expulsion.

(f) To further discourage the influence of gangs, PSS administrators shall:

(1) Provide in-service for staff in gang recognition and special workshops for counselors in the event that gangs become a problem at the schools.

(2) Ensure that all students have access to counselors.

(3) Work closely with the local law enforcement authorities and county juvenile officers who work with students and parents/ guardians involved in gang activity.

(4) Provide classroom or after-school programs designed to enhance individual self-esteem and foster interest in a variety of wholesome activities.

Limitations or Conditions on Exclusionary Discipline

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-450. Expulsion.

(a) Expulsion is permanent exclusion from public school attendance, school activities and school property. Expulsion shall be used only in severe cases, or where other means of corrective disciplinary action have failed, or where no other reasonable alternatives are available. An expulsion may be recommended if the student persistently engages in conduct that warrants suspension, or if the student

by means of a single action evidences behavior that is serious enough to warrant removal to protect the rights or safety of others.

(b) Only the Commissioner of Education may expel a student. The principal recommending expulsion shall prepare written documentation in justification of such action.

(c) The Commissioner of Education reserves the right to exclude students for other than disciplinary reasons if the expulsion is deemed in the best interest of the student or the operation of the school (i.e. student with a contagious health problem).

(d) In the event of criminal conduct or other serious action committed by a student, the Commissioner of Education may expel the student immediately and for an unlimited period with a hearing to be held in accordance with § 60-20-452.

(e) Prior to any expulsion ordered by the Commissioner of Education, the student shall be advised by the principal or his designee of the specific conduct resulting in the action, the student shall be given the opportunity to explain his or her version of the facts surrounding the alleged misconduct and the student shall be advised of the applicable hearing procedures.

Due Process

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-448. Suspension.

(e) When a student is suspended, the principal/designee shall attempt to reach the student's parent/guardian to inform them of the school's action and to request that they come to school for the student. If the parent/guardian is unable to come for the student, the principal/designee may ask the parent/guardian for permission to send the student home. If the parent/guardian cannot be reached or if the above request is refused, the student must remain on school property until the close of the school day.

(f) The student's parent or guardian shall also be notified, in writing, on the day the suspension decision is made of the reason(s) for the suspension and the right of the student or parent or guardian to appeal the suspension to the Commissioner of Education within ten calendar days of the notification. Copies of all notifications shall be sent to the Commissioner of Education and the PSS legal counsel.

(g) The appeal procedures for suspensions of less than ten days are described in section (h) of this section (below). The appeal procedures for suspensions of ten days or more are described in § 60-20-452.

(h) If the parent and/or student wishes to appeal a suspension of ten days or less, the Commissioner of Education or a designee who shall be someone other than a principal, administrator or teacher in the suspended student's school, shall meet with the student and/or the parent or guardian to discuss the suspension. If the Commissioner of Education or designee finds that the student was suspended unfairly or unjustly, or that the suspension was inappropriate given the nature of the alleged offense, or that the student suffered undue consequences or penalties, the suspension may be overturned and any reference to the suspension in school records will be expunged. Such findings shall be made in writing within ten school days of the conference.

§ 60-20-450. Expulsion.

(a) Expulsion is permanent exclusion from public school attendance, school activities and school property. Expulsion shall be used only in severe cases, or where other means of corrective disciplinary action have failed, or where no other reasonable alternatives are available. An expulsion may be

recommended if the student persistently engages in conduct that warrants suspension, or if the student by means of a single action evidences behavior that is serious enough to warrant removal to protect the rights or safety of others.

(b) Only the Commissioner of Education may expel a student. The principal recommending expulsion shall prepare written documentation in justification of such action.

(c) The Commissioner of Education reserves the right to exclude students for other than disciplinary reasons if the expulsion is deemed in the best interest of the student or the operation of the school (i.e. student with a contagious health problem).

(d) In the event of criminal conduct or other serious action committed by a student, the Commissioner of Education may expel the student immediately and for an unlimited period with a hearing to be held in accordance with § 60-20-452.

(e) Prior to any expulsion ordered by the Commissioner of Education, the student shall be advised by the principal or his designee of the specific conduct resulting in the action, the student shall be given the opportunity to explain his or her version of the facts surrounding the alleged misconduct and the student shall be advised of the applicable hearing procedures.

§ 60-20-452. Hearing procedures.

(a) A due process hearing will be held if requested by the student parent/guardian for suspensions of more than ten days and expulsions. The hearing will be closed unless the student, parent/guardian or others having custodial care requests an open hearing.

(b) Upon a determination by the principal or the Commissioner of Education that a suspension of more than ten days or an expulsion is necessary, the student and his/her parents or guardians must be sent on the same day the suspension or expulsion recommendation is made, a copy of PSS's student disciplinary policy and written notice of the following:

- (1) The Public School System's intent to suspend the student for more than ten days or to expel the student;
- (2) The charges that necessitate the suspension or expulsion;
- (3) That a full and fair hearing will be held before an impartial adjudicator if requested, in writing, within ten days of notification; and
- (4) Failure to request a hearing, in writing, within ten school days after being notified of the Public School System's intention to suspend or expel the student shall constitute a waiver of the right to a hearing.

(c) In the event that a hearing is requested, the student may not be suspended for more than ten consecutive school days before the hearing is held and written notice of the following will be sent to the parents or guardian of the student:

- (1) The place, date and time of the proposed hearing (allowing sufficient time for a defense to be prepared);
- (2) The student's right to legal counsel at his/her own expense;
- (3) That the student will be given the opportunity to present evidence at the hearing including the testimony of witnesses;
- (4) That the student will be given the opportunity to cross-examine opposing witnesses at the hearing; and
- (5) The availability of a written record of the hearing. This section shall not be construed to prohibit the use of a recording device to record the hearing.

(d) Within ten school days, if practicable, after a hearing is requested in writing, the hearing shall be held. The hearing shall be an informal proceeding where relaxed evidence rules will apply.

- (e) The Commissioner of Education or his/her designee shall preside and ensure that all of the aforementioned rights are afforded the student.
- (f) If, based on the evidence presented at the hearing, the Commissioner of Education or his/her designee finds that the student has committed an act which warrants disciplinary action, he or she may order any appropriate disciplinary action, including, but not limited to, suspension or expulsion.
- (g) When determining whether the disciplinary action and/or the length of suspension/expulsion is appropriate, the Commissioner of Education or his/her designee may consider the severity of the offense, prior disciplinary actions taken against the student by the Public School System and any other prior bad acts of the student.
- (h) Within ten school days after the conclusion of the hearing, the Commissioner of Education or his/her designee shall inform the student, parent or guardian of his/her decision. The decision must be in the form of a final, written opinion regarding whether or not any disciplinary action, such as expulsion or suspension, is warranted.

§ 60-20-454. Appeal to the Board of Education.

- (a) The student and/or his or her parent or guardian shall have the right to appeal to the Commissioner of Education's or his/her designee's decision regarding a suspension of more than ten days or an expulsion to the Board of Education.
- (b) The Board of Education must be notified, in writing, of the student's and/or parent or guardian's desire to appeal within ten school days from the date the student, parent or guardian was informed of the disciplinary decision.
- (c) Once a disciplinary decision is appealed, the Board shall meet to review the decision within thirty calendar days of when the written notice of the appeal is received by the Board.
- (d) The disciplinary decision of the Commissioner of Education or his/her designee shall remain in effect until the Board issues its own decision.
- (e) The Board's decision on appeal shall be based solely on the record developed at the expulsion or suspension hearing and the Commissioner of Education or designee's written opinion. The Board shall review the suspension or expulsion solely on the record of the hearing and decision of the Commissioner of Education or his/her designee. The Board shall receive no new evidence.
- (f) At the hearing the sole issue for the Board to determine is whether the Commissioner of Education's or his/her designee's decision to suspend or expel the student constitutes an abuse of authority. The Board of Education shall render its decision by a majority vote of those members in attendance.
- (g) The Board does not have the authority to modify the Commissioner of Education's or his/her designee's expulsion decision. In such cases, the Board may either uphold the Commissioner of Education's decision, overturn it completely, or overturn it and order that a new hearing be conducted in compliance with their order.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-458. Enrollment or return following suspension and/or expulsion.

- (a)(1) No student shall be readmitted, or permitted to enroll or otherwise attend school (except as may otherwise be required by law), following a suspension or expulsion from any school until the PSS has conducted a conference to review the conduct that resulted in the expulsion or suspension, and any remedial actions needed to prevent any future occurrences of such or related conduct

(2) Participants in such pre-admission conferences will include:(i) Any teacher directly involved in the suspension offense.

(ii) The student

(iii) The parent/guardian.

(iv) The representative of any agency having legal jurisdiction, care, custody, or control of the student.

(v) PSS staff members designated by the Commissioner/ designee

(b) The PSS shall notify in writing the parent/guardian and all other parties of the time, place, and agenda of any such conference. However, failure of any party to attend this conference shall not preclude holding the conference.

(c) Notwithstanding any provision of this chapter to the contrary, no student shall be readmitted or enrolled in a regular program of instruction if:

(1) The student has been convicted of one of the offenses listed below.

(2) The student been charged with one of the offenses and there has been no final judgment.

(3) A juvenile petition has been filed alleging that the student committed an act, which if committed by an adult, would be one of the offenses listed below, and there has been no final judgment; or

(4) The student has been adjudicated to have committed an act, which if committed by an adult, would be one of the offenses listed below.

(d) Offenses to which subsection (c) applies

(1) First degree murder under the laws of the CNMI

(2) Second degree murder under the laws of the CNMI

(3) First degree assault under the laws of the CNMI

(4) Forcible rape under the laws of the CNMI

(5) Forcible sodomy under the laws of the CNMI

(6) Robbery in the first degree under the laws of the CNMI

(7) Distribution of drugs to a minor under the laws of the CNMI

(8) Arson under the laws of the CNMI

(9) Kidnapping under the laws of the CNMI.

(e)(1) Nothing in this section shall be construed to prevent the PSS from imposing discipline under its regulations for conduct underlying the above-listed offenses, even if the adult charge or juvenile charge has been dismissed, or the student has been acquitted or adjudicated not to have committed such acts in a criminal or juvenile court – if by a preponderance of the evidence, it can be established that the student engaged in the underlying conduct. The PSS may enroll a student otherwise excluded under this section, in an alternative education program if the PSS determines that such enrollment is appropriate.

(2) Student denied enrollment because of conviction of one of the acts set out in this section or due to an existing suspension or expulsion from another school will be advised of the reasons for denial of enrollment and will be given an opportunity to respond to those reasons.

Alternative Placements

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-530. Alternative learning settings.

(a) Pursuant to CNMI law (3 CMC § 1132), the Board "shall establish and provide such academic and vocational programs as are appropriate and beneficial to the students and shall serve the needs of the community." As part of this responsibility, the Board has adopted this section to address instructional programs for students at-risk and to establish alternative learning settings to enable students to achieve their educational goals and requirements, such as grade promotions and high school graduation.

(b) Advanced Development Institute (ADI)

(1) ADI is an alternative high school program. The purpose of ADI is to allow students aged sixteen and older, who have not completed high school, to achieve success by making a positive connection with academic and vocational training, employers and work, mentors and tutors, families and community in an atmosphere that is welcoming, comfortable and sensitive to their individual needs, skills and learning styles. ADI teaches students to develop their critical, creative, communication and occupational skills through course offerings including reading and writing, consumer economics, health, government and law, occupational knowledge, and community resources. Graduates of ADI move into the private and public workforce with the skills necessary to achieve success.

(2) The CNMI Board of Education is authorized by law and Board regulations to award diplomas for secondary education. Graduates of ADI must complete two phases to receive an alternative high school diploma. The first phase consists of the ADI academic courses, including English, math, community resources, consumer economics, government and law, occupational knowledge and health. Five academic courses in the first phase must be passed. The second phase requires the students to gain career experience through a vocational or occupational program at a post-secondary institution or by working or volunteering in the community.

(3) A minimum of ninety minutes of daily instructional time shall be provided to students in the alternative high school program of ADI. The subjects are the academic courses in the first phase listed above. Any departure from the time and/or subject requirements will require express prior approval from the Commissioner of Education that is subject to Board review upon request.

(c) Lina'la' Malawasch Academy (LMA)

The Lina'la' Malawasch Academy (LMA) is an alternative learning setting for students grades seven and eight who have demonstrated behavioral problems that require intervention. Lina'la' malawasch means life, well-being and a new beginning in the Chamorro and Carolinian languages. The goal of LMA is to offer a second chance to students by creating an environment for students to improve their behavior, attendance and academic performance to enable them to reenter the general student population and proceed towards graduation from high school. The academic requirements for LMA students are similar to the PSS requirements and Board regulations regarding other junior high school students.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

No relevant laws found.

§ 10401. Gun Free Zones.

(a) No person in the Commonwealth, other than duly authorized law enforcement officers in the exercise of their duties, shall possess a firearm in any of the following places:

(16) within 1,000 feet of any higher education institution or early childhood development facility, elementary or secondary school facility, except for security personnel given express permission to carry a firearm;

(b) Where permitted by subsection (a), the head of the government agency occupying a government building or

government property has the sole authority to grant its security personnel permission to carry firearms in the Gun Free Zone.

(c) Where permitted by subsection (a), the chief executive officer of a business has the sole authority to grant its security personnel permission to carry firearms in the applicable Gun Free Zone.

REGULATIONS

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

(1) Academic dishonesty (cheating on tests, copying term papers, forging signature of teacher or parent);

(2) Disrespect to teacher/staff;

(3) Gambling;

(4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;

(5) Igniting matches (when not part of the instructional program);

(6) Refusing to cooperate with school transportation regulations;

(7) Refusing to cooperate with school rules and regulations;

(8) Refusing to serve detention;

(9) Tardiness (class/classes);

(10) Tardiness (school day);

(11) Truancy (class/classes);

(12) Truancy (school day);

(13) Possession and/or use of tobacco or cigarette rolling papers;

(14) Possession and/or distribution of drug paraphernalia;

- (15) Excessive foul or abusive language;
 - (16) Possession and/or distribution of pornography;
 - (17) Failure to assume responsibility for, or to control his/her behavior.
- (b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:
- (1) Assault on a student;
 - (2) Chronic disruption of the school program and/or activities;
 - (3) Bullying:
 - (i) Physical - includes hitting, kicking, tripping, pinching, and pushing, or damaging property;
 - (ii) Verbal - includes name calling, insults, teasing, intimidation, homophobic or racist remarks, or verbal abuse;
 - (iii) Social - includes:
 - (A) Lying and spreading rumors;
 - (B) Negative facial or physical gestures, menacing or contemptuous looks;
 - (C) Playing nasty jokes to embarrass and humiliate;
 - (D) Mimicking unkindly;
 - (E) Encouraging others to socially exclude another;
 - (F) Damaging someone's social reputation or social acceptance.
 - (iv) Cyber - includes:
 - (A) Abusive or hurtful texts, emails or posts, images or videos;
 - (B) Deliberately excluding others online;
 - (C) Nasty gossip or rumors;
 - (D) Identity theft: imitating others online or accessing their content.
 - (4) Possession and/or use of electronic devices are prohibited without prior and written approval from the school principal;
 - (5) Destruction and vandalism of school property, personal property of students and/or faculty;
 - (6) Receipt, sale, possession, or distribution of property stolen from CNMI Public School System valued less than \$300;
 - (7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance;
 - (8) Extortion less than \$300;
 - (9) False fire alarm/false fire report;
 - (10) Harrasment for any reason including, but not limited to, sex, sexual orientation, color, race, religion, national origin, and disability;
 - (11) Indecent exposure;
 - (12) Participating in, or inciting, a school disruption;
 - (13) Possession and/or detonation of an incendiary or explosive material and/or device (firecracker or greater);
 - (14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I));
 - (15) Theft and/or knowingly possessing stolen property;
 - (16) Trespassing on school property;
 - (17) Possession and/or use of tobacco or cigratte rolling paper, repeated offense;

- (18) Possession and/or use of betel nut (pugua) and/or betel nut paraphernalia, repeated offense;
 - (19) Fighting;
 - (20) Conspiracy involving two or more persons to commit a category II offense;
 - (21) Arson;
 - (22) Conspiracy between two or more persons to commit a category III offense;
 - (23) Destruction and/or vandalism of school property, personal property of students and/or faculty valued at more than \$300;
 - (24) Receiving, selling, possessing, or distributing property stolen from the CNMI Public School System valued at \$300 or more;
 - (25) Distribution and/or sale of alcohol;
 - (26) Distribution and/or sale of controlled substances (illegal drugs), excluding betel nut;
 - (27) Possession or use of a weapon or look alike weapon of any kind (other than a firearm) including, but not limited to, knives, throwing star, straight razor, nunchaku, spiked glove, spiked wristband, or any mace, tear gas, or pepper-spray derivative. Mace, tear gas, and pepper-spray derivatives may be carried with prior, written approval from the Commissioner of Education;
 - (28) Extortion of \$300 or more;
 - (29) Possession of alcohol;
 - (30) Possession of illegal drugs, including betel nut;
 - (31) Prescription violation (misuse of properly prescribed medicine including, but not limited to, such drugs as amphetamines and barbiturates). Possession of prescription drugs without prior authorization for prescribing medication (office policy);
 - (32) Robbery;
 - (33) Use of alcohol, under the influence of alcohol, or showing evidence of having consumed alcohol;
 - (34) Use of intoxicants which cause a loss of self-control or inebriation which include, but are not limited to, glue and solvents, excluding betel nut;
 - (35) Violent behavior which creates a substantial danger to persons or property;
 - (36) Any crime that is designated a felony by CNMI or federal statutes.
- (c) Category III – Offenses which shall result in expulsion and referral to law enforcement:
- (1) Possession, use, purchase, or sale of a firearm;
 - (i) A firearm is defined as:
 - (A) Any weapon which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; or
 - (B) The frame or receiver of any weapon which will, or is designed to or may be readily converted to expel a projectile by the action of an explosive.
 - (2) Acts of terrorism (such as bomb threats);
 - (3) Fraud and/or identity theft.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

- (1) Academic dishonesty (cheating on tests, copying term papers, forging signature of teacher or parent);
- (2) Disrespect to teacher/staff;
- (3) Gambling;
- (4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;
- (5) Igniting matches (when not part of the instructional program);
- (6) Refusing to cooperate with school transportation regulations;
- (7) Refusing to cooperate with school rules and regulations;
- (8) Refusing to serve detention;
- (9) Tardiness (class/classes);
- (10) Tardiness (school day);
- (11) Truancy (class/classes);
- (12) Truancy (school day);
- (13) Possession and/or use of tobacco or cigarette rolling papers;
- (14) Possession and/or distribution of drug paraphernalia;
- (15) Excessive foul or abusive language;
- (16) Possession and/or distribution of pornography;
- (17) Failure to assume responsibility for, or to control his/her behavior.

(b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:

- (1) Assault on a student;
- (2) Chronic disruption of the school program and/or activities;
- (3) Bullying:
 - (i) Physical - includes hitting, kicking, tripping, pinching, and pushing, or damaging property;
 - (ii) Verbal - includes name calling, insults, teasing, intimidation, homophobic or racist remarks, or verbal abuse;
 - (iii) Social - includes:
 - (A) Lying and spreading rumors;
 - (B) Negative facial or physical gestures, menacing or contemptuous looks;

- (C) Playing nasty jokes to embarrass and humiliate;
 - (D) Mimicking unkindly;
 - (E) Encouraging others to socially exclude another;
 - (F) Damaging someone's social reputation or social acceptance.
- (iv) Cyber - includes:
- (A) Abusive or hurtful texts, emails or posts, images or videos;
 - (B) Deliberately excluding others online;
 - (C) Nasty gossip or rumors;
 - (D) Identity theft: imitating others online or accessing their content.
- (4) Possession and/or use of electronic devices are prohibited without prior and written approval from the school principal;
 - (5) Destruction and vandalism of school property, personal property of students and/or faculty;
 - (6) Receipt, sale, possession, or distribution of property stolen from CNMI Public School System valued less than \$300;
 - (7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance;
 - (8) Extortion less than \$300;
 - (9) False fire alarm/false fire report;
 - (10) Harrasment for any reason including, but not limited to, sex, sexual orientation, color, race, religion, national origin, and disability;
 - (11) Indecent exposure;
 - (12) Participating in, or inciting, a school disruption;
 - (13) Possession and/or detonation of an incendiary or explosive material and/or device (firecracker or greater);
 - (14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I));
 - (15) Theft and/or knowingly possessing stolen property;
 - (16) Trespassing on school property;
 - (17) Possession and/or use of tobacco or cigratte rolling paper, repeated offense;
 - (18) Posession and/or use of betel nut (pugua) and/or betel nut paraphernalia, repeated offense;
 - (19) Fighting;
 - (20) Conspiracy involving two or more persons to commit a category II offense;
 - (21) Arson;
 - (22) Conspiracy between two or more persons to commit a category III offense;
 - (23) Destruction and/or vandalism of school property, personal property of students and/or faculty valued at more than \$300;
 - (24) Receiving, selling, possessing, or distributing property stolen from the CNMI Public School System valued at \$300 or more;
 - (25) Distribution and/or sale of alcohol;
 - (26) Distribution and/or sale of controlled substances (illegal drugs), excluding betel nut;
 - (27) Possession or use of a weapon or look alike weapon of any kind (other than a firearm) including, but not limited to, knives, throwing star, straight razor, nunchaku, spiked glove, spiked wristband, or any

mace, tear gas, or pepper-spray derivative. Mace, tear gas, and pepper-spray derivatives may be carried with prior, written approval from the Commissioner of Education;

(28) Extortion of \$300 or more;

(29) Possession of alcohol;

(30) Possession of illegal drugs, including betel nut;

(31) Prescription violation (misuse of properly prescribed medicine including, but not limited to, such drugs as amphetamines and barbiturates). Possession of prescription drugs without prior authorization for prescribing medication (office policy);

(32) Robbery;

(33) Use of alcohol, under the influence of alcohol, or showing evidence of having consumed alcohol;

(34) Use of intoxicants which cause a loss of self-control or inebriation which include, but are not limited to, glue and solvents, excluding betel nut;

(35) Violent behavior which creates a substantial danger to persons or property;

(36) Any crime that is designated a felony by CNMI or federal statutes.

(c) Category III – Offenses which shall result in expulsion and referral to law enforcement:

(1) Possession, use, purchase, or sale of a firearm;

(i) A firearm is defined as:

(A) Any weapon which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; or

(B) The frame or receiver of any weapon which will, or is designed to or may be readily converted to expel a projectile by the action of an explosive.

(2) Acts of terrorism (such as bomb threats);

(3) Fraud and/or identity theft.

Chronic Absenteeism and Truancy

LAWS

§ 1131. Elementary, middle, and secondary schools.

Every person between the ages of five (5) and seventeen (17) shall attend a public school or non-public school or until the completion of the twelfth (12th) grade or upon meeting the high school graduation requirements. Any parent, guardian, or other person having the responsibility for the care of a child, whose attendance at school is obligatory, shall enroll their child in school. The Commissioner may grant individual waivers to this compulsory attendance requirement in cases of approved home study or for other circumstances in accordance with the law.

§ 5161. Truancy.

(a) Any juvenile subject to compulsory education pursuant to 3 CMC § 1141 who has not been granted a waiver from the Commissioner of Education and who is absent without valid excuse for (1) five days in one semester under block scheduling; or (2) ten days in one semester for schools without block scheduling is truant, except as otherwise provided in this section.

(b) Block schedules, semesters and valid excused absences under this section shall be interpreted in accordance with Board of Education and Public School System rules, regulations, policies and procedures.

(c) School ordered suspensions and expulsions shall not be considered when determining truancy pursuant to this section.

(d) Violation of this section may be punishable by a fine, not to exceed \$500.

(e) Truancy is a status offense that is not punishable by detention unless the juvenile is a habitual status offender.

§ 5163. School attendance - Jurisdiction over students and parents.

Committee. The School Attendance Review Committee shall include, but need not be limited to, a parent of a school age child and representatives of:

- (1) the Public School System;
- (2) the Coalition of Private Schools, CNMI or any successor organization recognized by the Board of Education;
- (3) the Juvenile Probation Unit of DYS;
- (4) the Child Protective Unit of DYS; and
- (5) the Department of Public Safety (DPS).

The Public School System representative shall be appointed by the Commissioner of Education. All other members shall be appointed by the Board of Education with the input and consent of the representative agencies. Every effort shall be made to ensure members of the School Attendance Review Committee shall be individuals whose primary job responsibilities are working directly with students or juvenile clients.

(b) It is the intent of this section to provide intervention for juveniles and their families to address truancy, irregular attendance or insubordinate or disorderly behavior in school at the community level before referral to the juvenile justice system. The School Attendance Review Committee's duties shall include, but are not limited to, the following:

- (1) proposing, promoting and providing alternatives to the juvenile justice system, where possible;
- (2) addressing matters regarding an individual juvenile's truancy, failure to regularly attend school in accordance with school policies and regulations, or insubordinate or disorderly behavior;
- (3) setting and conducting meetings with juveniles and/or their parents to discuss consequences of the student's truancy and/or behavior and establish terms, conditions and options to reduce and eliminate the truancy of the student and improve his or her attendance. The meeting format shall be that of mediation and not adversarial; and
- (4) referring juveniles and their families to other agencies, such as Community Guidance Center, DYS, DPS and the Attorney General's Office for services or action, as appropriate.

(c) The Board of Education may adopt such policies, procedures, rules and regulations, not inconsistent with this chapter, that may be needed for the operation of the School Attendance Review Committee and to fulfill its obligations pursuant to this section.

(d) The School Attendance Review Committee shall strive to maintain a continuing inventory of community resources, including alternative educational programs, and make recommendations for the creation of new resources and programs where none exist.

(e) In every case in which a juvenile has been referred to it, the School Attendance Review Committee has the authority to issue subpoenas pursuant to the procedures provided in 1 CMC § 9109(d), requiring the production of pertinent information and documents and/or the attendance of any of the following persons:

- (1) The juvenile;
- (2) The juvenile's parents, guardians, or other person having control of the juvenile;
- (3) The school authority referring the juvenile; and
- (4) Any other person who has pertinent or material information concerning the juvenile. The purpose of any meeting under this section is to establish and agree upon terms, conditions and options to reduce and eliminate the truancy of the student. The meeting format shall be that of mediation and not adversarial.

- (f) The enforcement of a subpoena issued by a School Attendance Review Committee is within the jurisdiction of the juvenile court.
- (g) In the event a juvenile, parent, guardian and/or person in charge of the juvenile fails to respond to the directives of the School Attendance Review Committee, or to services offered on behalf of the juvenile or the Committee determines that available community resources cannot resolve the problems with the juvenile's school attendance or behavior, the Committee shall direct that the juvenile be referred to the Juvenile Probation Unit and request that the Office of the Attorney General file a complaint against the juvenile, parent, guardian, and/or other person having control of the juvenile.
- (h) Whenever a committee member appointed by an agency is unavailable to participate in the School Attendance Review Committee, that member's agency may assign personnel to represent the agency either temporarily or on a continuing basis in accordance with the intent of this section. The duties, obligations, or responsibilities which may be imposed on governmental entities by this section are such that the related costs are incurred as a part of their normal operating procedures.
- (i) Nothing in this section shall be construed to interfere with the juvenile's school's authority to establish truancy procedures and to determine whether or not a matter should be referred to the Review Committee or to the Department of Public Safety or the Office of the Attorney General.
- (j) Nothing in this section alters any policy or regulation of the Board of Education or the authority of any school or the Commissioner of Education to take appropriate corrective measures, including without limitation suspension or expulsion of the juvenile.

REGULATIONS

§ 60-20-115. Powers and duties.

- (a) The Board is the governing and policy-making body of the Department of Education. The Board establishes policy, and the Department of Education implements policy and administers programs, which shall include but are not limited to the following:
- (1) Education in public schools
 - (2) Adult education
 - (3) Vocational training, including on-the-job training
 - (4) Bilingual and bicultural education programs
 - (5) Supervision of all educational programs funded in whole or in part by the Department of Education
 - (6) Special cultural programs and seminars
 - (7) Enforcement of standards of attendance and laws pertaining to compulsory attendance
 - (8) The licensing or certification of teachers and teacher aides
 - (9) The performance of any and all other duties required or permitted by law.
- (b) In addition to those powers and duties provided for elsewhere in this chapter, and without limitation of the generality of subsection (a), above, the Board of Education shall have the following specific powers and duties:
- (1) To establish and maintain schools and classes to meet the needs of pupils of the Northern Mariana Islands in grades one through twelve, and such adult classes as it deems necessary
 - (2) To adopt textbooks and courses of study consistent with the needs of students upon the recommendations of the professional staff through the Superintendent of Education
 - (3) To require proper accounting for receipts and expenditures and to provide for an annual audit as required by law
 - (4) To authorize the expenditure of funds of the Department of Education
 - (5) To determine the building needs of the school system, provide for the construction of school buildings and approve the plans for the buildings

- (6) To establish the certification standards for all professional positions within the Department
- (7) To develop long-range plans for the orderly growth of the school system
- (8) To appraise and review its policies and actions and the program of education and the performance of the staff
- (9) To ratify administrative procedures promulgated by the Superintendent for the purpose of implementing Board policy.

§ 60-20-420. Student Attendance.

- (a) Excused absence is absence necessitated because of illness or death in the family, or absence with the written approval of parent/guardian when such approval is not inconsistent with the academic needs of the student as determined by the principal.
- (b) Unexcused absences are those which are not excused. They may generally be categorized as being of such a nature that prudence would have avoided or precluded the absence. Suspensions and expulsions are considered unexcused absences.
- (c) All students who participate in sanctioned school activities that remove the student from regular classroom attendance shall be considered as present. Sanctioned activities must have an educational purpose and students must make up any lesson or assignment missed as a result of such activity. Educational purposes include the discovery and understanding of life skills, community awareness, cultural diversity, language development, natural resources, social structures, political systems, historical perspectives and character development.
- (d) School principals/designees have the authority to make determination of whether or not an absence will be considered excused or unexcused.

(e) Student Absences

- (1) Secondary school students (grades 6-12) who incur thirteen or more unexcused absences in a course during one semester shall be considered excessively absent and shall not receive a passing grade for that course for that semester. Students under block scheduling who incur seven or more unexcused absences during a term shall be considered excessively absent and shall not receive a passing grade for that course during that term.
- (2) Secondary students who do not receive a passing grade for a semester as a result of excessive absences shall receive a "no credit" (NC or 0.00) on their academic record, irrespective of the grade the student would have received before the excessive absences. The course must be repeated and the no credit may be deleted only upon successful completion of the repeated course.
- (3) Elementary school students with 25 or more absences in a school year will not receive credit and will not be promoted, unless an exemption is granted by the Commissioner.

(f) Tardiness

- (1) The term tardy is defined as being late to school, class or an activity with or without permission of parent/guardian. A student is considered tardy if he/she arrives after the designated time of the class or activity, regardless of how late the student is.
- (2) A student who misses more than half of a class or activity shall be considered absent for the entire class or activity.
- (3) For secondary school students, every third unexcused tardy shall be considered one unexcused absence within the term/semester the tardies occurred.
- (4) For elementary school students, every third unexcused tardy of 10 minutes or greater shall be considered one unexcused absence within the term/semester the tardies occurred.

(g) Counseling for Absenteeism and Tardiness Problems

The teacher should counsel those students who are developing a pattern of being absent and/or tardy. The teacher will refer to a school administrator specifically designated by the school principal to handle

such problems, those students who, in the teacher's judgment, are not making progress toward correcting the problem.

(1) Upon the first referral by a teacher, the administrator should attempt to determine the nature of the problem, inform the student and the student's parent/guardian of the absence and tardy policy and regulation.

(2) The teacher must refer the student to a school administrator and a parent conference must be held to discuss the problem and to explain the Board regulations and any appropriate discipline alternatives under the following circumstances:

(i) Under block scheduling, after the third unexcused absence or sixth tardy in a quarter.

(ii) For secondary schools without block scheduling, after the sixth tardy or sixth unexcused absence in a semester.

(iii) For elementary schools, after the sixth tardy in a semester or the sixth unexcused absence in a semester.

(3) In addition to counseling after teacher referrals, principals shall require doctor's excuses for absences in the following circumstances, unless a waiver for the absence is obtained from the school principal:

(i) Under block scheduling, a doctor's excuse will be required for any absence after the third in a term.

(ii) For secondary schools without block scheduling, a doctor's excuse will be required for any absence after the sixth in a semester.

(iii) For elementary schools, a doctor's excuse will be required for any absence after the sixth in a semester.

(h) Absenteeism and/or tardiness problems for special education students must be referred to the student's IEP team to address the problem and discuss any appropriate learning and/or disciplinary alternatives.

§ 60-20-426. Truancy and educational neglect procedures.

(a) Truancy

(1) The principal upon receiving a report from a teacher that a student has accumulated two unexplained absence shall immediately provide counseling to the truant student and promptly issue a truancy report to the student's parent/guardian with a copy provided to the Commissioner of Education.

The report shall include recommendation(s) by the school prescribing corrective measures for parent/guardian and student. Any repeated truancy by the student shall be reported to the Division of Youth Services, Community and Cultural Affairs Offices for counseling and other necessary actions, and parent-teacher conferences may also be held.

(2) The Division of Youth Services shall have access to student records with or without prior parent/guardian approval as stated in § 60-20-428. However, such privilege is limited only to the particular caseworker and/or counselor assigned to the case.

(3) All communication with a student's parent/guardian and student contact and reports from referral agencies must be accurately recorded in writing and filed in the student's cumulative folder.

(b) Educational Neglect

(1) Commonwealth law requires that any parent, guardian or other person responsible for a child between the age of six and sixteen shall send the child to a public or nonpublic* unless the Commissioner of Education grants a waiver. 3 CMC § 1141.

(2) Educational neglect may be defined as when a person who is responsible for a child six through sixteen who through willful or negligent act or omission fails to provide the child with adequate supervision to ensure attendance at school. Individuals who commit educational neglect are subject to criminal prosecution in accordance with the law.

(3) School employees who suspect that a child is subject to educational neglect shall report this as soon as possible to the principal/designee.

(4) The principal/designee shall review the report and confer with the parent/guardian to resolve the situation. When appropriate, a school counselor, social worker, or nurse may be instructed to offer any appropriate social or health services.

(5) If appropriate school intervention does not correct the student's truancy, and reasonable cause for educational neglect has been determined, the principal/ designee shall call the Division of Youth Services and report the alleged child educational neglect. A report of this call shall be forwarded to the Commissioner and carbon copied to PSS legal counsel.

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

- (1) Academic dishonesty (cheating on tests, copying term papers, forging signature of teacher or parent);
- (2) Disrespect to teacher/staff;
- (3) Gambling;
- (4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;
- (5) Igniting matches (when not part of the instructional program);
- (6) Refusing to cooperate with school transportation regulations;
- (7) Refusing to cooperate with school rules and regulations;
- (8) Refusing to serve detention;
- (9) Tardiness (class/classes);
- (10) Tardiness (school day);
- (11) Truancy (class/classes);
- (12) Truancy (school day);
- (13) Possession and/or use of tobacco or cigarette rolling papers;
- (14) Possession and/or distribution of drug paraphernalia;
- (15) Excessive foul or abusive language;
- (16) Possession and/or distribution of pornography;
- (17) Failure to assume responsibility for, or to control his/her behavior.

(b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:

- (1) Assault on a student;
- (2) Chronic disruption of the school program and/or activities;
- (3) Bullying:
 - (i) Physical - includes hitting, kicking, tripping, pinching, and pushing, or damaging property;
 - (ii) Verbal - includes name calling, insults, teasing, intimidation, homophobic or racist remarks, or verbal abuse;

- (iii) Social - includes:
 - (A) Lying and spreading rumors;
 - (B) Negative facial or physical gestures, menacing or contemptuous looks;
 - (C) Playing nasty jokes to embarrass and humiliate;
 - (D) Mimicking unkindly;
 - (E) Encouraging others to socially exclude another;
 - (F) Damaging someone's social reputation or social acceptance.
- (iv) Cyber - includes:
 - (A) Abusive or hurtful texts, emails or posts, images or videos;
 - (B) Deliberately excluding others online;
 - (C) Nasty gossip or rumors;
 - (D) Identity theft: imitating others online or accessing their content.
- (4) Possession and/or use of electronic devices are prohibited without prior and written approval from the school principal;
- (5) Destruction and vandalism of school property, personal property of students and/or faculty;
- (6) Receipt, sale, possession, or distribution of property stolen from CNMI Public School System valued less than \$300;
- (7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance;
- (8) Extortion less than \$300;
- (9) False fire alarm/false fire report;
- (10) Harrasment for any reason including, but not limited to, sex, sexual orientation, color, race, religion, national origin, and disability;
- (11) Indecent exposure;
- (12) Participating in, or inciting, a school disruption;
- (13) Possession and/or detonation of an incendiary or explosive material and/or device (firecracker or greater);
- (14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I));
- (15) Theft and/or knowingly possessing stolen property;
- (16) Trespassing on school property;
- (17) Possession and/or use of tobacco or cigratte rolling paper, repeated offense;
- (18) Posession and/or use of betel nut (pugua) and/or betel nut paraphernalia, repeated offense;
- (19) Fighting;
- (20) Conspiracy involving two or more persons to commit a category II offense;
- (21) Arson;
- (22) Conspiracy between two or more persons to commit a category III offense;
- (23) Destruction and/or vandalism of school property, personal property of students and/or faculty valued at more than \$300;
- (24) Receiving, selling, possessing, or distributing property stolen from the CNMI Public School System valued at \$300 or more;
- (25) Distribution and/or sale of alcohol;
- (26) Distribution and/or sale of controlled substances (illegal drugs), excluding betel nut;

(27) Possession or use of a weapon or look alike weapon of any kind (other than a firearm) including, but not limited to, knives, throwing star, straight razor, nunchaku, spiked glove, spiked wristband, or any mace, tear gas, or pepper-spray derivative. Mace, tear gas, and peper-spray derivatives may be carried with prior, written approval from the Commissioner of Education;

(28) Extortion of \$300 or more;

(29) Possession of alcohol;

(30) Possession of illegal drugs, including betel nut;

(31) Prescription violation (misuse of properly prescribed medicine including, but not limited to, such drugs as amphetamines and barbiturates). Possession of prescription drugs without prior authorization for prescribing medication (office policy);

(32) Robbery;

(33) Use of alcohol, under the influence of alcohol, or showing evidence of having consumed alcohol;

(34) Use of intoxicants which cause a loss of self-control or inebriation which include, but are not limited to, glue and solvents, excluding betel nut;

(35) Violent behavior which creates a substantial danger to persons or property;

(36) Any crime that is designated a felony by CNMI or federal statutes.

(c) Category III – Offenses which shall result in expulsion and referral to law enforcement:

(1) Possession, use, purchase, or sale of a firearm;

(i) A firearm is defined as:

(A) Any weapon which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; or

(B) The frame or receiver of any weapon which will, or is designed to or may be readily converted to expel a projectile by the action of an explosive.

(2) Acts of terrorism (such as bomb threats);

(3) Fraud and/or identity theft.

Substance Use

LAWS

§ 3175. Prohibition of smoking on property of the public school system.

(a) It shall be unlawful at all times for any person or an employee of any public school or college to smoke on school or college property. Any person or employee who knowingly violates this section shall be subject to the penalties under 6 CMC § 3182.

(b) It shall be unlawful for any student enrolled in public schools, colleges, or trade schools in the Northern Marianas to use tobacco products of any type on school property.

(c) The Public School System and the Northern Marianas College shall establish by regulation a policy dealing with students who violate this law. This policy shall, at a minimum, include mandatory education classes on the hazards of tobacco use.

REGULATIONS

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

(13) Possession and/or use of tobacco or cigarette rolling papers;

(14) Possession and/or distribution of drug paraphernalia; [...]

(b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:

(7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance; [...]

(14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I)); [...]

(29) Possession of alcohol;

(30) Possession of illegal drugs, including betel nut.

§ 60-20-470. Student use of tobacco, alcohol, drugs and betel nut.

(a) Drugs and Alcohol

The possession, use, sale, distribution and/or intent to distribute any illegal or controlled moodaltering chemical, medication or abused chemical or alcohol or other intoxicants on school property, at school-sponsored events, and on school buses is prohibited.

(b) Smoking

Smoking on school campuses and on school buses at all times is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

(c) Betel-nut (Pugua)

The use, sale or distribution of betel-nut on Public School System campuses and on school buses is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-464. Student attire and appearance.

(a) It is the responsibility of the Board to ensure that every student has a safe environment in which to learn. Attire worn by students that, in the opinion of the school administration, causes distraction or inhibits learning is forbidden.

(b) Attire which is prohibited by the Board includes but is not limited to the following:

(1) Attire and appearance that promotes gang affiliations;

(2) Attire and appearance which promotes the use of drugs, alcohol or weapons;

(3) Attire and appearance that presents a hazard to the student's safety or the safety of other students or staff;

(4) Attire and appearance which advocates prejudice;

(5) Attire and appearance that causes a material and substantial disruption of the learning process;

(6) Provocative clothing which draws undue attention to themselves, thus disrupting the educational process.

(c) The definition of attire and appearance should be construed liberally to include items such as bookbags, book-covers, sports-related articles, hats, lunch-boxes, and other similar items that students may bring to school.

§ 60-20-466. Student participation in secret organizations and gangs.

(a) The Board of Education prohibits membership in secret fraternities or sororities, or in other clubs or gangs not sponsored by established agencies or organizations recognized by the PSS. The Board feels that the presence of gangs and gang activities can cause a substantial disruption of or material interference with school and school activities.

(b) A "gang" as defined in this section is any group of two or more persons whose purposes include the commission of illegal acts. By this policy, the Board acts to prohibit existence of gangs and gang activities as follows.

(c) No student on or about school property or at any school activity:

(1) Shall wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other things, which are evidence of membership or affiliation in any gang.

(2) Shall commit any act or omission or use any speech either verbal or nonverbal (gestures, handshakes, etc.) showing membership or affiliation in a gang.

(3) Shall use any speech or commit any act or omission in furtherance of the interests of any gang or gang activity, including but not limited to:

(i) Soliciting others for membership in any gangs.

(ii) Requesting any person to pay protection or otherwise intimidating or threatening any person.

(iii) Committing any other illegal act or other violation of school PSS policies.

(iv) Inciting other students to act with physical violence upon any other person.

(d) The principal will establish procedures and regulations to ensure that any student wearing, carrying or displaying gang paraphernalia; exhibiting behavior or gestures which symbolize gang membership; or causing and/or participating in activities which intimidate or affect the attendance of another student, shall be subject to disciplinary action.

(e) Consequences for such actions and/or behaviors may result in suspension or expulsion.

(f) To further discourage the influence of gangs, PSS administrators shall:

(1) Provide in-service for staff in gang recognition and special workshops for counselors in the event that gangs become a problem at the schools.

(2) Ensure that all students have access to counselors.

(3) Work closely with the local law enforcement authorities and county juvenile officers who work with students and parents/ guardians involved in gang activity.

(4) Provide classroom or after-school programs designed to enhance individual self-esteem and foster interest in a variety of wholesome activities.

Bullying, Harassment, or Hazing

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-401. Discrimination and harassment prohibited.

(a) All students, employees and parents have the right to be free from discrimination and harassment on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socio-economic status or disabling condition. Employees shall not participate in, or permit others to engage in, any act of discrimination against students, parents or coworkers based on the above factors or in retaliation for the exercise of any of their rights.

(b) Definitions

(1) Discrimination is the singling out of a person or persons for different treatment, regardless whether good or bad, based on the factors listed above. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, students and employees are required to treat all persons equally.

(2) Harassment may be defined as abusive behavior or other verbal or physical conduct towards a person based on that person's sex, sexual orientation, race, creed, color, religion, national origin, age, cultural or socio-economic status or disabling condition which has the purpose or effect of creating an intimidating, hostile or offensive environment that interferes with a student's participation in or receipt of benefits, services or opportunities in a school's programs and activities. Examples of harassment include, but are not limited to, jokes, comments, slurs, epithets and disparaging remarks.

(c) Complaints

(1) Any student who believes that he or she is a victim of discrimination or harassment should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) Students, parents and employees should review § 60-20-402 for more information regarding sexual harassment and follow the procedures set forth in § 60-20-402 to address discrimination or harassment of any kind on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socioeconomic status or disabling condition.

(3) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination or harassment.

(4) The responsible administrator shall follow up regularly with the complaining student to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in discrimination and/or harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the discrimination and/or harassment of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of discrimination and/or harassment from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of discrimination and/or harassment shall receive appropriate discipline. The term "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

§ 60-20-403. Bullying.

(a) It is the policy of the CNMI State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the CNMI State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation.

(b) Definitions

(1) As used in this regulation, "bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

- (i) Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
- (ii) Threatening or seriously intimidating;
- (iii) Occurs in a school setting and/or with school property; and
- (iv) Substantially disrupts the orderly operation of a school.

(2) Examples of bullying may include but are not limited to:

- (i) Physical: hitting, kicking, pushing, shoving, getting another person to hurt someone;
- (ii) Verbal: racial slurs, name-calling, teasing, taunting, verbal sexual harassment, gossiping, spreading rumors; or
- (iii) Non-verbal: threatening, obscene gestures, isolation, exclusion, stalking, cyber-bullying (bullying that occurs by means of electronic communication).

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or page.

(4) "School setting" means in the school, on school grounds, in school vehicles, at a designated school bus stop or at any activity sponsored, supervised or sanctioned by the school.

(5) "School property" means the school computer or telephone and encompasses the use of electronic technology at a public school.

(c) Complaints

(1) Any student who believes that he or she is a victim of bullying should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to bullying.

(3) The responsible administrator shall follow up regularly with the complaining student to ensure that the bullying has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in bullying while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the bullying of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of bullying from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of bullying shall receive appropriate discipline.

The terms "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to bullying. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from bullying. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In

accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's bullying policy.

§ 60-20-446. Offense categories.

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

(4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;

(b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:

(3) Bullying.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant regulations found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-401. Discrimination and harassment prohibited.

(a) All students, employees and parents have the right to be free from discrimination and harassment on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socio-economic status or disabling condition. Employees shall not participate in, or permit others to engage in, any act of discrimination against students, parents or coworkers based on the above factors or in retaliation for the exercise of any of their rights.

(b) Definitions

(1) Discrimination is the singling out of a person or persons for different treatment, regardless whether good or bad, based on the factors listed above. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, students and employees are required to treat all persons equally.

(2) Harassment may be defined as abusive behavior or other verbal or physical conduct towards a person based on that person's sex, sexual orientation, race, creed, color, religion, national origin, age, cultural or socio-economic status or disabling condition which has the purpose or effect of creating an intimidating, hostile or offensive environment that interferes with a student's participation in or receipt of benefits, services or opportunities in a school's programs and activities. Examples of harassment include, but are not limited to, jokes, comments, slurs, epithets and disparaging remarks.

(c) Complaints

(1) Any student who believes that he or she is a victim of discrimination or harassment should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) Students, parents and employees should review § 60-20-402 for more information regarding sexual harassment and follow the procedures set forth in § 60-20-402 to address discrimination or harassment of any kind on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socioeconomic status or disabling condition.

(3) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination or harassment.

(4) The responsible administrator shall follow up regularly with the complaining student to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in discrimination and/or harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the discrimination and/or harassment of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of discrimination and/or harassment from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of discrimination and/or harassment shall receive appropriate discipline. The term "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

§ 60-20-403. Bullying.

(a) It is the policy of the CNMI State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the CNMI State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation.

(b) Definitions

(1) As used in this regulation, "bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

(i) Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;

(ii) Threatening or seriously intimidating;

(iii) Occurs in a school setting and/or with school property; and

(iv) Substantially disrupts the orderly operation of a school.

(2) Examples of bullying may include but are not limited to:

(i) Physical: hitting, kicking, pushing, shoving, getting another person to hurt someone;

(ii) Verbal: racial slurs, name-calling, teasing, taunting, verbal sexual harassment, gossiping, spreading rumors; or

(iii) Non-verbal: threatening, obscene gestures, isolation, exclusion, stalking, cyber-bullying (bullying that occurs by means of electronic communication).

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or page.

(4) "School setting" means in the school, on school grounds, in school vehicles, at a designated school bus stop or at any activity sponsored, supervised or sanctioned by the school.

(5) "School property" means the school computer or telephone and encompasses the use of electronic technology at a public school.

(c) Complaints

(1) Any student who believes that he or she is a victim of bullying should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to bullying.

(3) The responsible administrator shall follow up regularly with the complaining student to ensure that the bullying has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in bullying while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the bullying of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of bullying from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of bullying shall receive appropriate discipline.

The terms "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to bullying. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from bullying. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's bullying policy.

§ 60-20-426. Truancy and educational neglect procedures.

(a) Truancy

(1) The principal upon receiving a report from a teacher that a student has accumulated two unexplained absence shall immediately provide counseling to the truant student and promptly issue a truancy report to the student's parent/guardian with a copy provided to the Commissioner of Education. The report shall include recommendation(s) by the school prescribing corrective measures for parent/guardian and student. Any repeated truancy by the student shall be reported to the Division of Youth Services, Community and Cultural Affairs Offices for counseling and other necessary actions, and parent-teacher conferences may also be held.

(2) The Division of Youth Services shall have access to student records with or without prior parent/guardian approval as stated in § 60-20-428. However, such privilege is limited only to the particular caseworker and/or counselor assigned to the case.

(3) All communication with a student's parent/guardian and student contact and reports from referral agencies must be accurately recorded in writing and filed in the student's cumulative folder.

(b) Educational Neglect

(1) Commonwealth law requires that any parent, guardian or other person responsible for a child between the age of six and sixteen shall send the child to a public or nonpublic* unless the Commissioner of Education grants a waiver. 3 CMC § 1141.

(2) Educational neglect may be defined as when a person who is responsible for a child six through sixteen who through willful or negligent act or omission fails to provide the child with adequate supervision to ensure attendance at school. Individuals who commit educational neglect are subject to criminal prosecution in accordance with the law.

(3) School employees who suspect that a child is subject to educational neglect shall report this as soon as possible to the principal/designee.

(4) The principal/designee shall review the report and confer with the parent/guardian to resolve the situation. When appropriate, a school counselor, social worker, or nurse may be instructed to offer any appropriate social or health services.

(5) If appropriate school intervention does not correct the student's truancy, and reasonable cause for educational neglect has been determined, the principal/ designee shall call the Division of Youth

Services and report the alleged child educational neglect. A report of this call shall be forwarded to the Commissioner and carbon copied to PSS legal counsel.

§ 60-20-495. Reporting requirements.

- (a) Circumstances under which a physical restraint must be reported.
 - (1) PSS staff shall report the use of physical restraint after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of duration longer than five minutes.
- (b) Informing school administration.
 - (1) The PSS staff who administered the restraint shall verbally inform the administration of the restraint as soon as possible and by written report no later than the next school working day.
 - (2) The written report shall be provided to the principal or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint
 - (3) The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint.
- (c) Informing parents.
 - (1) The principal or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report no later than three school working days following the use of restraint.
- (d) Contents of report. The written report shall include:
 - (1) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.
 - (2) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.
 - (3) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.
 - (4) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts, and the justification for administering the extended restraint.
 - (5) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.
 - (6) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student, and/or any other related matter.

§ 60-20-810. Accident/incident reporting.

- (a) All schools shall follow emergency procedure guidelines to ensure the health and safety of all students.
- (b) All PSS staff involved in or witnessing an accident/ incident on campus that involves personal injury or property damage must immediately make an oral report to his or her supervisor and/or the principal. Supervisors and principals shall inform the Commissioner's officer no later than the end of the school day on which the accident/incident was reported.

(c) Written reports from staff to principal shall be completed within 24 hours when an incident or accident occurs when a student is injured on school property or during a school sanctioned activity.

(1) Written Accident Report Procedures

- (i) The person in charge at the time of the accident shall complete the accident/incident report form.
- (ii) The accident/incident report form shall be returned and forwarded to the principal within 24 hour.
- (iii) The principal reviews the report and makes a necessary recommendation.
- (iv) The principal shall forward a copy to the Commissioner/designee within 24 hours and a copy to the legal counsel if a serious injury/accident and/or hospitalization occurs or results in the absence of the student for a day or more. A copy remains in the school.

(2) Accident/incident reports will include:

- (i) Date, time and place of accident.
- (ii) Name and address of injured person(s).
- (iii) Name of staff member(s) in attendance.
- (iv) Type of accident.
- (v) Personal injuries incurred.
- (vi) Treatment given.
- (vii) Description of the accident.
- (viii) Property damage incurred.
- (ix) Name and address of any parties with first-hand information regarding the accident.
- (x) Name of staff member making the report.
- (xi) Date and time of parent/guardian notification.
- (xii) If available, the hospital number and insurance number of party involved in the accident

(d) All written reports shall be sent to the Commissioner within 24 hours. The Commissioner shall report to the Board all serious accidents and shall also submit to the Board periodic statistical reports on the number and types of accidents occurring in the schools.

Parental Notification

LAWS

No relevant laws found.

REGULATIONS

§ 60-20-408. Employees of Department of Public Safety on campus.

Whenever a student is on campus during school operating hours and is wanted by the Department of Public Safety (DPS) for an alleged offense(s) not reported by the school, the following guidelines shall apply:

- (a) In all cases, upon arriving on campus, DPS personnel must report first to the principal's office to inform the principal of the student(s) sought by DPS and to explain the purpose of their visit to the school. The only exception to first reporting to the principal's office is when there is a crime in progress. DPS then has the right to make an immediate arrest and report afterwards to the principal's office. The principal shall immediately notify the parent/guardian of a student who has been arrested by DPS on campus.
- (b) In cases involving a felony when DPS personnel wish to question a student during school hours, the parents must be informed before such questioning may begin. The principal may be present during the questioning. A student may be released to DPS if DPS demonstrates to the school that such release is necessary in the interests of law enforcement and public safety, such as a copy of a warrant or

indictment. The principal shall immediately notify the parent/guardian of a student who has been released to DPS.

(c) In cases involving a misdemeanor, DPS will make every effort to locate and question a student involved in or knowledgeable of a misdemeanor outside of school operating hours and will only resort to questioning a student during school hours when all other methods fail. In the event that questioning a student during school hours is necessary, the parent must be informed before such questioning may begin and DPS may only question a student when a principal is present. A principal does not need to release a student to DPS in cases involving a misdemeanor.

§ 60-20-448. Suspension.

(e) When a student is suspended, the principal/designee shall attempt to reach the student's parent/guardian to inform them of the school's action and to request that they come to school for the student. If the parent/guardian is unable to come for the student, the principal/designee may ask the parent/guardian for permission to send the student home. If the parent/guardian cannot be reached or if the above request is refused, the student must remain on school property until the close of the school day.

(f) The student's parent or guardian shall also be notified, in writing, on the day the suspension decision is made of the reason(s) for the suspension and the right of the student or parent or guardian to appeal the suspension to the Commissioner of Education within ten calendar days of the notification. Copies of all notifications shall be sent to the Commissioner of Education and the PSS legal counsel.

(g) The appeal procedures for suspensions of less than ten days are described in section (h) of this section (below). The appeal procedures for suspensions of ten days or more are described in § 60-20-452.

(h) If the parent and/or student wishes to appeal a suspension of ten days or less, the Commissioner of Education or a designee who shall be someone other than a principal, administrator or teacher in the suspended student's school, shall meet with the student and/or the parent or guardian to discuss the suspension. If the Commissioner of Education or designee finds that the student was suspended unfairly or unjustly, or that the suspension was inappropriate given the nature of the alleged offense, or that the student suffered undue consequences or penalties, the suspension may be overturned and any reference to the suspension in school records will be expunged. Such findings shall be made in writing within ten school days of the conference.

§ 60-20-458. Enrollment or return following suspension and/or expulsion.

(a)(1) No student shall be readmitted, or permitted to enroll or otherwise attend school (except as may otherwise be required by law), following a suspension or expulsion from any school until the PSS has conducted a conference to review the conduct that resulted in the expulsion or suspension, and any remedial actions needed to prevent any future occurrences of such or related conduct

(2) Participants in such pre-admission conferences will include:(i) Any teacher directly involved in the suspension offense.

(ii) The student

(iii) The parent/guardian.

(iv) The representative of any agency having legal jurisdiction, care, custody, or control of the student.

(v) PSS staff members designated by the Commissioner/ designee

(b) The PSS shall notify in writing the parent/guardian and all other parties of the time, place, and agenda of any such conference. However, failure of any party to attend this conference shall not preclude holding the conference.

(c) Notwithstanding any provision of this chapter to the contrary, no student shall be readmitted or enrolled in a regular program of instruction if:

- (1) The student has been convicted of one of the offenses listed below.
- (2) The student been charged with one of the offenses and there has been no final judgment.
- (3) A juvenile petition has been filed alleging that the student committed an act, which if committed by an adult, would be one of the offenses listed below, and there has been no final judgment; or
- (4) The student has been adjudicated to have committed an act, which if committed by an adult, would be one of the offenses listed below.

(d) Offenses to which subsection (c) applies

- (1) First degree murder under the laws of the CNMI
- (2) Second degree murder under the laws of the CNMI
- (3) First degree assault under the laws of the CNMI
- (4) Forcible rape under the laws of the CNMI
- (5) Forcible sodomy under the laws of the CNMI
- (6) Robbery in the first degree under the laws of the CNMI
- (7) Distribution of drugs to a minor under the laws of the CNMI
- (8) Arson under the laws of the CNMI
- (9) Kidnapping under the laws of the CNMI.

(e)(1) Nothing in this section shall be construed to prevent the PSS from imposing discipline under its regulations for conduct underlying the above-listed offenses, even if the adult charge or juvenile charge has been dismissed, or the student has been acquitted or adjudicated not to have committed such acts in a criminal or juvenile court – if by a preponderance of the evidence, it can be established that the student engaged in the underlying conduct. The PSS may enroll a student otherwise excluded under this section, in an alternative education program if the PSS determines that such enrollment is appropriate.

(2) Student denied enrollment because of conviction of one of the acts set out in this section or due to an existing suspension or expulsion from another school will be advised of the reasons for denial of enrollment and will be given an opportunity to respond to those reasons.

§ 60-20-495. Reporting requirements.

(c) Informing parents.

- 1) The principal or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report no later than three school working days following the use of restraint.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 5163. School attendance - Jurisdiction over students and parents.

Committee. The School Attendance Review Committee shall include, but need not be limited to, a parent of a school age child and representatives of:

- (1) the Public School System;
- (2) the Coalition of Private Schools, CNMI or any successor organization recognized by the Board of Education;
- (3) the Juvenile Probation Unit of DYS;
- (4) the Child Protective Unit of DYS; and
- (5) the Department of Public Safety (DPS).

The Public School System representative shall be appointed by the Commissioner of Education. All other members shall be appointed by the Board of Education with the input and consent of the representative agencies. Every effort shall be made to ensure members of the School Attendance Review Committee shall be individuals whose primary job responsibilities are working directly with students or juvenile clients.

(b) It is the intent of this section to provide intervention for juveniles and their families to address truancy, irregular attendance or insubordinate or disorderly behavior in school at the community level before referral to the juvenile justice system. The School Attendance Review Committee's duties shall include, but are not limited to, the following:

- (1) proposing, promoting and providing alternatives to the juvenile justice system, where possible;
- (2) addressing matters regarding an individual juvenile's truancy, failure to regularly attend school in accordance with school policies and regulations, or insubordinate or disorderly behavior;
- (3) setting and conducting meetings with juveniles and/or their parents to discuss consequences of the student's truancy and/or behavior and establish terms, conditions and options to reduce and eliminate the truancy of the student and improve his or her attendance. The meeting format shall be that of mediation and not adversarial; and
- (4) referring juveniles and their families to other agencies, such as Community Guidance Center, DYS, DPS and the Attorney General's Office for services or action, as appropriate.

(c) The Board of Education may adopt such policies, procedures, rules and regulations, not inconsistent with this chapter, that may be needed for the operation of the School Attendance Review Committee and to fulfill its obligations pursuant to this section.

(d) The School Attendance Review Committee shall strive to maintain a continuing inventory of community resources, including alternative educational programs, and make recommendations for the creation of new resources and programs where none exist.

(e) In every case in which a juvenile has been referred to it, the School Attendance Review Committee has the authority to issue subpoenas pursuant to the procedures provided in 1 CMC § 9109(d), requiring the production of pertinent information and documents and/or the attendance of any of the following persons:

- (1) The juvenile;
- (2) The juvenile's parents, guardians, or other person having control of the juvenile;
- (3) The school authority referring the juvenile; and

(4) Any other person who has pertinent or material information concerning the juvenile. The purpose of any meeting under this section is to establish and agree upon terms, conditions and options to reduce and eliminate the truancy of the student. The meeting format shall be that of mediation and not adversarial.

(f) The enforcement of a subpoena issued by a School Attendance Review Committee is within the jurisdiction of the juvenile court.

(g) In the event a juvenile, parent, guardian and/or person in charge of the juvenile fails to respond to the directives of the School Attendance Review Committee, or to services offered on behalf of the juvenile or the Committee determines that available community resources cannot resolve the problems with the juvenile's school attendance or behavior, the Committee shall direct that the juvenile be referred to the Juvenile Probation Unit and request that the Office of the Attorney General file a complaint against the juvenile, parent, guardian, and/or other person having control of the juvenile.

(h) Whenever a committee member appointed by an agency is unavailable to participate in the School Attendance Review Committee, that member's agency may assign personnel to represent the agency either temporarily or on a continuing basis in accordance with the intent of this section. The duties, obligations, or responsibilities which may be imposed on governmental entities by this section are such that the related costs are incurred as a part of their normal operating procedures.

(i) Nothing in this section shall be construed to interfere with the juvenile's school's authority to establish truancy procedures and to determine whether or not a matter should be referred to the Review Committee or to the Department of Public Safety or the Office of the Attorney General.

(j) Nothing in this section alters any policy or regulation of the Board of Education or the authority of any school or the Commissioner of Education to take appropriate corrective measures, including without limitation suspension or expulsion of the juvenile.

REGULATIONS

§ 60-20-404. Searches by school personnel.

(a) Reasonable Suspicion

(1) Searches of students shall only be conducted when a school official has reasonable suspicion predicated on one or more of the following:

(i) Reliable reports or information from credible sources made known to school officials. If the source is anonymous, the informant must show that the information has a relationship with the school or students so as to give it credibility.

(ii) Suspicious or evasive behavior suggesting violation of a school policy or law, or concealment of contraband, weapons or stolen property.

(iii) Observation of a student engaging in prohibited conduct or being in a restricted area.

(2) The more of these factors that are found, the greater the inference of reasonable suspicion. The school official may also take into account the student's history in the development of reasonable suspicion.

(b) Reasonable Scope

(1) The scope of the search conducted must be reasonably related to the objective sought and the evidence searched for. The search shall be no more intrusive than necessary to serve the school's legitimate objectives. In determining if the search is related to the objectives sought, the school official should consider:

(i) The nature and severity of the violation to determine the permissible amount of intrusion into the student's privacy rights.

(ii) The area to be searched so that it will be no more extensive than required to serve the school's legitimate objectives.

(iii) The time and place where the search is conducted so that it will be as close as possible to the time and place of the suspected violation.

(iv) The duration of the search so that it will be no longer than necessary to serve the school's legitimate objectives.

(2) Whenever reasonably possible the search should be conducted by school official who is the same sex as the student to be searched.

(c) Locker, Automobile and Desk Searches Searches of lockers, desks, storage spaces and other property owned jointly by the PSS and the student may be conducted whenever reasonable suspicion exists to believe that contraband, weapons or prohibited items are concealed therein. Notice of the joint ownership of lockers and

desks shall be given to the student body at the beginning of each school year or more often as required. (See form 2150 for an example of such a notice).

(d) Canine Searches

Canine searches shall never be conducted on a student's person and if undertaken, shall be restricted to desks, lockers and parking lots.

(e) Surveillance

Surveillance shall only be conducted in hallways, school buses and other areas open to public view where the students are permitted.

(f) Consent Searches

Whenever possible the student's voluntary informed consent shall be sought before a search is conducted. However, searches normally should not be based solely on consent.

(g) Police Involvement

Police involvement shall be sought whenever school officials uncover evidence of a violation of Commonwealth or federal law or when school officials deem such involvement necessary or helpful in maintaining school discipline or safety.

(h) Reports

After a search has been conducted, school officials shall prepare a written report, specifically detailing the objectives of the search, the scope of the search, and the circumstances and information giving rise to reasonable suspicion for the search. Copies of the report shall be immediately filed with the Commissioner of Education and PSS legal counsel.

§ 60-20-406. Releasing and referring students to the Department of Public Safety.

The following guidelines are to be used by school administrators when considering referring students to the Department of Public Safety (DPS) for conduct committed on campus:

(a) It is the responsibility of all citizens who have direct knowledge of a committed felony to report it to DPS. If a student is suspected of committing a felony, the school administrator must report it to DPS. (See also policy and regulation 2670 and § 60-20-472 - Reporting Violent Behavior and Student Abuse.)

(b) In cases involving a misdemeanor, the principal must exercise his/her professional judgment whether to report the student to DPS. In general, the more serious the misdemeanor, the greater likelihood it should be referred to DPS. Minor infractions (e.g. a minor caught smoking a cigarette) should be dealt with at the school level.

(c) All incidents involving the use of dangerous weapons should be reported to DPS. (See policy and regulation 2670.)

(d) If a principal or school administrator has evidence of a crime in progress, he/she has the authority to make a citizen's arrest and then must report the crime to DPS immediately.

(e) Upon arriving on campus, DPS personnel must report first to the principal's office. The only exception to first reporting to principal's office is when there is a crime in progress. DPS then has the right to make an immediate arrest and report afterwards to the principal's office.

(f) No student is to be turned over to a non-uniformed policeman without verifying his/her proper identification.

(g) Whenever a student is turned over to DPS, it is the responsibility of the school administrator to immediately notify the student's parent/guardian.

§ 60-20-408. Employees of Department of Public Safety on campus.

Whenever a student is on campus during school operating hours and is wanted by the Department of Public Safety (DPS) for an alleged offense(s) not reported by the school, the following guidelines shall apply:

(a) In all cases, upon arriving on campus, DPS personnel must report first to the principal's office to inform the principal of the student(s) sought by DPS and to explain the purpose of their visit to the school. The only exception to first reporting to the principal's office is when there is a crime in progress. DPS then has the right to make an immediate arrest and report afterwards to the principal's office. The principal shall immediately notify the parent/guardian of a student who has been arrested by DPS on campus.

(b) In cases involving a felony when DPS personnel wish to question a student during school hours, the parents must be informed before such questioning may begin. The principal may be present during the questioning. A student may be released to DPS if DPS demonstrates to the school that such release is necessary in the interests of law enforcement and public safety, such as a copy of a warrant or indictment. The principal shall immediately notify the parent/guardian of a student who has been released to DPS.

(c) In cases involving a misdemeanor, DPS will make every effort to locate and question a student involved in or knowledgeable of a misdemeanor outside of school operating hours and will only resort to questioning a student during school hours when all other methods fail. In the event that questioning a student during school hours is necessary, the parent must be informed before such questioning may begin and DPS may only question a student when a principal is present. A principal does not need to release a student to DPS in cases involving a misdemeanor.

§ 60-20-426. Truancy and educational neglect procedures.

(a) Truancy

(1) The principal upon receiving a report from a teacher that a student has accumulated two unexplained absence shall immediately provide counseling to the truant student and promptly issue a truancy report to the student's parent/guardian with a copy provided to the Commissioner of Education. The report shall include recommendation(s) by the school prescribing corrective measures for parent/guardian and student. Any repeated truancy by the student shall be reported to the Division of Youth Services, Community and Cultural Affairs Offices for counseling and other necessary actions, and parent-teacher conferences may also be held.

(2) The Division of Youth Services shall have access to student records with or without prior parent/guardian approval as stated in § 60-20-428. However, such privilege is limited only to the particular caseworker and/or counselor assigned to the case.

(3) All communication with a student's parent/guardian and student contact and reports from referral agencies must be accurately recorded in writing and filed in the student's cumulative folder.

(b) Educational Neglect

(1) Commonwealth law requires that any parent, guardian or other person responsible for a child between the age of six and sixteen shall send the child to a public or nonpublic* unless the Commissioner of Education grants a waiver. 3 CMC § 1141.

(2) Educational neglect may be defined as when a person who is responsible for a child six through sixteen who through willful or negligent act or omission fails to provide the child with adequate supervision to ensure attendance at school. Individuals who commit educational neglect are subject to criminal prosecution in accordance with the law.

(3) School employees who suspect that a child is subject to educational neglect shall report this as soon as possible to the principal/designee.

(4) The principal/designee shall review the report and confer with the parent/guardian to resolve the situation. When appropriate, a school counselor, social worker, or nurse may be instructed to offer any appropriate social or health services.

(5) If appropriate school intervention does not correct the student's truancy, and reasonable cause for educational neglect has been determined, the principal/ designee shall call the Division of Youth Services and report the alleged child educational neglect. A report of this call shall be forwarded to the Commissioner and carbon copied to PSS legal counsel.

§ 60-20-466. Student participation in secret organizations and gangs.

(a) The Board of Education prohibits membership in secret fraternities or sororities, or in other clubs or gangs not sponsored by established agencies or organizations recognized by the PSS. The Board feels that the presence of gangs and gang activities can cause a substantial disruption of or material interference with school and school activities.

(b) A "gang" as defined in this section is any group of two or more persons whose purposes include the commission of illegal acts. By this policy, the Board acts to prohibit existence of gangs and gang activities as follows.

(c) No student on or about school property or at any school activity:

(1) Shall wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other things, which are evidence of membership or affiliation in any gang.

(2) Shall commit any act or omission or use any speech either verbal or nonverbal (gestures, handshakes, etc.) showing membership or affiliation in a gang.

(3) Shall use any speech or commit any act or omission in furtherance of the interests of any gang or gang activity, including but not limited to:

(i) Soliciting others for membership in any gangs.

(ii) Requesting any person to pay protection or otherwise intimidating or threatening any person.

(iii) Committing any other illegal act or other violation of school PSS policies.

(iv) Inciting other students to act with physical violence upon any other person.

(d) The principal will establish procedures and regulations to ensure that any student wearing, carrying or displaying gang paraphernalia; exhibiting behavior or gestures which symbolize gang membership; or causing and/or participating in activities which intimidate or affect the attendance of another student, shall be subject to disciplinary action.

(e) Consequences for such actions and/or behaviors may result in suspension or expulsion.

(f) To further discourage the influence of gangs, PSS administrators shall:

(1) Provide in-service for staff in gang recognition and special workshops for counselors in the event that gangs become a problem at the schools.

(2) Ensure that all students have access to counselors.

(3) Work closely with the local law enforcement authorities and county juvenile officers who work with students and parents/ guardians involved in gang activity.

(4) Provide classroom or after-school programs designed to enhance individual self-esteem and foster interest in a variety of wholesome activities.

§ 60-20-468. Student use and care of school property.

(a) The Board of Education recognizes that acts of destruction, defacing, trespassing, burglary and theft of PSS property are contrary to the interests of students, staff and taxpayers. PSS officials will cooperate fully with all law enforcement agencies in the prevention of crimes against PSS property as well as in the prosecution of persons involved in such conduct.

(b) The PSS will seek restitution from students and other persons who have damaged or destroyed PSS property, including text books and other instructional materials. Parents of students who lose or damage school property shall reimburse the school for the value of the lost or damaged articles.

(c) The amount of restitution to PSS for lost, stolen or damaged property shall be determined by the fair value of the lost or stolen property or the cost of reasonable repair if the item is not damaged beyond repair as determined by the principal or Commissioner.

(d) School principals are responsible for enforcing this section and imposing any appropriate discipline and fines.

§ 60-20-493. Determining when physical restraint may be used.

(a) Use of restraint. Physical restraint may be used only in the following circumstances:

(1) Non-physical interventions would not be effective; and

(2) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(b) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(c) Prohibitions. Physical restraint is prohibited in the following circumstances:

(1) As a means of punishment; or

(2) For the convenience of staff; or

(3) As a substitute for less restrictive alternatives; or

(4) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm; or*

(d) Referral to law enforcement or other public agencies. Nothing in these regulations prohibits:

(1) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or

(3) The exercise of an individual's responsibilities as a mandated reporter pursuant to BOE, CNMI and Federal regulation. These regulations shall not be used to deter any individual from reporting neglect or abuse to an appropriate public agency.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by the Commonwealth of the Northern Mariana Islands provide additional context to policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Office of Student and Support Services, CNMI Public School System (CNMI PSS)	Presents an overview of programs that promote opportunities that enhance overall student growth, including individualized and equitable instruction, mental health and wellness, and leadership, citizenship, and service learning.	https://www.cnmipss.org/office-student-and-support-services
<i>Documents</i>		
No relevant resources found.		
<i>Other Resources</i>		
CNMI Public School System SY 2019-20 Facts & Figures, CNMI PSS	Annual report of K-12 statistical data for schools, departments, and offices in the system to make data-driven decisions.	https://indd.adobe.com/view/44bb3c78-435a-4e07-9cab-a090a71b9bb7
Trauma Advised Student Advocacy (TASA) – A Multi-Tiered System of Support, CNMI PSS	MTSS framework detailing strategies and key partnerships within the universal, targeted, and intensive tiers of support.	https://www.cnmipss.org/sites/default/files/project-tasa-infographic.jpg



Puerto Rico Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**

Engagement • Safety • Environment

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Puerto Rico Revised Laws

Puerto Rico contracts with LexisNexis to provide free public access to the Puerto Rico Code:

- English: <http://www.lexisnexis.com/hottopics/lawsopuertorico>,
- Spanish: <http://www.lexisnexis.com/hottopics/lawsopuertoricospa>.

Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 3. Executive

Chapter 9A. Department of Education

Chapter 133. Puerto Rico Education Reform

Subchapter I. General Provisions

3 L.P.R.A. § 9801c. Compulsory school attendance

Subchapter II. Public Education System

3 L.P.R.A. § 9802c. Duties and responsibilities of the Secretary of Education

3 L.P.R.A. § 9802i. Duties and responsibilities of the School Principal

3 L.P.R.A. § 9802r. Psychologist; duties; certification

Subchapter IX. Students

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions

3 L.P.R.A. § 9809c. Possession of weapons and controlled substances in schools

3 L.P.R.A. § 9809f. Bullying

Subchapter XII. Career, Technical, and Alternative Education

3 L.P.R.A. § 9812i. Alternative education

Title 18. Education Part I. Public Schools

Chapter 2. Bill of Rights and Responsibilities of the School Community

Subchapter 1. General Provisions

18 L.P.R.A. § 8. Statement of purpose

Subchapter 2. Rights

18 L.P.R.A. § 9. Students

18 L.P.R.A. § 11. Parents, tutors or guardians

18 L.P.R.A. § 12. Non-teaching personnel

Subchapter 3. Responsibilities

18 L.P.R.A. § 13. Department of Education

18 L.P.R.A. § 14. Students

18 L.P.R.A. § 17. Elected officers and government agencies

Chapter 8. School Security Corps

- 18 L.P.R.A. § 141. Public Policy
- 18 L.P.R.A. § 141a. Definitions
- 18 L.P.R.A. § 141b. Creation
- 18 L.P.R.A. § 141c. Organization
- 18 L.P.R.A. § 141d. Powers and functions
- 18 L.P.R.A. § 141e. Coordination with the Government, Commonwealth Police and Municipal Guard
- 18 L.P.R.A. § 141f. Commissioner; creation of post
- 18 L.P.R.A. § 141g. Uniform
- 18 L.P.R.A. § 141h. Financial aid
- 18 L.P.R.A. § 141i. Contracting
- 18 L.P.R.A. § 141j. Members; requirements
- 18 L.P.R.A. § 141k. Rules and regulations
- 18 L.P.R.A. § 141l. Annual report

Part VIII. Educational Activities Generally II Chapter 151. Puerto Rico Student Bill of Rights

- 18 L.P.R.A. § 3802. General student rights
- 18 L.P.R.A. § 3803. Duties and responsibilities of students, parents, guardians, and school authorities
- 18 L.P.R.A. § 3805. Publication

Chapter 152. Puerto Rico Alternative education Development Enabling Act

- 18 L.P.R.A. § 3811. Declaration of public policy
- 18 L.P.R.A. § 3812. Objectives
- 18 L.P.R.A. § 3813. Definitions
- 18 L.P.R.A. § 3816. Functions and duties of alternate education entities 18
- L.P.R.A. § 3817. Functions and powers of the Department of Education
- 18 L.P.R.A. § 3818. Funds for alternative education in Puerto Rico
- 18 L.P.R.A. § 3819. Uses allowed for the appropriations to alternative education entities
- 18 L.P.R.A. § 3820. Reports

Chapter 155. School Retention Program

- 18 L.P.R.A. § 3861. Establishment
- 18 L.P.R.A. § 3862. Public policy
- 18 L.P.R.A. § 3863. School dropout
- 18 L.P.R.A. § 3864. Establishment; regulations
- 18 L.P.R.A. § 3865. Duties and functions of the program
- 18 L.P.R.A. § 3866. Budget

Chapter 160A. Government of Puerto Rico Anti-Bullying and Harassment Act

- 18 L.P.R.A. § 3961a. Applicability
- 18 L.P.R.A. § 3961b. Definitions
- 18 L.P.R.A. § 3961c. Liaison officials; training programs and workshops
- 18 L.P.R.A. § 3961d. Lead agency
- 18 L.P.R.A. § 3961e. Protocol to manage cases
- 18 L.P.R.A. § 3961g. Protocol to manage cases - Agency in charge to oversee compliance
- 18 L.P.R.A. § 3961i. Statistics

**Title 34. Code of Criminal Procedure Part XIII. Minors
Chapter 151. Minors' Act**

- 34 L.P.R.A. § 2201. Title, nature and application
- 34 L.P.R.A. § 2203. Definitions
- 34 L.P.R.A. § 2207. Search and seizure

Puerto Rico Administrative Code

8115. General Regulations for Students in the Puerto Rico public education system which repeals the general regulation for students in the Puerto Rico public education system number 6844 of July 28, 2004.

Article IV. Student Duties and Obligations

- I. Norms

Article IX School Discipline

- A. Concepts
- B. School security
- C. Institutional order
- E. Entries and searches
- F. Rules and procedures for filing complaints and implementation of corrective actions
- G. Infractions and corrective or disciplinary measures

Article X. Responsibility of the School Community

8502 Regulations for the Notification of Absence to Parents, Guardians, or Guardian and Child Welfare Agencies of Puerto Rico

- Article III. Definitions
- Article IV. Procedure

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

18 L.P.R.A. § 8. Statement of purpose.

Article II, Section 5, of the Constitution of Puerto Rico guarantees that "[e]very person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms."

The Legislature is duty bound to respond with legislation that guarantees the rights and establishes the responsibilities of the components of the school community in order to reduce the problem of violence in the schools. This bill shall create the Bill of Rights and Responsibilities of the School Community for Security in the Schools and sets forth the rights and duties of the school community members in order to maintain a climate of peace in the schools.

This Bill of Rights and Responsibilities integrates the external and surrounding community to the schools, as well as the Commonwealth and municipal government dependencies and the private sector, in seeking to institute various efforts directed toward the reduction of acts of violence within the schools.

18 L.P.R.A. § 13. Department of Education.

- (a) To establish and promulgate the General Regulations for the Students of the Puerto Rico Public Education System and the Internal Security Regulations and give notice thereof by means of a copy and orientations to the parents and students of the public education system. Said regulations shall be adopted pursuant to §§ 2101 et seq. of Title 3, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico", and shall be filed immediately after approval thereof.
- (b) The administrative authorities, as well as the teaching and non-teaching personnel, shall have the duty to ensure compliance with the General Regulations for the Student of the Puerto Rico Public Education System and the Internal Security Regulations, especially provisions related to the codes of conduct and behavior.
- (c) To establish and promulgate the Crisis Management Strategic Plan for violent incidents in schools to give notice and copy there of to the parents, tutors and students of the Public Education System.
- (d) To provide administrative support to achieve compliance with the school security plans established by the student councils. Said school security plans shall include initiatives directed toward:
 - (1) Identifying the security needs of the schools.
 - (2) Providing clean physical facilities in a safe environment.
 - (3) Implementing training programs for the teachers, non-teaching personnel and student groups in the areas of violence prevention and conflict management.
- (e) To redesign those physical facilities whose conditions may influence the development of delinquent or violent activities. The schools should be designed in such a manner so as to prevent the free access of unauthorized persons into the schools and to promote that the school authorities be able to visually supervise student activities in all areas.
- (f) The Department of Education shall establish guidelines for the school directors to prepare a report on violent and non-violent incidents within the school premises. Using a standard format, the Director shall gather the information and analyze the data. Subsequently, the Director shall prepare a quarterly report of these findings and submit the same to the School Life Quality Program.

(g) School authorities shall be responsible for coordinating with the Puerto Rico Police the installation of security devices such as video cameras and alarm systems in schools that are declared unsafe by the Department of Education.

(h) The Department of Education shall be responsible for the training of the teaching and administrative personnel on how to manage students with discipline and violence problems. This training shall be based upon conflict management and the early identification of violent situations. The Department of Education is responsible for keeping all its personnel duly informed about the rules for security and violence prevention, so they may know which steps to take in a crisis situation.

(i) The Department of Education shall promote the development of rapid response plans for crisis situations. Among these are plans for evacuation in case of fire, earthquakes, gas leaks and bomb or terrorist threats. Each component of the school system shall clearly understand its role in the crisis plan. The plan shall include a strategy for communicating with security agencies such as the Puerto Rico Police, the Firefighters Corps, Medical Emergencies [Corps.] and the Commonwealth Emergency Management and Disaster Administration Agency. Moreover, a plan shall be established for communicating with the parents and the communications media in case of emergency.

(j) The Department of Education shall ensure compliance with the prevention and orientation programs directed toward the reduction of violent incidents and conflict management in the schools. These training programs shall emphasize problem solving, social interaction, peer pressure management, understanding of values and conflict management skills.

(k) The Department of Education shall use alternative educational environments for those students who have faced school violence problems so as to guarantee a safe school community.

18 L.P.R.A. § 17. Elected officers and government agencies.

(a) Elected officers are responsible for promoting legislation directed toward the reduction of school violence and the development of safe schools, provided that the resources of the Commonwealth so allow.

(b) Police officers and School Guards I and II shall be responsible for institutional order within one hundred (100) meters surrounding the school premises and in school sponsored activities, in accordance with the regulations established to such effects. It is necessary that these officers develop positive relationships with the components of the school community and exert maximum efforts to achieve a suitable environment for the development of the habit of responsibility and cooperation, and of sound school discipline.

(c) To give conferences and hold assemblies directed toward discussing topics such as school violence prevention, prevention of drug use in the schools, conflict management in the school environment, etc.

(d) Government agencies shall support and actively participate in school activities in order to promote a safe and wholesome environment.

(e) To support research projects directed toward the study of the school violence problem. The information from these research projects may serve as the foundation upon which to generate legislation or initiatives that reduce violence in our schools.

(f) To provide the necessary funds for the implementation of security initiatives in the schools, such as the installation of security devices, programs for monitoring the statistics of criminal and violent incidents in the schools, etc.

(g) To establish interagency collaborative agreements with federal agencies, municipalities and the private sector in order to promote school security.

18 L.P.R.A. § 141k. Rules and regulations.

The Secretary is hereby empowered to adopt the necessary rules and regulations for the implementation of this chapter, including the requirements that must be met by School Security Corps candidates. These rules and regulations shall include the requirement of undergoing Police Academy training for a period of not less than three (3) months, which shall be a part of the trial period of candidates. Such regulations shall conform to the provisions of present §§ 2101 et seq. of Title 3, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

3 L.P.R.A. § 9802i. Duties and responsibilities of the School Principal.

In addition to the duties and responsibilities established by regulations, the School Principal shall:

- (o) Implement disciplinary measures for students in accordance with the public policy, directives, standards, rules, and regulations promulgated by the Secretary.

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions.

(a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.

(b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.

(c) Teachers shall be responsible for the school's discipline, both inside and outside of the classrooms, thereby ensuring that students satisfy this requirement. They shall refer disciplinary issues to the School Principal after having exhausted all resources available to them, such as, but not limited to: restorative measures, mediation, interviews, and meetings with the student, his guardian, or the interdisciplinary team, or referring the student to the homeroom teacher, the school's social worker, or a professional counselor, among others.

(d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.

(e) An out-of-school suspension is an exclusionary discipline practice that should only be implemented under special circumstances and only when the well-being of the students or the school's community is at risk. Under any other circumstances, school principals shall implement practices that are not exclusionary, such as mediation and restorative practices, among others.

(f) The Secretary shall promulgate school discipline regulations in order to ensure that the works of the Public Education System remain uninterrupted, and each Regional Office of Education shall implement the disciplinary practices that are best suited to the particular needs of their students, pursuant to the aforementioned regulations. Such regulations shall be consistent with the applicable laws in our jurisdiction related to minors.

(g) Each Regional Office of Education shall submit a copy of the proposed code of conduct to the personnel of the central offices of the Department, before June 1st of each year, for the review and authorization thereof. The codes of conduct shall not be valid or effective insofar as the aforementioned

process has been carried out and the approval thereof has been notified in writing to the Regional Office of Education.

(h) No student shall be prevented from exercising his right to an education. No corrective measures that harm a student's physical integrity or violates his dignity may be imposed.

(i) The disciplinary measures imposed shall be proportional to the offense and must contribute to improving the student's conduct.

(j) The student's personal, family, and social circumstances shall be taken into consideration before choosing the appropriate disciplinary measure.

REGULATIONS

Regulation Num. 8115. Article IX, B. School security.

1. A committee will be appointed to support the Central level, a Council Support in school districts, and a School Safety Committee in schools, as stated in the Manual for School Safety Support.

2. The primary mission of these committees will be to implement an effective prevention plan to promote a safe environment conducive to learning. If requested by the school community the committees will offer seminars, workshops and other activities related to the prevention and processes, and laws that are carried out for decisions of disciplinary cases.

3. The school principal is responsible for recommending a School Safety Committee composed of school staff that supports students, one (1) student guardian, volunteer teachers with a maximum of three (3), security personnel, and one (1) student. This committee will work with the School Board.

4. The School Safety Committee will be chaired by the Principal, who will call a meeting when necessary.

5. The School Safety Committee will assist in prevention efforts and order, pursuant to the provisions for the purpose established by the Department of Education.

Scope

LAWS

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions.

(a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.

(b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.

(c) Teachers shall be responsible for the school's discipline, both inside and outside of the classrooms, thereby ensuring that students satisfy this requirement. They shall refer disciplinary issues to the School Principal after having exhausted all resources available to them, such as, but not limited to: restorative measures, mediation, interviews, and meetings with the student, his guardian, or the interdisciplinary team, or referring the student to the homeroom teacher, the school's social worker, or a professional counselor, among others.

(d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.

REGULATIONS

Regulation Num. 8115. Article IX, C. Institutional order.

1. Members of the school community and public order officers will be responsible for institutional order on school grounds, within one hundred (100) meters of the school, and in activities organized by the school, as established by this regulation. They will assure the development of the best relationships in the school and will make the maximum effort to create an environment favorable to the development of responsibility, cooperation, and good school discipline.

Communication of Policy

LAWS

18 L.P.R.A. § 9. Students.

Every student in the public education system has the right to:

- (a) Receive an education that fosters the full development of his/her personality and the strengthening of respect toward human rights and the fundamental freedoms within a safe environment.
- (b) Spend his/her school day in a safe environment that is free from undue pressures related to school violence.
- (c) Receive orientation and a copy of the General Student Regulations of the Puerto Rico Public Education System and the Internal Security Regulations, with the provisions and sanctions thereof.
- (d) Be informed of the violent situations that have taken place in the school environment in order to remain alert thereto.
- (e) Enjoy broad and diverse opportunities for intellectual and artistic creativity and expression.
- (f) Be treated with fairness and equality and to develop within an environment of freedom, solidarity and full respect for human rights.
- (g) Be guaranteed safety, physical integrity and anonymity when reporting an act of violence he/she has witnessed to the school security authorities.
- (h) Receive the necessary tools for the constructive management of emotions and for verbal non-violent conflict resolution.
- (i) Receive orientation about the procedures to be followed in emergency situations, such as hurricanes, earthquakes, gas leaks, fires or terrorist attacks.

18 L.P.R.A. § 11. Parents, tutors or guardians.

All parents with children in the Public Education System have the right to:

- (d) Receive orientation and a copy of the General Regulations for the Students of the Puerto Rico Public Education System and the Internal Security Regulations, with the provisions and sanctions thereof.
- (e) Participate as an active member of the school council, the security council, the security committee and other committees that promote safety in the school.

(f) Receive a copy of the reports of violent incidents registered for each semester in the school that their children attend.

18 L.P.R.A. § 12. Non-teaching personnel.

All non-teaching personnel working in a public system educational institution shall have the right to:

- (a) Spend their workday in a safe environment that is free from undue pressures related to school violence.
- (b) Receive information regarding their responsibilities with respect to the Crisis Management Strategic Plan for violent incidents in schools.
- (c) Be informed about their duties, and the regulations and sanctions with respect to school security.
- (d) Receive orientation and training to work with conflict situations such as fights, riots or disputes in order to identify when their own safety or that of any member of the school community may be in danger.
- (e) Have their confidentiality and anonymity guaranteed when they offer sensitive security information to the school director or the security authorities for purposes of reporting any delinquent behavior within the school.

18 L.P.R.A. § 13. Department of Education.

- (a) To establish and promulgate the General Regulations for the Students of the Puerto Rico Public Education System and the Internal Security Regulations and give notice thereof by means of a copy and orientations to the parents and students of the public education system. Said regulations shall be adopted pursuant to §§ 2101 et seq. of Title 3, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico", and shall be filed immediately after approval thereof.
- (b) The administrative authorities, as well as the teaching and non-teaching personnel, shall have the duty to ensure compliance with the General Regulations for the Student of the Puerto Rico Public Education System and the Internal Security Regulations, especially provisions related to the codes of conduct and behavior.
- (c) To establish and promulgate the Crisis Management Strategic Plan for violent incidents in schools to give notice and copy there of to the parents, tutors and students of the Public Education System.
- (d) To provide administrative support to achieve compliance with the school security plans established by the student councils. Said school security plans shall include initiatives directed toward:
 - (1) Identifying the security needs of the schools.
 - (2) Providing clean physical facilities in a safe environment.
 - (3) Implementing training programs for the teachers, non-teaching personnel and student groups in the areas of violence prevention and conflict management.
- (e) To redesign those physical facilities whose conditions may influence the development of delinquent or violent activities. The schools should be designed in such a manner so as to prevent the free access of unauthorized persons into the schools and to promote that the school authorities be able to visually supervise student activities in all areas.
- (f) The Department of Education shall establish guidelines for the school directors to prepare a report on violent and non-violent incidents within the school premises. Using a standard format, the Director shall gather the information and analyze the data. Subsequently, the Director shall prepare a quarterly report of these findings and submit the same to the School Life Quality Program.

(g) School authorities shall be responsible for coordinating with the Puerto Rico Police the installation of security devices such as video cameras and alarm systems in schools that are declared unsafe by the Department of Education.

(h) The Department of Education shall be responsible for the training of the teaching and administrative personnel on how to manage students with discipline and violence problems. This training shall be based upon conflict management and the early identification of violent situations. The Department of Education is responsible for keeping all its personnel duly informed about the rules for security and violence prevention, so they may know which steps to take in a crisis situation.

(i) The Department of Education shall promote the development of rapid response plans for crisis situations. Among these are plans for evacuation in case of fire, earthquakes, gas leaks and bomb or terrorist threats. Each component of the school system shall clearly understand its role in the crisis plan. The plan shall include a strategy for communicating with security agencies such as the Puerto Rico Police, the Firefighters Corps, Medical Emergencies [Corps.] and the Commonwealth Emergency Management and Disaster Administration Agency. Moreover, a plan shall be established for communicating with the parents and the communications media in case of emergency.

(j) The Department of Education shall ensure compliance with the prevention and orientation programs directed toward the reduction of violent incidents and conflict management in the schools. These training programs shall emphasize problem solving, social interaction, peer pressure management, understanding of values and conflict management skills.

(k) The Department of Education shall use alternative educational environments for those students who have faced school violence problems so as to guarantee a safe school community.

18 L.P.R.A. § 3805. Publication.

The Department of Education in coordination with the Youth Affairs Office shall establish the mechanisms and systems for the publication, education, and general dissemination of the Student Bill of Rights established in this chapter. Within thirty (30) days as of the approval of this act, the Department of Education shall notify the existence thereof in at least two (2) newspapers of general circulation for three (3) consecutive days. Moreover, it shall publish the complete text on the Department of Education' website. Public schools shall keep a copy of the Student Bill of Rights in a visible and accessible place for students, teachers, parents, and teaching personnel. The Department of Education shall not tolerate any restriction or limitation of the student rights set forth in this Act; said rights shall not restrict or exclude any other right granted by the code of laws.

REGULATIONS

Regulation Num. 8115. Article X. Responsibility of the School Community.

B. At the beginning of each school year, the student and his guardian, in the case of students under twenty-one (21) years of age and not emancipated, will sign a document in which they agree to comply with the rules laid down in this Regulation. Students over 21 years of age will sign the document themselves.

In-School Discipline

Discipline Frameworks

LAWS

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions.

- (a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.
- (b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.
- (c) Teachers shall be responsible for the school's discipline, both inside and outside of the classrooms, thereby ensuring that students satisfy this requirement. They shall refer disciplinary issues to the School Principal after having exhausted all resources available to them, such as, but not limited to: restorative measures, mediation, interviews, and meetings with the student, his guardian, or the interdisciplinary team, or referring the student to the homeroom teacher, the school's social worker, or a professional counselor, among others.
- (d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.
- (e) An out-of-school suspension is an exclusionary discipline practice that should only be implemented under special circumstances and only when the well-being of the students or the school's community is at risk. Under any other circumstances, school principals shall implement practices that are not exclusionary, such as mediation and restorative practices, among others.
- (f) The Secretary shall promulgate school discipline regulations in order to ensure that the works of the Public Education System remain uninterrupted, and each Regional Office of Education shall implement the disciplinary practices that are best suited to the particular needs of their students, pursuant to the aforementioned regulations. Such regulations shall be consistent with the applicable laws in our jurisdiction related to minors.
- (g) Each Regional Office of Education shall submit a copy of the proposed code of conduct to the personnel of the central offices of the Department, before June 1st of each year, for the review and authorization thereof. The codes of conduct shall not be valid or effective insofar as the aforementioned process has been carried out and the approval thereof has been notified in writing to the Regional Office of Education.
- (h) No student shall be prevented from exercising his right to an education. No corrective measures that harm a student's physical integrity or violates his dignity may be imposed.
- (i) The disciplinary measures imposed shall be proportional to the offense and must contribute to improving the student's conduct.
- (j) The student's personal, family, and social circumstances shall be taken into consideration before choosing the appropriate disciplinary measure.

REGULATIONS

No relevant regulations found.

Teacher Authority to Remove Students From Classrooms

LAWS

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions.

- (a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.
- (b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.
- (c) Teachers shall be responsible for the school's discipline, both inside and outside of the classrooms, thereby ensuring that students satisfy this requirement. They shall refer disciplinary issues to the School Principal after having exhausted all resources available to them, such as, but not limited to: restorative measures, mediation, interviews, and meetings with the student, his guardian, or the interdisciplinary team, or referring the student to the homeroom teacher, the school's social worker, or a professional counselor, among others.
- (d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.
- (e) An out-of-school suspension is an exclusionary discipline practice that should only be implemented under special circumstances and only when the well-being of the students or the school's community is at risk. Under any other circumstances, school principals shall implement practices that are not exclusionary, such as mediation and restorative practices, among others.
- (f) The Secretary shall promulgate school discipline regulations in order to ensure that the works of the Public Education System remain uninterrupted, and each Regional Office of Education shall implement the disciplinary practices that are best suited to the particular needs of their students, pursuant to the aforementioned regulations. Such regulations shall be consistent with the applicable laws in our jurisdiction related to minors.
- (g) Each Regional Office of Education shall submit a copy of the proposed code of conduct to the personnel of the central offices of the Department, before June 1st of each year, for the review and authorization thereof. The codes of conduct shall not be valid or effective insofar as the aforementioned process has been carried out and the approval thereof has been notified in writing to the Regional Office of Education.
- (h) No student shall be prevented from exercising his right to an education. No corrective measures that harm a student's physical integrity or violates his dignity may be imposed.
- (i) The disciplinary measures imposed shall be proportional to the offense and must contribute to improving the student's conduct.
- (j) The student's personal, family, and social circumstances shall be taken into consideration before choosing the appropriate disciplinary measure.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

L.P.R.A. § 9809b. Disciplinary measures and sanctions.

- (a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.
- (b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.
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- (d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.
- (e) An out-of-school suspension is an exclusionary discipline practice that should only be implemented under special circumstances and only when the well-being of the students or the school's community is at risk. Under any other circumstances, school principals shall implement practices that are not exclusionary, such as mediation and restorative practices, among others.
- (f) The Secretary shall promulgate school discipline regulations in order to ensure that the works of the Public Education System remain uninterrupted, and each Regional Office of Education shall implement the disciplinary practices that are best suited to the particular needs of their students, pursuant to the aforementioned regulations. Such regulations shall be consistent with the applicable laws in our jurisdiction related to minors.
- (g) Each Regional Office of Education shall submit a copy of the proposed code of conduct to the personnel of the central offices of the Department, before June 1st of each year, for the review and authorization thereof. The codes of conduct shall not be valid or effective insofar as the aforementioned process has been carried out and the approval thereof has been notified in writing to the Regional Office of Education.
- (h) No student shall be prevented from exercising his right to an education. No corrective measures that harm a student's physical integrity or violates his dignity may be imposed.
- (i) The disciplinary measures imposed shall be proportional to the offense and must contribute to improving the student's conduct.
- (j) The student's personal, family, and social circumstances shall be taken into consideration before choosing the appropriate disciplinary measure.

REGULATIONS

Regulation Num. 8115. Article IX, A. Concepts.

5. The educational process prefers persuasion, encouragement and positive motivation before going to the disciplinary process.

4. Corrective Plans and Special Conditions

d. The Secretary or his/her authorized representative may require, as a condition for a student not to be suspended, removed or expelled after the application of a formal complaints procedure, for the student to enter a rehabilitation process where he/she receives treatment from psychologists, social workers, counselors or any other person or entity who can help in their rehabilitation process.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

Regulation Num. 8115. Article IX, G. Infractions and corrective or disciplinary measures.

1. Concepts

d. Corporal punishment is prohibited. Reasonable force will only be justified when it is essential to prevent bodily harm to others or to the offending student himself, as well as to avoid damages to student property. In these cases you will need to call the police, policeman, school security officer or other public official so that he may proceed to engage in corresponding charges.

Search and Seizure

LAWS

34 L.P.R.A. § 2207. Search and seizure.

The minor will be protected against unreasonable searches, attachments and seizures. A judicial warrant authorizing a search and seizure against a minor shall only be issued when there is probable cause based on a sworn statement or declaration and specifically stating the person or place to be searched and the things to be seized.

REGULATIONS

Regulation Num. 8115. Article IX, E. Entries and searches.

Will be carried out as a measure to guarantee a safe environment in our school campuses. These can not be performed randomly. As the authorized officials must strictly follow the procedures laid out in the present Article, to guarantee the reasonableness thereof to perform the interventions with the students.

1. Authorized officials

a. Will have legitimacy to perform the entries and searches the following officials:

- 1) The School Principal
- 2) The teacher
- 3) The school's officer
- 4) Law Enforcement Officer

2. Procedure

The authorized officials may search a student or a group of students and may consequently keep the obtained evidence, under any of the following circumstances:

- a. When a student commits the offense charged in the authorized official's presence
- b. When an offense has led to possession, carrying, distribution, or sale of arms, or of any controlled substance or chemical or device that could cause grave bodily harm and the authorized official has reasonable grounds to believe that the student in question committed it. By reasonable grounds, it will be understood that officials may intervene based on information that would lead a reasonable and prudent person to believe that the student in question has committed the offense. The student's innocence or guilt will be determined independently later.

c. In the circumstances described in subsections (a) and (b) above, the entry has to be done immediately, in front of the student and his/her belongings, as long as these are located in an area within his/her immediate grasp.

d. When the consent of the student is required, provided that the student is not in elementary school or does not present an impairment that limits his/her capacity to consent, consent may be given expressly or tacitly. If the student to be intervened is in an elementary school or he/she presents an impediment that limits his/her capacity to consent, consent must be provided by the parent or guardian, in an express manner, through the document that the Department of Education provides for these purposes.

e. When the student has full view of a forbidden object, as described in Article IV, (page 9) Subsection I (6) of the present regulation. He/she may register under this disposition, provided that each of the following requirements are met:

- 1) The object was discovered because it was in plain sight or because of perception of the authorized official, and not in the course or because of a search.
- 2) The authorized official who observed the object had the right prior to being in the position where the object could be seen.
- 3) The object was discovered inadvertently.
- 4) The criminal nature of the object arose from simple observation or perception. The object can be detected through smell. If evidence is obtained as a consequence of the search realized, the student could be disciplined in accordance with the procedure provided in the present Article, in subsection F.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

34 L.P.R.A. § 2201. Title, nature and application.

This chapter shall be known as the "Puerto Rico Minors' Act." Its provisions shall be applicable with preference over other laws, and in case of conflict, the special principles of this chapter shall prevail.

34 L.P.R.A. § 2203. Definitions.

The words and phrases used in this chapter shall mean:

- (a) Adult.- Any person who has attained eighteen (18) years of age.
- (b) Probable cause.- Determination made by an investigating magistrate on the occurrence of a violation to a law or municipal ordinance, in the commission of which a minor is regarded as the perpetrator or accomplice.
- (c) Treatment center.- Residential institution which offers the minor protective, evaluating and diagnostic services, in addition to rehabilitating treatment after a final decision of the case has been made.
- (d) Detention center.- Institution where the minor shall be held pending the adjudication or final decision of the case, or pending any other procedure before the court.
- (e) Custody.- The act of putting the minor under the responsibility of the Secretary of the Family or of any other body or private or public institution through a court order and subject to the jurisdiction thereof; said person shall retain custody during the period he is receiving the protective, evaluating and diagnostic services, in addition to the rehabilitating treatment which his condition calls for.
- (f) Classification and Evaluation Division.- A dependency of the Juvenile Institutions Administration in charge of evaluating all minors whose custody has been assigned to the Juvenile Institutions Administration by order of the court, and which shall determine the placement of the minor.
- (g) Removal.- Resolution of the court suspending the judicial procedure in the interest of the minor and referring him to an agency, institution or public or private body to receive services.
- (h) Detention.- Provisional care of the minor in an institution or center created for such purposes pending the determination of the court on the facts he is charged with, and thus is placed under its authority after probable cause has been found, or due to pending post-adjudicative procedures.
- (i) Family Relations Specialists.- Social worker thus classified in the Personnel Administration System of the Judiciary Branch attached to the court.
- (j) Offense.- Violation or attempted violation by a minor of penal or special laws or municipal ordinances of Puerto Rico except those violations or attempted violations that are excluded, by the express provisions of this chapter.
- (k) Class I Offense.- Conduct that if incurred by an adult would constitute a misdemeanor.
- (l) Class II Offense.- Conduct that if incurred by an adult would constitute a felony, except those included in Class III offenses.
- (m) Class III Offense.- Conduct that if incurred by an adult would constitute a first degree felony, except for the modality of first degree murder that is excluded from the authority of the court; second degree felony; the following felonies in the classification of third degree: manslaughter, aggravated burglary, kidnapping, theft, aggravated assault under the modality of mutilation, manslaughter; and the following

offenses in special laws: distribution of controlled substances and §§ 458b, 458f, 458g, 458h and 458i of Title 25, part of the Weapons Law.

(n) Judge.- The person designated to take cognizance in the matters within the provisions of this chapter.

(o) Minor.- A person who is under eighteen (18) years of age or that having attained said age is held liable for an offense committed prior to attaining that age.

(p) Prosecutor for Minor's Affairs, or Prosecutor.- Assistant Prosecutor of the Court of First Instance designated exclusively to exercise his functions in matters covered by this chapter.

(q) Complaint.- Writ filed in the court describing the offense charged to a minor.

(r) Rehabilitation.- Process through which it is expected to adequately reintegrate the minor to society with the capacity to function on his own.

(s) Family Relations Technician.- Professional thus classified in the Personnel Administration System of the Judiciary Branch attached to the court who shall have professional training in the field of human behavior.

(t) Transgressor.- A minor who has been found guilty of committing an offense.

(u) Court.- Court of First Instance, Part that executes its authority pursuant to the provisions of this chapter.

(v) Escape.- Any minor who, while under the custody of the Juvenile Institutions Administration, commits the offense of escape, shall be guilty of a new offense. The resolutive measure of this new offense shall be subsequent to the original resolutive measure. Escape shall be understood to be a unjustified absence without the permission of the Institution, or the unjustified abandonment of any program to which the minor was referred.

REGULATIONS

Regulation Num. 8115. Article IX, F. Rules and procedures for filing complaints and implementation of corrective actions.

2.b.1) Concepts

a) This process can only be used by the Principal when:

(1) he knows that student performance is out of compliance with Class II or Class III in accordance with the Children Act, or if the student is to be tried as an adult or is involved in an act that is establishing serious criminal offense, or

(2) when the Principal has grounds to believe that a student may be an actual or imminent harm to another student or other persons or school property.

Regulation Num. 8115. Article IX, G. Infractions and corrective or disciplinary measures.

3.a) Corrective or Disciplinary Methods for Informal Complaints

The Principal shall have power to impose the following corrective or disciplinary measures:

6) Suspension of one (1) to fifteen (15) school days.

3.b) Corrective or Disciplinary Methods for Formal Complaints

The Secretary of Education, or his authorized representative, shall have power to impose any disciplinary or corrective measures for which the Principal is authorized, plus those described below:

4) Expulsion - permanent separation of the Public Education System.

5.a.3. Misbehavior Against Institutional Order

a. Impeding or limiting other students from completing their homework- all students who obstruct or impede other students from doing their school work will incur this violation

c. Challenge Authority - a student is in violation if they disobey a directive or direct order for lawful purposes and that has been issued by a person with authority to do so. [...]

j. Mutiny - It is a violation when two or more students working together, without legal authorization, make use of force and violence to disturb the institutional peace or threaten to use force or violence accompanied by the ability to do it.

5.a.5. Corporal Offense

a. Assault- Assault - anyone who employs force or violence against another person to do harm.

b. Mutilation - any student who illegally and maliciously deprives or disables and disfigures a person or a body part.

Limitations or Conditions on Exclusionary Discipline

LAWS

3 L.P.R.A. § 9809b. Disciplinary measures and sanctions.

(a) The disciplinary measures taken by the school's administrative personnel must be directed at improving student behavior, thereby creating a school environment that is safe and optimal for learning and improving a student's academic performance. The disciplinary process shall be preventive, progressive, just, and reasonable for rehabilitation and re-education purposes, while upholding the rights of the school community in general. For such purposes, if a student undergoes a disciplinary process or an evaluation by a psychologist or a counselor, said process shall be completed within fifteen (15) days from the commencement thereof.

(b) The strategies used to address disciplinary issues or toxic conduct must be directed at repairing the damage done and restoring the respect and peaceful coexistence that must prevail in the school community and, specifically, to reintegrate students into the school community.

(c) Teachers shall be responsible for the school's discipline, both inside and outside of the classrooms, thereby ensuring that students satisfy this requirement. They shall refer disciplinary issues to the School Principal after having exhausted all resources available to them, such as, but not limited to: restorative measures, mediation, interviews, and meetings with the student, his guardian, or the interdisciplinary team, or referring the student to the homeroom teacher, the school's social worker, or a professional counselor, among others.

(d) Before imposing any sanction or taking any disciplinary action, all intervention and counseling resources available to students, parents, custodians, or guardians must be exhausted. These measures must be documented and filed in the student's record. Moreover, the student subject to the disciplinary measures and the affected party shall always be afforded an opportunity to express themselves and be heard in an orderly, timely, and respectful manner.

(e) An out-of-school suspension is an exclusionary discipline practice that should only be implemented under special circumstances and only when the well-being of the students or the school's community is at risk. Under any other circumstances, school principals shall implement practices that are not exclusionary, such as mediation and restorative practices, among others.

(f) The Secretary shall promulgate school discipline regulations in order to ensure that the works of the Public Education System remain uninterrupted, and each Regional Office of Education shall implement the disciplinary practices that are best suited to the particular needs of their students, pursuant to the aforementioned regulations. Such regulations shall be consistent with the applicable laws in our jurisdiction related to minors.

(g) Each Regional Office of Education shall submit a copy of the proposed code of conduct to the personnel of the central offices of the Department, before June 1st of each year, for the review and authorization thereof. The codes of conduct shall not be valid or effective insofar as the aforementioned

process has been carried out and the approval thereof has been notified in writing to the Regional Office of Education.

(h) No student shall be prevented from exercising his right to an education. No corrective measures that harm a student's physical integrity or violates his dignity may be imposed.

(i) The disciplinary measures imposed shall be proportional to the offense and must contribute to improving the student's conduct.

(j) The student's personal, family, and social circumstances shall be taken into consideration before choosing the appropriate disciplinary measure.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

(1) To receive an education directed to the full development of their personality, intellectual capacities, as well as strengthening human beings and their fundamental freedoms.

(2) Special education programs shall promote the optimum development of the personality, as well as the physical, mental, and cognitive abilities of special needs students by providing them with an education and the tools for their integration into society.

(3) Parents shall have the right and the obligation to be informed of their children's academic performance as well as the responsibility to ensure their children's compulsory school attendance.

(4) Students shall have the right to know the evaluation process criteria to which they shall be subjected when their school work is graded and evaluated; and to be notified of their academic progress.

(5) Students shall have the right to a bilingual education that teaches them to communicate fluently in English and Spanish, at the very least, which are the two official languages of Puerto Rico.

The parents of students who are unemancipated minors or, in default thereof, their guardian or custodian, may inform the Department of Education of their desire to provide the student with instruction in English. To such effects, they may request admission to any of the specialized schools for said purpose subject to seat availability and following the rules and regulations of the Department.

(6) Freedom of Expression.- Every student shall have the right to express his opinions as well as to orderly and respectfully disagree with the opinions of his teachers and other school personnel. School authorities shall identify and provide spaces or areas to be used by students to place notifications or comments regarding any school issue, subject to the rules established in the Department of Education's General Student Regulations in effect. Under no circumstances shall the order established in the classrooms and on school grounds be altered.

(a) No public school, on its own or through employees or third parties, shall punish, retaliate, or impose disciplinary or discriminatory measures against any student who chooses to participate in military, paramilitary, or quasi-military activities or courses approved by the state or federal government or educational entities.

(7) Freedom of Religion.- The education provided in the schools of the State shall be free and nonsectarian.

(8) Equal Protection of the Laws.- Every student shall have the right to equal protection of the laws.

(9) Student education records and conduct in school: privacy, access, and disclosure.- Education records and other related documents as well as the performance, conduct, attendance, health, interaction with other members of the school community, personal appearance, personal care, and the attention of parents or guardians, or any other fact or circumstance involving the student within the

school grounds shall be confidential. The records and related documents shall be kept in the custody of the School Principal.

No official of the Department of Education shall be authorized to disclose, by any means, the information that has been determined to be confidential by virtue of this chapter, unless the father or mother with parental rights or the legal guardian has issued an express and written consent. The student, father, mother with parental rights, or custodians and guardians shall have the right to request a copy of the education record. Access to these records shall be subject to the pertinent laws on the protection of confidential documents; persons not listed in this subsection shall be denied access to the student's education records, unless there is a court order to such effect.

The prohibition to disclose confidential information does not include information shared by officials of the Department of Education, the Department of the Family, and the Department of Justice, or any other government entity in the course and performance of their duties, or any information requested by a court order. Moreover, the disclosure of information to acknowledge the academic achievements of the student is hereby exempt from this limitation.

(10) Right to a free and safe education.-

(a) Education shall be free and accessible in the primary and secondary school levels to every public school student between the ages of five (5) and twenty-one (21).

(b) Students shall have the right to enjoy a safe school environment; free from the illegal use and trafficking of drugs and weapons; and free from any type of attack to their physical, mental, or emotional integrity.

(c) Students shall have the right to an education free from discrimination, abuse, and neglect.

(d) The right to receive equal opportunities to enroll in the public education system shall be recognized and guaranteed to any student who lives in Puerto Rico, regardless of race, color, sex, age, religion, birth, origin or ethnic background or nationality, political ideology, physical or mental disability, whether present or future, socioeconomic status, sexual orientation and gender identity, and immigration status. Public schools may not deny or reject students from enrolling in school on account of immigration status or failure to provide proof of lawful presence in Puerto Rico. No student or his family members shall be inquired about the immigration status of a student, his parents, or custodians.

(11) Curriculum.- Public schools shall implement a curriculum that fully develops the intellectual, imaginative, and emotional capabilities of students. Public schools shall also develop student's abilities pertaining to the sound coexistence of human beings as indispensable members of society. Said curriculum shall promote student's analytical skills and thought, disregarding the tradition of memorizing and reciting unnecessary information. Moreover, schools shall promote the development of values and dignity in human beings.

(12) Special education and reasonable accommodation.- Every student who has a physical or mental disability or has special needs shall have the right to receive services as are necessary according to their condition, and to be guaranteed reasonable accommodation consistent with their needs, as established in §§ 1351 et seq. of this title, known as the "Integral Educational Services for Persons with Disabilities Act", and the agreement of the class action Rosa Vélez v. Departamento de Educación, KPE1980-1738. If a student has a disability or a medical condition said student shall have the right to have private information remain confidential, pursuant to federal and state laws in respect thereof.

(13) Disciplinary actions.- The student shall have the right of due process in any disciplinary procedure. Disciplinary actions shall be carried out in accordance with the provisions of the Department of Education's General Student Regulations in effect. As part of the due process of law, students shall be granted the following rights:

- (a) To be notified of the infraction and the sanction to be imposed. The foregoing shall be notified to the parents, guardian, or custodian of the student, and in the case of students of legal age, they shall be directly notified.
 - (b) To be given the opportunity to be heard before any sanction is imposed.
 - (c) To be judged by an impartial and competent person.
 - (d) To have knowledge of the student regulations, which shall be a public and accessible document to all students.
- (14) Every student shall have the right to receive an education of excellence.
- (15) Every student shall have the right to be considered an active learner and capable of social interaction within his social environment.
- (16) Every student shall have the right to be heard and to have his opinions fully respected; he shall also have the obligation to hear and respect the opinion of others.

REGULATIONS

Regulation Num. 8115. Article IX, G. Infractions and corrective or disciplinary measures.

- 2) Provisional Methods that May be Utilized Before Imposing Disciplinary Methods
- b. Short Suspension: The Principal may use this measure when circumstances are deemed appropriate for filing grievances. In which case, it shall comply strictly with the provisions of this Article stated in the section on the formal complaints procedure.
- 3) Corrective or Disciplinary Methods
- b. The Secretary of Education, or his authorized representative, shall have power to impose any disciplinary or corrective measures for which the Principal is authorized, plus those described below:
 - 1) Suspension for a period longer than fifteen (15) school days.
 - 2) Suspension conditional until the student complies with its obligations under the circumstances imposed by the Secretary.
 - 3) Permanently transfer student to a different school, district, or alternative school.
 - 4) Expulsion - permanent separation of the Public Education System.
- For serious circumstances it may increase to a defined term suspension.

Due Process

LAWS

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

- (13) Disciplinary actions.- The student shall have the right of due process in any disciplinary procedure. Disciplinary actions shall be carried out in accordance with the provisions of the Department of Education's General Student Regulations in effect. As part of the due process of law, students shall be granted the following rights:
- (a) To be notified of the infraction and the sanction to be imposed. The foregoing shall be notified to the parents, guardian, or custodian of the student, and in the case of students of legal age, they shall be directly notified.
 - (b) To be given the opportunity to be heard before any sanction is imposed.

(c) To be judged by an impartial and competent person.

(d) To have knowledge of the student regulations, which shall be a public and accessible document to all students.

(14) Every student shall have the right to receive an education of excellence.

(15) Every student shall have the right to be considered an active learner and capable of social interaction within his social environment.

(16) Every student shall have the right to be heard and to have his opinions fully respected; he shall also have the obligation to hear and respect the opinion of others.

REGULATIONS

No relevant regulations found.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative Placements

LAWS

3 L.P.R.A. § 9812i. Alternative education.

Through the Office of the Secretary, the Department shall offer educational and support services to the regular adult population and to the at-risk children and youth population.

It shall offer innovative programs during regular and extended hours, to develop various academic and social skills. These offerings shall reflect the demands of the labor market, including the importance of English language proficiency at a conversational level, and shall be aligned with the needs of today's Puerto Rico.

For such purposes, the Department shall continue to offer educational services to the at-risk children and youth population through specific service centers such as the Alianza para la Educación Alternativa, Centros de Servicios de Apoyo Sustentable al Alumno, better known as "Proyecto C.A.S.A.," among others.

These alternative schools shall have the following standards:

(a) Recruiting and admission.

(b) Learning environments.

(c) Integral development of participating students and their learning.

(d) Program content design.

(e) Assessment of organizational effectiveness.

(f) Organizational competency.

(g) Partnerships and collaborations.

(h) These schools may receive any international, federal, or state accreditation available for the various programs.

18 L.P.R.A. § 13. Department of Education.

(k) The Department of Education shall use alternative educational environments for those students who have faced school violence problems so as to guarantee a safe school community.

18 L.P.R.A. § 3811. Declaration of public policy.

The Legislative Assembly of Puerto Rico recognizes the pressing need to encourage the support for successful alternative education models in order to address, in an integrated manner, the unique cognitive, academic, biopsychosocial, vocational, and entrepreneurial needs of the population of school dropouts and at-risk children or youths.

The goal of alternative education is to develop enterprising and productive citizens with high academic, community, and leadership competencies who are committed to their personal development as well as that of their family and community setting.

Based on the foregoing, this Legislative Assembly hereby resolves and declares that alternative education is governed in Puerto Rico by the following principles:

- (a) All children and youths have the right to quality education.
- (b) All school dropouts and at-risk children and youths represent a population with full potential for human development thus requiring an education adjusted to their socioeconomic and educational needs and to their unique interests.
- (c) Taking into consideration the high incidence of school dropouts and at-risk children and youths, alternative education shall be considered a curriculum within the educational system in Puerto Rico.
- (d) Alternative education for school dropouts and at-risk children and youths should be characterized by its focus on them, the promotion of opportunities for participation, academic preparation, physical and sports training, trust in their capabilities, discipline, respect for human dignity, the opportunity to explore and develop their talents, including the means of artistic expression, occupational education, and technological training that provides them with self-management tools.
- (e) The State recognizes the benefits of partnerships with the municipalities of Puerto Rico and municipal consortiums, nonprofit government and nongovernmental organizations, and nonprofit higher education institutions, both from the government and the nongovernment sectors, and their contributions to improve the quality of life of Puerto Rico. The Government and the entities and institutions that have purposes similar to the purposes of this chapter should establish a partnership so they can work in conjunction to expedite the resources and promote the conditions that shall guarantee the continuity of services.
- (f) School dropouts and at-risk children and youths need varied education models of proven effectiveness in satisfying the needs and unique characteristics of this population.
- (g) In order to effectively address the unique needs and interests of their students, alternative education entities shall have autonomy and flexibility relating to its administration, operations, and curriculum, in accordance with its objectives and education model, but shall be required to comply with the parameters and meet the requirements established both in this chapter and the regulations adopted thereunder. They shall also meet all the licensing requirements set forth by the Puerto Rico Education Council, pursuant to Reorganization Plan No. 1 of July 26, 2010, as amended.

Likewise, and considering that the traditional academic curriculums are not governed by inflexible parameters that prevent what should be their natural evolution, our aim is that, when the time comes, the alternative model may be transformed so as to embrace, support, and integrally fulfill the unique interests and needs of gifted students in Puerto Rico. This could be achieved by creating education centers specifically geared to this population, or by entering into collaboration agreements between existing institutions and other entities with the expertise and proven experience working with this population. We believe that this shall be the next logical step to be taken once this education model has proven its reliability.

18 L.P.R.A. § 3812. Objectives.

This chapter has the following objectives:

- (1) To recognize alternative education as an academic curriculum within the education system of Puerto Rico;
- (2) To establish a structure within a clear and efficient legal framework to guarantee the quality of the alternative education offered in Puerto Rico, as well as the availability of funds therefor;
- (3) To validate educational services that take into consideration the characteristics of the development stage of school dropouts or at-risk children and youths not being addressed by the mainstream curriculum, in order to allow for the optimum development of their potential, knowledge, attitudes, and competencies through alternative education;
- (4) To promote development and support to the career, entrepreneurial, and business training process of participants, taking as basis the business or job expectations and needs of the population, their qualified entry into the changing labor market, and their self-management capabilities, giving priority to those actions geared to their social and financial improvement, and to the involvement of students in the community;
- (5) To establish quality standards and accountability mechanisms for alternative education entities by overseeing the use of the funds allocated for such purposes and the attainment of definite results;
- (6) To contribute to the documentation of effective alternative education practices to help improve the education system in general; and
- (7) To promote the collection of individual historical data of participants of the alternative education programs, and the collection of the pertinent statistics for the benefit of the education system of Puerto Rico.

18 L.P.R.A. § 3813. Definitions.

For purposes of this chapter, the following terms shall have the meaning stated hereinbelow:

- (a) Partnership.- Means the "Alternative Education Partnership, Inc".
- (b) At-risk.- Means those students whose profiles show any of the following indicators, and who do not show any changes upon interventions conducted by the Department of Education of Puerto Rico:
 - (14) Those other indicators to be identified in the future by the Alternative Education Commission.
- (c) Alternative Education Commission.- Means an entity composed of seven (7) persons that shall serve as the regulatory and oversight entity of the public policy on alternative education in Puerto Rico.
- (d) Alternative education.- Means a curriculum within the education system geared to the population of school dropouts or at-risk children and youths, in an integrated manner that addresses their unique interests, needs, and development levels in cognitive, academic, biopsychosocial, vocational, and entrepreneurial areas, which promotes values and the optimum development of their potential.
- (e) Alternative education entities.- Means educational centers and/or basic level schools, with their corresponding institutional units, whether newly created or existing ones, from the government and non-government sector, that offer alternative education programs in Puerto Rico. These entities shall be held accountable for the use of state funds and shall produce measurable results in accordance with the established indicators and metrics, which shall be developed under quantitative and qualitative approaches, as well as comply with the applicable laws and regulations.

18 L.P.R.A. § 3816. Functions and duties of entities of alternate education.

For the purpose of implementing the public policy on alternative education in Puerto Rico, and to guarantee a high-quality level as well as the promotion thereof, alternative education entities shall have the following functions:

- (a) To promote the development of alternative education, ensuring that the models and programs to be used and taught are aligned with the purposes of the public policy set forth in this chapter and certified by the Commission.

(b) To submit reports to the Custodian Agency and the Commission, as established in § 3820 of this title.

(c) To render reports to the Commission on the use and results of any other funds, gifts, or public or private transfers received which are directed to the public policy on alternative education established in this chapter.

(d) To collaborate with the Department of Education to promote the permanence of students in school, and the use of effective practices and models to improve the education system in general.

(e) To meet the requirements and rules adopted by the Commission with respect to alternative education in Puerto Rico.

(f) To promote collaboration agreements with municipalities or municipal consortiums in Puerto Rico and other government or nongovernmental organizations to broaden its services.

(g) The operations of alternative education institutions under this chapter shall be subject to the oversight and audits to be conducted by the Office of the Comptroller of Puerto Rico.

18 L.P.R.A. § 3817. Functions and powers of the Department of Education.

The Department of Education shall have the following functions and powers:

(c) To receive and evaluate financial reports from the alternative education entities and make the semiannual disbursements as the Custodian Agency of the budget allocation earmarked in this chapter.

18 L.P.R.A. § 3818. Funds for alternative education in Puerto Rico.

Beginning Fiscal Year 2012-2013, twelve million dollars (\$12,000,000) shall be annually appropriated to the Alternative Education Partnership, Inc. to attain the purposes of this chapter. The Partnership shall use a portion of this budget for professional development programs for its teaching personnel, and the establishment of student information systems, pursuant to the provisions of § 3815 of this title. Any surplus in the appropriated budget may be used in subsequent fiscal years for purposes related to this chapter.

This shall be a recurring appropriation to the Partnership and the Department of Education shall be the custodian agency thereof. This entails that the funds shall be received by the Department of Education to be allocated semiannually to the Alternative Education Partnership, Inc., upon the filing of the financial statements referred to in § 3817(c) of this title.

Furthermore, the sum of seven million dollars (\$7,000,000) shall be annually appropriated in the budget of the Department of Education for the operation of C.A.S.A Project. Any surplus in the appropriated budget may be used in subsequent fiscal years for purposes related to this chapter.

The Department of the Treasury shall deduct one percent (1%) from the budget appropriated under this chapter to the Alternative Education Partnership, Inc. and C.A.S.A Project, and shall remit it to the Puerto Rico Education Council to defray the operating expenses of the Alternative Education Commission.

18 L.P.R.A. § 3819. Uses allowed for the appropriations to alternative education entities .

The funds provided by this chapter shall be used by participating alternative education entities for the following:

(a) The distribution of funds, through per student grants or allocations to organizations of proven effectiveness, to continue with the implementation and development of alternative education programs.

(b) Grants for the creation of new programs or the improvement of recently-created programs.

(c) Grants or contracts for training and technical assistance related to alternative education.

(d) Grants or contracts for the implementation of information dissemination strategies to raise the public's awareness of the alternative education concept.

(e) Grants or contracts for external evaluations, investigations, and studies that contribute to the documentation and collection of statistics on alternative education.

- (f) Promotion and networking with alternative education systems or entities in other states of the United States and in other countries.
- (g) Contracting of resources to procure additional funding for alternative education in Puerto Rico.
- (h) Administrative and/or operating expenses required for the implementation of this chapter.
- (i) Any other use related to the purposes of this chapter.

18 L.P.R.A. § 3820. Reports.

The alternative education entities shall submit annual reports to the Alternative Education Commission, which, in turn, shall draft another annual report with the information received, to be submitted to the Governor and the Legislative Assembly of Puerto Rico, on the transactions carried out and the manner in which the funds provided for herein have been used. Once the Commission has been constituted, it shall require alternative education entities to file a first report. After filing the first report, said entities shall file an annual report on or before September 30 of each year.

The Commission may require alternative education entities to file any other special report, provided it is requested fifteen (15) days in advance.

REGULATIONS

Regulation Num. 8115. Article IX, G. Infractions and corrective or disciplinary measures.

2.b.1) Concepts

- a) This process can only be used by the Principal when:
 - (1) he knows that student performance is out of compliance with Class II or Class III in accordance with the Children Act, or if the student is to be tried as an adult or is involved in an act that is establishing serious criminal offense, or
 - (2) when the Principal has grounds to believe that a student may be an actual or imminent harm to another student or other persons or school property.

3.a) Corrective or Disciplinary Methods for Informal Complaints

The Principal shall have power to impose the following corrective or disciplinary measures:

- 6) Suspension of one (1) to fifteen (15) school days.

3.b) Corrective or Disciplinary Methods for Formal Complaints

The Secretary of Education, or his authorized representative, shall have power to impose any disciplinary or corrective measures for which the Principal is authorized, plus those described below:

- 4) Expulsion - permanent separation of the Public Education System.

5.a.3. Misbehavior Against Institutional Order

- a. Impeding or limiting other students from completing their homework- all students who obstruct or impede other students from doing their school work will incur this violation
- c. Challenge Authority - a student is in violation if they disobey a directive or direct order for lawful purposes and that has been issued by a person with authority to do so. [...]
- j. Mutiny - It is a violation when two or more students working together, without legal authorization, make use of force and violence to disturb the institutional peace or threaten to use force or violence accompanied by the ability to do it.

5.a.5. Corporal Offense

- a. Assault- Assault - anyone who employs force or violence against another person to do harm.
- b. Mutilation - any student who illegally and maliciously deprives or disables and disfigures a person or a body part.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

3 L.P.R.A. § 9802c. Duties and responsibilities of the Secretary of Education.

(a) The Secretary shall be responsible for the effective and efficient administration of the Public Education System in accordance with the law, the duly-established education policy, and the public policy adopted by the Legislative Assembly and the Governor, in order to achieve the purposes set forth in the Constitution of Puerto Rico and in this chapter for the Public Education System.

(b) The Secretary shall:

(60) Establish, in accordance with §§ 4001 et seq. of Title 18, the Drug-Free and Weapon-Free School Program, for the purpose of promoting a peaceful and safe environment within the schools and school zones of the Public Education System.

3 L.P.R.A. § 9809c. Possession of weapons and controlled substances in schools.

Any student who introduces, distributes, gifts, sells, or possesses any type of firearm or controlled substance, classified as such in §§ 2101 et seq. of this Title 24, known as the "Controlled Substances Act of Puerto Rico", within the school or its surroundings, shall be suspended by the Secretary for a period not to exceed one (1) year according to the particular circumstances of each case and the procedures prescribed by regulations. For purposes of this section, "any type of weapon" shall include all the weapons included in §§ 455 et seq. of Title 25, known as the "Puerto Rico Weapons Act", or any other successor and/or federal law.

"School surroundings" shall be understood as a perimeter of one hundred (100) meters measured from the school premises as these are delimited by a fence or any other boundary marking. The Department, in conjunction with the concerned government agencies, shall provide the suspended student with alternative education options for the duration of the suspension and, once the suspension has ended, shall place the student in the appropriate level and grade. The legal provisions in effect in our code of laws shall be applied if necessary.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

- (1) To receive an education directed to the full development of their personality, intellectual capacities, as well as strengthening human beings and their fundamental freedoms.
- (2) Special education programs shall promote the optimum development of the personality, as well as the physical, mental, and cognitive abilities of special needs students by providing them with an education and the tools for their integration into society.
- (3) Parents shall have the right and the obligation to be informed of their children's academic performance as well as the responsibility to ensure their children's compulsory school attendance.
- (4) Students shall have the right to know the evaluation process criteria to which they shall be subjected when their school work is graded and evaluated; and to be notified of their academic progress.

(5) Students shall have the right to a bilingual education that teaches them to communicate fluently in English and Spanish, at the very least, which are the two official languages of Puerto Rico.

The parents of students who are unemancipated minors or, in default thereof, their guardian or custodian, may inform the Department of Education of their desire to provide the student with instruction in English. To such effects, they may request admission to any of the specialized schools for said purpose subject to seat availability and following the rules and regulations of the Department.

(6) Freedom of Expression.- Every student shall have the right to express his opinions as well as to orderly and respectfully disagree with the opinions of his teachers and other school personnel. School authorities shall identify and provide spaces or areas to be used by students to place notifications or comments regarding any school issue, subject to the rules established in the Department of Education's General Student Regulations in effect. Under no circumstances shall the order established in the classrooms and on school grounds be altered.

(a) No public school, on its own or through employees or third parties, shall punish, retaliate, or impose disciplinary or discriminatory measures against any student who chooses to participate in military, paramilitary, or quasi-military activities or courses approved by the state or federal government or educational entities.

(7) Freedom of Religion.- The education provided in the schools of the State shall be free and nonsectarian.

(8) Equal Protection of the Laws.- Every student shall have the right to equal protection of the laws.

(9) Student education records and conduct in school: privacy, access, and disclosure.- Education records and other related documents as well as the performance, conduct, attendance, health, interaction with other members of the school community, personal appearance, personal care, and the attention of parents or guardians, or any other fact or circumstance involving the student within the school grounds shall be confidential. The records and related documents shall be kept in the custody of the School Principal.

No official of the Department of Education shall be authorized to disclose, by any means, the information that has been determined to be confidential by virtue of this chapter, unless the father or mother with parental rights or the legal guardian has issued an express and written consent. The student, father, mother with parental rights, or custodians and guardians shall have the right to request a copy of the education record. Access to these records shall be subject to the pertinent laws on the protection of confidential documents; persons not listed in this subsection shall be denied access to the student's education records, unless there is a court order to such effect.

The prohibition to disclose confidential information does not include information shared by officials of the Department of Education, the Department of the Family, and the Department of Justice, or any other government entity in the course and performance of their duties, or any information requested by a court order. Moreover, the disclosure of information to acknowledge the academic achievements of the student is hereby exempt from this limitation.

(10) Right to a free and safe education.-

(a) Education shall be free and accessible in the primary and secondary school levels to every public school student between the ages of five (5) and twenty-one (21).

(b) Students shall have the right to enjoy a safe school environment; free from the illegal use and trafficking of drugs and weapons; and free from any type of attack to their physical, mental, or emotional integrity.

(c) Students shall have the right to an education free from discrimination, abuse, and neglect.

(d) The right to receive equal opportunities to enroll in the public education system shall be recognized and guaranteed to any student who lives in Puerto Rico, regardless of race, color, sex,

age, religion, birth, origin or ethnic background or nationality, political ideology, physical or mental disability, whether present or future, socioeconomic status, sexual orientation and gender identity, and immigration status. Public schools may not deny or reject students from enrolling in school on account of immigration status or failure to provide proof of lawful presence in Puerto Rico. No student or his family members shall be inquired about the immigration status of a student, his parents, or custodians.

(11) Curriculum.- Public schools shall implement a curriculum that fully develops the intellectual, imaginative, and emotional capabilities of students. Public schools shall also develop student's abilities pertaining to the sound coexistence of human beings as indispensable members of society. Said curriculum shall promote student's analytical skills and thought, disregarding the tradition of memorizing and reciting unnecessary information. Moreover, schools shall promote the development of values and dignity in human beings.

(12) Special education and reasonable accommodation.- Every student who has a physical or mental disability or has special needs shall have the right to receive services as are necessary according to their condition, and to be guaranteed reasonable accommodation consistent with their needs, as established in §§ 1351 et seq. of this title, known as the "Integral Educational Services for Persons with Disabilities Act", and the agreement of the class action *Rosa Vélez v. Departamento de Educación*, KPE1980-1738. If a student has a disability or a medical condition said student shall have the right to have private information remain confidential, pursuant to federal and state laws in respect thereof.

(13) Disciplinary actions.- The student shall have the right of due process in any disciplinary procedure. Disciplinary actions shall be carried out in accordance with the provisions of the Department of Education's General Student Regulations in effect. As part of the due process of law, students shall be granted the following rights:

(a) To be notified of the infraction and the sanction to be imposed. The foregoing shall be notified to the parents, guardian, or custodian of the student, and in the case of students of legal age, they shall be directly notified.

(b) To be given the opportunity to be heard before any sanction is imposed.

(c) To be judged by an impartial and competent person.

(d) To have knowledge of the student regulations, which shall be a public and accessible document to all students.

(14) Every student shall have the right to receive an education of excellence.

(15) Every student shall have the right to be considered an active learner and capable of social interaction within his social environment.

(16) Every student shall have the right to be heard and to have his opinions fully respected; he shall also have the obligation to hear and respect the opinion of others.

REGULATIONS

Regulation Num. 8115. Article IX, E. Entries and searches.

Will be carried out as a measure to guarantee a safe environment in our school campuses. These can not be performed randomly. As the authorized officials must strictly follow the procedures laid out in the present Article, to guarantee the reasonableness thereof to perform the interventions with the students.

[...]

2. Procedure

The authorized officials may search a student or a group of students and may consequently keep the obtained evidence, under any of the following circumstances:

b. When an offense has led to possession, carrying, distribution, or sale of arms, or of any controlled substance or chemical or device that could cause grave bodily harm and the authorized official has reasonable grounds to believe that the student in question committed it. By reasonable grounds, it will be understood that officials may intervene based on information that would lead a reasonable and prudent person to believe that the student in question has committed the offense. The student's innocence or guilt will be determined independently later.

Regulation Num. 8115. Article IX, G Infractions and Corrective or Disciplinary Measures.

5.a.3) Offenses Against the Institutional Order .

i) Alteration to Peace - any student who voluntarily conducts any of the following acts:

(3) Carry, remove, or display any weapon, firearm, or object intended to attack that could cause harm to others or school property. It will be aggravated if done violently, angry or threatening.

(4) Use or threaten with a knife, fire, or object intended to attack or defend that could cause harm to others or school property in a fight. Student is deemed an aggressor if it is done in violent behavior, angry or threatening manner

(5) [...] If found to have committed this offense the student is liable for suspension of a period not exceeding six (6) to ten (10) school days. Given extenuating circumstances, the sanction could be reduced to a suspension for a period of one (1) to five (5) days. If aggravating circumstances, the sanction may be increased to suspension for a period of eleven (11) to fifteen (15) school days.

l) Possessing introducing, transporting, selling, exchanging, giving away or distributing weapons, fire, materials, equipment or articles intended to attack, for defense, or cause damage - a student guilty of this violations is one who possesses, enters, transports, sells, trades, gives away or distributes weapons, fire, materials, equipment or articles intended to attack or for defense, which includes, but not limited to guns, "pellet" guns, paintball guns, brass knuckles, exaggerated chains or necklaces on school grounds, a hundred meters around the school, school activities, at any branch of the Department of Education or the means of transportation provided by the Department of Education.

Students with Chronic Disciplinary Issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Chronic Absenteeism and Truancy

LAWS

3 L.P.R.A. § 9801c. Compulsory school attendance.

(a) School attendance shall be compulsory for students between the ages of five (5) and (18), except for: students participating in an elementary or secondary alternative education program or its equivalent; students enrolled in a high school equivalency program for adults or other programs that prepare students to be readmitted to a regular school; or students who have taken the GED test.

(b) Public school students are hereby prohibited from leaving the school grounds during school hours or during any recess. The School Principal and the student's teacher shall be jointly accountable for unexcused absences of said nature and their evaluations shall state so if they fail to prove that clear and

convincing efforts were taken to prevent such absences. It is hereby provided that the Secretary shall be required to prescribe by regulations to such effect, the procedure to authorize students to leave the school grounds during school hours. Such regulations shall contain, at least, one provision regarding the express authorization of a parent, guardian, or custodian.

(c) Any student's parent, guardian, or custodian who encourages, entices, or allows such student to be absent from school for a period equal to or greater than three (3) consecutive days without just cause, or who fails to meet his responsibility of causing the child to attend school, and after receiving a notice of non-compliance, shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) or a minimum period of one hundred (100) hours of community service at the institution the student for whom he is responsible attends, or both penalties at the discretion of the court. Said person shall also be guilty of a civil infraction that may entail the cancellation of benefits under the Nutrition Assistance Program, the Public Housing Program, and the Affordable Housing Program. Each school shall develop a strategic plan to prevent student's excessive absences from the classroom.

(d) All students shall be enrolled in an educational program until they finish high school or its equivalent. Every student's parent, guardian, or custodian shall be responsible for the student's compulsory school attendance, as provided in this section.

(e) The Secretary, in conjunction with Regional Superintendents and school principals, shall establish the methods or procedures to be used by Regional Offices of Education to implement the provisions regarding student's compulsory school attendance, through regulations that shall include, among others, the following:

- (1) The School Principal's responsibility for the enforcement of compulsory school attendance.
- (2) A daily attendance record of the school's students. Schools shall use the electronic media established by the Department to record students' class attendance.
- (3) An attendance notification system for parents. Said notifications shall be sent on a monthly basis, and in the case of pattern absences, parents shall be notified weekly.
- (4) The steps to be taken by the school to address student attendance problems.
- (5) Incentives to every student's parent, guardian, or custodian discharging his responsibility regarding the student's compulsory school attendance.

(f) At the end of each semester, the Secretary shall submit a "Report on School Dropout in Puerto Rico". The information therein shall be presented in a manner that is clear and easy to understand for the general public. Said report shall be submitted to the Governor, the Legislative Assembly through the Office of the Clerk of the House of Representatives and the Office of the Secretary of the Senate, and the Puerto Rico Institute of Statistics. In addition, the report shall be available on the Department's website. The same shall include, but shall not be limited to, the total dropout rates by grade level for every education region and for each school; the High School Equivalency Test pass rate; data on transfers, expulsions, suspensions, and absenteeism; and any other pertinent information in connection with the academic progress of students. Furthermore, the Secretary shall make available on the Department's website every month, each school's attendance report, which shall be reported in accordance with regulations.

(g) The Puerto Rico Institute of Statistics is hereby designated as the authorized representative of the Department for the purpose of sharing students' information with the Institute, safeguarding the confidentiality rights of students pursuant to § 9801d of this title.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All

students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

- (1) To receive an education directed to the full development of their personality, intellectual capacities, as well as strengthening human beings and their fundamental freedoms.
- (2) Special education programs shall promote the optimum development of the personality, as well as the physical, mental, and cognitive abilities of special needs students by providing them with an education and the tools for their integration into society.
- (3) Parents shall have the right and the obligation to be informed of their children's academic performance as well as the responsibility to ensure their children's compulsory school attendance.
- (4) Students shall have the right to know the evaluation process criteria to which they shall be subjected when their school work is graded and evaluated; and to be notified of their academic progress.
- (5) Students shall have the right to a bilingual education that teaches them to communicate fluently in English and Spanish, at the very least, which are the two official languages of Puerto Rico.

The parents of students who are unemancipated minors or, in default thereof, their guardian or custodian, may inform the Department of Education of their desire to provide the student with instruction in English. To such effects, they may request admission to any of the specialized schools for said purpose subject to seat availability and following the rules and regulations of the Department.

(6) Freedom of Expression.- Every student shall have the right to express his opinions as well as to orderly and respectfully disagree with the opinions of his teachers and other school personnel. School authorities shall identify and provide spaces or areas to be used by students to place notifications or comments regarding any school issue, subject to the rules established in the Department of Education's General Student Regulations in effect. Under no circumstances shall the order established in the classrooms and on school grounds be altered.

(a) No public school, on its own or through employees or third parties, shall punish, retaliate, or impose disciplinary or discriminatory measures against any student who chooses to participate in military, paramilitary, or quasi-military activities or courses approved by the state or federal government or educational entities.

(7) Freedom of Religion.- The education provided in the schools of the State shall be free and nonsectarian.

(8) Equal Protection of the Laws.- Every student shall have the right to equal protection of the laws.

(9) Student education records and conduct in school: privacy, access, and disclosure.- Education records and other related documents as well as the performance, conduct, attendance, health, interaction with other members of the school community, personal appearance, personal care, and the attention of parents or guardians, or any other fact or circumstance involving the student within the school grounds shall be confidential. The records and related documents shall be kept in the custody of the School Principal.

No official of the Department of Education shall be authorized to disclose, by any means, the information that has been determined to be confidential by virtue of this chapter, unless the father or mother with parental rights or the legal guardian has issued an express and written consent. The student, father, mother with parental rights, or custodians and guardians shall have the right to request a copy of the education record. Access to these records shall be subject to the pertinent laws on the protection of confidential documents; persons not listed in this subsection shall be denied access to the student's education records, unless there is a court order to such effect.

The prohibition to disclose confidential information does not include information shared by officials of the Department of Education, the Department of the Family, and the Department of Justice, or any

other government entity in the course and performance of their duties, or any information requested by a court order. Moreover, the disclosure of information to acknowledge the academic achievements of the student is hereby exempt from this limitation.

(10) Right to a free and safe education.-

(a) Education shall be free and accessible in the primary and secondary school levels to every public school student between the ages of five (5) and twenty-one (21).

(b) Students shall have the right to enjoy a safe school environment; free from the illegal use and trafficking of drugs and weapons; and free from any type of attack to their physical, mental, or emotional integrity.

(c) Students shall have the right to an education free from discrimination, abuse, and neglect.

(d) The right to receive equal opportunities to enroll in the public education system shall be recognized and guaranteed to any student who lives in Puerto Rico, regardless of race, color, sex, age, religion, birth, origin or ethnic background or nationality, political ideology, physical or mental disability, whether present or future, socioeconomic status, sexual orientation and gender identity, and immigration status. Public schools may not deny or reject students from enrolling in school on account of immigration status or failure to provide proof of lawful presence in Puerto Rico. No student or his family members shall be inquired about the immigration status of a student, his parents, or custodians.

(11) Curriculum.- Public schools shall implement a curriculum that fully develops the intellectual, imaginative, and emotional capabilities of students. Public schools shall also develop student's abilities pertaining to the sound coexistence of human beings as indispensable members of society. Said curriculum shall promote student's analytical skills and thought, disregarding the tradition of memorizing and reciting unnecessary information. Moreover, schools shall promote the development of values and dignity in human beings.

(12) Special education and reasonable accommodation.- Every student who has a physical or mental disability or has special needs shall have the right to receive services as are necessary according to their condition, and to be guaranteed reasonable accommodation consistent with their needs, as established in §§ 1351 et seq. of this title, known as the "Integral Educational Services for Persons with Disabilities Act", and the agreement of the class action *Rosa Vélez v. Departamento de Educación*, KPE1980-1738. If a student has a disability or a medical condition said student shall have the right to have private information remain confidential, pursuant to federal and state laws in respect thereof.

(13) Disciplinary actions.- The student shall have the right of due process in any disciplinary procedure. Disciplinary actions shall be carried out in accordance with the provisions of the Department of Education's General Student Regulations in effect. As part of the due process of law, students shall be granted the following rights:

(a) To be notified of the infraction and the sanction to be imposed. The foregoing shall be notified to the parents, guardian, or custodian of the student, and in the case of students of legal age, they shall be directly notified.

(b) To be given the opportunity to be heard before any sanction is imposed.

(c) To be judged by an impartial and competent person.

(d) To have knowledge of the student regulations, which shall be a public and accessible document to all students.

(14) Every student shall have the right to receive an education of excellence.

(15) Every student shall have the right to be considered an active learner and capable of social interaction within his social environment.

(16) Every student shall have the right to be heard and to have his opinions fully respected; he shall also have the obligation to hear and respect the opinion of others.

18 L.P.R.A. § 3803. Duties and responsibilities of students, parents, guardians, and school authorities.

- (1) Observe the laws, regulations, circular letters, rules, instructions, and directives issued by academic authorities.
- (2) Be punctual and attend school regularly as well as behave appropriately during school hours, recess, and other school activities, whether they are held inside or outside the school.
- (3) Preserve, take care of, protect, and avoid damaging public property, equipment, books, or school supplies.
- (4) To refrain from interrupting class.
- (5) To refrain from coercing other students into participating in a particular mode of expression, or from violating the right of other students to dissent from their points of view.
- (6) Parents or guardians shall be responsible for the punctuality and regular school attendance of their unemancipated minors, and for notifying school authorities of the existence of any circumstance that warrants their absence.
- (7) Parents or guardians shall be responsible for repairing any damages caused by their unemancipated minors to public property, equipment, or school supplies. In the case of a student who is of legal age or emancipated, he shall personally assume responsibility for the damages caused.
- (8) Parents or guardians of a minor shall be responsible for updating their contact information in the event that school authorities should need to contact them. This information shall include, but not necessarily be limited to, the parent's home and/or work address; the home, work, or cell phone number of both parents, and contact information of a relative or person trusted by the parents, in the event that parents cannot be immediately contacted during an emergency. This information shall be kept in a safe place and shall only be accessed by the school principal, his secretary, the school guidance counselor, or the school social worker.
- (9) If a student is absent for more than three (3) consecutive days without any justification whatsoever, it shall be the responsibility of the school authorities to contact the parents or guardians of said student to determine the cause of said absences.
- (10) The duties and responsibilities set forth in this Section shall not be construed as limiting or excluding any other right, duty, or responsibility that the school may grant or require of students.

REGULATIONS

Regulation Num. 8115. Article IX, G. Infractions and corrective or disciplinary measures.

Will be carried out as a measure to guarantee a safe environment in our school campuses. These can not be performed randomly. As the authorized officials must strictly follow the procedures laid out in the present Article, to guarantee the reasonableness thereof to perform the interventions with the students.

1. Authorized officials

a. Will have legitimacy to perform the entries and searches the following officials:

- 1) The School Principal
- 2) The teacher
- 3) The school's officer
- 4) Law Enforcement Officer

1. Concepts

d. Corporal punishment is prohibited. Reasonable force will only be justified when it is essential to prevent bodily harm to others or to the offending student himself, as well as to avoid damages to student property. In these cases you will need to call the police, policeman, school security officer or other public official so that he may proceed to engage in corresponding charges.

Regulation Num. 8502. Article III. Definitions.

For the purposes of this regulation, the following terms and phrases shall have the definitions set forth below:

1. Unjustified Absences: This occurs when a student is absent from school or a school activity without a justified reason, as a parent, guardian, or custodian has not justified the absence in writing within 5 days.
2. Regular Absences: occurs when a student is absent from school or a school activity for more than 2 non-consecutive days a week.
3. Justified Absences and Tardiness: action consists of being absent from school for reasons of: health, pregnancy, hospitalization, court hearing, administrative hearing, death of a relative within the fourth degree of consanguinity or second degree of affinity, home emergency, as long as these situations are not recurrent, and any other situation that the director considers reasonable. The student shall submit the appropriate certification or excuse to justify his or her absence or tardiness. For example, medical certification, certification of hospitalization, death certificate, certification of appearance in court, among others. Excused absences or tardiness become suspicious when they occur in three (3) or more occasions in one school month for a term of three (3) or more consecutive months. In the case described above, the teacher should begin the procedure laid down in Article 4. 3. A.
4. Valid reason for absences in a class: when authorized officer requires the student to remain in another class, in an official school activity or appointment, in which case the school official will provide a written excuse to student before the teacher from course that the student will miss.
5. Cutting class: time a student is absent without justified cause to any of the courses in which her or she are enrolled.
6. Pattern of unexcused absences: When a student accumulates ten (10) or more unexcused absences or cutting class during the school year.
7. Support Personnel: refers to the social worker or school counselor who serves as facilitators in the school community.
8. Behavior problems: those aspects of attitudinal or of behavior that a student presents with measurable frequency, duration, and intensity that interrupt the processes in a classroom or within the context of the campus and that are related to biopsychosocial problems.
9. Discipline problems: those attitudinal aspects that disrupt the processes in a classroom or within the context of the campus, that violate the norms, rules, and institutional order, which alters the student-teacher relationship and affects performance of both the student and the teacher.
10. Program of Interdisciplinary Services for School Coexistence (SICE in Spanish): program for students that demonstrate behavioral problems as a pattern of antisocial behavior, violate institutional rules, challenge authority, exhibit aggressive behavior, or are at risk of leave school, among others. This referral is made after the school has exhausted all institutional efforts.

Regulation Num. 8502. Article IV. Procedure.

1. Teachers will follow the guidelines provided in Circular Letter 16-2013-2014, or the current circular letter, that establishes the procedure to be followed in implementing school retention norms of the Department of Education.
2. The school principal shall require teachers to keep a daily record of the students enrolled in the course and supervise the maintenance of this daily record of student attendance.
3. Next, the actions to follow according to the pattern of unjustified absences by the student.

A. 2 to 4 days

Responsible Person: Teacher

1. Notify the school principal and support staff on the student's unjustified absences.
2. Will carry out an investigation in which the teacher will consult with the team of teachers to check if the student's behavior is repetitive in other classes and, if deemed appropriate, will interview collaterals.
3. Contact the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email, or written notice, among others, to inform of the unjustified absences and discuss the causes, if any, of them.
4. Will meet and discuss with the student alternatives to avoid incurring unjustified absences.

B. 5 to 9 days

Responsible Person: Teacher - Social Worker - School Counselor

1. The teacher will notify the unjustified absences in writing to the school principal and support staff.
2. The support staff will conduct an investigation in which he or she shall consult the team of teachers to see if the behavior is repetitive in their other classes and, if deemed appropriate, interview collaterals.
3. The support staff will contact the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to coordinate an orientation meeting.
4. If necessary, the support staff will visit the student's home and report the findings to the school principal and the teacher that refers the situation.
5. The support staff will discuss with the parent, custodian, or guardian and the student the causes that have incurred in this pattern of absences, the alternatives to suspend this pattern of absences and ensure school attendance.
6. As a result of the discussion, support staff, parents, custodian, or guardian and the student will prepare a plan of action to prevent the child's unjustified absences to school. The Intervention Plan Agreement will be signed by the support staff, the parents, guardian or custodian, and the student. Document C, Intervention Plan Agreement, located at the end of this Regulation shall be used for this agreement between the parties.
7. In addition, the support staff will ensure to orient the parent, guardian or custodian of the student on the administrative and legal consequences that may occur in the case of non-compliance with the Intervention Plan Agreement.
8. Similarly, the support staff will provide parents, guardians, or custodians a copy of Section 1.03 of the Law 149-1999, as amended, which provides that school attendance is compulsory and the corresponding actions regarding non-compliance with that Article.
9. Also, the support staff will ensure guidance to parents, guardians and custodians about Article IV subsection (c) and (d) of Regulation 8115 of December 8, 2011, known as General Student Regulations

for the System of Education of Puerto Rico, and the public policy regarding the active integration of parents and guardians in the educational process in the schools of the Department of Education.

C. 10 days or more of incurring unjustified absences or cutting class

Responsible Person: Teacher - Social Worker - School Counselor - School Director

1. The teacher will inform in writing to the school principal and support staff on the pattern of unjustified absences by the student.
 2. The support staff or the school principal will contact the parent, guardian or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to inform the pattern absences and arrange a meeting if necessary.
 3. The support staff or the school principal will refer, if necessary, the case to the Program of Interdisciplinary Services for School Coexistence (SICE) of educational region to which it belongs. This action will be taken once all the institutional remedies have been exhausted.
 4. The school principal shall report in writing and refer to the corresponding social welfare agencies and the Prosecutor of the Department of Justice those parents, guardians, and custodians who fail to comply with the Intervention Plan Agreement. This process will be done in accordance with the table entitled "Notification of the Agencies."
 5. The school principal shall inform the Juvenile Court when students participate in any judicial program (as diversion or dispositive).
4. In the case that the school doesn't have support staff assigned, in line with the steps set out in the table above and according to the number of absences by the student, the school principal shall be responsible for performing all procedures delegated to the support staff.
5. The teacher will be responsible for registering in the Student Information System (SIE) the student has accumulated ten (10) or more unjustified absences or cuts of classes during the school year.
6. In addition, the school principal will register in the SIE relevant information regarding the referral done to the SICE, the social welfare agencies, or the Department of Justice.
7. The school principal will generate a report at the end of each school year about students who incurred in a pattern of unjustified absences and about the cases that were referred to the social welfare agencies and the Department of Justice. This report shall be sent to the Assistant Secretary of Student Support Services.
8. Notice to social welfare agencies and the Department of Justice will be done to the following offices:
- Agency: Family Department (DF)
 - Legal Justification: Law 246-2011, Article 3, subsection (z), Article 5, subsection (7)
 - Place of Referral: Central Office of the DF
 - Program Office: Protection of Minors
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c)
 - Place of Referral: Central Office of the DF
 - Program Office: Nutritional Assistance Program (PAN)
 - Agency: Public Housing Administration
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c)
 - Place of Referral: Central Office of Housing
 - Program Office: Public Housing
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c)
 - Place of Referral: Central Office of Housing

Program Office: Housing with Subsidy

Agency: Justice Department

Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c)

Place of Referral: Judicial Region where the facts occurred

Program Office: Prosecutor of the Judicial Region

9. Failure to comply with the provisions of this regulation by the Education Department officials will lead to a disciplinary process under the provisions established by the laws and regulations applicable to the Agency and the State.

10. Article 3.06 of the Law 22-2000, as amended, known as the "Vehicle and Traffic Law of Puerto Rico" provides that a person over sixteen (16) years but less than eighteen (18) years must meet the requirement of compulsory school attendance, as established by Law 149-1999. The Department of Transportation and Public Works may deny the issuance of the learner's permit or driving license to drive motor vehicles to the student who does not meet the requirement in this subsection.

Substance Use

LAWS

3 L.P.R.A. § 9809c. Possession of weapons and controlled substances in schools.

Any student who introduces, distributes, gifts, sells, or possesses any type of firearm or controlled substance, classified as such in §§ 2101 et seq. of this Title 24, known as the "Controlled Substances Act of Puerto Rico", within the school or its surroundings, shall be suspended by the Secretary for a period not to exceed one (1) year according to the particular circumstances of each case and the procedures prescribed by regulations. For purposes of this section, "any type of weapon" shall include all the weapons included in §§ 455 et seq. of Title 25, known as the "Puerto Rico Weapons Act", or any other successor and/or federal law.

"School surroundings" shall be understood as a perimeter of one hundred (100) meters measured from the school premises as these are delimited by a fence or any other boundary marking. The Department, in conjunction with the concerned government agencies, shall provide the suspended student with alternative education options for the duration of the suspension and, once the suspension has ended, shall place the student in the appropriate level and grade. The legal provisions in effect in our code of laws shall be applied if necessary.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

(10) Right to a free and safe education.-

(a) Education shall be free and accessible in the primary and secondary school levels to every public school student between the ages of five (5) and twenty-one (21).

(b) Students shall have the right to enjoy a safe school environment; free from the illegal use and trafficking of drugs and weapons; and free from any type of attack to their physical, mental, or emotional integrity.

REGULATIONS

Regulation Num. 8115. Article IV. Student Duties and Obligations.

I. Norms

6. It is prohibited for students to possess, transport, carry, or use knives, guns, explosives, sharp objects, any object meant to attack or defend oneself, including but not limited to "pellet" guns, paintball guns, brass knuckles, exaggerated chains or necklaces, drugs, alcoholic beverages, cigarettes, pipes, tobacco, CDs or cassettes with obscene content, or any object or substance prohibited or illegal within school grounds. The student should know that if there are grounds to believe that he or any other student is carrying any of these, he will be searched followed the establish procedure in Article IX, section E.

Regulation Num. 8115. Article IX, E. Entries and searches.

Will be carried out as a measure to guarantee a safe environment in our school campuses. These can not be performed randomly. As the authorized officials must strictly follow the procedures laid out in the present Article, to guarantee the reasonableness thereof to perform the interventions with the students.

[...]

2. Procedure

- a. The authorized officials may search a student or a group of students and may consequently keep the obtained evidence, under any of the following circumstances:
- b. When an offense has led to possession, carrying, distribution, or sale of arms, or of any controlled substance or chemical or device that could cause grave bodily harm and the authorized official has reasonable grounds to believe that the student in question committed it. By reasonable grounds, it will be understood that officials may intervene based on information that would lead a reasonable and prudent person to believe that the student in question has committed the offense. The student's innocence or guilt will be determined independently later.

Gang-related Activity

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Bullying, Harassment, or Hazing

LAWS

3 L.P.R.A. § 9809f. Bullying.

The bullying, harassment, or intimidation of students is hereby strictly prohibited within the school property or grounds and in its surrounding areas, during school sponsored activities, and/or in school buses.

- (a) Bullying.- For a situation or disciplinary incident to be classified as bullying, the following elements must be present: (1) a continuous, repetitive, and intentional pattern of verbal, written, or physical acts by one or more students; (2) intended to cause harm or discomfort; and (3) where there is an imbalance of power whether real or perceived by the victim. Incidents of interpersonal violence or peer conflicts at the school where the aforementioned elements are not present shall not be classified as bullying.

(b) Cyberbullying.- Bullying may also be carried out through electronic communications or messaging including, but not limited to, text messages, emails, photographs, images, and social media posts using electronic devices such as telephones, mobile phones, computers, and tablets, among others.

(c) Duty to notify.- Any person who is aware of a bullying situation between students shall notify the school staff in order for the latter to make the pertinent evaluation and determination as to whether such case shall be classified as bullying. If, based on the evaluation, it is determined that there was no bullying, a written document shall be submitted to such effect including the grounds for such decision and the supporting evidence. The school staff shall report to the pertinent law enforcement authorities any bullying cases where the safety and wellbeing of the student or school community is threatened. Moreover, precautionary measures shall be taken as appropriate. These actions must be taken in conjunction with the regional staff, provided that the circumstances so allows, while following the protocols established by law or regulations.

(d) Resolving incidents.- In general, cases of bullying shall be addressed by school staff in order to repair the damage caused, thus restoring any strained relationships between school community members, and rehabilitating the parties involved while following the applicable protocols and regulations. If necessary, the process to refer the situation to the relevant authorities shall begin.

(e) Cases involving special education students.- Educational institutions shall be governed by the disciplinary procedures contained in the "Special Education Procedures Manual" whenever a student registered in the Department's Special Education Program is involved in a bullying case.

(f) Duty to inform.- The Secretary shall inform the students of the Public Education System about the provisions of this chapter and/or the regulations or rules related to the ban on bullying, through the authorized staff. The Secretary is hereby authorized to make these documents available to any private school in Puerto Rico in order to comply with the public policy set forth in our code of laws to eliminate harassment and intimidation from our educational institutions.

(g) Any student, staff member, or volunteer of a public school who submits a report, in good faith, containing an account of a bully harassing or intimidating another student shall be protected from any harm or retaliation resulting from reporting such incident.

(h) The Regional Superintendent, in conjunction with the School Principals and School Councils, shall provide public school employees and students with an opportunity to participate in training programs, activities, and workshops designed and developed to acquire the knowledge and tools related to the public policy set forth in this section on harassment and intimidation between students or school staff. Likewise, social workers and professional counselors shall have the responsibility to advise students on harassment and intimidation and shall offer counseling to both the bullying victims and the bullies.

(i) The Secretary shall submit an annual report to the Legislative Assembly, per school, on the bullying cases reported.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

(10) Right to a free and safe education.-

(a) Education shall be free and accessible in the primary and secondary school levels to every public school student between the ages of five (5) and twenty-one (21).

(b) Students shall have the right to enjoy a safe school environment; free from the illegal use and trafficking of drugs and weapons; and free from any type of attack to their physical, mental, or emotional integrity.

(c) Students shall have the right to an education free from discrimination, abuse, and neglect.

(d) The right to receive equal opportunities to enroll in the public education system shall be recognized and guaranteed to any student who lives in Puerto Rico, regardless of race, color, sex, age, religion, birth, origin or ethnic background or nationality, political ideology, physical or mental disability, whether present or future, socioeconomic status, sexual orientation and gender identity, and immigration status. Public schools may not deny or reject students from enrolling in school on account of immigration status or failure to provide proof of lawful presence in Puerto Rico. No student or his family members shall be inquired about the immigration status of a student, his parents, or custodians.

18 L.P.R.A. § 3961. Establishment.

This chapter shall be known and may be cited as the "Government of Puerto Rico Anti-Bullying and Harassment Act", also known as the "Alexander Santiago- Martínez Act".

18 L.P.R.A. § 3961a. Applicability.

This chapter shall be applicable to the public schools of the Department of Education; private educational institutions, and all higher education institutions, as they are defined in Reorganization Plan 1-2010, as amended.

18 L.P.R.A. § 3961b. Definitions.

For the purposes of this chapter, the following terms and phrases shall have the meanings expressed below:

(a) Harassment or intimidation and/or bullying.- Any pattern of intentional behavior, whether it is emotional or physical abuse or carried-out through electronic means or social media, which has the effect of frightening a student or group of students and interfering with his or their school opportunities and performance, in the classroom, school grounds, as well as in his or their immediate social environment. Harassment, intimidation, and/or bullying is a pattern of harassment that constitutes more than one act, whether continuous or not, over a period that usually lasts weeks, months, and even years.

(b) Harassment and intimidation through any electronic means or through the use of the internet and/or cyberbullying.- The use of any means of electronic, verbal, written, visual, or textual communication for the purpose of harassing, disturbing, intimidating, and bothering a student or group of students; that usually has the effect of physically or emotionally harming the affected student, and/or damaging his property, and causes unwanted disruptions with regards to the affected student's opportunities, performance, and benefits. Cyberbullying has a severe negative effect and impact on the educational environment even when it takes place outside of the school or immediate school environment.

18 L.P.R.A. § 3961c. Liaison officials; training programs and workshops.

The Department of Education, the Private Schools Association, the Department of the Family, the Department of Health, the Department of Justice, the Puerto Rico Police, and the Association of School Psychology of Puerto Rico shall have liaison officials in charge of handling cases of harassment and/or bullying in order to work cases from both public schools and private institutions. Furthermore, such departments and associations shall develop training programs and workshops on harassment and intimidation or bullying in public and private schools as well as higher education institutions to train teaching personnel, non-teaching personnel, parents, and students on bullying prevention, identification, and management strategies.

18 L.P.R.A. § 3961d. Lead agency.

The Department of Education shall be the lead agency in charge of coordinating the efforts to create the Institutional Protocol for the Management of School Harassment, to be implemented in our public schools, and enforcing compliance therewith.

18 L.P.R.A. § 3961e. Protocol to manage cases.

The Department of Education shall design a protocol to manage harassment and/or bullying cases internally which shall be used in public schools.

Every public, private, and higher education institution shall develop and implement an Institutional Protocol for the Management of School Harassment that includes the following factors:

- (a) Objective;
- (b) Justification;
- (c) Definition and Description of bullying and cyberbullying;
- (d) Institutional Expectations and Policy;
- (e) Responsibilities of the members of the education community in what pertains to bullying in schools;
- (f) Prevention Strategies;
- (g) Protocol disclosure procedure;
- (h) Case documentation, confidentiality, and records management procedures;
- (i) Case reporting procedures;
- (j) Strategies to investigate reported cases;
- (k) Intervention strategies and penalties;
- (l) Follow-up strategies; and
- (m) Guidelines for referrals to healthcare professionals.

18 L.P.R.A. § 3961g. Protocol to manage cases - Agency in charge to oversee compliance.

The Department of State of Puerto Rico shall be the agency in charge of overseeing compliance with this Protocol in private and higher education institutions. Every institution shall be required to report any harassment and/or bullying incident within any of its facilities or campuses to the Department of State, pursuant to the procedure established in the Protocol.

18 L.P.R.A. § 3961i. Statistics.

It shall be the duty of every primary, secondary, higher education institution, and university, whether public or private, to collect statistics on harassment and/or bullying cases that occur during the school year. Said statistics shall be submitted through annual reports filed not later than July 1st of every year with the Department of Education, in the case of public schools, and to the Department of State of Puerto Rico, in the case of higher education and private institutions.

REGULATIONS

No relevant regulations found.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

No relevant laws found.

REGULATIONS

Regulation Num. 8115. Article IX, B. School security.

1. Appoint a Commission of Support for the Central level, a Council Support in school districts, and School Safety Committee in schools, as shown in the Manual for School Safety Support.

Multi-tiered Frameworks and Systems of Support

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

18 L.P.R.A. § 9. Students.

Every student in the public education system has the right to:

- (a) Receive an education that fosters the full development of his/her personality and the strengthening of respect toward human rights and the fundamental freedoms within a safe environment.
- (b) Spend his/her school day in a safe environment that is free from undue pressures related to school violence.
- (c) Receive orientation and a copy of the General Student Regulations of the Puerto Rico Public Education System and the Internal Security Regulations, with the provisions and sanctions thereof.
- (d) Be informed of the violent situations that have taken place in the school environment in order to remain alert thereto.
- (e) Enjoy broad and diverse opportunities for intellectual and artistic creativity and expression.
- (f) Be treated with fairness and equality and to develop within an environment of freedom, solidarity and full respect for human rights.
- (g) Be guaranteed safety, physical integrity and anonymity when reporting an act of violence he/she has witnessed to the school security authorities.
- (h) Receive the necessary tools for the constructive management of emotions and for verbal non-violent conflict resolution.
- (i) Receive orientation about the procedures to be followed in emergency situations, such as hurricanes, earthquakes, gas leaks, fires or terrorist attacks.

18 L.P.R.A. § 13. Department of Education.

(d) To provide administrative support to achieve compliance with the school security plans established by the student councils. Said school security plans shall include initiatives directed toward:

- (1) Identifying the security needs of the schools.

(2) Providing clean physical facilities in a safe environment.

(3) Implementing training programs for the teachers, non-teaching personnel and student groups in the areas of violence prevention and conflict management.

18 L.P.R.A. § 14. Students.

(a) General Regulations for the Students of the Puerto Rico Public Education System.- Students shall try to resolve problems in non-violent ways and through dialogue. Maintain respect for their fellow students, their teachers and the school authorities.

(b) Students shall report any violent act, crime, vandalism and threat of which they become aware to the school director, a teacher or to a parent or guardian.

(c) Students shall actively participate in the crime prevention programs of their school.

(d) Students shall cooperate with the school administration in the identification of places that are conducive to delinquent behavior within the school.

(e) Students shall learn how to avoid becoming victims of a crime within the school. In order to achieve this, they shall stay away from dangerous places with poor lighting and visibility.

(f) Students shall seek help from any member of the school community when they face a situation that may turn out to be dangerous to their physical integrity or safety.

18 L.P.R.A. § 17. Elected officers and government agencies.

(a) Elected officers are responsible for promoting legislation directed toward the reduction of school violence and the development of safe schools, provided that the resources of the Commonwealth so allow.

(b) Police officers and School Guards I and II shall be responsible for institutional order within one hundred (100) meters surrounding the school premises and in school sponsored activities, in accordance with the regulations established to such effects. It is necessary that these officers develop positive relationships with the components of the school community and exert maximum efforts to achieve a suitable environment for the development of the habit of responsibility and cooperation, and of sound school discipline.

(c) To give conferences and hold assemblies directed toward discussing topics such as school violence prevention, prevention of drug use in the schools, conflict management in the school environment, etc.

(d) Government agencies shall support and actively participate in school activities in order to promote a safe and wholesome environment.

(e) To support research projects directed toward the study of the school violence problem. The information from these research projects may serve as the foundation upon which to generate legislation or initiatives that reduce violence in our schools.

(f) To provide the necessary funds for the implementation of security initiatives in the schools, such as the installation of security devices, programs for monitoring the statistics of criminal and violent incidents in the schools, etc.

(g) To establish interagency collaborative agreements with federal agencies, municipalities and the private sector in order to promote school security.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

3 L.P.R.A. § 9802r. Psychologist; duties; certification.

School psychologists are professionals specialized in this field whose objective is analyzing, reflecting on, and intervening with human behavior in education-related situations, supporting students in overcoming the processes that affect their learning as well as their personal difficulties and their relations with their peers, families, and teachers. School psychologists shall also provide advice and assist the teaching staff in their teaching strategies, especially in the treatment of students with special educational needs and in conflict resolution.

School psychologists shall provide support and services directly to both the teaching staff and students. They shall make evaluations of the academic (achievement and knowledge), intellectual, and emotional areas. In addition, they shall create a student profile with their limitations and strengths for the purpose of helping teachers to use strategies that help the student in the learning process. School psychologists shall advise teachers in the search for new alternatives and facilitate adaptations as are necessary for the benefit of students. School psychologists may identify potential problems that students may have and intervene with them and, if necessary, refer the case to other health professionals.

School psychologists shall: (a) develop primary and secondary prevention strategies within the school context; (b) identify learning and developmental problems in students; (c) participate in interdisciplinary work groups for the development, implementation, and evaluation of programs in the school system; (d) administer and interpret psychological and psycho-educational tests, questionnaires, and inventories of students and teachers; and (e) advise teachers, parents, guardians, custodians, and administrators on the analysis, intervention, and implementation of strategies for solving school problems and conflicts.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

18 L.P.R.A. § 13. Department of Education.

- (a) To establish and promulgate the General Regulations for the Students of the Puerto Rico Public Education System and the Internal Security Regulations and give notice thereof by means of a copy and orientations to the parents and students of the public education system. Said regulations shall be adopted pursuant to §§ 2101 et seq. of Title 3, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico", and shall be filed immediately after approval thereof.
- (b) The administrative authorities, as well as the teaching and non-teaching personnel, shall have the duty to ensure compliance with the General Regulations for the Student of the Puerto Rico Public Education System and the Internal Security Regulations, especially provisions related to the codes of conduct and behavior.
- (c) To establish and promulgate the Crisis Management Strategic Plan for violent incidents in schools to give notice and copy there of to the parents, tutors and students of the Public Education System.
- (d) To provide administrative support to achieve compliance with the school security plans established by the student councils. Said school security plans shall include initiatives directed toward:
- (1) Identifying the security needs of the schools.
 - (2) Providing clean physical facilities in a safe environment.
 - (3) Implementing training programs for the teachers, non-teaching personnel and student groups in the areas of violence prevention and conflict management.
- (e) To redesign those physical facilities whose conditions may influence the development of delinquent or violent activities. The schools should be designed in such a manner so as to prevent the free access of unauthorized persons into the schools and to promote that the school authorities be able to visually supervise student activities in all areas.
- (f) The Department of Education shall establish guidelines for the school directors to prepare a report on violent and non-violent incidents within the school premises. Using a standard format, the Director shall gather the information and analyze the data. Subsequently, the Director shall prepare a quarterly report of these findings and submit the same to the School Life Quality Program.
- (g) School authorities shall be responsible for coordinating with the Puerto Rico Police the installation of security devices such as video cameras and alarm systems in schools that are declared unsafe by the Department of Education.
- (h) The Department of Education shall be responsible for the training of the teaching and administrative personnel on how to manage students with discipline and violence problems. This training shall be based upon conflict management and the early identification of violent situations. The Department of Education is responsible for keeping all its personnel duly informed about the rules for security and violence prevention, so they may know which steps to take in a crisis situation.
- (i) The Department of Education shall promote the development of rapid response plans for crisis situations. Among these are plans for evacuation in case of fire, earthquakes, gas leaks and bomb or terrorist threats. Each component of the school system shall clearly understand its role in the crisis plan. The plan shall include a strategy for communicating with security agencies such as the Puerto Rico Police, the Firefighters Corps, Medical Emergencies [Corps.] and the Commonwealth Emergency

Management and Disaster Administration Agency. Moreover, a plan shall be established for communicating with the parents and the communications media in case of emergency.

(j) The Department of Education shall ensure compliance with the prevention and orientation programs directed toward the reduction of violent incidents and conflict management in the schools. These training programs shall emphasize problem solving, social interaction, peer pressure management, understanding of values and conflict management skills.

(k) The Department of Education shall use alternative educational environments for those students who have faced school violence problems so as to guarantee a safe school community.

18 L.P.R.A. § 14. Students.

(a) General Regulations for the Students of the Puerto Rico Public Education System.- Students shall try to resolve problems in non-violent ways and through dialogue. Maintain respect for their fellow students, their teachers and the school authorities.

(b) Students shall report any violent act, crime, vandalism and threat of which they become aware to the school director, a teacher or to a parent or guardian.

(c) Students shall actively participate in the crime prevention programs of their school.

(d) Students shall cooperate with the school administration in the identification of places that are conducive to delinquent behavior within the school.

(e) Students shall learn how to avoid becoming victims of a crime within the school. In order to achieve this, they shall stay away from dangerous places with poor lighting and visibility.

(f) Students shall seek help from any member of the school community when they face a situation that may turn out to be dangerous to their physical integrity or safety.

18 L.P.R.A. § 3961e. Protocol to manage cases.

The Department of Education shall design a protocol to manage harassment and/or bullying cases internally which shall be used in public schools.

Every public, private, and higher education institution shall develop and implement an Institutional Protocol for the Management of School Harassment that includes the following factors:

(a) Objective;

(b) Justification;

(c) Definition and Description of bullying and cyberbullying;

(d) Institutional Expectations and Policy;

(e) Responsibilities of the members of the education community in what pertains to bullying in schools;

(f) Prevention Strategies;

(g) Protocol disclosure procedure;

(h) Case documentation, confidentiality, and records management procedures;

(i) Case reporting procedures;

(j) Strategies to investigate reported cases;

(k) Intervention strategies and penalties;

(l) Follow-up strategies; and

(m) Guidelines for referrals to healthcare professionals.

REGULATIONS

Regulation Num. 8115. Article IX, C. Institutional order.

2. Any member of the School Community shall inform the Director of any student or school-related persons' behavior that involves a possible violation of law, rules, school rules or guidelines, either by personal knowledge of the facts or information obtained. This applies to behavior occurring on school campus, one hundred (100) feet around, school-sponsored activities, in any branch of the Department of Education, and on school transportation.

3. The teacher will be responsible for institutional climate and fostering good student discipline. They will refer discipline issues to the Director of School Discipline, with all the evidence of interventions implemented, after it has exhausted all available resources such as, but not limited to: interviews with the student, with the guardian, with the interdisciplinary team or have referred the student to the classroom teacher, School Social Worker or School Counselor. After having evaluated the disciplinary situation, the Principal will determine those cases which it considers require immediate intervention or the Safety Committee.

Regulation Num. 8115. Article IX, F. Rules and procedures for filing complaints and implementation of corrective actions.

1) Concepts:

a. Complaints are any claim alleging that a student of the Public Education System has violated the rules and/or duties that are imposed by the laws, regulations of the Public Education Department of Puerto Rico.

b. Anyone with knowledge of a student's violation has standing to file a complaint.

c. Complaints to be addressed through the procedure provided for in this Article shall be classified in informal and formal complaints. Informal complaints will be handled in school by the Principal.

Grievances will be settled through an evidentiary hearing, chaired by an Examiner appointed by the Secretary, the process is carried out in the Legal Division of the Department of Education.

d. Disciplinary procedures applicable to special education students shall be governed by the provisions of the Manual of Procedures for Special Education.

e. You can only discipline a student belonging to the Special Education Program through the procedure provided for in this Regulation, if the Committee of Planning and Placement Team (PPT) has determined, pursuant to the process set forth in the Procedures Manual for Special Education that the student's conduct is not related to their condition.

f. To discontinue the complaint process the parties concerned must show that they have no interest in the process.

Regulation Num. 8502. Article IV. Procedure.

1. Teachers will follow the guidelines provided in Circular Letter 16-2013-2014, or the current circular letter, that establishes the procedure to be followed in implementing school retention norms of the Department of Education.

2. The school principal shall require teachers to keep a daily record of the students enrolled in the course and supervise the maintenance of this daily record of student attendance.

3. Next, the actions to follow according to the pattern of unjustified absences by the student.

A. 2 to 4 days

Responsible Person: Teacher

1. Notify the school principal and support staff on the student's unjustified absences.

2. Will carry out an investigation in which the teacher will consult with the team of teachers to check if the student's behavior is repetitive in other classes and, if deemed appropriate, will interview collaterals.
3. Contact you the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email, or written notice, among others, to inform of the unjustified absences and discuss the causes, if any, of them.
4. Will meet and discuss with the student alternatives to avoid incurring unjustified absences.

B. 5 to 9 days

Responsible Person: Teacher - Social Worker - School Counselor

1. The teacher will notify the unjustified absences in writing to the school principal and support staff.
2. The support staff will conduct an investigation in which he or she shall consult the team of teachers to see if the behavior is repetitive in their other classes and, if deemed appropriate, interview collaterals.
3. The support staff will contact the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to coordinate an orientation meeting.
4. If necessary, the support staff will visit the student's home and report the findings to the school principal and the teacher that refers the situation.
5. The support staff will discuss with the parent, custodian, or guardian and the student the causes that have incurred in this pattern of absences, the alternatives to suspend this pattern of absences and ensure school attendance.
6. As a result of the discussion, support staff, parents, custodian, or guardian and the student will prepare a plan of action to prevent the child's unjustified absences to school. The Intervention Plan Agreement will be signed by the support staff, the parents, guardian or custodian, and the student. Document C, Intervention Plan Agreement, located at the end of this Regulation shall be used for this agreement between the parties.
7. In addition, the support staff will ensure to orient the parent, guardian or custodian of the student on the administrative and legal consequences that may occur in the case of non-compliance with the Intervention Plan Agreement.
8. Similarly, the support staff will provide parents, guardians, or custodians a copy of Section 1.03 of the Law 149-1999, as amended, which provides that school attendance is compulsory and the corresponding actions regarding non-compliance with that Article.
9. Also, the support staff will ensure guidance to parents, guardians and custodians about Article IV subsection (c) and (d) of Regulation 8115 of December 8, 2011, known as General Student Regulations for the System of Education of Puerto Rico, and the public policy regarding the active integration of parents and guardians in the educational process in the schools of the Department of Education.

C. 10 days or more of incurring unjustified absences or cutting class

Responsible Person: Teacher - Social Worker - School Counselor - School Director

1. The teacher will inform in writing to the school principal and support staff on the pattern of unjustified absences by the student.
2. The support staff or the school principal will contact the parent, guardian or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to inform the pattern absences and arrange a meeting if necessary.

3. The support staff or the school principal will refer, if necessary, the case to the Program of Interdisciplinary Services for School Coexistence (SICE) of educational region to which it belongs. This action will be taken once all the institutional remedies have been exhausted.

4. The school principal shall report in writing and refer to the corresponding social welfare agencies and the Prosecutor of the Department of Justice those parents, guardians, and custodians who fail to comply with the Intervention Plan Agreement. This process will be done in accordance with the table entitled "Notification of the Agencies."

5. The school principal shall inform the Juvenile Court when students participate in any judicial program (as diversion or dispositive).

4. In the case that the school doesn't have support staff assigned, in line with the steps set out in the table above and according to the number of absences by the student, the school principal shall be responsible for performing all procedures delegated to the support staff.

5. The teacher will be responsible for registering in the Student Information System (SIE) the student has accumulated ten (10) or more unjustified absences or cuts of classes during the school year.

6. In addition, the school principal will register in the SIE relevant information regarding the referral done to the SICE, the social welfare agencies, or the Department of Justice.

7. The school principal will generate a report at the end of each school year about students who incurred in a pattern of unjustified absences and about the cases that were referred to the social welfare agencies and the Department of Justice. This report shall be sent to the Assistant Secretary of Student Support Services.

Parental Notification

LAWS

18 L.P.R.A. § 11. Parents, tutors or guardians.

All parents with children in the Public Education System have the right to:

(h) Be informed promptly by the school director or the teachers when their children become involved in behavior that may generate violent acts in the school.

18 L.P.R.A. § 3802. General rights of the student.

All persons have the right to education. The education to be provided by the State shall be free for all students of the Public Education System. Elementary and secondary education shall be compulsory. All students shall be guaranteed equal protection of the laws and rights granted by the U.S. Constitution, federal laws, the Constitution of Puerto Rico, and other applicable laws, regulations, and ordinances. Without it being construed as a limitation, students shall have the following rights:

(13) Disciplinary actions.- The student shall have the right of due process in any disciplinary procedure. Disciplinary actions shall be carried out in accordance with the provisions of the Department of Education's General Student Regulations in effect. As part of the due process of law, students shall be granted the following rights:

(a) To be notified of the infraction and the sanction to be imposed. The foregoing shall be notified to the parents, guardian, or custodian of the student, and in the case of students of legal age, they shall be directly notified.

18 L.P.R.A. § 3803. Duties and responsibilities of students, parents, guardians, and school authorities.

(1) Observe the laws, regulations, circular letters, rules, instructions, and directives issued by academic authorities.

- (2) Be punctual and attend school regularly as well as behave appropriately during school hours, recess, and other school activities, whether they are held inside or outside the school.
- (3) Preserve, take care of, protect, and avoid damaging public property, equipment, books, or school supplies.
- (4) To refrain from interrupting class.
- (5) To refrain from coercing other students into participating in a particular mode of expression, or from violating the right of other students to dissent from their points of view.
- (6) Parents or guardians shall be responsible for the punctuality and regular school attendance of their unemancipated minors, and for notifying school authorities of the existence of any circumstance that warrants their absence.
- (7) Parents or guardians shall be responsible for repairing any damages caused by their unemancipated minors to public property, equipment, or school supplies. In the case of a student who is of legal age or emancipated, he shall personally assume responsibility for the damages caused.
- (8) Parents or guardians of a minor shall be responsible for updating their contact information in the event that school authorities should need to contact them. This information shall include, but not necessarily be limited to, the parent's home and/or work address; the home, work, or cell phone number of both parents, and contact information of a relative or person trusted by the parents, in the event that parents cannot be immediately contacted during an emergency. This information shall be kept in a safe place and shall only be accessed by the school principal, his secretary, the school guidance counselor, or the school social worker.
- (9) If a student is absent for more than three (3) consecutive days without any justification whatsoever, it shall be the responsibility of the school authorities to contact the parents or guardians of said student to determine the cause of said absences.
- (10) The duties and responsibilities set forth in this Section shall not be construed as limiting or excluding any other right, duty, or responsibility that the school may grant or require of students.

REGULATIONS

Regulation Num. 8115. Article IX, F. Rules and procedures for filing complaints and implementation of corrective actions.

2.B.2) Procedures for Formal Complaints

- a. The School Director must communicate with the student and his guardian regarding summarily suspending in print.

Regulation Num. 8502. Article IV. Procedure.

3. Next, the actions to follow according to the pattern of unjustified absences by the student.

A. 2 to 4 days

Responsible Person: Teacher

3. Contact the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email, or written notice, among others, to inform of the unjustified absences and discuss the causes, if any, of them.

B. 5 to 9 days

Responsible Person: Teacher - Social Worker - School Counselor

3. The support staff will contact the parent, guardian, or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to coordinate an orientation meeting.
4. If necessary, the support staff will visit the student's home and report the findings to the school principal and the teacher that refers the situation.

5. The support staff will discuss with the parent, custodian, or guardian and the student the causes that have incurred in this pattern of absences, the alternatives to suspend this pattern of absences and ensure school attendance.

6. As a result of the discussion, support staff, parents, custodian, or guardian and the student will prepare a plan of action to prevent the child's unjustified absences to school. The Intervention Plan Agreement will be signed by the support staff, the parents, guardian or custodian, and the student. Document C, Intervention Plan Agreement, located at the end of this Regulation shall be used for this agreement between the parties.

7. In addition, the support staff will ensure to orient the parent, guardian or custodian of the student on the administrative and legal consequences that may occur in the case of non-compliance with the Intervention Plan Agreement.

8. Similarly, the support staff will provide parents, guardians, or custodians a copy of Section 1.03 of the Law 149-1999, as amended, which provides that school attendance is compulsory and the corresponding actions regarding non-compliance with that Article.

9. Also, the support staff will ensure guidance to parents, guardians and custodians about Article IV subsection (c) and (d) of Regulation 8115 of December 8, 2011, known as General Student Regulations for the System of Education of Puerto Rico, and the public policy regarding the active integration of parents and guardians in the educational process in the schools of the Department of Education.

C. 10 days or more of incurring unjustified absences or cutting class

Responsible Person: Teacher - Social Worker - School Counselor - School Director

2. The support staff or the school principal will contact the parent, guardian or custodian of the student through various means, such as phone calls, text messages, email or written notice, among others, to inform the pattern absences and arrange a meeting if necessary

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

18 L.P.R.A. § 3961i. Statistics.

It shall be the duty of every primary, secondary, higher education institution, and university, whether public or private, to collect statistics on harassment and/or bullying cases that occur during the school year. Said statistics shall be submitted through annual reports filed not later than July 1st of every year with the Department of Education, in the case of public schools, and to the Department of State of Puerto Rico, in the case of higher education and private institutions.

REGULATIONS

No relevant regulations found.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

18 L.P.R.A. § 3961c. Liaison officials; training programs and workshops.

The Department of Education, the Private Schools Association, the Department of the Family, the Department of Health, the Department of Justice, the Puerto Rico Police, and the Association of School Psychology of Puerto Rico shall have liaison officials in charge of handling cases of harassment and/or bullying in order to work cases from both public schools and private institutions. Furthermore, such departments and associations shall develop training programs and workshops on harassment and intimidation or bullying in public and private schools as well as higher education institutions to train teaching personnel, non-teaching personnel, parents, and students on bullying prevention, identification, and management strategies.

REGULATIONS

Regulation Num. 8115. Article IX, F. Rules and procedures for filing complaints and implementation of corrective actions.

2.B.2) Procedures for Formal Complaints

- a. The School Director will inform the police as soon as possible, of acts, witnesses and persons involved in the criminal offense or crime.

Regulation Num. 8502. Article IV. Procedure.

3. Next, the actions to follow according to the pattern of unjustified absences by the student.

C. 10 days or more of incurring unjustified absences or cutting class

Responsible Person: Teacher - Social Worker - School Counselor - School Director

5. The school principal shall inform the Juvenile Court when students participate in any judicial program (as diversion or dispositive).
6. In addition, the school principal will register in the SIE relevant information regarding the referral done to the SICE, the social welfare agencies, or the Department of Justice.
7. The school principal will generate a report at the end of each school year about students who incurred in a pattern of unjustified absences and about the cases that were referred to the social welfare agencies and the Department of Justice. This report shall be sent to the Assistant Secretary of Student Support Services.
8. Notice to social welfare agencies and the Department of Justice will be done to the following offices:
 - Agency: Family Department (DF)
 - Legal Justification: Law 246-2011, Article 3, subsection (z), Article 5, subsection (7) Place of Referral: Central Office of the DF
 - Program Office: Protection of Minors
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c) Place of Referral: Central Office of the DF
 - Program Office: Nutritional Assistance Program (PAN) Agency: Public Housing Administration
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c) Place of Referral: Central Office of Housing
 - Program Office: Public Housing
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c) Place of Referral: Central Office of Housing
 - Program Office: Housing with Subsidy Agency: Justice Department
 - Legal Justification: Law 149-1999, as amended, Article 1.03, subsection (c) Place of Referral: Judicial Region where the facts occurred
 - Program Office: Prosecutor of the Judicial Region

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

18 L.P.R.A. § 141j. Members; requirements.

Any person interested in being considered as a member of the Corps shall submit to the Department a certificate of good conduct issued by the Police of Puerto Rico, and shall submit to a psychological evaluation that measures personality profiles which shall be administered by a psychiatrist or psychologist duly authorized to practice his profession in Puerto Rico and who has training in the area of behavioral modification or psychodiagnosis. The results of the psychological evaluation as well as the evidence that appears on the good conduct certificate shall be indispensable conditions which the Department shall consider when recruiting members of the Corps.

These persons will undergo a thorough and confidential investigation of their character, reputation, habits, behavior in the community and other details related to the honesty, integrity and suitability of the candidates.

They shall also be subjected to an investigation of their conduct in the area where they reside.

18 L.P.R.A. § 141k. Rules and regulations.

The Secretary is hereby empowered to adopt the necessary rules and regulations for the implementation of this chapter, including the requirements that must be met by School Security Corps candidates. These rules and regulations shall include the requirement of undergoing Police Academy training for a period of not less than three (3) months, which shall be a part of the trial period of candidates. Such regulations shall conform to the provisions of present §§ 2101 et seq. of Title 3, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

18 L.P.R.A. § 17. Elected officers and government agencies.

(a) Elected officers are responsible for promoting legislation directed toward the reduction of school violence and the development of safe schools, provided that the resources of the Commonwealth so allow.

(b) Police officers and School Guards I and II shall be responsible for institutional order within one hundred (100) meters surrounding the school premises and in school sponsored activities, in accordance with the regulations established to such effects. It is necessary that these officers develop positive relationships with the components of the school community and exert maximum efforts to achieve a suitable environment for the development of the habit of responsibility and cooperation, and of sound school discipline.

(c) To give conferences and hold assemblies directed toward discussing topics such as school violence prevention, prevention of drug use in the schools, conflict management in the school environment, etc.

(d) Government agencies shall support and actively participate in school activities in order to promote a safe and wholesome environment.

(e) To support research projects directed toward the study of the school violence problem. The information from these research projects may serve as the foundation upon which to generate legislation or initiatives that reduce violence in our schools.

(f) To provide the necessary funds for the implementation of security initiatives in the schools, such as the installation of security devices, programs for monitoring the statistics of criminal and violent incidents in the schools, etc.

(g) To establish interagency collaborative agreements with federal agencies, municipalities and the private sector in order to promote school security.

18 L.P.R.A. § 141. Public Policy.

Whereas, it has always been the public policy of the Commonwealth of Puerto Rico to protect and watch over the well-being of our children; whereas, in the majority of the cases the public education system has been and is one that harbors the public school students of the country during a considerable portion of the day; whereas, our Commonwealth has been experiencing a constant increase in criminality and in acts of vandalism and violence which have taken place recently in the school buildings and grounds; it is, therefore, necessary and urgent to create a public security corps under the direction of the Secretary of Education for a more effective protection of the safety of students, teachers, administrative personnel as well as the school's physical facilities.

18 L.P.R.A. § 141a. Definitions.

For the purposes of this chapter, the following terms shall have the meaning expressed hereinbelow:

- (a) Corps.- The School Security Corps created by this chapter.
- (b) Department.- The Department of Education.
- (c) Secretary.- The Secretary of the Department of Education.
- (d) School building.- Refers to the main building and any construction, annex, patio, garden and parking area of a school belonging to the Department of Education and shall include the following schools, among others: elementary, secondary, intermediate, high, commercial, vocational, technical, advanced skills, trade or agricultural instruction.
- (e) School grounds.- Shall include an area of two hundred (200) meters from the point closest to the outer boundary of the plot of land occupied by the school.
- (f) Member or members of the Corps.- Shall mean the personnel who are directly charged with keeping the peace and protecting the lives and property of the school community.
- (g) School community.- Students, teachers, officials, employees and persons authorized by law to enter and remain inside the school buildings and grounds.

18 L.P.R.A. § 141b. Creation.

The School Security Corps attached to the Department of Education is hereby created.

18 L.P.R.A. § 141c. Organization.

The Secretary is hereby authorized to determine the organization and administration of the Corps as well as its obligations, responsibilities and any other matters essential to its operation, by regulations that he shall promulgate to such effects. In the event that the convenience of bearing arms is provided, the authorization and approval of the Superintendent of the Police shall be obtained.

The Secretary shall request the necessary funds and administer them to achieve an effective operation of the Corps pursuant to the provisions of this chapter.

The Secretary shall take the necessary steps so that the members of the Corps shall first be assigned to those school buildings and grounds where there has been a high rate of vandalism and criminality. These schools shall be given priority at the Secretary's discretion.

The members and personnel of the Corps shall be subject to and protected by the provisions of Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act".

18 L.P.R.A. § 141d. Powers and functions.

The Corps shall have the following powers and duties under the direction of the Secretary:

- (a) To protect the life and property of the school community.
- (b) To protect and watch over the peace and public safety in the school buildings and grounds.
- (c) To develop a system that guarantees the prevention and eradication of delinquent acts in and around the school grounds, through which priority shall be given to assigning the services of the Corps to those schools which have the most serious vandalism and criminality problems.
- (d) To enforce compliance of all the laws of the Commonwealth of Puerto Rico related to the protection of life and property in Puerto Rico's school buildings and grounds.

(e) In order to comply with the mandate of this chapter, the Corps members shall enforce the following provisions of the law without impairing other existing laws and regulations and the duties and powers of other law and order officers:

- (1) To inform the corresponding authorities about violations of § 80 of Act June 30, 1969, No. 143 with regard to the issuing of licenses to retail alcoholic beverages in schools.
- (2) To enforce the provisions of §§ 1-157, 5-702, 5-101 of Act July 20, 1960, No. 141.
- (3) To ensure proper compliance of § 128 of this title, regarding the use of loudspeakers and amplifiers near school grounds.
- (4) To ensure compliance with the barring of controlled substances within the school grounds pursuant to § 2411a of Title 24.
- (5) To prevent the commission of the offenses established in Article 171 of the Penal Code of Puerto Rico and § 2091 of Title 33, which make reference to aggravated burglary and the prohibition of entering and remaining in school buildings and grounds without permission.
- (6) To inform the corresponding authorities of violations to §§ 701 and 702 of Title 15, which regulate the distance between schools and electronic game establishments.
- (7) To enforce and ensure compliance of the laws, regulations and norms of the Department of Education, under the supervision of the School Director.

(f) To enable them to carry out the duties they are charged with, the members of the Corps shall have the authority, under this chapter, to:

- (1) Make arrests for attempted violations of the law pursuant to the provisions of subsections (d) and (e) of this section, when the attempt or violation is committed in or around the school and grounds and in the presence of members of the Corps, or those which are submitted to them through knowledge and belief in strict coordination with the Commonwealth Police.
- (2) Issue summons for violations of the administrative laws of the Department.
- (3) Execute search and arrest warrants issued by the Courts of Justice.
- (4) Carry out searches related to violations of the laws mentioned in this chapter pursuant to the Rules of Criminal Procedure in effect, App. II of Title 34.
- (5) Obtain and execute search warrants while carrying out the duties, functions and obligations provided in this chapter.
- (6) Hold, confiscate and attach any material such as: controlled substances, weapons, motor and towing vehicles, alcoholic beverages or any equipment used in violation of the laws administered by the Department, or the specific laws related to the purposes of this chapter. All confiscations shall be carried out pursuant to the provisions of §§ 1 and 2 of Act June 4, 1960, No. 39.
- (7) With respect to clauses (3), (4), (5) and (6) of this subsection, the Corps shall limit itself to those cases in which its members have personal knowledge of the existence of the objects to be confiscated, their nature and origin; and the search or confiscation is carried out in the school as determined by this chapter. Outside of these limits, these interventions shall be carried out by the Police Corps of Puerto Rico.

18 L.P.R.A. § 141e. Coordination with the Government, Commonwealth Police and Municipal Guard.

The Secretary shall coordinate with the Government and especially the Commonwealth Police and the Municipal Police, as necessary, in its efforts to prevent and fight crime in all of its forms in order to achieve the purposes for which the creation of this Corps is authorized.

The Commonwealth Police and the Municipal Police in those municipalities where it exists shall take the necessary steps to make the coordination provided herein effective.

This chapter does not restrict or limit in any manner the powers and duties assigned to the Police of Puerto Rico and the Municipal Police.

18 L.P.R.A. § 141f. Commissioner; creation of post.

The post of Commissioner of the School Security Corps who shall be charged with the direction and supervision of the Corps created by this chapter is hereby created and attached to the Department.

18 L.P.R.A. § 141g. Uniform.

The garments which shall constitute the official uniform of the Corps and the equipment destined to it shall be determined by regulations.

The use of the uniform or any combination of the garments that form a part of it by any person who is not a member of the Corps is hereby prohibited. Any person who violates the prohibition provided herein shall be guilty of a misdemeanor.

In the event the Superintendent of Police by request of the Secretary authorizes the members of the Corps by regulations to use weapons, they may bear such weapons while they are on watch outside of school hours, on holidays or when expressly authorized to do so.

18 L.P.R.A. § 141h. Financial aid.

The Secretary shall be empowered to accept aid or cooperation of any nature, whether it be financial, property or services, including donations, whether in cash, technical or personal services, or equipment, which originates from individuals, citizen groups or private entities, profitable or non-profitable institutions, the government of the United States of America, from the Commonwealth of Puerto Rico, its municipalities, or from any government instrumentality, agency or subdivision in order to achieve the purposes of this chapter.

18 L.P.R.A. § 141i. Contracting.

The Secretary is hereby empowered to enter into every type of agreement and contract with public, juridical or natural persons, and with federal, Commonwealth or municipal agencies, under the terms and conditions he deems are necessary and convenient for the best application of this chapter and the achievement of its ends.

The Secretary shall take the necessary steps for the members of the Corps to be trained at the Puerto Rico Police Academy, and the Superintendent of Police of Puerto Rico is hereby authorized to offer all possible help and collaboration.

18 L.P.R.A. § 141L. Annual report.

The Secretary shall render an annual evaluation report to the Governor of the Commonwealth of Puerto Rico and to the Legislature in order to disclose the accomplishments and scope of this chapter which creates the School Security Corps.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Puerto Rico provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found.		
Documents		
Memorandum 16-2015-2016	Guidelines for the use of a school uniform in the Puerto Rican public school system.	http://intraedu.dde.pr/Cartas%20Circulares/16-2015-2016.pdf
Memorandum 11-2015-2016	Public policy of the Department of Education for the handling of situations of abuse, institutional abuse, neglect and institutional neglect, as established by law 246-2011, as amended.	http://intraedu.dde.pr/Cartas%20Circulares/11-2015-2016.pdf
Memorandum 10-2015-2016	Public policy to establish procedures for implementing a Prevention, intervention, and follow-through protocol in cases of bullying among students in Puerto Rican public schools.	http://intraedu.dde.pr/Cartas%20Circulares/10-2015-2016.pdf
Memorandum 6-2015-2016	Norms and guidelines for Professional Counseling Programs in the School Environment (PCPEE [acronym in Spanish]).	http://intraedu.dde.pr/Cartas%20Circulares/6-2015-2016.pdf
Memorandum 24-2013-2014	Public policy on the possession of arms in the schools and buildings of the Department of Education.	http://intraedu.dde.pr/Cartas%20Circulares/24-2013-2014.pdf
Memorandum 20-2013-2014	Organization and operation for the program of Interdisciplinary Services for School Coexistence (SICE [acronym in Spanish]).	http://intraedu.dde.pr/Cartas%20Circulares/20-2013-2014.pdf
Memorandum 16-2013-2014	Public policy to establish the procedure to follow in the implementation of the rules of school retention from the Department of Education.	http://intraedu.dde.pr/Cartas%20Circulares/16-2013-2014.pdf

Title	Description	Website address (if applicable)
Memorandum 12-2012-2013	Public policy to establish the procedure for implementing the protocol of prevention, intervention and monitoring of bullying cases among students in public schools of Puerto Rico.	http://intraedu.dde.pr/Cartas%20Circulares/12-2012-2013.pdf
Memorandum 05-2012-2013	Public policy for the prevention and prohibition against acts of harassment and intimidation amongst students ("Bullying") in public schools of Puerto Rico.	http://intraedu.dde.pr/Cartas%20Circulares/05-2012-2013.pdf
Other Resources		
No relevant resources found.		



U.S. Virgin Islands Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:



**National Center on Safe Supportive
Learning Environments**
Engagement • Safety • Environment

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U.S. Virgin Islands Codes Cited

U.S. Virgin Islands Revised Statutes

The U.S. Virgin Islands contracts with LexisNexis to provide free public access to the U.S. Virgin Islands Code (<http://www.lexisnexis.com/hottopics/vicode/>). Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

Title 3. Executive

Chapter 15. U.S. Virgin Islands Police Department (V.I.P.D.)

§ 262. Bureau of School Security

Title 14. Crimes

Chapter 97. School Attendance

§ 1941. Detaining children from school

Title 16. Education

Part 5. Comprehensive System of Education Services for All Children

Chapter 99. General Policy

§ 2902. Tiered system of supports and educational support team

Title 17. Education

Chapter 3. Virgin Islands Board of Education

§ 25. Protective hairstyles

Chapter 5. Public Schools

§ 41b. Character education

Chapter 9. School Attendance

Subchapter I. General Provisions

§ 87. Punishment of pupils by school authorities

§ 89. Apprehension of, and manner of dealing with, truant

§ 91. Expulsion of pupils; appeal

Chapter 11. Teachers and Other Personnel

§ 130. Authority to discipline children

Chapter 42. Conflict Resolution Education

§ 761. Legislative findings; intent

§ 767. Illinois Institute for Dispute Resolution as model

Chapter 42B. Bullying Prevention, Gang Resistance Education and Training

§ 780. Purpose

§ 781. Legislative findings; intent

§ 782. Definitions

§ 783. Implementation

§ 784. Effective date

Chapter 44. The Dropout Prevention Act

- § 822. Definitions
- § 823. Student eligibility and program criteria
- § 824. Program planning and implementation
- § 825. Evaluation
- § 828. Coordination with other agencies

U.S. Virgin Islands Regulations

Government of the Virgin Islands of the United States Virgin Islands Board of Education - Policies

K-12 Bullying Intervention, Prevention and Remediation Policy

- 1.0. General information
- 2.0. Definitions
- 3.0. Activities prohibited for schools, school-sanctioned and related environments
- 4.0. Training and assessment
- 5.0. Virgin Islands Department of Education's requirements and responsibilities
- 6.0. Consequences for violations
- 7.0. Virgin Islands Board of Education requirements and responsibilities
- 8.0. Immunity clause

Virgin Islands Student Discipline Policy (CVIR 17-003-002)

- Section 1. Roles of parents, student, school, and school personnel
- Section 11. Student rights and responsibilities
- Section 1V. Infractions and disciplinary response
- Section V. Procedures relating to disciplinary action

Codes of Conduct

Authority to Develop and Establish Codes of Conduct

LAWS

§ 87. Punishment of pupils by school authorities.

All principals and teachers in the public schools in the Virgin Islands shall have the right to exercise the same authority, as to conduct and behavior, over pupils attending their schools during the time they are in attendance, including the time required in going to and from their homes, as parents, guardians, or persons in parental relation to such pupils.

§ 91. Expulsion of pupils; appeal.

(a) The Commissioner of Education may authorize or order the expulsion from public school of any pupil guilty of gross misconduct or persistent disobedience, or having bad habits, or being in a physical condition detrimental to the best interests of the school, in accordance with regulations prescribed by the Virgin Islands Board of Education. Any parent aggrieved by such expulsion may appeal to the Board for review of such order within 30 days after the date thereof.

§ 130. Authority to discipline children.

All principals and teachers in the public schools shall have the right to exercise the same authority, as to conduct, and behavior, over pupils attending their schools during the time they are in attendance, including the time required in going to and from their homes, as parents, guardians or persons in parental relations to such pupils.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Philosophy of the Virgin Islands Board of Education

The primary objective of the Virgin Islands Public School System is to develop each student's potential for learning and to foster positive interpersonal relationships. If this is to be accomplished, it is necessary that the school environment be free of disruptions which interfere with teaching and learning activities. The student's conduct determines to a great extent the full development of his/her potential for learning and the development of positive relationships.

The purpose of this document is to assist the Department of Education, students, parents, teachers and school administrators in the maintenance of an environment which will enhance the achievement of the objective. To be fully effective, the Discipline Policy addresses not only the role of the parents, the students, and the school but also specifies areas relative to: responsibilities and rights of students, grounds for disciplinary action, and procedures to be followed for acts requiring disciplinary action.

Each school is permitted and encouraged to develop rules, procedures, and expectations for student conduct. While these may not conflict with direction provided in this discipline policy, broad latitude in dealing with school problems shall be afforded to each school so that student discipline may be responsive to particular problems in each individual school. [...]

Section IV Infractions and Disciplinary Responses

In order to establish reasonable consistency in the schools, this disciplinary response code has been developed. Schools and teachers may develop individual rules and disciplinary practices which do not

conflict with but will supplement this policy. This response code applies to all students enrolled in Virgin Islands public schools in grades Kindergarten through 12.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

5.0 Virgin Islands Department Of Education's Requirements And Responsibilities

5.1 The DOE shall involve students, parents, administrators, school staff, school volunteers, community representatives, and law enforcement agencies in the process of adopting a policy. The school policy must be implemented in a manner that is ongoing throughout the school year and integrated in the curriculum and other violence prevention efforts. A copy of the DOE's policy shall be sent to the Virgin Islands Board of Education.

Scope

LAWS

§ 91. Expulsion of pupils; appeal.

(b) The Commissioner of Education shall order the expulsion from public school for a period of not less than one year of any pupil who brings or possesses a firearm, as defined in 18 U.S.C. 921(a), on school property or at a school function.

(1) "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus or at a school function.

(2) "School function" means any event or activity that is under the supervision and control of a public school.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Jurisdiction of the Virgin Islands Board of Education

Virgin Islands Public School students are subject to the policies of the Virgin Islands Board of Education and the rules and regulations of the Department of Education during the school day and regular school activities, while being transported on school buses or at the public expense to and from school or other educational facilities and during the time they are otherwise in route to and from school or are presumed by law to be attending school, at such time and places including, but not necessarily limited to, school sponsored events, field trips, athletic functions, and other activities where appropriate school personnel have jurisdiction over students. In addition to the foregoing, jurisdictional control over the student may be extended to the immediate vicinity of the school whenever the conduct of the student is deemed to have a detrimental effect on the health, safety, and welfare of other students and/or of the school.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

3.0 ACTIVITIES PROHIBITED FOR SCHOOLS, SCHOOL-SANCTIONED AND RELATED ENVIRONMENTS

3.1 No student or adult functioning in a school-related activity shall be subjected to bullying, "cultural" teasing/belittling, cyber bullying, cyber stalking, harassment, hate crimes, intimidation, relational aggression, or sextexting in any public educational institution

3.2 These activities include: all education programs or activities; while in school or while using school equipment, property or school vehicles.

3.3 The use of data, telephone or computer software that is accessed through a computer, computer system or computer network of any public education institution shall not be utilized to bully, culturally tease or belittle, cyber bully, cyber stalk, harass, hate, intimidate, relationally aggress, or sextext any individual.

Communication of Policy

LAWS

§ 784. Effective date.

Beginning 180 days after the effective date of this chapter, each school district shall create and maintain a policy on bullying, which must be filed with the Board. Each school district must communicate its policy on bullying to its students and their parents or guardians on an annual basis. The policy must be updated every two years and filed with the Board after being updated. The Board shall monitor the implementation of policies created under this subsection.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Student Rights

* To be informed of Virgin Islands Board of Education policies and rules and regulations of the Department of Education as well as individual school rules regarding absenteeism and tardiness.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

5.0 Virgin Islands Department of Education's Requirements and Responsibilities

5.1 The DOE shall involve students, parents, administrators, school staff, school volunteers, community representatives, and law enforcement agencies in the process of adopting a policy. The school policy must be implemented in a manner that is ongoing throughout the school year and integrated in the curriculum and other violence prevention efforts. A copy of the DOE's policy shall be sent to the Virgin Islands Board of Education. [...]

5.3 The Policy shall contain, at a minimum, the following components:

1. Notification - All stakeholders shall be notified about the bullying policy in writing and verbally; the policy should be included in each school's student handbook.
2. Public display - The policy shall be placed in each school site in plain view of all stakeholders in age-appropriate language.
3. Warnings must be posted throughout the school that the infractions in this policy will not be tolerated. These warnings should be included in student and employee handbooks.
4. Immediate notification - The DOE shall provide a procedure for immediate notification within 24 hours if any of the infractions occur in a school or department site to the appropriate persons and authorities. Staff identification - Each school shall provide the name and job title of the school official who is responsible to ensure that the policy is implemented. This individual is also responsible for all publicized notices regarding this policy.

In-School Discipline

Discipline Frameworks

LAWS

No relevant laws found.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Section IV infractions and disciplinary responses

In order to establish reasonable consistency in the schools, this disciplinary response code has been developed. Schools and teachers may develop individual rules and disciplinary practices which do not conflict with but will supplement this policy. This response code applies to all students enrolled in Virgin Islands public schools in grades Kindergarten through 12.

Disciplinary infractions and the responses to them are divided into four levels. Each level represents progressively more serious infractions culminating in Level IV offenses. [...]

Level 1 - Infractions and disciplinary responses

Level 1 offenses are minor acts of misconduct which interfere with the orderly operation of the classroom, a school function, extra/co-curricular program or approved transportation.

The misconduct should be handled first by the individual staff member involved. When additional action becomes necessary because of continued violation or other serious concerns, the student will then be referred to the school administrator/ designee for disciplinary action.

Infractions

* Cheating

Willful or deliberate unauthorized use of the work of another person for academic purposes, or inappropriate use of notes or other material in the completion of an academic assignment or test

* Classroom Disruption

Conduct or behavior which interferes with or disrupts the teaching/learning process

* Disorderly Conduct

Conduct or behavior which interferes with or disrupts the orderly process of the school environment, a school function, or extra/co-curricular activity

* Disrespect for Others

Conduct or behavior which demeans, degrades, antagonizes, humiliates, or embarrasses a person or group of persons

* Dress Code

Non-conformity to established dress code

* Failure to Report For Detention

Failure to report for assigned discipline

* False and/or Misleading Information

Intentionally providing non-valid or misleading information, or the withholding of valid information, to a school personnel

* Insubordination

Refusal or failure to comply with a direction or an order from school personnel; failure to comply with law, Board policy, school rules, behavior contracts, or classroom rules

* Misconduct on School Bus

Conduct or behavior which interferes with the orderly, safe, and expeditious transportation of other school students or other authorized riders

* Profane, Obscene, or Abusive Language/Materials

The use of either oral or written language (including racial, ethnic, cultural slurs), gestures, objects, or pictures which are disrespectful or socially unacceptable and which tend to disrupt the school environment, a school function, or extra/co-curricular activity

* Tardiness

Repeated late arrival to school or class

* Unauthorized Absence from School or Class

Violation of the Virgin Islands attendance laws and school policies

* Repeated Misconduct

Repeated behavior which includes one or more of the above offenses

* Other

Other than offenses listed above

Disciplinary responses for level 1 infractions

First Offense: Level 1 Responses

Subsequent Offenses: Level 1 and/or Level 11 Responses

Parental contact (required); Counseling and direction; Verbal reprimand; Special work assignment; Withdrawal of privileges; Return of property, payment for same, or restitution for damages; Detention (parental contact required); School/classroom positive/negative reinforcement plan; Demerits; Warning of referral to Level 11.

Level 11 infractions and disciplinary responses

Intermediate acts of misconduct may include minor acts of misconduct previously identified. It may also include repeated acts of misconduct and acts directed against persons or property but which do not seriously endanger the health or safety of others.

This conduct must be reported to the school administrator/designee for disciplinary action.

The school administrator/designee will follow the procedure designated for minor violations in the investigation of circumstances and the assignment of the appropriate disciplinary action.

Infractions

* Fighting Threats

Minor physical conflict between two or more students; threat by word or act to do violence to another student(s)

* Destruction of Property/Vandalism

The willful or malicious destruction of school property or the property of others

* Unauthorized Gambling

Any participation in games or activities of chance for money and/or other things of value

* Insubordination/Open Defiance

Either verbal or non-verbal refusal to comply with school rules or directions from school staff

* Intimidation

The verbal or physical threat to do harm or violence to another student(s) or to the property of another person; may include "stare downs, gestures, and stalking"

* Misconduct on School Bus or other School Approved Transportation

Repeated or serious misconduct which interferes with the orderly, safe and expeditious transportation of students or other authorized riders.

* Stealing (under \$ 10.00)

The taking of property of another without permission of the person

* Unauthorized assembly, publications, etc.

Demonstrations and/or petitions by students, or possession and or distribution of unauthorized publications which interfere with the orderly process of the school environment, a school function, or extra/co-curricular activity.

* Repeated Misconduct of a less serious nature

Repeated misconduct which tends to disrupt the orderly environment or extra/co-curricular program or activity

* Forgery

The making of a false or misleading written communication to a school staff member with either the intent to deceive the staff member or under circumstances which would be reasonably calculated to deceive the staff member

* Other Serious Misconduct

Other than the offenses listed above

Disciplinary responses or level 11 infractions

First Offense: Level 11 Responses

Subsequent Offenses: Level 11 and/or Level 111 Responses

Parental Contact (required); Behavior Contract (oral or written); In-school Suspension; Work Detail; Detention (parental contact required); Confiscation of unauthorized materials/objects; Return of Property, Payment for same or Restitution for Damages; Suspension from Bus; School/Classroom Positive/Negative Reinforcement Plan; Demerits; Warning or Referral to Level 111

Level 11 infractions and disciplinary responses

Level 111 infractions are major acts of misconduct. They include but are not limited to repeated acts of misconduct, serious disruptions of the orderly conduct of school, threats to the health, safety, and property of self or others and acts of serious misconduct.

Major acts of misconduct must be reported immediately to the school administrator/designee and may result in immediate removal of the student from the school or extra/co-curricular activity.

Infractions

* Alcohol

The use or possession of alcoholic beverages, unauthorized prescription drugs, or any other substance capable of modifying mood or behavior

* Over the Counter Drugs

Possession of such substances beyond that which might be reasonably consumed/used by one person in a short period of time.

The second use or possession violation by any student during any one school year shall be considered an automatic Level 1V offense

* Assault/Battery (Fighting)

An intentional threat by word or act to do physical harm to another student, coupled with an apparent ability to do so, or the actual and/or intentional touching or striking of another student(s) against his or her will. In severe cases, such actions may be the basis for expulsion and will be considered a Level 1V offense

* Breaking and Entering

The unlawful or willful entry or attempted forcible entry of any school property or the personal property of students or school personnel

* Destruction of Property/Vandalism (\$ 10.00 and over)

The willful or malicious destruction of school property or property of others

* Extortion/Threats

The willful or malicious threats of harm, injury, or violence to the person, property or reputation of another with the intent to obtain money, information, services, or items of material worth

* Firecrackers/Fireworks

Unauthorized possession and/or igniting of fireworks or firecrackers on school property, at a school function or extra/co-curricular activity

* Gross Insubordination/Open Defiance

Willful refusal to submit to or comply with authority, exhibiting contempt or open resistance to a direct order

* Illegal Organization

Establishing or participating in gangs on school property, at a school function, extra/co-curricular activity

* Smoking and Use of Tobacco Products

The possession, use, distribution, or sale of tobacco products on school property, at a school function or extra/co-curricular activity

* Stealing (\$ 10.00 and over)

The taking of property of another without the permission of the person

* Trespassing

Unauthorized entry into school property, a school function, extra/co-curricular activity and/or remaining after the administrator/designee has directed such person to leave that location.

* Possession of Contraband Material

Possession, use and/or distribution of materials or items which are forbidden excluding weapons. Contraband may be confiscated and not returned to the student. Possession of items that could in danger the health and safety of others but there has been no threatening or intimidating display of the item.

* Repeated Misconduct of a More Serious Nature

Repeated misconduct which tends to substantially disrupt the orderly conduct of school, a school function, or extra/co-curricular activity

* Violation of Curfew

Breaking of imposed curfew regulations during an extra/co-curricular activity

* Other Serious Misconduct (may include profanity)

Behavior not specifically described above which seriously disrupts the orderly conduct of school, a school function, or extra/co-curricular activity. This may include profanity, racial slurs, ethnic slurs, cultural slurs, sexist profane language, or other language intended or reasonably calculated to insult and/or incite another person and repeated dress code violations, or the activation of a fire alarm without reasonable cause which, in the discretion of the administrator was not the result of a reckless or malicious act

Disciplinary responses for level 111 infractions

First Offense: Level 111 Responses

Subsequent Offenses: Level 111 and/or Level 1V Responses

Parental Contact (mandatory), Written Behavior Contract, Assignment to Alternative Program/School, Return of Property, Payment for same or Restitution for Damages, In-School Suspension, Suspension from Bus, Suspension from school (1 to 10 days), Referral to Suspension Reduction Program, Expulsion from Bus (for bus related offenses), Temporary or Permanent Removal from Participation in Extra/co-curricular Activities or Programs, Referral to Appropriate Prevention or Treatment Programs, Warning of referral to Level 1V

Level IV and disciplinary responses

Major acts of misconduct are those of the most serious category. Any of these acts committed shall be sufficient grounds for expulsion and shall result in a mandatory ten-day suspension with consideration of a recommendation for expulsion except as noted below for students in the elementary grades.

Major acts of misconduct must be reported immediately to the school administrator/designee and may result in immediate removal of the student from school.

For students in Kindergarten to sixth grade, the disciplinary response procedure shall be: parental contact, ten days suspension from school, a written behavior contract which shall serve as a probation. In severe cases, the administrator may elect to consider recommending immediate expulsion. In selecting this action, the principal shall consider the age, prior discipline record, the seriousness of the behavior, the intent of the student, and if the health, safety, and welfare of other students and/or staff have been endangered. A violation of the probation during this period may cause the discipline response to be advanced to consideration of expulsion from school.

Infractions

* Alcohol

The selling or transmitting of alcoholic beverages or any other substance capable of modifying mood or behavior or the selling or transmitting of substances represented to be of said nature

* Arson

The willful and malicious burning of or attempt to burn or destroy school property, contents in or on the property or personal property of others

* Assault/Battery of Employees, Volunteers, and Students

An intentional threat by word or act to do physical harm to a school employee or a volunteer, coupled with an apparent ability to do so, or the actual reckless or intentional touching or striking of a school employee or a volunteer against his/her will. In extreme cases, the assault/battery of a student may be basis for expulsion

* Bomb Threats/Explosions

Any communication which has the effect of threatening an explosion to do malicious, destructive, or bodily harm to school property, at a school function, or extra/co-curricular activity, or a person in or on that property or attending a function. Preparing, possessing, or igniting explosives including unauthorized fireworks on school property, at a school function, or extra/co-curricular activity

* Drugs

The possession, selling or transmitting of drugs, drug paraphernalia, or any other substance capable of modifying mood or behavior or possession or selling or transmitting of substances to be of said nature. Possession of drugs shall be reported to law enforcement authorities in accordance with Virgin Islands law and Board policy

* False Fire Alarm

The willful and/or malicious activation of a fire alarm system or the willful and/or malicious reporting of a false fire

* Police Charges

A student who has been charged by the police for involvement in illegal activity shall be expelled from regular school. The student shall continue his/her education while confined at the Youth Rehabilitation Center

* Theft/Robbery

The act or attempted act of taking of money, property, or possession from another against his/her will, with or without the use of force, violence or fear

* Sexual Offenses

Any willful and/or deliberate act committed with the intention of promoting sexual favors or furthering acts lewd or lascivious in nature; any unsolicited sexual proposal or offensive touching of another person; or any act of indecent exposure; or having sexual intercourse on school grounds

* Weapons

The possession, use or control of any dangerous instrument which could be used to cause harm, injury or death to another person (includes firearms, knives, razors, clubs, explosives, and other chemical weapons). Weapons shall be confiscated and will not be returned to the student. Possession of weapons shall be reported to law enforcement authorities in accordance with Virgin Islands law and Board policies

* Inciting, Leading, Participating in Acts which Substantially Disrupt Orderly Conduct of School or School Functions

The willful act of inciting, leading, or participating in any disruption or other acts which interfere with the education process, or which can result in damage or destruction to public or private property, or cause personal injury to participants and others, or otherwise pose a threat to the health, safety, and/or welfare of students, staff, or others

* Violation of Reentry Plan/Probation

Any act or series of acts which violate or have the practical effect of violating a reentry plan or a probation plan

* Repeated Misconduct of a More Serious Nature

Repeated misconduct which tends to substantially disrupt the orderly conduct of a school, school function, or extra/co-curricular program or activity. Recommendations for expulsion relative to repeated misconduct must be based on documented referrals and a variety of intervention strategies

Disciplinary responses for level IV infractions

First and Subsequent Offenses: Level 1V Responses

Mandatory Parental Contact, Mandatory ten day suspension from school with consideration of a recommendation for expulsion for grades 7-12, Suspension and probation for elementary school students, Assignment to alternative program/school, Expulsion from School.

Teacher Authority to Remove Students From Classrooms

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternatives to Suspension

LAWS

§ 761. Legislative findings; intent.

The Legislature of the United States Virgin Islands hereby finds that school violence is a problem in the territory's schools. The Legislature also finds that there needs to be a reshaping of the approach to combating school violence. The Legislature further finds that the imposition of penalties alone is an insufficient and ultimately unworkable device for curbing school violence. As such, the Legislature finds that there currently exist a need for the insertion of an in-school mechanism for assisting our youngsters with handling inter-personal and inter-group conflicts without resorting to violent behavior. The Legislature proposes to implement a school-based, conflict resolution education program. The intent of conflict resolution education and consequently this chapter is to reduce violence, vandalism, chronic absence, and suspension in Virgin Islands schools. The goals of conflict resolution education are as follows:

- (1) offer problem-solving processes that can improve the school climate;
- (2) offer Virgin Islands students an alternative to self-destructive violent behavior when faced with interpersonal and inter-group conflicts;
- (3) help students and teachers deepen their understanding of themselves and others, thus developing important life skills;
- (4) provide training in negotiation, mediation, and consensus decision making as a means of encouraging a high level of citizenship activity;
- (5) shift the responsibility for solving nonviolent conflicts to students so that adults can be free to concentrate more on teaching and less on discipline; and
- (6) create behavior management systems that are more effective than detention, suspension, or expulsion in order to deal with conflict in the school setting.

§ 823. Student eligibility and program criteria.

All programs funded pursuant to the provisions of this chapter must be positive and reflect strong parental and community involvement. In addition, specific programs must meet the following criteria:

(d) Disciplinary Programs.

(1) Disciplinary programs serve the student who has a disruptive behavior in school or has committed an offense that warrants suspension, adjudication as a person in need of supervision, or expulsion from school according to the code of student conduct. For the purposes of this program, disruptive behavior is behavior that:

- (A) interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classrooms; or
- (B) severely threatens the general welfare of the student or others with whom the student comes into contact.

(2) The program includes, but is not necessarily limited to, in-school suspension, alternatives to expulsion, counseling centers, and crisis intervention centers.

(3) Students who have been placed in detention or a court-adjudicated commitment program or a person adjudicated in need of supervision must be evaluated by school district personnel upon the completion of the program prior to the placement of the students into an educational program. Such students must not be automatically assigned to a disciplinary program upon re-entering the school system.

(4) Prior to assigning a student to a disciplinary program of more than 10 days in duration, the insular superintendent shall attempt a continuum of education and student services to identify the causes of

the disruptive behavior, to modify the behavior, or to provide more appropriate educational services to the student; however, students who have committed an offense which warrants expulsion according to the code of student conduct may be assigned to a disciplinary program without attempting a continuum of services.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Disciplinary Responses for Level 1 Infractions First Offense: Level 1 Responses

Subsequent Offenses: Level 1 and/or Level 11 Responses

Parental contact (required); Counseling and direction; Verbal reprimand; Special work assignment; Withdrawal of privileges; Return of property, payment for same, or restitution for damages; Detention (parental contact required); School/classroom positive/negative reinforcement plan; Demerits; Warning of referral to Level 11. [...]

Disciplinary Responses for Level 11 Infractions

First Offense: Level 11 Responses

Subsequent Offenses: Level 11 and/or Level 111 Responses

Parental Contact (required); Behavior Contract (oral or written); In-school Suspension; Work Detail; Detention (parental contact required); Confiscation of unauthorized materials/objects; Return of Property, Payment for same or Restitution for Damages; Suspension from Bus; School/Classroom Positive/Negative Reinforcement Plan; Demerits; Warning or Referral to Level 111 [...]

Level 1V Infractions and Disciplinary Responses

Infractions

*** Repeated Misconduct of a More Serious Nature**

Repeated misconduct which tends to substantially disrupt the orderly conduct of a school, school function, or extra/co-curricular program or activity. Recommendations for expulsion relative to repeated misconduct must be based on documented referrals and a variety of intervention strategies.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

6.0 Consequences for Violations

The Department of Education shall review and refer to the Board's Disciplinary Policy in identifying the appropriate consequence(s) for violations of this policy. Each infraction should be evaluated carefully before a consequence is applied. Educational intervention should occur on every level of violation to deter further acts of aggression.

6.1 Sample Consequences

1. Counseling within the school
2. Verbal or written reprimand
3. Parental conference
4. Loss of school privileges
5. Transfer to another school building, classroom or school bus
6. Exclusion from school-sponsored activities
7. Retribution for property damage
8. Detention
9. Suspension
10. Expulsion
11. Counseling/therapy outside of school
12. Department of Human Services referral
13. Law Enforcement referral.

Conditions on Use of Certain Forms of Discipline

Corporal Punishment

LAWS

No relevant laws found.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Section V Procedures Relating to Disciplinary Action

In order to protect student rights, certain procedures shall be followed with regard to major disciplinary actions. These procedures were developed as suggested or required by law or regulation.

School/classroom procedures for administering discipline in areas not covered by these procedures are encouraged.

Corporal Punishment

Virgin Islands Code, Title 17, Chapter 9, Section 87 states:

All principals and teachers in the public schools in the Virgin Islands shall have the right to exercise the same authority, as to conduct and behavior, over pupils attending their schools during the time they are in attendance, including the time required in going to and from their homes, as parents, guardians, or persons in parental relation to such pupil.

The ramifications of this procedure must be carefully analyzed before this procedure is utilized.

Search and Seizure

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Restraint and Seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

Grounds for Suspension or Expulsion

LAWS

§ 91. Expulsion of pupils; appeal.

(a) The Commissioner of Education may authorize or order the expulsion from public school of any pupil guilty of gross misconduct or persistent disobedience, or having bad habits, or being in a physical condition detrimental to the best interests of the school, in accordance with regulations prescribed by the Virgin Islands Board of Education. Any parent aggrieved by such expulsion may appeal to the Board for review of such order within 30 days after the date thereof.

(b) The Commissioner of Education shall order the expulsion from public school for a period of not less than one year of any pupil who brings or possesses a firearm, as defined in 18 U.S.C. 921(a), on school property or at a school function.

(1) "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus or at a school function.

(2) "School function" means any event or activity that is under the supervision and control of a public school.

(c) Notwithstanding subsection (b), the Commissioner of Education or the Virgin Islands Board of Education on appeal, may modify, in writing, the length of the expulsion on a case-by-case basis based on the specific circumstances surrounding each incident.

(d) Any parent or guardian aggrieved by such an expulsion may appeal to the Board of Education for review of such order within thirty (30) days after the date thereof.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

DISCIPLINARY RESPONSES FOR LEVEL 11 INFRACTIONS

First Offense: Level 11 Responses

Subsequent Offenses: Level 11 and/or Level 111 Responses

Parental Contact (required); Behavior Contract (oral or written); In-school Suspension; Work Detail; Detention (parental contact required); Confiscation of unauthorized materials/objects; Return of Property, Payment for same or Restitution for Damages; Suspension from Bus; School/Classroom Positive/Negative Reinforcement Plan; Demerits; Warning or Referral to Level 111 [...]

DISCIPLINARY RESPONSES FOR LEVEL 111 INFRACTIONS

First Offense: Level 111 Responses

Subsequent Offenses: Level 111 and/or Level 1V Responses

Parental Contact (mandatory), Written Behavior Contract, Assignment to Alternative Program/School, Return of Property, Payment for same or Restitution for Damages, In-School Suspension, Suspension from Bus, Suspension from school (1 to 10 days), Referral to Suspension Reduction Program, Expulsion from Bus (for bus related offenses), Temporary or Permanent Removal from Participation in Extra/co-curricular Activities or Programs, Referral to Appropriate Prevention or Treatment Programs, Warning of referral to Level 1V [...]

DISCIPLINARY RESPONSES FOR LEVEL 1V INFRACTIONS

First and Subsequent Offenses: Level 1V Responses

Mandatory Parental Contact, Mandatory ten day suspension from school with consideration of a recommendation for expulsion for grades 7-12, Suspension and probation for elementary school students, Assignment to alternative program/school, Expulsion from School [...]

PROCEDURES FOR SUSPENSIONS

Suspension of students from school should occur only if a careful study of all facts surrounding each individual case indicates that no other disciplinary approach is feasible. Student suspension without proper controls seems of little therapeutic value. Placing students out of the supervision of the school may possibly serve to increase their antisocial activities.

Putting children out of classes or suspending students for trivial matters is not a solution to the behavioral problem. It merely removes the problem or the offender from one locale to another.

Suspensions shall be of four(4) kinds:

1. Suspension requesting a parent conference with appropriate school personnel.
2. Suspension for a few days (one to five) within the school. In such a case, the student is denied the privilege of attending classes but must report daily to school. The student will be under the supervision of someone designated by the administrator. During this period, the student may be assigned special duties.
3. Suspension which requires the student to be away from the school premises from one day to five days.
4. Suspension for one to ten days

Administrators are encouraged to use more in-school suspensions in preference to out of school suspensions.

Suspensions should never result in a total of 5% of the school population being out of school.

The maximum suspension is ten(10) school days without requiring the Commissioner of Education's approval.

Suspensions should never replace expulsion.

No parent should be asked to voluntarily withdraw a student for a discipline problem, as a substitute for suspension or expulsion.

Limitations or Conditions on Exclusionary Discipline

LAWS

§ 25. Protective hairstyles

(a) The Virgin Islands Department of Education, Virgin Islands Board of Education, a school district, college, university or school administrator may not create a dress code or policy that prohibits protective hairstyles from being worn in the school during school hours or school events; nor may a student be expelled or in any manner disciplined on the basis of a protective hairstyle worn by the student.

(b) For purposes of this section, the term, "protective hairstyle" includes but is not limited to such hairstyles as braids, locks, twists, cornrows, Bantu knots, afros and other styles in which the hair is tightly coiled or tightly curled.

§ 91. Expulsion of pupils; appeal.

(c) Notwithstanding subsection (b), the Commissioner of Education or the Virgin Islands Board of Education on appeal, may modify, in writing, the length of the expulsion on a case-by-case basis based on the specific circumstances surrounding each incident.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Level 1V Infractions and Disciplinary Responses

For students in Kindergarten to sixth grade, the disciplinary response procedure shall be: parental contact, ten days suspension from school, a written behavior contract which shall serve as a probation. In severe cases, the administrator may elect to consider recommending immediate expulsion. In selecting this action, the principal shall consider the age, prior discipline record, the seriousness of the behavior, the intent of the student, and if the health, safety, and welfare of other students and/or staff have been endangered. A violation of the probation during this period may cause the discipline response to be advanced to consideration of expulsion from school.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

6.0 Consequences for Violations

The Department of Education shall review and refer to the Board's Disciplinary Policy in identifying the appropriate consequence(s) for violations of this policy. Each infraction should be evaluated carefully before a consequence is applied. Educational intervention should occur on every level of violation to deter further acts of aggression.

Due Process

LAWS

§ 91. Expulsion of pupils; appeal.

(a) The Commissioner of Education may authorize or order the expulsion from public school of any pupil guilty of gross misconduct or persistent disobedience, or having bad habits, or being in a physical condition detrimental to the best interests of the school, in accordance with regulations prescribed by the Virgin Islands Board of Education. Any parent aggrieved by such expulsion may appeal to the Board for review of such order within 30 days after the date thereof. [...]

(d) Any parent or guardian aggrieved by such an expulsion may appeal to the Board of Education for review of such order within thirty (30) days after the date thereof.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Due process for suspensions of ten (10) days or less

Step 1: The student must be told by the administrator/designee of the reasons for consideration of suspension.

Step 2: The student must be given an opportunity to present his/her side of the matter either verbally or in writing and must have the opportunity to present witnesses to the incident.

Step 3: The administrator/designee shall make a determination as to whether or not the student is guilty of the misconduct and, if so, what the terms of punishment will be. The student shall be informed of the determination. If the determination is to impose suspension, the notice of suspension shall be in writing.

Step 4: The administrator/designee shall report each suspension in writing to the student's parent or guardian and to the Superintendent or his/her designee. This report shall be mailed by certified mail or delivery initiated within twenty(24) hours of the start of the suspension or on the next regular work day. This report shall include the various incidents relating to the suspension or removal from classes and shall document specific facts with regard to times and dates of offenses and other undesirable behavior. Additionally the report shall include all efforts to assist the student (letters to parents, referrals to counselors, pupil personnel services, Departments of Health and Human Services etc.)

Reasonable and documented efforts shall be made to contact the parent or guardian prior to the start of the suspension. If the parent or guardian cannot be reached prior to the start of the suspension, the administrator or designee may determine that suspension will start without contact with the parent or guardian, but continued reasonable efforts to contact the parent or guardian shall be made.

Step 5: No later than seventy-two(72) hours after the suspension begins, the student and his/her parents shall have a right to a hearing with the administrator or designee. The administrator shall have the discretion to reduce or cancel the suspension if it is felt that it would be in the best interest of the student and the school to do so. The parent and student shall be informed of the administrator's decision and the reason therefor in writing within twenty-four (24) hours after the hearing.

Step 6: An educational planning conference shall be held each time any handicapped student has been suspended from school or transportation for total of ten(10) school days during any school year. The purpose of the conference shall be to determine if the placement is appropriate and if any changes must be made in order to more effectively deal with the student's behavior problem.

Step 7: At the discretion of the administrator or designee, a written behavior contract may be required upon return of the suspended student.

Step 8: If the parents feel that due process was not provided, they may further appeal the procedural due process provided by contacting the superintendent. The superintendent or designee shall discuss the matter with the parent and, if appropriate, schedule a meeting with the administrator, and the parent to further discuss the matter and rectify any procedural errors.

Due process procedure for suspension in excess of ten (10) days or expulsion

A student accused of a violation of the Virgin Islands Student Discipline Policy which, in the opinion of the administrator or his/her designated representative, may require expulsion from school or transportation shall be afforded the due process procedure described below. In emergency situations, these procedures may be modified if reasonable and documented efforts are made to provide substantially similar opportunities for due process.

Step 1: The student must be told by the administrator or designee of the reason(s) for consideration of suspension or expulsion.

Step 2: The student must be given the opportunity to present his/her side of the matter either verbally or in writing and must have the opportunity to present witnesses to the incident.

Step 3: The administrator or designee shall make a determination in writing as to whether or not the student is guilty of the misconduct and, if so, what the terms of punishment will be. The student shall be informed of the determination. If the administrator or designee determines that there are sufficient grounds for expulsion, then the administrator or designee shall inform the student that he/she is being suspended from school for ten (10) days and a recommendation for expulsion is being considered.

Step 4: The administrator or designee shall report in writing to the student's parent or guardian and the superintendent that the student has been suspended for ten (10) days and a recommendation for expulsion from school is being considered. The report shall be mailed by certified mail or delivery initiated within twenty four (24) hours of the start of the ten(10) day suspension or on the next regular work day. This report shall include the various incidents relating to the suspension and recommended expulsion and shall document specific facts relating to times and dates of offenses and other undesirable behavior. Additionally, the report shall include all efforts to assist the student (letters to parents, referrals to counselors, pupil personnel services, Departments of Health and Human Services etc.)

Reasonable efforts shall be made to contact the parent or guardian prior to the start of the suspension. If the parent or guardian cannot be reached prior to the start of the suspension, the administrator or designee may determine that the suspension will start without prior contact with the parent or guardian.

Step 5: The principal shall convene the Student Review Team comprising of the administrator or designee, counselor and a teacher as soon as possible but not later than the fifth day of the suspension period to determine:

1. if there is documentation or evidence that the student has a disability requiring exceptional education services;
2. if any modification or adaptations need to be made within the school as an alternative to expulsion;

3. if a recommendation for expulsion is appropriate.

Step 6: The recommendation for expulsion will be referred to the superintendent for disposition. The superintendent or designee shall review the information provided by the Student Review Team, and no later than the seventh school day of the suspension, shall conduct a hearing with the parent, and student to determine if expulsion should be imposed.

At the time the parents and student are given notice of the expulsion hearing, they should be advised that they have the right to have a lawyer present, to confront and cross-examine witnesses, or to call witnesses to verify the student's version of the incident which led to the recommended expulsion.

During the hearing, the superintendent or designee has the right to limit witnesses at any time when there is a serious threat of disruption. The hearing shall be electronically recorded.

Step 7: If expulsion is determined to be the appropriate course of action, the superintendent shall submit the expulsion recommendation to the Commissioner of Education in writing within twenty-four hours or the next regular work day. The Superintendent shall include a detailed report by the administrator or designee on the incident, alternative measures, if applicable, taken prior to the recommendation of expulsion and a summary of the Student Review Team's findings.

Step 8: The Commissioner shall notify the parent or guardian in writing within forty-eight (48) hours that the student be expelled for a specific period of time. The written notification shall indicate the grounds for expulsion and the parent's right for appeal to the Board of Education within thirty (30) days of receipt of the expulsion notice.

Step 9: If the Board of education determines that any student should return to school after a specified period, a written behavior plan for the expelled student shall be developed by the school prior to the return of the expelled student to the school program. The plan shall be developed in cooperation with all parties including the student and parent or guardian to assure that the conduct leading to the expulsion will not recur in the future. If the student, parent or guardian refuse to cooperate, then the principal shall fashion a plan and inform the student and parent or guardian of the same. Substantial violations of this plan shall be considered a violation of the Virgin Islands Student Discipline Policy and may subject the student to suspension or expulsion.

Return to School Following Removal

LAWS

No relevant laws found.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Disciplinary responses for level 1 infractions

First Offense: Level 1 Responses

Subsequent Offenses: Level 1 and/or Level 11 Responses

Parental contact (required); Counseling and direction; Verbal reprimand; Special work assignment; Withdrawal of privileges; Return of property, payment for same, or restitution for damages; Detention (parental contact required); School/classroom positive/negative reinforcement plan; Demerits; Warning of referral to Level 11. [...]

Disciplinary responses for level 11 infractions

First Offense: Level 11 Responses

Subsequent Offenses: Level 11 and/or Level 111 Responses

Parental Contact (required); Behavior Contract (oral or written); In-school Suspension; Work Detail; Detention (parental contact required); Confiscation of unauthorized materials/objects; Return of Property,

Payment for same or Restitution for Damages; Suspension from Bus; School/Classroom Positive/Negative Reinforcement Plan; Demerits; Warning or Referral to Level 111 [...]

Disciplinary responses for level 111 infractions

First Offense: Level 111 Responses

Subsequent Offenses: Level 111 and/or Level 1V Responses

Parental Contact (mandatory), Written Behavior Contract, Assignment to Alternative Program/School, Return of Property, Payment for same or Restitution for Damages, In-School Suspension, Suspension from Bus, Suspension from school (1 to 10 days), Referral to Suspension Reduction Program, Expulsion from Bus (for bus related offenses), Temporary or Permanent Removal from Participation in Extra/co-curricular Activities or Programs, Referral to Appropriate Prevention or Treatment Programs, Warning of referral to Level 1V [...]

Disciplinary responses for level 1V infractions

First and Subsequent Offenses: Level 1V Responses

Mandatory Parental Contact, Mandatory ten day suspension from school with consideration of a recommendation for expulsion for grades 7-12, Suspension and probation for elementary school students, Assignment to alternative program/school, Expulsion from School [...]

Procedures for reentry of expelled students

Following the Commissioner of Education's action to expel a student, the student shall have no right to attend public schools in the Virgin Islands unless the Board of Education hears the appeal and reverses the decision of the Commissioner.

The Board of Education in its sole discretion and acting upon the evidence presented at the appeal hearing may revoke the existing expulsion and order a reentry plan. Failure of the student to abide by a reentry plan may be grounds for recommending permanent expulsion.

It is intended that the procedure to be followed in developing reentry plans shall be flexible, but shall require a commitment on the part of the student and his/her parent or guardian to cooperate with school authorities in reasonably assuring that the behavior which led to the original expulsion will not recur.

Reentry plans are to be developed when appropriate, following the procedures outlined below. The decision to recommend a reentry shall be the prerogative of the Board of Education.

Step 1: After the appeal hearing, and if there is reason to believe that reentry would be in the best interest of the student and that reentry would not adversely impact the orderly conduct of the school, the Board may direct the Commissioner to develop a reentry plan for the student.

Step 2: The reentry plan shall be developed by a committee including appropriate school personnel and others including but not limited to the principal who originally recommended the expulsion or his designee; a representative of the superintendent; appropriate school based staff, the parent/guardian, the student and representatives of student services if necessary.

Step 3: Reentry plans must be reasonable and realistic in demands placed upon the student and the school and achievable by both parties. The reentry plan shall include:

A. Decisions of the student relative to his/her future conduct. Such a statement reflect the student's commitment in his/her own words that he/she will follow the rules of conduct established by the school.

B Requirements may include (but not limited to) evaluation by representative of Student Services, contact with a community agency (where appropriate), counseling, completion of special school work, and such requirements as may be deemed reasonable to assure that the misconduct leading to expulsion will not recur. The reentry requirements shall not include those which would cause negative feelings toward the instructional program but may include special classes or transfer of school assignments.

C. A listing of any adjustments to the student program of study or school day or special assignment.

D. A statement by the school citing the resources which will be utilized to assist the student in his/her reentry to school.

E. A statement relative to the procedures or actions to be taken in the event the agreement between the school and the student is broken.

F. An indication from the parents or guardians that they understand and accept the conditions set forth in the reentry plan.

Step 4: Following completion of the reentry plan which is acceptable to the school administrator who will be responsible for supervision of the student, the plan shall be sent to the Commissioner or designee for review and approval. When approved the Commissioner shall submit the reentry plan to the Board of Education.

Alternative Placements

LAWS

§ 822. Definitions.

(d) "Educational alternative program" means an educational program that is designed to offer variations from traditional instructional programs and strategies for the purpose of increasing the likelihood that students who are unmotivated or unsuccessful in traditional programs will remain in school and obtain a high school diploma or its equivalent.

§ 823. Student eligibility and program criteria.

All programs funded pursuant to the provisions of this chapter must be positive and reflect strong parental and community involvement. In addition, specific programs must meet the following criteria:

(a) Educational Alternative Programs.

(1) Educational alternative programs are programs that differ from traditional educational programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting. These programs also employ alternative teaching methodologies, curricula, learning activities or diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. Student participation in such programs must be voluntary. The minimum period of time during which the student participates in the program must be equivalent to three instructional periods per day of traditional school, unless the program utilizes a resource or tutorial model rather than regularly scheduled courses.

(2) The student will be identified as being a potential retention or dropout candidate based upon one of the following criteria:

(A) The student has shown a lack of motivation in school through grades which are not commensurate with documented ability levels;

(B) The student has a high rate of absenteeism;

(C) The student appears to have a drug or substance abuse problem;

(D) The student has been unsuccessful in school as determined by retention, failing grades, or low achievement test scores, and has needs and interests that cannot be met through government conducted educational programs or special education programs; or

(E) The student has been identified as a potential retention or school dropout candidate by school or student services personnel.

§ 824. Program planning and implementation.

(a) Each district may establish one or more alternative programs for dropout prevention at the elementary, junior high school or high school level.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Disciplinary Responses for Level 111 Infractions

First Offense: Level 111 Responses

Subsequent Offenses: Level 111 and/or Level 1V Responses

Parental Contact (mandatory), Written Behavior Contract, Assignment to Alternative Program/School, Return of Property, Payment for same or Restitution for Damages, In-School Suspension, Suspension from Bus, Suspension from school (1 to 10 days), Referral to Suspension Reduction Program, Expulsion from Bus (for bus related offenses), Temporary or Permanent Removal from Participation in Extra/co-curricular Activities or Programs, Referral to Appropriate Prevention or Treatment Programs, Warning of referral to Level 1V [...]

Disciplinary Responses for Level 1V Infractions

First and Subsequent Offenses: Level 1V Responses

Mandatory Parental Contact, Mandatory ten day suspension from school with consideration of a recommendation for expulsion for grades 7-12, Suspension and probation for elementary school students, Assignment to alternative program/school, Expulsion from School.

Discipline Addressing Specific Code of Conduct Violations

Firearms and Other Weapons Violations

LAWS

§ 91. Expulsion of pupils; appeal.

(b) The Commissioner of Education shall order the expulsion from public school for a period of not less than one year of any pupil who brings or possesses a firearm, as defined in 18 U.S.C. 921(a), on school property or at a school function.

(1) "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus or at a school function.

(2) "School function" means any event or activity that is under the supervision and control of a public school.

(c) Notwithstanding subsection (b), the Commissioner of Education or the Virgin Islands Board of Education on appeal, may modify, in writing, the length of the expulsion on a case-by-case basis based on the specific circumstances surrounding each incident.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

The Virgin Islands Board of Education views disruptive and criminal acts, and those which may affect the health, safety, and welfare of those on a school campus as extremely serious in nature. In addition to disciplinary action administered at the school level, certain acts may be reported to the appropriate law enforcement agency. These may include, but are not limited to:

1. Possession, use/distribution of weapons (mandatory reporting). [...]

Level 1V Infractions and Disciplinary Responses

Infractions

* Weapons

The possession, use or control of any dangerous instrument which could be used to cause harm, injury or death to another person (includes firearms, knives, razors, clubs, explosives, and other chemical weapons). Weapons shall be confiscated and will not be returned to the student. Possession of weapons shall be reported to law enforcement authorities in accordance with Virgin Islands law and Board policies.

Students with Chronic Disciplinary Issues

LAWS

§ 823. Student eligibility and program criteria.

All programs funded pursuant to the provisions of this chapter must be positive and reflect strong parental and community involvement. In addition, specific programs must meet the following criteria:

(d) Disciplinary Programs.

(1) Disciplinary programs serve the student who has a disruptive behavior in school or has committed an offense that warrants suspension, adjudication as a person in need of supervision, or expulsion from school according to the code of student conduct. For the purposes of this program, disruptive behavior is behavior that:

(A) interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or results in

frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classrooms; or

(B) severely threatens the general welfare of the student or others with whom the student comes into contact.

(2) The program includes, but is not necessarily limited to, in-school suspension, alternatives to expulsion, counseling centers, and crisis intervention centers.

(3) Students who have been placed in detention or a court-adjudicated commitment program or a person adjudicated in need of supervision must be evaluated by school district personnel upon the completion of the program prior to the placement of the students into an educational program. Such students must not be automatically assigned to a disciplinary program upon re-entering the school system.

(4) Prior to assigning a student to a disciplinary program of more than 10 days in duration, the insular superintendent shall attempt a continuum of education and student services to identify the causes of the disruptive behavior, to modify the behavior, or to provide more appropriate educational services to the student; however, students who have committed an offense which warrants expulsion according to the code of student conduct may be assigned to a disciplinary program without attempting a continuum of services.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Level 1 - Infractions and Disciplinary responses

Infractions

* Repeated Misconduct

Repeated behavior which includes one or more of the above offenses

Level 11 Infractions and Disciplinary responses

Infractions

* Repeated Misconduct of a less serious nature

Repeated misconduct which tends to disrupt the orderly environment or extra/co-curricular program or activity

Level 111 Infractions and Disciplinary responses

Infractions

* Repeated Misconduct of a More Serious Nature

Repeated misconduct which tends to substantially disrupt the orderly conduct of school, a school function, or extra/co-curricular activity.

Chronic Absenteeism and Truancy

LAWS

§ 87. Punishment of pupils by school authorities.

All principals and teachers in the public schools in the Virgin Islands shall have the right to exercise the same authority, as to conduct and behavior, over pupils attending their schools during the time they are in attendance, including the time required in going to and from their homes, as parents, guardians, or persons in parental relation to such pupils.

§ 89. Apprehension of, and manner of dealing with, truant.

(a) Any child of compulsory school age, who is found anywhere other than on the school's premises in which the child is enrolled, during school hours, without an acceptable excuse having been furnished by a

parent or guardian to the appropriate school official, or who is not enrolled in a school as required by law, must be taken into custody by any teacher, principal, attendance officer, or other school official, or by any police officer, peace officer, or truant officer, and must be held until a parent or guardian is summoned or appears and secures the child's release. The child may be released at the request of the Commissioner of Education, or placed in school as directed by the Commissioner or the Insular Superintendent.

(b) Subsection (a) is not applicable to children:

- (1) who are home-schooled;
- (2) who are accompanied by a parent, guardian, or other adult person authorized to have the care and custody of the child;
- (3) who are on supervised school trips;
- (4) who are on any school-to-work assignment; or
- (5) who have graduated from high school before the age of 18.

(c) Subsection (a) is not applicable on holidays provided for in title 17 Virgin Islands Code, chapter 7, sections 62, 63, and 64 and on other holidays, vacation times, administrative leave days, teachers' professional developmental days or any other day that schools are not in session, as may be designated by the Commissioner of Education or the head administrator at a private or parochial school.

(d) At the discretion of the Department of Education, any child demonstrating problems of truancy may be referred to the Department of Human Services for Children, Youth and Families. Pursuant to such referral the Department of Human Services shall provide the necessary social services and make such reports to the Department of Education as may be necessary or helpful to the proper educational and social development of the child. If, as a result of a joint determination by the Department of Human Services and Education, the child appears to be an incorrigible truant, the Department of Education shall file a complaint with the Family Division of the Superior Court of the jurisdiction in which the child resides. For the purposes of this section, an incorrigible truant shall mean a child of compulsory school age who wilfully, deliberately, and continuously absents himself from school and who fails to respond in a positive by the Departments of Education and Human Services.

§ 761. Legislative findings; intent.

The Legislature of the United States Virgin Islands hereby finds that school violence is a problem in the territory's schools. The Legislature also finds that there needs to be a reshaping of the approach to combating school violence. The Legislature further finds that the imposition of penalties alone is an insufficient and ultimately unworkable device for curbing school violence. As such, the Legislature finds that there currently exist a need for the insertion of an in-school mechanism for assisting our youngsters with handling inter-personal and inter-group conflicts without resorting to violent behavior. The Legislature proposes to implement a school-based, conflict resolution education program. The intent of conflict resolution education and consequently this chapter is to reduce violence, vandalism, chronic absence, and suspension in Virgin Islands schools. The goals of conflict resolution education are as follows:

- (1) offer problem-solving processes that can improve the school climate;
- (2) offer Virgin Islands students an alternative to self-destructive violent behavior when faced with interpersonal and inter-group conflicts;
- (3) help students and teachers deepen their understanding of themselves and others, thus developing important life skills;
- (4) provide training in negotiation, mediation, and consensus decision making as a means of encouraging a high level of citizenship activity;
- (5) shift the responsibility for solving nonviolent conflicts to students so that adults can be free to concentrate more on teaching and less on discipline; and
- (6) create behavior management systems that are more effective than detention, suspension, or expulsion in order to deal with conflict in the school setting.

§ 1941. Detaining children from school.

Whoever-

- (1) detains any child from attending school at the prescribed times and places, without authority of lawful regulation; or
- (2) performs or omits any act whereby any child under his control, directly or indirectly, is hindered from regular attendance at school-shall be fined not more than \$20 for each day's absence.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Attendance

Philosophical Basis

School administrators have an obligation under Virgin Islands law to enforce compulsory school attendance laws as well as the attendance policies of the Virgin Islands Board of Education. Regular attendance by students will facilitate the development of the skills and knowledge necessary to function in our democratic society. [...]

SECTION IV INFRACTIONS AND DISCIPLINARY RESPONSES

A student who is required by law to attend school but does not shall be suspended for unexcused absences or truancy and shall be reported to juvenile authorities for appropriate action. A student who exhibits willful disregard for school rules by being absent from classes on a regular basis or not attending particular classes will be subject to disciplinary action.

Substance Use

LAWS

§ 822. Definitions.

(f) "Substance abuse program" means an agency-based or school-based educational program designed to meet the needs of students with drug or alcohol-related substance abuse problems.

§ 823. Student eligibility and program criteria.

All programs funded pursuant to the provisions of this chapter must be positive and reflect strong parental and community involvement. In addition, specific programs must meet the following criteria:

(c) Substance Abuse Programs.

- (1) Substance abuse programs provide basic educational instruction for students participating in non-school based residential or day substance abuse treatment programs. Such educational programs must provide curricula and related services which support the program goals and which are appropriate for the completion of a high school diploma or its equivalent.
- (2) The program must provide school-based programs that serve students who have documented drug or alcohol-related problems and shall include instruction designed to prevent substance abuse.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Section IV Infractions and Disciplinary Responses

Unlawful possession, use, or distribution of illicit drugs and alcohol by students on school premises or at any school activity is prohibited. This policy is based on Virgin Islands statute as well as the belief that use of illicit drugs and alcohol is wrong and harmful. [...]

The Virgin Islands Board of Education views disruptive and criminal acts, and those which may affect the health, safety, and welfare of those on a school campus as extremely serious in nature. In addition to

disciplinary action administered at the school level, certain acts may be reported to the appropriate law enforcement agency. These may include, but are not limited to:

8. Possession, use/distribution of drugs (mandatory reporting)
9. Possession, use/distribution of alcohol products. [...]

Level 111 Infractions and Disciplinary Responses

Infractions

* Alcohol

The use or possession of alcoholic beverages, unauthorized prescription drugs, or any other substance capable of modifying mood or behavior

* Over the Counter Drugs

Possession of such substances beyond that which might be reasonably consumed/used by one person in a short period of time.

The second use or possession violation by any student during any one school year shall be considered an automatic Level 1V offense. [...]

* Smoking and Use of Tobacco Products

The possession, use, distribution, or sale of tobacco products on school property, at a school function or extra/co-curricular activity [...]

Level 1V Infractions and Disciplinary Responses

Infractions

* Alcohol

The selling or transmitting of alcoholic beverages or any other substance capable of modifying mood or behavior or the selling or transmitting of substances represented to be of said nature [...]

* Drugs

The possession, selling or transmitting of drugs, drug paraphernalia, or any other substance capable of modifying mood or behavior or possession or selling or transmitting of substances to be of said nature. Possession of drugs shall be reported to law enforcement authorities in accordance with Virgin Islands law and Board policy

Gang-related Activity

LAWS

§ 780. Purpose.

The purpose of this chapter is to provide for the creation of a bullying prevention, gang resistance education and training program.

§ 781. Legislative findings; intent.

(a) The Legislature finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior:

- (1) Sexual, discrimination due to sexual orientation; and
- (2) Harassment.

(b) Bullying behavior has been linked to other forms of antisocial behavior, such as: vandalism, shoplifting, truancy and non-completion of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence.

(c) The Legislature further finds that the number of youth delinquent gangs continues to rise on a territory-wide basis. Given the higher rates of criminal offenses by gang members, as well as the availability of

increasingly lethal weapons, the spiraling level of criminal activity by gang members has taken on greater importance for law enforcement agencies, schools, the community, and prevention efforts.

§ 782. Definitions.

As used in this chapter:

(c) "Gang resistance education and training" means instruction in, without limitation, each of the following subject matters when accompanied by a stated objective of reducing gang activity and educating children in grades K through 12 about the consequences of gang involvement:

- (1) Conflict resolution;
- (2) Cultural sensitivity;
- (3) Personal goal setting; and
- (4) Resisting peer pressure.

§ 783. Implementation.

- (a) Each school district shall make suitable provisions for instruction in bullying prevention and gang resistance education and training in all grades and include such instruction in the courses of study regularly taught therein.
- (b) The Department of Education shall incorporate the bullying prevention and gang resistance education and training with Conflict Resolution Education set forth in Title 17, Chapter 42.
- (c) The Board may collaborate with a community-based agency that provides specialized curricula in bullying prevention geared towards preventing sexual violence.
- (d) The Board shall collaborate with law enforcement agencies for the purposes of gang resistance education and training. The Department of Education shall assist in the development of instructional materials and training for all school personnel in relation to bullying prevention and gang resistance education and training.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Level 11 infractions and disciplinary responses infractions

Illegal Organization

Establishing or participating in gangs on school property, at a school function, extra/co-curricular activity.

Bullying, Harassment, or Hazing

LAWS

§ 780. Purpose.

The purpose of this chapter is to provide for the creation of a bullying prevention, gang resistance education and training program.

§ 781. Legislative findings; intent.

- (a) The Legislature finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior:
 - (1) Sexual, discrimination due to sexual orientation; and
 - (2) Harassment.
- (b) Bullying behavior has been linked to other forms of antisocial behavior, such as: vandalism, shoplifting, truancy and non-completion of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence.

(c) The Legislature further finds that the number of youth delinquent gangs continues to rise on a territory-wide basis. Given the higher rates of criminal offenses by gang members, as well as the availability of increasingly lethal weapons, the spiraling level of criminal activity by gang members has taken on greater importance for law enforcement agencies, schools, the community, and prevention efforts.

§ 782. Definitions.

As used in this chapter:

- (a) "Board" means the Virgin Islands Board of Education;
- (b) "Bullying prevention" includes but is not limited to instruction in the prevention and strategies for student-centered problem solving all of the following:
 - (1) Intimidation;
 - (2) Student victimization;
 - (3) Sexual harassment;
 - (4) Sexual violence;
 - (5) Sexual, discrimination due to sexual orientation; and
 - (6) Harassment.

§ 783. Implementation.

- (a) Each school district shall make suitable provisions for instruction in bullying prevention and gang resistance education and training in all grades and include such instruction in the courses of study regularly taught therein.
- (b) The Department of Education shall incorporate the bullying prevention and gang resistance education and training with Conflict Resolution Education set forth in Title 17, Chapter 42.
- (c) The Board may collaborate with a community-based agency that provides specialized curricula in bullying prevention geared towards preventing sexual violence.
- (d) The Board shall collaborate with law enforcement agencies for the purposes of gang resistance education and training. The Department of Education shall assist in the development of instructional materials and training for all school personnel in relation to bullying prevention and gang resistance education and training.

§ 784. Effective date.

Beginning 180 days after the effective date of this chapter, each school district shall create and maintain a policy on bullying, which must be filed with the Board. Each school district must communicate its policy on bullying to its students and their parents or guardians on an annual basis. The policy must be updated every two years and filed with the Board after being updated. The Board shall monitor the implementation of policies created under this subsection.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Student Responsibilities

* To refrain from sexual harassment. [...]

Sexual Harassment

Virgin Islands Board of Education policy states that no student shall be involved in any sexual harassment activity. Any student who alleges sexual harassment by another student may use the school's student grievance procedure or may complain directly to the building administrator.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

1.0 General Information

1.1 The school and its supportive programs should provide a place of safety, comfort and enlightenment for students, teachers, staff workers and other positive stakeholders.

1.2 The Virgin Islands Board of Education acknowledges that national and local research indicates an increase in negative behavior which fosters bias, hate, victimization, and use of electronic communication media to promote low self esteem, depression, ostracism, retaliation, suicide, and poor academic performance.

1.3 The Virgin Islands Board of Education provides the following policy to address the rise in negative behavior in several areas which may affect a person's right to privacy and free speech. This document is designed to provide guidance to the Virgin Islands Department of Education for the development of procedures and programs for the prevention, intervention and remediation of harassment, intimidation, bullying, cyber bullying, "cultural" teasing/belittling and sextexting behaviors in Virgin Islands schools.

1.4 All sections of the policy shall be established in both districts and shall be enforced equally in both districts.

2.0 Definitions

2.1 Bullying: a form of abuse which is comprised of acts that involve a real or perceived imbalance of power with the more powerful individual or group abusing those who are less powerful. The power imbalance may be social and/or physical power. The victim of the bullying is sometimes referred to as the target. There are three types of bullying: emotional, verbal and physical. It also involves subtle methods of coercion, such as psychological manipulation. Bullying is also referred to as peer abuse. It also involves the creation of a threatening environment through: 1. an attempt to place the person in reasonable fear of bodily injury; 2. an intent to cause substantial emotional distress to the person; 3. use of hostile, offensive, or derogatory remarks; 4. intentional physical interference with another student's movement

2.2 "Cultural" teasing/belittling refers to the consistent teasing or belittling of an individual based on a perceived "weakness or abnormality" in the person's physical or emotional makeup, that may result in the development of low self esteem and poorly developed social skills

2.3 Cyber bullying: refers to the intentional use of the internet or other digital communication devices to bully peers. Such internet speech can be vulgar, cruel, threatening, and harassing to teachers, school administrators, or fellow students. Cyber bullying includes but is not limited to the phone, text messaging, internet, websites, email, blogs, chat rooms, and/or instant messaging.

2.3 Cyber stalking: to anonymously engage in a course of conduct to communicate -or to cause to be communicated - words, images or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose

2.4 Harassment: the act of harassing or state of being harassed; worry, annoyance, anxiety; any overt act or combination of acts directed against a student by another student or groups of students which: 1. is repeated over time; 2. is intended to ridicule, humiliate, or intimidate the student; and 3. occurs before, during or after the school day, on school property, on a school bus, or at a school-sponsored activity

2.5 Hate/hate crimes: refer to attacks on individuals or their property intentionally selected based on race, color, gender, disability, sexual orientation, religion

2.6 Intimidation: (also called cowing) is intentional behavior "which would cause a person of ordinary sensibilities," fear of injury or harm

2.7 Relational aggression: refers to bullying, sextexting, or other forms of aggression mostly related to the female gender based on envy or jealousy which results in social ostracism of the victims

2.8 Sextexting: is the transference of sexually explicit photos using cell phones or the internet; these explicit photos show students involved in sexual activity, child pornography, rape, lewd acts, and the promotion of prostitution

3.0 Activities Prohibited for Schools, School-Sanctioned and Related Environments

3.1 No student or adult functioning in a school-related activity shall be subjected to bullying, "cultural" teasing/belittling, cyber bullying, cyber stalking, harassment, hate crimes, intimidation, relational aggression, or sextexting in any public educational institution

3.2 These activities include: all education programs or activities; while in school or while using school equipment, property or school vehicles.

3.3 The use of data, telephone or computer software that is accessed through a computer, computer system or computer network of any public education institution shall not be utilized to bully, culturally tease or belittle, cyber bully, cyber stalk, harass, hate, intimidate, relationally aggress, or sextext any individual.

4.0 Training and Assessment

The Department of Education shall provide the following educational programs in its effort to prevent harassment, intimidation, bullying, cyber bullying and sextexting.

4.1 Annual training for school administrators, school employees and volunteers who have contact with students in preventing, identifying, responding to and reporting incidents of harassment, intimidation, , cyber bullying and sextexting, cyber stalking, hate crimes, relational aggression and "cultural" teasing/belittling shall occur.

4.2 In the 1st quarter of the school year, an educational program for students, parents, and all other stakeholders in preventing, identifying, responding to and reporting incidents of bullying, "cultural" teasing/belittling, cyber bullying, cyber stalking harassment, hate crimes, intimidation, relational aggression, and sextexting shall occur.

5.0 Virgin Islands Department of Education's Requirements and Responsibilities

5.1 The DOE shall involve students, parents, administrators, school staff, school volunteers, community representatives, and law enforcement agencies in the process of adopting a policy. The school policy must be implemented in a manner that is ongoing throughout the school year and integrated in the curriculum and other violence prevention efforts. A copy of the DOE's policy shall be sent to the Virgin Islands Board of Education

5.2 The Department of Education shall maintain de-identified* records and statistics to identify patterns of intimidation, bullying, cyber bullying, sextexting, cyber stalking, hate crimes, relational aggression and "cultural" teasing/belittling in their institution. Those records and statistics should be sent to the Board semiannually in December and May.

5.3 The Policy shall contain, at a minimum, the following components:

1. Notification - All stakeholders shall be notified about the bullying policy in writing and verbally; the policy should be included in each school's student handbook.

2. Public display - The policy shall be placed in each school site in plain view of all stakeholders in age-appropriate language.

*De-identified - should not include information that can identify student(s)

3. Warnings must be posted throughout the school that the infractions in this policy will not be tolerated. These warnings should be included in student and employee handbooks.

4. Immediate notification - The DOE shall provide a procedure for immediate notification within 24 hours if any of the infractions occur in a school or department site to the appropriate persons and authorities. Staff identification - Each school shall provide the name and job title of the school official who is responsible to ensure that the policy is implemented. This individual is also responsible for all publicized notices regarding this policy.

5.4 Reporting and Investigations

1. The Department of Education shall develop a reporting form for acts of bullying, "cultural" teasing/belittling, cyber bullying, cyber stalking, harassment, hate crimes, intimidation, relational aggression, sextexting, and, including a provision that permits a person to report such act(s) anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report without a thorough investigation.
2. The DOE shall include a requirement that any individual who has information that would lead a reasonable person to suspect that a person is the target of any infraction should immediately report said information to the principal or his/her designee.
3. Each school shall document prohibited incidents that are reported. The Commissioner of Education shall send a de-identified semi-annual report to the Virgin Islands Board of Education. This report should include a listing of all incidents and all remedies implemented to curtail the behavior.

5.5 Remedies and Victim Assistance

1. The Department of Education shall devise strategies and programs for providing counseling or referral to appropriate services, including guidance intervention, academic intervention, and protection to students - both targets and perpetrators - and appropriate family members affected by bullying, "cultural" teasing and belittling, cyber bullying, cyber stalking harassment, hate crimes, intimidation, relational aggression, and sextexting. These strategies should be listed in the Department's Bullying, Intervention, Prevention and Remediation Policy.
2. The Department of Education shall provide a listing of the consequences and appropriate remedial action for a person who commits an act of bullying, "cultural" teasing and belittling, cyber bullying, cyber stalking, harassment, hate crimes, intimidation, relational aggression, and sextexting.
3. The Department of Education shall provide a listing of consequences and appropriate remedial action for a student found to have falsely accused another as a means of retaliation, reprisal, or as a means of bullying, "cultural" teasing and belittling, cyber bullying, cyber stalking, hate crimes, harassment, intimidation, and sextexting.

6.0 Consequences for Violations

The Department of Education shall review and refer to the Board's Disciplinary Policy in identifying the appropriate consequence(s) for violations of this policy. Each infraction should be evaluated carefully before a consequence is applied. Educational intervention should occur on every level of violation to deter further acts of aggression.

6.1 Sample Consequences

1. Counseling within the school
2. Verbal or written reprimand
3. Parental conference
4. Loss of school privileges
5. Transfer to another school building, classroom or school bus
6. Exclusion from school-sponsored activities
7. Retribution for property damage
8. Detention
9. Suspension
10. Expulsion
11. Counseling/therapy outside of school
12. Department of Human Services referral
13. Law Enforcement referral

7.0 Virgin Islands Board of Education Requirements and Responsibilities

- 7.1 The VIBE shall periodically review the Department of Education's territorial and district procedures, programs, activities and services to determine whether the DOE is complying with the policy.

7.2 The VIBE shall establish a section on School Violence in the School Plants and Facilities Management Report, where collected data on this policy will be analyzed and summarized.

7.3 The VIBE will make annual recommendations for appropriate action to address identified problems.

8.0 Immunity Clause

A school employee, school volunteer, student, parent or guardian who promptly reports in good faith, any violation of this policy to the appropriate personnel designated in the school policy and who makes the report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting of the incident or any failure to remedy the reported incident.

Dating and Relationship Violence

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Prevention, Behavioral Intervention, and Supports

State Model Policies and Implementation Support

LAWS

§ 767. Illinois Institute for Dispute Resolution as model.

- (a) The fundamental skill areas are parts of the curriculum of the Creating a Peaceable School model of the Illinois Institute for Dispute Resolution ("IIDR"). It is the intent of this chapter to have the IIDR model adopted throughout the territory's schools to the extent applicable and appropriate. Each school in the Virgin Islands shall have the flexibility to decide whether or not to adopt the IIDR model given its level of intra-school conflict, needs, and level of violent behavior. If the IIDR model is adopted by a school, that school shall develop a peer mediation program.
- (b) A broad-base coalition of administrators, classroom teachers, special educators, counselors, deans, social workers, and health educators interested in developing a conflict resolution program will be necessary for a successful program.
- (c) The conflict resolution program team of any school utilizing the IIDR model may also include parents, students, and/or community members.
- (d) A school in the Virgin Islands opting for the IIDR model shall include the following six phases of the peer mediation-based, conflict resolution program.
- (1) Develop the Program Team and Commitment
 - (2) Design and Plan the Program
 - (3) Select and Train the Mediators
 - (4) Educate a Critical Mass
 - (5) Develop and Execute a Promotional Campaign
 - (6) Program Operation and Maintenance
- (e) PHASE I shall include the following activities:
- (1) creating the program team
 - (2) training the program team
 - (3) designating the program coordinators
 - (4) conducting a needs assessment
 - (5) building faculty consensus for program development
- (f) Following phase I, the school is encouraged to establish an advisory committee of 10 to 12 members representing the diverse interests of the school and community, including parents, teachers, school and district administrators, students, support staff, community representatives and corporate sponsors. The advisory committee shall oversee the development of the program, including the role of mediation within the school's discipline program: assist the program team in developing timelines for implementation; and identify and develop funding sources.
- (g) PHASE III entail recruiting, selecting, and training student mediators. Nominations shall be broadly solicited from among staff and students, including self-nominations. Student mediation training shall involve 12 to 15 hours of basic training and 12 to 15 hours of additional advanced training. Basic training shall include understanding conflict, responses to conflict, sources of conflict, communication skills, the role of the mediator, and the mediation process. Advanced training includes bias awareness,

social/cultural diversity, advanced communication, uncovering hidden interests, dealing with anger, caucusing, negotiation, group problem solving.

(h) PHASE IV focuses on educating a critical mass about conflict, conflict resolution, and the mediation process by using workshops for faculty, students, parents, and the community. An in service training program shall be established for the purpose of helping staff develop a common understanding of conflict, learn the principles of conflict resolution, develop an understanding of the mediation process, learn how to support the peer mediation program through curriculum integration and referral of conflicts to mediation, and prepare to conduct student workshops.

(i) Because peer mediation can be greeted with skepticism, promoting the program among the student population is crucial to its success.

(j) PHASE VI encompasses requesting mediation, scheduling mediations and mediators, supervising mediators, recording mediation data, providing ongoing training and support, and evaluating programs.

§ 783. Implementation.

(a) Each school district shall make suitable provisions for instruction in bullying prevention and gang resistance education and training in all grades and include such instruction in the courses of study regularly taught therein.

(b) The Department of Education shall incorporate the bullying prevention and gang resistance education and training with Conflict Resolution Education set forth in Title 17, Chapter 42.

(c) The Board may collaborate with a community-based agency that provides specialized curricula in bullying prevention geared towards preventing sexual violence.

(d) The Board shall collaborate with law enforcement agencies for the purposes of gang resistance education and training. The Department of Education shall assist in the development of instructional materials and training for all school personnel in relation to bullying prevention and gang resistance education and training.

§ 784. Effective date.

Beginning 180 days after the effective date of this chapter, each school district shall create and maintain a policy on bullying, which must be filed with the Board. Each school district must communicate its policy on bullying to its students and their parents or guardians on an annual basis. The policy must be updated every two years and filed with the Board after being updated. The Board shall monitor the implementation of policies created under this subsection.

REGULATIONS

K-12 Bullying Intervention, Prevention, and Remediation Policy.

7.0 Virgin islands board of education requirements and responsibilities

7.3 The VIBE will make annual recommendations for appropriate action to address identified problems.

Multi-tiered Frameworks and Systems of Support

LAWS

§ 2902. Tiered system of supports and education support team.

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For

each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for emotional or behavioral challenges and to students in need of specialized, individualized behavior supports;
- (5) provide all students with a continuum of evidence-based positive behavioral practices that promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;
- (6) promote collaboration with families, community supports, and the system of health and human services; and
- (7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

- (1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.
- (2) Identify the classroom accommodations, remedial services, and other supports to be provided to the identified student.
- (3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.
- (4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.
- (5) Maintain a written record of its actions.
- (6) [Repealed.]

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when

school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

- (1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;
- (2) guidance on how long children are to be served in each tier; and
- (3) guidance on how a child's progress is to be measured.

REGULATIONS

No relevant regulations found.

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Social-emotional Learning (SEL)

LAWS

§ 41b. Character education.

(a) For the purposes of this section "Character Education" means a structured curriculum where the children of the Virgin Islands learn about character traits, including but not limited to, commitment, cooperation, courtesy, creativity, generosity, honesty, moderation, patience, patriotism, punctuality, respect, compassion for others, respect for the environment, school pride, self-discipline, tolerance, dignity and the necessity of hard work.

(b) The Department of Education shall establish a comprehensive elective character education program for grades K-12 grade consisting of not less than ten (10) minutes of instruction per day. Character education exercises may also include an assembly program to be held at least once a month.

(c) The curriculum developed by the Department of Education shall be adopted and approved by the Board of Education, in accordance with section 21 of this title. The Department of Education shall be the administrator of the character education program and shall:

(1) take all necessary steps to provide workshops and training for character education for school personnel; and

(2) secure the necessary teaching materials and equipment to implement the character education program in public schools in the Virgin Islands.

(d) The Department of Education shall seek federal funds for the purpose of initiating and maintaining the provisions of this section. Funds shall also be appropriated annually in the Department of Educations' budget. Grants, contributions, gifts and bequests may also be made available for purposes of this section.

REGULATIONS

No relevant regulations found.

Trauma-informed Practices

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Mental Health Literacy Training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

School-based Behavioral Health Programs

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal Incident Reporting of Conduct Violations

LAWS

No relevant laws found.

REGULATIONS

K-12 Bullying Intervention, Prevention, and Remediation Policy.

5.0 Virgin Islands Department of Education's Requirements and Responsibilities

5.3 The Policy shall contain, at a minimum, the following components:

4. Immediate notification - The DOE shall provide a procedure for immediate notification within 24 hours if any of the infractions occur in a school or department site to the appropriate persons and authorities. Staff identification - Each school shall provide the name and job title of the school official who is responsible to ensure that the policy is implemented. This individual is also responsible for all publicized notices regarding this policy.

5.4 Reporting and Investigations

1. The Department of Education shall develop a reporting form for acts of bullying, "cultural" teasing/belittling, cyber bullying, cyber stalking, harassment, hate crimes, intimidation, relational aggression, sextexting, and, including a provision that permits a person to report such act(s) anonymously. No formal disciplinary action shall be taken solely on the basis of an anonymous report without a thorough investigation.

2. The DOE shall include a requirement that any individual who has information that would lead a reasonable person to suspect that a person is the target of any infraction should immediately report said information to the principal or his/her designee.

3. Each school shall document prohibited incidents that are reported. The Commissioner of Education shall send a de-identified semi-annual report to the Virgin Islands Board of Education. This report should include a listing of all incidents and all remedies implemented to curtail the behavior.

Parental Notification

LAWS

No relevant laws found.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Disciplinary responses for level 1 infractions

First Offense: Level 1 Responses

Subsequent Offenses: Level 1 and/or Level 11 Responses

Parental contact (required); Counseling and direction; Verbal reprimand; Special work assignment; Withdrawal of privileges; Return of property, payment for same, or restitution for damages; Detention (parental contact required); School/classroom positive/negative reinforcement plan; Demerits; Warning of referral to Level 11. [...]

Disciplinary responses for level 11 infractions

First Offense: Level 11 Responses

Subsequent Offenses: Level 11 and/or Level 111 Responses

Parental Contact (required); Behavior Contract (oral or written); In-school Suspension; Work Detail; Detention (parental contact required); Confiscation of unauthorized materials/objects; Return of Property,

Payment for same or Restitution for Damages; Suspension from Bus; School/Classroom Positive/Negative Reinforcement Plan; Demerits; Warning or Referral to Level 111 [...]

Disciplinary responses for level 111 infractions

First Offense: Level 111 Responses

Subsequent Offenses: Level 111 and/or Level 1V Responses

Parental Contact (mandatory), Written Behavior Contract, Assignment to Alternative Program/School, Return of Property, Payment for same or Restitution for Damages, In-School Suspension, Suspension from Bus, Suspension from school (1 to 10 days), Referral to Suspension Reduction Program, Expulsion from Bus (for bus related offenses), Temporary or Permanent Removal from Participation in Extra/co-curricular Activities or Programs, Referral to Appropriate Prevention or Treatment Programs, Warning of referral to Level 1V [...]

Disciplinary responses for level 1V Infractions

First and Subsequent Offenses: Level 1V Responses

Mandatory Parental Contact, Mandatory ten day suspension from school with consideration of a recommendation for expulsion for grades 7-12, Suspension and probation for elementary school students, Assignment to alternative program/school, Expulsion from School.

Data Collection, Review, and Reporting of Discipline Policies and Actions

LAWS

§ 784. Effective date.

Beginning 180 days after the effective date of this chapter, each school district shall create and maintain a policy on bullying, which must be filed with the Board. Each school district must communicate its policy on bullying to its students and their parents or guardians on an annual basis. The policy must be updated every two years and filed with the Board after being updated. The Board shall monitor the implementation of policies created under this subsection.

§ 825. Evaluation.

Beginning with the 2008-2009 school year, each school district receiving funding for the dropout prevention programs shall submit an annual report to the Department of Education documenting the extent to which each of the district's dropout prevention programs have been successful in meeting the objectives established for the district program. The Department shall compile all of the information into an annual report which shall be submitted to the Legislature not later than June 30th of each year.

REGULATIONS

K-12 Bullying Intervention, Prevention, and Remediation Policy.

5.0 Virgin Islands Department of Education's Requirements and Responsibilities

5.2 The Department of Education shall maintain de-identified* records and statistics to identify patterns of intimidation, bullying, cyber bullying, sextexting, cyber stalking, hate crimes, relational aggression and "cultural" teasing/belittling in their institution. Those records and statistics should be sent to the Board semiannually in December and May. [...]

5.4 Reporting and Investigations

3. Each school shall document prohibited incidents that are reported. The Commissioner of Education shall send a de-identified semi-annual report to the Virgin Islands Board of Education. This report should include a listing of all incidents and all remedies implemented to curtail the behavior. [...]

7.0 Virgin Islands Board of Education Requirements and Responsibilities

7.2 The VIBE shall establish a section on School Violence in the School Plants and Facilities Management Report, where collected data on this policy will be analyzed and summarized.

Partnerships between Schools and Law Enforcement

Referrals to Law Enforcement

LAWS

§ 89. Apprehension of, and manner of dealing with, truant.

(a) Any child of compulsory school age, who is found anywhere other than on the school's premises in which the child is enrolled, during school hours, without an acceptable excuse having been furnished by a parent or guardian to the appropriate school official, or who is not enrolled in a school as required by law, must be taken into custody by any teacher, principal, attendance officer, or other school official, or by any police officer, peace officer, or truant officer, and must be held until a parent or guardian is summoned or appears and secures the child's release. The child may be released at the request of the Commissioner of Education, or placed in school as directed by the Commissioner or the Insular Superintendent.

§ 1941. Detaining children from school.

Whoever-

(1) detains any child from attending school at the prescribed times and places, without authority of lawful regulation; or

(2) performs or omits any act whereby any child under his control, directly or indirectly, is hindered from regular attendance at school-

shall be fined not more than \$20 for each day's absence.

REGULATIONS

CVIR 17-003-002. Virgin Islands Student discipline policy.

Section IV Infractions and Disciplinary responses

The Virgin Islands Board of Education views disruptive and criminal acts, and those which may affect the health, safety, and welfare of those on a school campus as extremely serious in nature. In addition to disciplinary action administered at the school level, certain acts may be reported to the appropriate law enforcement agency. These may include, but are not limited to:

1. Possession, use/distribution of weapons (mandatory reporting)
2. Arson
3. Assaults other than minor fighting
4. Bombs and other explosive agents other than minor fireworks
5. Breaking and entering
6. Disturbances which substantially disrupt school
7. False alarms or calls
8. Possession, use/distribution of drugs (mandatory reporting)
9. Possession, use/distribution of alcohol products
10. Property damage of a substantial nature
11. Robbery
12. Sexual offenses endangering the health, safety, or welfare of others
13. Theft of items of a substantial nature

14. Trespassing after warning
15. Vandalism of a substantial nature.

K-12 Bullying Intervention, Prevention, and Remediation Policy.

6.0 Consequences for violations

The Department of Education shall review and refer to the Board's Disciplinary Policy in identifying the appropriate consequence(s) for violations of this policy. Each infraction should be evaluated carefully before a consequence is applied. Educational intervention should occur on every level of violation to deter further acts of aggression.

6.1 Sample consequences

1. Counseling within the school
2. Verbal or written reprimand
3. Parental conference
4. Loss of school privileges
5. Transfer to another school building, classroom or school bus
6. Exclusion from school-sponsored activities
7. Retribution for property damage
8. Detention
9. Suspension
10. Expulsion
11. Counseling/therapy outside of school
12. Department of Human Services referral
13. Law Enforcement referral.

School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Authorizations, Memoranda of Understanding (MOUs), and/or Funding

LAWS

§ 262. Bureau of School Security.

(a) There is established within the Department, Police Division, a Bureau of School Security, in the District of St. Thomas/St. John and in the District of St. Croix. The Bureau shall be headed by a Commander, who shall be a ranking police officer.

(b) The Commander shall perform such functions as may be prescribed by the Chief of Police. The Commander shall have the power and it shall be the duty of the Commander to implement, administer, supervise, and coordinate all programs and policies to ensure adequate protection of all public school

buildings, property, students, personnel, and equipment. The Commander shall perform all duties in cooperation with the Commissioner of the Department of Education and shall establish a liaison within the Department of Education to carry out the provisions of this section.

(c) The Commander shall report on the preparation of the annual budget and on detailed information on the future needs and past accomplishments of the Bureau of School Security. Such report shall be submitted to the Commissioners of Education and Police, with a joint report forwarded to the Governor by the Commissioners, not later than February 1 of each year. The Commissioner of Police shall, in consultation with the Commissioner of Education and in the manner prescribed by law, promulgate rules and regulations for the proper administration of the Bureau of School Security.

(d) The Commander shall provide twenty-four hour security services for each public high school and each public junior high school in the Territory. The Commander shall provide such other appropriate security measures for the various other schools, property, personnel, and equipment in consultation with the Commissioner of Education.

(e) The Commissioner of Police, in consultation with the Department of Education, may utilize security guard services of private companies to supplement the Bureau of School Security.

§ 783. Implementation.

(d) The Board shall collaborate with law enforcement agencies for the purposes of gang resistance education and training. The Department of Education shall assist in the development of instructional materials and training for all school personnel in relation to bullying prevention and gang resistance education and training.

§ 828. Coordination with other agencies.

School district dropout prevention programs must be coordinated with social services, law enforcement agencies, prosecutorial and juvenile justice agencies in the school district. These agencies may exchange information contained in student records and juvenile justice records with written permission from the parents of the students. School districts and other agencies receiving the information shall use the information only for official purposes connected with the certification of students for admission and for the administration of the dropout prevention program and the agencies shall maintain provisions of statistical and demographic data the confidentiality of the information unless otherwise provided by law.

REGULATIONS

No relevant regulations found.

Threat Assessment Protocols

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by the U.S. Virgin Islands provide additional context to policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Positive Behavioral Interventions and Supports, The Virgin Islands Department of Education	Provides an overview of PBIS and links to related topics such as bullying prevention and resources including toolkits, surveys, and forms.	https://www.vide.vi/our-divisions/pbis/
Documents		
A Manual to Prevent and Address Bullying and Harassment in Schools (2017), The Virgin Islands Department of Education	Manual, adapted from evidence-based models of prevention, is used for training schools on bullying prevention techniques and curriculum.	http://www.vide.vi/documents/pbis/1536-bully-prevention-pbs-manual-vide/file.html
Discipline in Special Education; A Brief Overview of Discipline Procedures Under IDEA 2004, The Virgin Islands Department of Education	Brief overview of discipline procedures under the Individual with Disabilities Education Act (IDEA).	http://www.vide.vi/documents/special-education/1205-sose-s-discipline-in-special-education-fact-sheet-092616/file.html
Other Resources		
Public School Incident Data, Government of the United States Virgin Islands Department of Education	Reports on suspension and expulsion incidents in Virgin Islands schools.	http://www.vide.vi/documents/pre/public-school-incidents.html